Summary of Enactments

70th Legislature

Regular Session
First and Second Called Sessions

1987

Texas Legislative Council
Information Report No. 87-3

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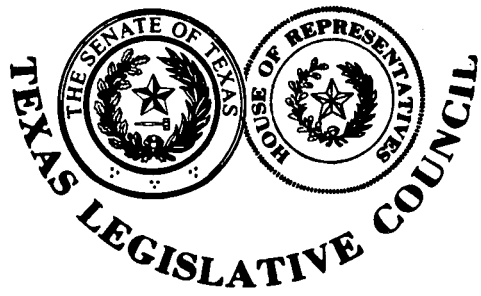

Prepared by the Staff
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FOREWORD

The Summary of Enactments of the 70th Legislature provides synopses of all bills enacted during the 1987 regular session and 1st and 2nd called sessions. Summaries of joint resolutions passed by the legislature, proposing amendments to the Texas Constitution, are also included.

This publication is intended to be a convenient reference for the main features of enacted measures within particular subject areas. A summary of an act should not be considered a comprehensive or legal analysis or used as a source of authority for legal interpretation. A person should examine the enrolled copy of any piece of legislation to obtain a fuller understanding of its application and implications.

Copies of enrolled bills and resolutions from the 70th Legislature may be obtained from house and senate document distribution offices until November 1988 when bill prefiling will begin for the 71st Legislature. House measures are available from the House Document Distribution Office, located in room 500 in the John H. Reagan State Office Building (P.O. Box 12128, Austin, Texas 78711; phone (512) 463-1155). Senate measures are available from the Senate Document Distribution Office, located in the Trinity Building at the corner of East 14th Street and Trinity Street (P.O. Box 12086, Austin, Texas 78711; phone (512) 463-0252). The charge for copies is 15 cents per page.

TABLE OF CONTENTS

Introduction 1
Agriculture 5
Alcoholic Beverages 9
Appropriations 12
Business and Occupational Regulation 16
Civil Remedies and Procedures 33
Corrections 38
Courts 42
Criminal Justice and Procedure 57
Education — Higher 70
    Public 78
Elections 84
Energy 91
Environment/Water 95
Family Law 109
Government — City 117
    County 125
    General 133
    Special Districts 137
    State 152
    Sunset Legislation 164
Health 174
Human Services/Mental Health and Mental Retardation 180
Insurance 184
Labor 199
Parks and Wildlife 201
Probate 205
Property Interests 209
Property Taxation 213
Public Lands 223
Public Officials and Employees 225
State Taxes and Tax Administration 233
Statutory Revision 240
Transportation and Highways 244

APPENDIXES

A. List of Vetoed Legislation and
Text of Item Veto Proclamation, General Appropriations Act

B. Proposed Constitutional Amendments and Referenda

C. Resolutions Authorizing Legislative Interim Studies
and Legislation Authorizing Interim Studies
by Executive Agencies or Statutory Committees

D. Legislative Policy Resolutions

E. State Agencies and Advisory Boards, Abolished and Created

F. Members of the Senate

G. Members of the House of Representatives

H. Enactments by Author and Sponsor

INDEXES

A. Numerical Index

B. Topical Index

INTRODUCTION

The Regular Session of the 70th Legislature of the State of Texas convened on January 13, 1987, and adjourned sine die on June 1, 1987. During this 140-day period, legislators passed and sent to the governor a total of 1,185 bills out of 4,179 that were filed. Both figures set new records, surpassing previous highs established in 1983 and 1985. The table below shows the general upward trend in bill activity for the last five regular sessions.

	Bills Filed	Bills Passed
1979 (66th Leg., R.S.)	3,596	890
1981 (67th Leg., R.S.)	3,696	902
1983 (68th Leg., R.S.)	3,891	1,134
1985 (69th Leg., R.S.)	4,021	1,024
1987 (70th Leg., R.S.)	4,179	1,185

The legislature in its regular session also considered 171 joint resolutions proposing amendments to the Texas Constitution. Of these, 23 passed and were submitted for consideration by Texas voters in the 1987 and 1988 November elections.

Two called sessions held in June and July supplemented these numbers, adding 84 bills and four joint resolutions to the list of measures passed in 1987. Governor Clements vetoed 51 bills, and Texas voters defeated eight of the constitutional proposals, in turn nullifying a 52nd bill that was contingent on the approval of an associated constitutional amendment.

Casualties among the issues on the 1987 ballot included proposals relating to:

(1) state bond issuances for local public facilities (Senate Joint Resolution 55 and portions of House Bill 4);

(2) state bond issuances for development of Texas products and businesses (House Joint Resolution 4 and portions of House Bill 4 and House Bill 49, the last from the 2nd Called Session);

(3) state and local lending of credit for urban turnpike projects (House Joint Resolution 65);

(4) property tax exemption (the "freeport exemption") of tangible personal property temporarily located in the state (one of two amendments proposed by Senate Joint Resolution 12);

(5) a local-option increase in the property tax rate ceiling for rural fire prevention districts (House Joint Resolution 60 and House Bill 53, the latter from the 2nd Called Session);

(6) the uncompensated performance of work by one county for another county (House Joint Resolution 83);

(7) membership by the speaker of the house of representatives in an agency or on a committee within the executive branch (Senate Joint Resolution 17); and

(8) the elimination of certain salary-related restrictions on legislators contemplating other electoral office (Senate Joint Resolution 9).

Deferred until 1988 were constitutional amendments relating to the creation of an economic stabilization ("rainy day") fund (House Joint Resolution 2), the creation of a Texas growth fund (House Joint Resolution 5, 2nd Called Session), and the dedication of federal highway reimbursements to right-of-way acquisition and road construction (Senate Joint Resolution 8, 2nd Called Session). The table below summarizes the disposition of legislation passed during the regular and two called sessions.

	Filed	Passed	Vetoed	—Voter Action— Defeated	Pending
House Bills:					
Regular	2,632	711	33	0	0
1st Called	7	0	0	0	0
2nd Called	181	49	0	1	0
Senate Bills:					
Regular	1,547	474	18	0	0
1st Called	9	6	0	0	0
2nd Called	105	29	0	0	0
House Joint Resolutions:					
Regular	114	12	-	4	1
1st Called	2	0	-	0	0
2nd Called	18	1	-	0	1
Senate Joint Resolutions:					
Regular	57	11*	-	4*	0
1st Called	1	0	-	0	0
2nd Called	8	3	-	0	1

* Senate Joint Resolution 12 proposed two amendments but is counted only once for purposes of the second column. One of the two was defeated; that action is reflected in the fourth column.

Tort reform, which had been the subject of a two-year study by a joint legislative interim committee, remained an unsettled issue at the end of the regular session. A compromise was within close reach, however, and the legislature reconvened on June 2 and 3 to dispose of the matter in a brief 1st Called Session. Senate Bill 2 and Senate Bill 5 from that session, dealing with insurance and civil procedures, respectively, were the major bills in the tort reform package. They were supplemented, however, by four other special session bills (Senate Bill 6 through Senate Bill 9) and by Senate Bill 202 from the regular session.

Unresolved until the summer was a more difficult issue, the state budget, the balancing of which was complicated by an economic downturn and a consequent decline in projected state revenue. The legislature met in 2nd Called Session from June 22 to July 21, ultimately producing a $38.1 billion general appropriations act (Senate Bill 1) after line-item cuts by the governor. An important related measure from that session was House Bill 7, the "budget execution" bill, establishing procedures for appropriations adjustments during the legislative interim.

To pay for the state's biennial budget, the 2nd Called Session approved House Bill 62, providing for a permanent motor fuels tax increase, and House Bill 61, raising the state sales tax to six percent and increasing certain other fees and taxes. Simultaneously, however, Senate Bill 58 from that session limited the combined sales tax, state plus local, to eight percent. Enactments from the regular session, meanwhile, aimed at tax reform generally. Legislators revised "truth-in-taxation" laws applicable to local property taxation (House Bill 1866) and created a four-year Select Committee on Tax Equity (House Bill 2) to examine Texans' overall tax burden and means to distribute that burden more fairly.

The legislature also sought measures to bolster the state's economy. The result was a package of eight proposed constitutional amendments known as the "Build Texas" program. Half of these amendments, items (1) through (4) in the list of 1987 ballot casualties above, failed. Four others were adopted, though, including the removal of restrictions on public loans and grants for economic development purposes (House Joint Resolution 5), the authorization of $500 million in bonds relating to the superconducting super collider for which Texas is a candidate, (House Joint Resolution 88), the authorization of an additional $400 million in water bonds (Senate Joint Resolution 54), and the authorization of $500 million in bonds for prison, youth corrections, and mental health and mental retardation (MHMR) facilities (Senate Joint Resolution 56).

The last of these bond authorizations was considered crucial because of federal court orders binding on the state's corrections and MHMR facilities. Early in the regular session, legislators enacted Senate Bill 215, an emergency measure coupling $20.5 million in appropriations with provisions to relieve prison overcrowding

through changes in parole and release policies. A similar intent spawned House Bill 680, which established an annual review of "good conduct time" awards and inmate classification standards applicable to sentence reductions. Other significant legislation in this area included Senate Bill 251, the prison "privatization" bill, which authorized the Texas Department of Corrections (TDC) to contract with private vendors for the establishment and operation of minimum security facilities, and House Bill 682, governing transfers of violent offenders at age 18 to the TDC from the Texas Youth Commission. Both agencies underwent sunset review in 1987 (Senate Bill 245 and Senate Bill 33, respectively), as did several other criminal justice agencies (Senate Bill 341, House Bill 83, and Senate Bill 17) and the Texas Department of Mental Health and Mental Retardation (Senate Bill 257). The latter received also an 8.9 percent spending increase via the general appropriations act, largely for improvements to assist in compliance with the federal court orders affecting it.

Aside from its passage of the Build Texas package mentioned earlier, the 70th Legislature established a five-member bond review board of major state officials to approve individual bond issuances (Senate Bill 1027). Also, it created two new business-related governmental entities, consolidating several agencies into the Texas Department of Commerce (House Bill 4) and establishing the Texas Strategic Economic Development Commission (House Bill 5). Finally, to promote Texas' competitive technological standing, legislators founded the Texas Center for Superconductivity at the University of Houston in an attempt to extend the scientific advances made there in the past year by Dr. Paul Chu and his colleagues.

Other major legislation of interest to the business sector included three deregulatory bills. Senate Bill 95 partially deregulated intrastate trucking rates, Senate Bill 444 granted greater competitive flexibility to local exchange telephone companies, and Senate Bill 229 aimed toward potential deregulation of AT&T in long-distance service markets where that company is no longer dominant.

Education reform, which has been a major topic at least since the 68th Legislature because of its linkage to the issue of economic development, continued to be a focus in 1987. Receiving the most publicity was the November referendum on the State Board of Education (Senate Bill 86, 2nd Called Session), by which voters chose to discontinue the appointed board and to return to an elected one. In other legislation relating to public schools, teachers were affected by Senate Bill 335 eliminating subject-area testing and by House Bill 2623 modifying retirement benefits and contributions. Prospective teachers were affected by Senate Bill 994, which requires a college or university academic major other than education to gain certification, beginning September 1991. As for higher education, House Bill 2181 adopted many of the recommendations advanced by the interim Select Committee on Higher Education, and House Bill 2182 provided for a basic skills test to be administered to incoming freshmen to determine those needing assistance to perform college-level work. Senate Bill 784 changed the name of North Texas State University to the University of North Texas.

The death of a fraternity pledge at The University of Texas at Austin led to passage of Senate Bill 24, the "anti-hazing" bill. Reverberations from the suspension of the Southern Methodist University football program, meanwhile, produced Senate Bill 643 enabling an institution of higher education to sue boosters or other persons who violate rules of the National Collegiate Athletic Association (NCAA). Collegiate sports were also affected, directly or indirectly, by legislation regulating athletic agents (Senate Bill 20, 2nd Called Session) and prohibiting nonmedical use of anabolic steroids (Senate Bill 1035).

Drug and alcohol abuse was the topic of three other noteworthy bills. The "open container" law (Senate Bill 521) targeted drinking drivers, and the "dram shop" law (House Bill 1652) placed new legal liabilities on bars and restaurants that serve alcohol. House Bill 685 established criminal penalties for controlled-substance analogues, commonly referred to as "designer drugs."

Criminal justice legislation included a proposed constitutional amendment and enabling legislation (Senate Joint Resolution 34 and Senate Bill 762) to allow the State of Texas as prosecutor to appeal certain types of judicial decisions favorable to criminal defendants. Also, House Bill 23 enacted amendments to the state's speedy trial act, and House Bill 684 provided for a single trial covering multiple criminal offenses committed together.

House Bill 161, the spousal rape law, eliminated exemptions in the aggravated sexual assault statute previously applicable to a victim's spouse. Marital relations were affected also by Senate Bill 893, the Uniform Premarital Agreement Act, and parental prerogatives were affected by House Bill 410 prohibiting a doctor from

performing a third trimester abortion except under certain circumstances including maternal health dangers associated with the continuation of a pregnancy.

Other legislation of interest to physicians and hospitals included House Bill 2560, relating to medical peer review, and House Bill 344, amending the Indigent Health Care and Treatment Act. The main health enactments of the 70th Legislature, however, dealt with AIDS (acquired immune deficiency syndrome). House Bill 1829 added AIDS provisions to the Communicable Disease Prevention Act, while Senate Bill 1405 tightened screening procedures to reduce the risk of AIDS transmission through blood or organ donations.

Another health peril increasingly reported in the press involved attacks by vicious dogs, particularly pit bulls. In this regard, House Bill 571 established requirements for owners of dogs with a history of vicious conduct and specified the conditions under which an offending animal could be ordered destroyed.

An additional safety measure, House Bill 662, responded to an outbreak of construction accidents by requiring trench safety plans for contractors with the state or its political subdivisons. House Bill 669, a related labor law, increased the public availability of statistics on occupational deaths and injuries. Farmworkers were the subject of Senate Bill 601 increasing their minimum wage levels and House Bill 1896 extending "right-to-know" protections to cover agricultural handling of pesticides or other toxic chemicals.

In the environmental area, new legislation included Senate Bill 39 establishing a Hazardous Waste Research Center at Lamar University and Senate Bill 62 from the 2nd Called Session moving the state closer to the opening of a low-level radioactive waste disposal site. Outdoor sportsmen, meanwhile, were no doubt interested in Senate Bill 504 establishing a hunter education program and Senate Bill 13 authorizing an exemption from fishing license requirements for the state's youngest and eldest citizens. The major energy measure was Senate Bill 33 from the 2nd Called Session providing for the disbursement of over $200 million in oil overcharge funds.

Relations between the executive and legislative branches were the subject of Senate Joint Resolution 53, which proposed a constitutional amendment authorizing statutory limitations on appointments by a "lame duck" governor. Other measures of significance to state and local government included Senate Bill 168 revising the open meetings law and Senate Bill 962 setting restrictions on city annexation powers. Also, as part of its continuing statutory revision program, the legislature enacted Senate Bill 888, Senate Bill 894, and Senate Bill 896 adopting new titles of the Tax Code, Government Code, and Local Government Code, respectively.

Introductory sections to this publication's several chapters summarize in more detail the major enactments in each subject area.

AGRICULTURE

Of major importance among the bills in this chapter is House Bill 49, passed during the 2nd Called Session of the 70th Legislature. To help promote and enhance the state's agricultural economy and to financially assist those employed in such businesses, the bill creates an agricultural diversification program and provides for the establishment of the Agricultural Finance Authority.

House Bill 1896, which was passed during the Regular Session, is another measure of importance. It enacts the Agricultural Hazard Communication Act, which requires that agricultural workers be notified of hazardous chemicals to which they may be exposed during their employment.

Agricultural Diversification Program

HOUSE BILL 49 (2nd C.S.) **HOUSE AUTHOR:** Harrison
EFFECTIVE: see below **SENATE SPONSOR:** Sims

House Bill 49 directs the commissioner of agriculture to create an agricultural diversification program for the purpose of: (1) supporting the commercial use of agricultural research and innovation; (2) increasing the capabilities of community and regional organizations to train and assist new or expanding agricultural-based businesses; (3) starting nonprofit development agencies that provide concentrated business services to new small agricultural enterprises; and (4) encouraging private commercial loans for the enhanced production, processing, and marketing of crops already produced in the state and any alternative crop that could feasibly be produced in Texas.

The act establishes the Agricultural Diversification Board to assist in the creation and implementation of the new program.

Specific grant programs to carry out the broad goals of the agricultural diversification program are created. House Bill 49 also includes provisions for a linked deposit program to encourage commercial lending for the enhanced production, processing, and marketing of certain crops.

The provisions of House Bill 49 creating an agricultural diversification program are contingent on the adoption of the constitutional amendment proposed by House Joint Resolution 5 from the Regular Session, found in the chapter on state government, to be considered on November 3, 1987.

Another part of House Bill 49, Article 2, creates the Agricultural Finance Authority, to further provide financial assistance to eligible agricultural businesses.

The new authority is administered by the commissioner of agriculture and governed by a board of directors; the authority's purpose, functions, and powers are defined by the act.

Among the powers given to the authority is the power to issue revenue and general obligation bonds, the sales proceeds of which shall be deposited in the Texas agriculture fund.

The provisions of House Bill 49 authorizing the issuance by the Agricultural Finance Authority of general obligation bonds are contingent upon the adoption of the constitutional amendment proposed by House Joint Resolution 4 from the Regular Session, found in the chapter on state government, to be considered by the voters on November 3, 1987. The remainder of the provisions in Article 2 take effect on October 20, 1987.

Agricultural Workers

SENATE BILL 601 **SENATE AUTHOR:** Santiesteban
EFFECTIVE: 9-1-87 **HOUSE SPONSOR:** A. Moreno

Senate Bill 601 revises the Texas Minimum Wage Act of 1970. The definition of "range production of livestock" is broadened to include production of livestock in feedlots. Persons who perform services for a political subdivision as an elected official or as a member of a legislative body are exempted from minimum wage requirements.

The commissioner of labor and standards is required to furnish information on demand regarding an employer's liability for payment of contributions to the unemployment compensation fund; the act clarifies the role of interagency agreements in setting the fee charged for issuing this information.

The minimum wage for agricultural employees is set at $3.35 per hour. Agricultural workers who harvest a commodity for which a piece rate has been established by the commissioner are entitled to a minimum wage of $3.35 per hour; certain additional standards are set for the payment of piece rate workers.

Certain criminal penalty provisions are also repealed by Senate Bill 601.

HOUSE BILL 1896 **HOUSE AUTHOR:** McDonald
EFFECTIVE: see below **SENATE SPONSOR:** Whitmire

House Bill 1896 provides access to information concerning hazardous chemicals to certain agricultural laborers who may be exposed to the chemicals during their employment and ensures that workers exercising their right-to-know under this law shall not be subject to employer retaliation or discrimination.

The bill requires affected employers to prepare and maintain certain documents containing information about hazardous chemicals used in the workplace and information concerning their safe handling. This information shall be made available to workers, their designated representatives, treating medical personnel, and certain emergency service personnel in communities in which hazardous chemicals are stored in close proximity to residential areas.

The Department of Agriculture is directed to develop training programs for agricultural laborers with regard to hazards and is authorized to adopt necessary rules and administrative procedures to carry out the provisions of House Bill 1896. Civil and criminal penalties are established for employers in violation of the act.

With the exception of a provision regarding material safety data sheets furnished by manufacturers and distributors, which became effective on September 1, 1987, the Agricultural Hazard Communication Act takes effect on January 1, 1988.

See also House Bill 2197 in the labor chapter.

Grain Warehouse Operations

HOUSE JOINT RESOLUTION 104 **HOUSE AUTHOR:** Waterfield
FOR ELECTION: 11-3-87 **SENATE SPONSOR:** Santiesteban

House Joint Resolution 104 proposes a constitutional amendment allowing the legislature to authorize the use of public funds as surety for a self-insurance fund on behalf of farmers and depositors of grain in public warehouse facilities.

HOUSE BILL 1721 **HOUSE AUTHOR:** Waterfield
EFFECTIVE: 4-30-87 **SENATE SPONSOR:** Sarpalius

Before passage of this bill, Texas law had no provisions for the termination of storage of abandoned or unclaimed grain in a warehouse. House Bill 1721 allows grain warehouse operators to sell the abandoned grain and transfer the proceeds to the state treasurer. The bill also provides for alternatives to required bonds and lowers rates used in computing bond amounts.

Miscellaneous Legislation

HOUSE BILL 1031 **HOUSE AUTHOR:** Hinojosa
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Uribe

The maturity standard of oranges set by the Department of Agriculture requires that the ratio of soluble solids to the anhydrous citric acid of the juice be at least 9 to 1. House Bill 1031 corrects a portion of the Agriculture Code that erroneously sets this ratio at 12.5 to 1.

HOUSE BILL 1732 **HOUSE AUTHOR:** Stiles
EFFECTIVE: 5-18-87 **SENATE SPONSOR:** Caperton

House Bill 1732 adds rice to the list of agricultural commodities for which a commodity producers board may be established. The creation of such a board allows rice growers to promote their product, conduct research, and establish disease, insect, and predator control programs.

HOUSE BILL 1912 **HOUSE AUTHOR:** Berlanga
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Truan

House Bill 1912 relates to persons who appropriate state water from the Gulf of Mexico to engage in mariculture activities, which are defined as the propagation and rearing of certain aquatic species. The bill

exempts persons conducting this activity from having to obtain a permit from the Texas Water Commission for such use of state waters, if specified notification requirements to the commission are met.

HOUSE BILL 1919 — **HOUSE AUTHOR:** Saunders
EFFECTIVE: 9-1-87 — **SENATE SPONSOR:** Brown

House Bill 1919 creates the Fire Ant Advisory Board to oversee a program to finance ant research of the highest scientific merit that offers the greatest promise for solutions to fire ant infestations. The board is authorized to accept gifts and grants and is directed to establish an award program.

HOUSE BILL 2045 — **HOUSE AUTHOR:** McKinney
EFFECTIVE: 6-19-87 — **SENATE SPONSOR:** Blake

House Bill 2045 exempts certain commercial herbicide applicators from proof of financial responsibility requirements for drift damage and injuries to individuals as a result of operations of the application. However, the applicator must then be licensed for ground applicator equipment only and for use of only certain department-approved herbicides.

HOUSE BILL 2404 — **HOUSE AUTHOR:** R. Lewis
EFFECTIVE: 8-31-87 — **SENATE SPONSOR:** Blake

To prohibit stray livestock from roaming unattended on the right-of-way of a certain portion of a recreation road in Newton County, House Bill 2404 includes this specific road area in the definition of "highway."

HOUSE BILL 2595 — **HOUSE AUTHOR:** H. Cuellar
EFFECTIVE: 1-1-91 — **SENATE SPONSOR:** Zaffirini

House Bill 2595 abolishes the office of inspector of hides and animals in certain counties where the function of this office is no longer needed.

SENATE BILL 20 — **SENATE AUTHOR:** Sarpalius
EFFECTIVE: 9-1-87 — **HOUSE SPONSOR:** Robinson

Senate Bill 20 revises statutes concerning impounding and redeeming stray livestock. It directs sheriffs to notify owners of strays, if possible, before impounding livestock that is not dangerous. It modifies fee requirements and provides for appeals, and it provides that livestock owners are responsible for their animals' maintenance and any damages due to the owners of private property from which strays are impounded.

SENATE BILL 410 — **SENATE AUTHOR:** Montford
EFFECTIVE: 5-26-87 — **HOUSE SPONSOR:** T. Smith

Senate Bill 410 allows the Texas Water Development Board to make loans to certain irrigation districts from funding available through the pilot loan program for agricultural water conservation loans. By defining surface water irrigation districts as "lenders," the bill permits these districts to borrow money to improve their own water distribution systems or to make loans available to others for such purposes.

The bill further authorizes the use of loans for the purchase of equipment required for certain specified irrigation and water conservation operations, and extends the pilot loan program through the 1988-89 biennium.

SENATE BILL 840 — **SENATE AUTHOR:** Sims
EFFECTIVE: 5-27-87 — **HOUSE SPONSOR:** Harrison

A discrepancy exists between the Agriculture Code, which sets the term of elected public weighers at two years, and the Texas Constitution, which provides for a four-year term. Senate Bill 840 amends the code to conform with the constitution's provision.

SENATE BILL 1189 — **SENATE AUTHOR:** Uribe
EFFECTIVE: 9-1-87 — **HOUSE SPONSOR:** A. Moreno

Senate Bill 1189 authorizes cotton producer organizations to petition the commissioner to establish pest management zones for the control and prevention of boll weevils. The bill includes provisions relating to the responsibilities of the Department of Agriculture, and authorizes the department to require the destruction of host plants. The bill also includes penalties for violating department rules.

SENATE BILL 1216 **SENATE AUTHOR:** Brown
EFFECTIVE: 5-28-87 **HOUSE SPONSOR:** Perry

Licenses may not be issued to commercial herbicide and pesticide applicators unless proof of financial responsibility for crop damage and injury to individuals is furnished in the form of insurance policies or bonds; such insurance coverage, however, is difficult to obtain, and bonds are generally not available.

Unless otherwise prohibited by state law, Senate Bill 1216 provides for optional proof of financial security following a determination by the State Board of Insurance that crop damage and liability insurance is not readily available. Rulemaking authority for carrying out the provisions of this bill is granted to the Department of Agriculture and to the Texas Department of Health.

SENATE BILL 1248 **SENATE AUTHOR:** Sarpalius
EFFECTIVE: 9-1-87 **HOUSE SPONSOR:** Gibson

Senate Bill 1248 concerns payment to dairy farmers for raw milk purchased by milk producers. The bill specifies the method of payment, and with certain exceptions, requires milk handlers to maintain a trust fund of all payments received from the sale of the milk until the purchase of raw milk has been paid in full to dairy farmers.

The bill further provides for damages for failure to comply with its provisions.

SENATE BILL 1333 **SENATE AUTHOR:** Santiesteban
EFFECTIVE: 5-26-87 **HOUSE SPONSOR:** Patterson

Senate Bill 1333 provides that the Veterans Land Board may issue taxable bonds through the Farm and Ranch Finance Program. It extends the guarantees of the Family Farm and Ranch Security Program to any loan made under the Farm and Ranch Finance Program and designates a family farm and ranch security loan. The bill also specifies procedures for guarantees of Veterans Land Board loans.

SENATE BILL 1388 **SENATE AUTHOR:** Glasgow
EFFECTIVE: 8-31-87 **HOUSE SPONSOR:** Harrison

Senate Bill 1388 provides that an agricultural cooperative marketing association organized after August 1, 1987, or already in existence on that date, has perpetual existence unless a provision for limited duration is specified in its charter or articles of incorporation.

ALCOHOLIC BEVERAGES

Included among the measures passed during the Regular Session of the 70th Legislature to regulate the sale of alcoholic beverages was House Bill 1652, which has become known as the "dram shop" law. This legislation has wide public impact for it specifically places the responsibility of determining whether bar or restaurant patrons have had too much to drink on persons who serve or sell alcoholic beverages by making them potentially liable for the actions of intoxicated drivers. The other major piece of legislation relating to alcoholic beverages was the "open container" law, Senate Bill 521.

HOUSE BILL 1652 — **HOUSE AUTHOR:** Millsap
EFFECTIVE: 6-11-87 — **SENATE SPONSOR:** Glasgow

House Bill 1652 amends several provisions of the Alcoholic Beverage Code. In a major change to state law, a new chapter is added providing that in certain cases bars and restaurants may be held liable for personal injuries and property damage caused by a customer who is intoxicated.

The bill creates a statutory cause of action against the provider, seller, or server of alcoholic beverages and provides for permit and license revocation on proof that: (a) at the time an alcoholic beverage was supplied it was evident to the provider that the customer was obviously intoxicated to the extent that he presented a clear danger to himself and others; and (b) the intoxication of the customer was a proximate cause of the damages suffered.

With regard to alcoholic beverage retailers and their agents and employees, this act amends the definition of intoxication considered to be unlawful on-premise conduct. House Bill 1652 also provides for permit suspension if the permittee is convicted of operating his business in violation of a federal, state, or local law prohibiting discrimination.

The bill also amends a statutory provision regarding the renewal of mixed drink permits held by corporations and makes certain statutory provisions that previously related only to the sale of beer applicable to the sale of ale and malt liquor.

SENATE BILL 521 — **SENATE AUTHOR:** Sarpalius
EFFECTIVE: 8-31-87 — **HOUSE SPONSOR:** Wilson

Senate Bill 521, the "open container" law, amends the Uniform Act Regulating Traffic on Highways to provide that it is a Class C misdemeanor offense for a person to consume an alcoholic beverage while operating a motor vehicle in a public place and be observed doing so by a police officer.

HOUSE BILL 258 — **HOUSE AUTHOR:** T. Smith
EFFECTIVE: 8-31-87 — **SENATE SPONSOR:** Barrientos

Under former law, each minor in violation of the Alcoholic Beverage Code was required to appear in court accompanied by a parent or guardian. House Bill 258 excludes persons between the ages of 18 and 21 from that requirement by amending the provision to apply only to persons under the age of 18, instead of to all minors.

The act further provides that persons who are 18, 19, or 20 years old may not be barred from holding agent's permits or agent's beer licenses on the basis of their age.

HOUSE BILL 1123 — **HOUSE AUTHOR:** Wilson
EFFECTIVE: 9-1-87 — **SENATE SPONSOR:** Harris

House Bill 1123 establishes a limousine service alcoholic beverage permit. Unless located in dry areas where such permits are inoperable, permit holders may sell or serve beverages in limousines, purchase alcohol for such purposes, and store beverages. The Texas Alcoholic Beverage Commission is required to adopt rules governing the conduct of these activities.

The act establishes fees for original and renewal beverage licenses and imposes on permit holders inventory taxes and fees for individual servings of alcoholic beverages served in limousines.

HOUSE BILL 1653 — **HOUSE AUTHOR:** Kuempel
EFFECTIVE: 8-31-87 — **SENATE SPONSOR:** Green

House Bill 1653 amends several provisions of the Texas Alcoholic Beverage Code. With regard to record-keeping procedures, it allows branch distributors who have shown good compliance in filing timely and correct reports to the Texas Alcoholic Beverage Commission to maintain their records at the same location as their general distributors.

The bill permits certain distributors to share vehicles for the transportation of beer and liquor and exempts them from motor carrier laws requiring certificates or permits from the Texas Railroad Commission to transport liquor for hire.

House Bill 1653 further prohibits the Texas Alcoholic Beverage Commission from issuing a branch distributor's license to a person who is not qualified to obtain an original general distributor's license.

HOUSE BILL 1963 **HOUSE AUTHOR:** Wilson
EFFECTIVE: see below **SENATE SPONSOR:** Parmer

House Bill 1963 changes the state-of-mind requirement for commission of the offense of selling an alcoholic beverage to a minor. Current law provides that a person commits an offense if he knowingly sells an alcoholic beverage to a minor. House Bill 1963 amends this statute to provide that an offense is committed if a person who sells an alcoholic beverage to a minor commits the act with criminal negligence. This provision takes effect on January 1, 1988.

The act also provides an exemption for an employer from liability for the actions of employees who sell, serve, deliver, or consume alcohol in violation of the law if the employer requires the employees to attend seller training programs. The programs must be approved by the Texas Alcoholic Beverage Commission, which i responsible for adopting rules and policies governing them. The provision is effective September 1, 1987.

House Bill 1963 also defines the premises of the holder of a wine and beer retailer's permit who leases sp in the food court of a shopping mall. This law is effective August 31, 1987.

HOUSE BILL 1977 **HOUSE AUTHOR:** A. Moreno
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Armbrister

In general, state law prohibits patrons of private clubs from removing any alcoholic beverages from the premises. However, House Bill 1977 provides that a person who orders wine with his meal may remove f the club an open bottle containing the remaining portion of the wine.

The act also expands the definition of "fraternal organizations" that are exempt from certain provis relating to private club permits to include building associations composed of members appointed by cou commissioners courts to administer certain county-owned exhibition centers.

HOUSE BILL 1978 **HOUSE AUTHOR:** A. Moreno
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Uribe

House Bill 1978 amends several provisions of the Alcoholic Beverage Code. It authorizes the Texas Alcoholic Beverage Commission to establish reasonable fees for tasks and services performed by the commission, including fees incidental to the issuance of licenses and permits. If no fees have been set for newly created certificates, permits, and licenses, the commission is authorized to set fees. A fee set by the commission may not exceed $25.

House Bill 1978 raises the administrative fee for the importation of liquor and beer into the state for personal use and restricts the amount of beer a person may import into Texas for personal use during a 30-day period.

Under state law, nonresident sellers who wish to ship distilled spirits to Texas must submit product, container, and label samples to the commission for approval and must obtain a certificate of approval before transacting business. House Bill 1978 establishes a $25 application fee for such certificates.

The act also provides for the issuance of a certificate of approval for samples submitted to the commission by manufacturers and brewers who wish to import, manufacture, or sell beer, ale, or malt liquor in Texas and sets a $25 application fee for each certificate.

The final provision of the bill provides that if after June 1, 1987, the attorney general notifies the secretary of state that the federal laws requiring states to set the drinking age at 21 is no longer in effect, the provisions of the 1985 law lowering the drinking age to 19 are effective on the first day of the month following the month in which notice is filed by the attorney general.

HOUSE BILL 2262 **HOUSE AUTHOR:** Toomey
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Henderson

State law provides that an appeal from an order of the Texas Alcoholic Beverage Commission or administrator refusing, canceling, or suspending a permit or license may be taken to the district court of the

county in which the applicant resides. Local officials and others on record as protesting the issuance of a permit or license are entitled to notice of the appeal, but may not enter an appearance in the appeal.

House Bill 2262 amends this provision in cases in which an appeal concerns the refusal to issue or renew a permit or a license of a business that is sexually oriented. In such cases, any citizen may appear on appeal in protest of the issuance unless a party to the proceeding shows that the person has no justiciable or administratively cognizable interest in the proceeding.

SENATE BILL 523 **SENATE AUTHOR:** Edwards
EFFECTIVE: 6-5-87 **HOUSE SPONSOR:** Taylor

Certain types of advertising are excluded from the definition of outdoor advertising of alcoholic beverages and alcoholic beverage businesses governed by certain statutory provisions. Senate Bill 523 expands the types of advertising excluded to include advertising displayed on boats and aircraft participating in shows and races.

APPROPRIATIONS

The legislature was unable to pass the General Appropriations Act for the 1988-89 fiscal biennium during the Regular Session. The act (Senate Bill 1) was passed during the 2nd Called Session and appropriated $38.3 billion for the biennium from all revenue sources.

To balance the state budget, two revenue bills (House Bill 61 and House Bill 62), raising an additional estimated $5.7 billion from taxes and fees, were also passed during the 2nd Called Session. See the chapter on state taxes and tax administration for summaries of this legislation.

General Appropriations Act

SENATE BILL 1 (2nd C.S.) **SENATE AUTHOR:** Jones
EFFECTIVE: 9-1-87 **HOUSE SPONSOR:** Rudd

The $38.3 billion General Appropriations Act for the 1988-89 biennium includes appropriations of $27.1 billion from general-revenue-related funds. This amount from general revenue sources represents an increase of $1 billion, or four percent, over the 1987 biennial operating level of funding. (That level is the amount of appropriations available to state agencies in fiscal 1987 expressed on a biennial basis.)

The line item figures in the act do not reflect an across-the-board reduction of .65 percent. This reduction is implemented by a general provision in Article V of the act that directs the comptroller to adjust all appropriations from the general revenue fund, state highway fund, and foundation school fund, except appropriations to Article IV, the judiciary.

Another general provision of Article V authorizes a salary increase for state employees and officials of not more than two percent for the fiscal year ending August 31, 1989. For the increase to be effective, the comptroller must determine that sufficient revenue is available from unappropriated balances in the general revenue fund and special funds. The provision does not apply to faculty employed by institutions of higher education.

The governor vetoed various line item appropriations in the budget act, totalling $167.4 million. For a list of the item vetoes, see the governor's proclamation in the appendix.

The following tables present a breakdown of the appropriations in Senate Bill 1 and a comparison of those amounts to the 1987 biennial operating level. The amounts do not indicate reductions from item vetoes. For a detailed analysis of the biennial state budget, see the Legislative Budget Board publication entitled Fiscal Size Up.

Appropriations By Governmental Function
Compared to the 1987 Biennial Operating Level

(general revenue related funds, in millions)

	1987 Biennial Operating Level	1988-1989 Biennium Appropriation	Change	
			Amount	Percent
Education	$14,006.7	$14,751.4	$744.7	5.4%
Human Services	2,259.7	2,580.1	320.4	14.2
Transportation	3,368.3	3,133.1	(235.2)	(7.0)
Employee Benefits	2,483.5	2,524.1	40.6	1.6
Health	1,753.2	1,896.6	143.4	8.2
Public Safety and Corrections	1,153.8	1,256.0	102.2	8.9
General Government	602.6	665.5	63.9	10.7
Natural Resources and Recreational Resources	405.4	422.1	16.7	4.1
Regulatory Agencies	95.8	97.5	1.7	1.8
Less Across-the-Board Reductions		(177.6)	(177.6)	
TOTAL	$26,129.0	$27,149.8	$1,020.8	4.0%

Appropriations by Article

(all funds, in millions)

Article I - Executive and Administration Agencies	$10,858.6
Article II - Health and Human Services	8,660.8
Article III - Education	18,788.6
Article IV - The Judiciary	112.4
Article V - General Provisions	(177.6)
Article VI - The Legislature	103.9
TOTAL	$38,346.7

Source: Legislative Budget Board

Other Legislation Relating to Appropriations

HOUSE BILL 1874 **HOUSE AUTHOR:** Millsap
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Blake

House Bill 1874 provides financing for the renovation of the State Capitol through the sale of bonds issued by the Texas Public Building Authority. The authority may issue bonds in an amount up to one and a half times the estimated cost for the project that is financed. The bill states that the estimated cost of the total repair and renovation is $45 million. The authority must deposit proceeds from the sale of these bonds in the state treasury to the account of the State Preservation Board, which is authorized to undertake the repairs and renovations with this money.

HOUSE BILL 2597 **HOUSE AUTHOR:** Colbert
EFFECTIVE: 6-20-87 **SENATE SPONSOR:** Henderson

House Bill 2597 establishes the Texas Center for Superconductivity at the University of Houston-University Park in Houston, Texas. The center is created as a component of the university to research and develop all aspects of superconductivity. To finance the center, the bill appropriates $1.5 million from amounts received by the state as the result of oil-overcharge litigation, and the bill permits the center to accept gifts, grants, and federal funds. However, this appropriation is expressly contingent on the approval of the United States Department of Energy, which oversees the expenditure of oil-overcharge funds.

SENATE BILL 149 **SENATE AUTHOR:** Farabee
EFFECTIVE: 4-1-87 **HOUSE SPONSOR:** Laney

Senate Bill 149 changes the reporting and payment procedures for social security contributions for officers and employees of the state and local governments. The contributions had been processed through a single agency, the employees retirement system. To conform to new federal requirements, each agency and local government will pay the contributions directly to the federal Internal Revenue Service. The bill applies to contributions on wages paid after December 31, 1986.

Senate Bill 149 also transfers fiscal year 1987 appropriations to the social security trust fund to the comptroller to pay contributions for certain state employees.

SENATE BILL 215 **SENATE AUTHOR:** McFarland
EFFECTIVE: 2-20-87 **HOUSE SPONSOR:** Hightower

Senate Bill 215 amends statutory provisions related to the release of inmates from the Texas Department of Corrections under emergency overcrowding conditions.

The Texas Adult Probation Commission is authorized to develop and fund department-managed programs for intensive supervision and to transfer certain funds appropriated to it for the fiscal year ending August 31, 1987, from one program to another for the purpose of diverting defendants from commitment to the Texas Department of Corrections or providing information to judges and prosecutors on available diversion programs.

The act creates an emergency appropriation fund in the state treasury and transfers $32.5 million to the fund from amounts appropriated to the State Department of Highways and Public Transportation for the fiscal year ending August 31, 1987. The act appropriates money from the emergency appropriation fund to the attorney general for payment of workers' compensation claims, to the Texas Department of Corrections for

expenditure for compliance with federal court orders, and to the Board of Pardons and Paroles for use in halfway houses and intensive supervision programs. These funds may be appropriated only if the governor determines that expenditures are necessary to comply with federal court orders. The funds appropriated are in addition to funds previously appropriated to these entities.

SENATE BILL 444 **SENATE AUTHOR:** Farabee
EFFECTIVE: 9-1-87 **HOUSE SPONSOR:** Cain

Senate Bill 444 amends the Public Utility Regulatory Act regarding the regulation of local exchange telecommunications companies. From fees and assessments collected from the companies, the bill appropriates an amount estimated to be $1,700,448 to the Public Utility Commission and an amount not to exceed $509,802 to the Office of Public Utility Counsel to defray administrative costs during the 1988-89 fiscal biennium.

Senate Bill 444 also creates the Telecommunications Service Assistance Program and the universal service fund. The fund will assist local exchange companies in providing basic local exchange service at reasonable rates to disabled senior citizens who meet certain eligibility requirements. The bill appropriates, from fees collected from all telecommunications utilities with access to the consumer base, an amount not to exceed $300,000 to the Public Utility Commission and an amount estimated to be $616,998 to the Department of Human Services for administrative costs of the program during the 1988-89 fiscal biennium.

SENATE BILL 595 **SENATE AUTHOR:** Parmer
EFFECTIVE: 8-31-87 **HOUSE SPONSOR:** Vowell

Senate Bill 595 partially deregulates intrastate trucking. This act directs that administrative penalties be credited to the Motor Carrier Act enforcement fund in the state treasury. The fund is appropriated to the Railroad Commission of Texas and the Department of Public Safety for the purpose of enforcing the provisions of this act.

HOUSE BILL 61 (2nd C.S.) **HOUSE AUTHOR:** Morales
EFFECTIVE: 7-21-87 **SENATE SPONSOR:** Glasgow

Article 12 of House Bill 61, the omnibus tax bill, appropriates $11,606,451 to the comptroller to administer the act during the 1988-89 fiscal biennium. See the chapter on state taxes and tax administration for a detailed summary of the bill.

HOUSE BILL 170 (2nd C.S.) **HOUSE AUTHOR:** Gavin
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Jones

House Bill 170 provides for the licensing and regulation by the State Board of Insurance of third party administrators of group insurance plans. The act also appropriates from the State Board of Insurance operating fund $2,247,061 for the fiscal year ending August 31, 1988, and $2,229,324 for the fiscal year ending August 31, 1989, to the board for administration and enforcement of the new law. See the chapter on insurance for a detailed summary of the act.

SENATE BILL 6 (2nd C.S.) **SENATE AUTHOR:** Jones
EFFECTIVE: 10-20-87 **HOUSE SPONSOR:** Rudd

The bill appropriates from various funds $579,431.90 to pay certain miscellaneous claims and judgments against the state. It also appropriates, for the 1988-89 fiscal biennium, hotel occupancy tax revenue accruing in a special account to the Texas Department of Commerce for the purpose of media advertising and other marketing activities designed to increase tourism in the state.

SENATE BILL 68 (2nd C.S.) **SENATE AUTHOR:** Montford
EFFECTIVE: 9-1-87 **HOUSE SPONSOR:** T. Smith

Senate Bill 68 authorizes the comptroller to transfer, in equal monthly installments, a total of $280 million from the state highway fund to the foundation school fund during the 1988-89 fiscal biennium. The funds are to be repaid to the state highway fund from the general revenue fund in equal monthly installments during the 1990-91 biennium.

SENATE JOINT RESOLUTION 8 (2nd C.S.) **SENATE AUTHOR:** Montford
FOR ELECTION: 11-8-88 **HOUSE SPONSOR:** G. Lewis

The federal government reimburses the state for certain highway expenditures. These reimbursements are not specifically dedicated for highways by the state constitution. Senate Joint Resolution 8 (2nd Called Session), if approved by the voters, would constitutionally dedicate federal highway reimbursements for highway purposes.

BUSINESS AND OCCUPATIONAL REGULATION

Senate Bill 229, aimed at the deregulation of AT&T, is noteworthy among business legislation enacted in 1987. Senate Bill 595, a measure to partially deregulate intrastate trucking, was also the focus of much attention. House Bill 752, relating to state enterprise zones, is an attempt to provide a state economic development tool to target severely distressed local economies. House Bill 1953 tightens restrictions on motor vehicle dealers, and House Bill 36 regulates businesses involved in asbestos abatement.

Several additional enactments involve health professions and occupations. House Bill 2560 amends the Medical Practice Act, Senate Bill 1421 provides new regulations for dental labs, and Senate Bill 1160 makes changes in the regulation of nurses.

Banking was also the subject of several enactments. The Texas Savings and Loan Act is amended (House Bill 1248), regulations that apply to credit unions are changed (House Bill 1208), and private banks are placed entirely under The Texas Banking Code (Senate Bill 817).

The major piece of legislation enacted during the 2nd Called Session relating to business and occupational regulation was Senate Bill 20, which regulates sports agents who engage in contract negotiations with college athletes. The legislature also made some technical corrections to House Bill 2560 (70th Legislature, Regular Session), which amended the Medical Practice Act, and repealed a provision contained in House Bill 1230 (70th Legislature, Regular Session), which amended the Texas Pawn Shop Act.

Bills relating to controlled substances are summarized in the criminal justice and procedure chapter.

Telecommunications

SENATE BILL 229 — **SENATE AUTHOR:** Montford
EFFECTIVE: see below — **HOUSE SPONSOR:** Haley

Senate Bill 229 amends the Public Utility Regulatory Act. The amendments take effect in two stages. Effective September 1, 1987, they require the Public Utility Commission of Texas to hold hearings to determine whether any interexchange telecommunications carrier is dominant in various service markets as defined in the bill. This determination must be made by December 31, 1988. Currently, AT&T is the only dominant carrier in the state. Any carrier found to be dominant in these proceedings may petition the commission to determine whether it is no longer the dominant carrier in certain service markets after January 15, 1990. The carrier will have the burden of proof in such cases.

The commission is also required to develop a methodology to separate costs among fully regulated services, regulated competitive services, and unregulated services. Intent is stated within the bill that fully regulated services shall not subsidize the costs of unregulated services or regulated competitive services provided by a carrier.

Effective December 31, 1988, interexchange telecommunications carriers that are not dominant carriers become subject to greater regulation by the Public Utility Commission of Texas. The commission is given new authority to require the maintenance of statewide average rates of telecommunications services, to require that every local exchange area have access to interexchange telecommunications service, and to require the quality of the service provided to be adequate to protect the public interest. The commission may enter orders to protect the public interest if it finds that an interexchange telecommunications carrier has controlled prices in an adverse manner, has failed to maintain statewide average rates, has abandoned service to an area, or has engaged in preferential or discriminatory practices.

In a hearing on a complaint filed against an interexchange telecommunications carrier by another carrier, the burden of proof will be on the complainant. If the proceedings are brought by customers or initiated by the Public Utility Commission, the burden of proof will be on the respondent carrier. The commission may, however, shift the burden of proof to the complainant in such cases if found to be in the public interest.

All interexchange telecommunications carriers will be required to pay an assessment equal to one-sixth of one percent of gross receipts to help defray administrative costs of the commission. Any carrier found to be dominant in a service market or filing certain petitions will be required to reimburse the Office of Public Utility Counsel for the costs of participation on behalf of residential ratepayers in proceedings before the commission. The reimbursement may not exceed $175,000 per year. Carriers that do not provide local exchange service may collect the fee from customers if separately stated on the customers' billing statement.

Effective September 1, 1987, pending full implementation of the legislation, Senate Bill 229 validates transitional rules of the commission designed to provide AT&T some rate flexibility.

SENATE BILL 444 **SENATE AUTHOR:** Farabee
EFFECTIVE: 9-1-87 **HOUSE SPONSOR:** Cain

Senate Bill 444 amends the Public Utility Regulatory Act to allow local exchange telephone companies greater flexibility in the area of competitive telecommunications services. The Public Utility Commission of Texas is required to establish procedures to determine the level of competition in specific markets and provide appropriate regulatory treatment that will allow local exchange companies to respond quickly to competitive challenges in the marketplace. The commission is given authority to collect fees from the companies to cover the administrative costs of implementation.

The bill also establishes a telecommunications service assistance program to be provided to eligible customers by local exchange companies. The program provides that, for eligible customers, flat rate basic service, local exchange access service, and local area calling usage will be billed at a reduced rate. The Texas Department of Human Services is charged with providing lists of eligible customers to each local exchange company. The companies may recover their costs for providing this program from the universal service fund, established by the bill and funded with statewide uniform charges payable by all telecommunications utilities having access to the customer base.

HOUSE BILL 572 **HOUSE AUTHOR:** Perry
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Montford

House Bill 572 amends the Telephone Cooperative Act. Among its many provisions, the bill redefines "communication service" to include other means of information transmission in addition to voice communication. The prohibition against cooperatives serving communities with a population in excess of 1,500 is deleted.

The rules of indemnification for nonprofit corporations, which provide for coverage of a director or officer of the corporation when claims are filed against him, are extended to corporations formed under the Telephone Cooperative Act. The bill also includes provisions for mergers, conversions, and consolidations of telephone cooperatives. Any of these actions will require a two-thirds vote of the members of each cooperative.

The bill also allows compensation for members of the board of directors when attending certain meetings and raises fees for required filings with the secretary of state.

HOUSE BILL 879 **HOUSE AUTHOR:** T. Smith
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Krier

House Bill 879 exempts officers, employees, or agents of certain common carriers from the provisions of the Private Investigators and Private Security Agencies Act. The exemption applies to employees engaged in protecting the company or a user of the company's long-distance service from fraudulent or unlawful use.

Motor Carriers

SENATE BILL 595 **SENATE AUTHOR:** Parmer
EFFECTIVE: 8-31-87 **HOUSE SPONSOR:** Vowell

Senate Bill 595 partially deregulates in-state trucking rates. The Railroad Commission of Texas is directed to investigate existing shipping rates and to establish simplified base rates by January 1, 1988. On shipments of 10,000 pounds or more, a carrier may deviate 15 percent above or below the established base rate. Rates for shipments in excess of 500 pounds but less than 10,000 pounds may vary five percent from the base rate. A carrier electing to deviate from the established rates must file notice with the commission. The Railroad Commission of Texas will continue to set one price for loads under 500 pounds through 1989. After 1989, the commission may vary these rates as well. The bill bans "predatory pricing," the practice of charging rates that are lower than actual operating costs or unreasonably above those costs.

The bill requires all commercial vehicles transporting property to be registered annually with the commission. A $1 fee must accompany the registration. The commission will issue a numbered certificate for each vehicle that must be carried in the vehicle at all times.

The Department of Public Safety is required to establish procedures under which traffic law violations shall be recorded in the name of the owner of a registered vehicle as well as the driver. The citations will be reported to the Railroad Commission of Texas on a monthly basis.

The commission is given authority to assess administrative penalties up to $10,000 for violation of any provision of the statutes respecting commission rules and regulations in addition to existing penalties. Such administrative penalties assessed and the $1 annual registration fee will be credited to the Motor Carrier Act enforcement fund to be used by the commission and the Department of Public Safety for enforcement.

SENATE BILL 862 — **SENATE AUTHOR:** Anderson
EFFECTIVE: 9-1-87 — **HOUSE SPONSOR:** C. Johnson

The Railroad Commission of Texas has had the authority to regulate commercial carriers that transport six or more persons. Municipalities usually regulate commercial carriers of less than six persons, such as taxi services. The railroad industry often contracts with commercial carriers that do not fall under Railroad Commission of Texas jurisdiction to transport employees. Senate Bill 862 requires commercial carriers transporting railroad crews to apply to the commission for a permit. The carrier must also abide by all commission regulations regarding insurance, safety, and the qualifications and physical condition of the driver.

HOUSE BILL 2273 — **HOUSE AUTHOR:** Vowell
EFFECTIVE: 6-19-87 — **SENATE SPONSOR:** Parmer

The Railroad Commission of Texas is responsible for motor carrier regulation. Food distributors transporting only their own goods are exempt from regulation. However, some state agencies contract with commercial food distributors to deliver USDA donated commodities. This method of delivery may bring these carriers under railroad commission jurisdiction. House Bill 2273 exempts a person or company transporting USDA commodities under contract with a state agency from railroad commission regulation.

Motor Vehicle Regulation

HOUSE BILL 152 — **HOUSE AUTHOR:** Watson
EFFECTIVE: 9-1-87 — **SENATE SPONSOR:** Barrientos

House Bill 152 amends the Business & Commerce Code to prohibit motor vehicle dealers from selling vehicles with an emblem, trade name, logo, or other message attached to brake lights mounted in the rear windows. A violation is a Class C misdemeanor.

HOUSE BILL 1325 — **HOUSE AUTHOR:** Taylor
EFFECTIVE: 9-1-87 — **SENATE SPONSOR:** Henderson

The operator of a vehicle storage facility is required to obtain a license from the Texas Department of Labor and Standards. Enforcement of this provision has been difficult due to the lack of penalties for violations. House Bill 1325 provides that an offense for operating a vehicle storage facility without a valid license is a Class C misdemeanor.

HOUSE BILL 1531 — **HOUSE AUTHOR:** Cain
EFFECTIVE: 6-11-87 — **SENATE SPONSOR:** Brown

House Bill 1531 amends the Texas Motor Vehicle Commission Code in several ways. Converters of motor vehicles are made subject to commission regulation and must obtain an annual license.

The size of the commission is reduced from nine members to six, and the requirement that five of the members be dealers is eliminated. Licensed dealers will be prohibited from serving on the commission.

Revisions in the hearings process are made, and license and various filing fees are increased. Vehicles may not be sold at shows or exhibitions, but dealers are allowed to have sales representatives present in order to provide information. In the event of a franchise termination, a manufacturer or distributor will be required to pay the dealer for costs of inventory, parts and accessories, signs, and special tools or equipment.

HOUSE BILL 1953 — **HOUSE AUTHOR:** Shaw
EFFECTIVE: 6-18-87 — **SENATE SPONSOR:** Sims

This amendatory act restricts a person from engaging in business as a dealer of motor vehicles, motorcycles, house trailers, trailers, or semitrailers unless he has a current valid general distinguishing number assigned to him by the State Department of Highways and Public Transportation for the location from which he engages in business. A dealer is required to have a separate and distinct number for each business location unless he obtains a general number for dealing in a particular type of vehicle from more than one location, each location is an established and permanent place of business, and the dealer is not otherwise prohibited from doing

business at more than one location. The dealer is required to file a sworn application that he intends to engage in business as a dealer of that type of vehicle for at least one year at the specified location and that he or his employee will be on location for the purpose of buying, selling, leasing, or exchanging vehicles and will be available to the public or the highway department at the location during reasonable and lawful business hours. The bill exempts certain sales from these requirements, including sales of vehicles acquired for personal or business use, sales by governmental agencies, forced sales by secured creditors, sales by court order, wrecked cars sold by insurance companies, sales of vehicles at least 35 years old, and sales by auctioneers.

SENATE BILL 539 **SENATE AUTHOR:** Harris
EFFECTIVE: 9-1-87 **HOUSE SPONSOR:** Larry

This bill amends provisions in the Motor Vehicle Sales Act that affect installment sales of heavy commercial vehicles and variable contract rate disclosures. The bill lowers the minimum weight of a "heavy commercial vehicle" from 25,000 pounds to 19,000 pounds. A retail installment contract that provides for a variable rate is required to set out the method to determine the rate, but if the contract is for a heavy commercial vehicle it need not specify the total amount of the time price differential. The bill allows the holder of a retail installment contract for a heavy commercial vehicle to charge up to five percent of the installment on each delinquent payment or the highest lawful post-maturity interest rate. Senate Bill 539 also specifies a formula for determining the refund credit for contracts involving the sale of heavy commercial vehicles in the event of prepayment and allows the lender to keep an additional $50 acquisition fee.

SENATE BILL 666 **SENATE AUTHOR:** Armbrister
EFFECTIVE: 9-1-87 **HOUSE SPONSOR:** McWilliams

Senate Bill 666 provides for state registration of tow trucks and prohibits municipalities from requiring additional registration except for businesses located within their boundaries and for trucks performing nonconsent tows within their boundaries. The Texas Department of Labor and Standards is directed to determine minimum insurance and safety requirements regarding operation of tow trucks and to issue registration certificates. Provisions regarding fees, licenses, and penalties are included.

Financial

HOUSE BILL 1208 **HOUSE AUTHOR:** Robnett
EFFECTIVE: 6-17-87 **SENATE SPONSOR:** Jones

House Bill 1208 amends the Texas Credit Union Act. The act requires articles of incorporation to include a description of the members' shared definable community interest at the time of incorporation. House Bill 1208 gives two additional powers to credit unions: the power to receive investments from a person's representative if such representative is acting in a capacity pursuant to the Texas Probate Code or Property Code and the power to administer as trustee any trust and accept money deposited by guardians, executors, or administrators.

The bill provides procedures for filling a vacancy in the board of directors or for removal of a director. Members' deposit accounts are removed from the formula used to determine the capital of a credit union. The Credit Union Commission is authorized to establish by rule an amount lower than 10 percent of the credit union's total assets that may be loaned to any one member of the credit union. House Bill 1208 also authorizes the credit union commissioner to restrict dividend payments if it is necessary to protect members' interest and preserve solvency.

Among the other provisions, the bill establishes rules for commissioner-ordered suspensions and conservations, and operating procedures under such orders. It also provides for the election of a chairman and vice-chairman to the Credit Union Commission, and establishes procedures for operation when the chairman is absent from meetings.

HOUSE BILL 1248 **HOUSE AUTHOR:** Schlueter
EFFECTIVE: 5-19-87 **SENATE SPONSOR:** Jones

House Bill 1248 makes amendments to the Texas Savings and Loan Act. One of the major provisions of this bill establishes procedures for Texas savings and loan associations to merge with or be purchased by savings and loans located outside the state. The remaining entity could operate in Texas, but offices located within the state would remain under the supervision and regulatory control of the Texas savings and loan commissioner.

This bill also provides that the savings and loan commissioner, members of the Finance Commission of Texas, and employees of the Savings and Loan Department of Texas are exempt from personal liability for official acts and will be defended by the attorney general if action is brought against them.

HOUSE BILL 1632 — **HOUSE AUTHOR:** Collazo
EFFECTIVE: 9-1-87 — **SENATE SPONSOR:** Edwards

House Bill 1632 requires financial institutions that do not have federal deposit insurance to notify any person making a deposit that the institution's deposits are not insured.

SENATE BILL 297 — **SENATE AUTHOR:** McFarland
EFFECTIVE: 3-25-87 — **HOUSE SPONSOR:** Gibson

Senate Bill 297 allows the board of directors of a state bank, with the approval of the state banking commissioner and the Federal Deposit Insurance Corporation, to sell all or part of the assets of a bank that has failed or faces imminent failure. A sale under this act, which does not require shareholder approval, must include an agreement by the buyer to pay all of the bank's liabilities to depositors, liabilities for salaries of bank employees, and fees involved in the sale of the bank.

SENATE BILL 455 — **SENATE AUTHOR:** Glasgow
EFFECTIVE: 5-28-87 — **HOUSE SPONSOR:** Gibson

Senate Bill 455 allows a state bank or a national bank with its main office in Texas to transfer trust accounts to an affiliated trust company. The bill sets out the duties, rights, and obligations of the involved parties when such a substitution is made.

SENATE BILL 474 — **SENATE AUTHOR:** Caperton
EFFECTIVE: 8-31-87 — **HOUSE SPONSOR:** Gibson

State law requires that when bank records are subpoenaed, the depositor must be served personally or by certified mail. Senate Bill 474 allows notice of an order, subpoena, or request for bank records to be served to the depositor's authorized agent or his attorney of record.

SENATE BILL 816 — **SENATE AUTHOR:** Armbrister
EFFECTIVE: 4-29-87 — **HOUSE SPONSOR:** Marchant

Senate Bill 816 repeals Article 342-502(c) of The Texas Banking Code. The article provided that if a state bank acquired real estate other than for its own use in future expansion, it could not assign an original book value to such real estate in excess of its reasonable value at the time of acquisition. Such real estate had to be depreciated 10 percent annually until charged down to 25 percent of its original value.

SENATE BILL 817 — **SENATE AUTHOR:** Armbrister
EFFECTIVE: 8-31-87 — **HOUSE SPONSOR:** Robnett

Senate Bill 817 provides that private banks will be governed by The Texas Banking Code in the same manner as state banks. Previously, the banking code applied to private banks only in certain limited contexts.

SENATE BILL 864 — **SENATE AUTHOR:** Anderson
EFFECTIVE: 5-29-87 — **HOUSE SPONSOR:** Lucio

Under Texas law, a bank may change the rate of interest it pays on a deposit account or discontinue its liability for interest altogether, on proper notice, provided that such action does not affect a contractual provision of the account. Senate Bill 864 provides that this rule applies to provisions contained in a money market account or negotiable order of withdrawal account only if the contract for the account clearly states that the rate of interest on the account is variable and states the terms of the rate.

SENATE BILL 876 — **SENATE AUTHOR:** Harris
EFFECTIVE: 6-19-87 — **HOUSE SPONSOR:** Parker

Senate Bill 876 requires the Banking Department of Texas to maintain confidentiality of information relative to the financial condition of any bank or bank holding company. The previous language referred only to state banks.

SENATE BILL 1083 **SENATE AUTHOR:** Henderson
EFFECTIVE: 6-18-87 **HOUSE SPONSOR:** Lucio

Senate Bill 1083 allows loan agreements for regulated loans and installment loans to provide that the holder of the loan can charge a processing fee for the return of a dishonored check.

Foreign Trade Zones

SENATE BILL 333 **SENATE AUTHOR:** Montford
EFFECTIVE: 8-31-87 **HOUSE SPONSOR:** Robnett

Foreign merchandise is allowed into the United States within foreign trade zones without being subject to full customs duties and regulations. A special board within the United States Department of Commerce accepts and reviews applications for new zones if prior state approval has been granted. Senate Bill 333 authorizes the city of Lubbock and the city of Midland to establish and operate foreign trade zones.

SENATE BILL 1206 **SENATE AUTHOR:** Santiesteban
EFFECTIVE: 5-27-87 **HOUSE SPONSOR:** Vowell

Senate Bill 1206 authorizes the Westport Economic Development Corporation to apply for and accept a grant to establish and operate a foreign trade zone in El Paso.

HOUSE BILL 1756 **HOUSE AUTHOR:** Delco
EFFECTIVE: 5-28-87 **SENATE SPONSOR:** Barrientos

House Bill 1756 authorizes the city of Austin or a nonprofit corporation designated by the city to apply for and accept a grant to establish and operate a foreign trade zone.

HOUSE BILL 253 **HOUSE AUTHOR:** C. Harris
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** McFarland

Previously, joint airport boards operating foreign trade zones could establish subzones only if they were located in the same county as the airport. House Bill 253 authorizes the boards to establish, operate, and maintain foreign trade subzones outside the county in which the airport is located.

HOUSE BILL 1987 **HOUSE AUTHOR:** Melton
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Edwards

A foreign sales corporation is an export promotion device authorized by congress. A shared foreign sales corporation is one in which several exporters participate in the corporation. House Bill 1987 directs the Texas Economic Development Commission and the Department of Agriculture to develop a model shared foreign sales corporation and to provide information and counseling assistance necessary to assist in the creation and operation of shared foreign sales corporations. The agencies are allowed to adopt a fee structure to cover the cost of administering the act.

SENATE BILL 691 **SENATE AUTHOR:** Anderson
EFFECTIVE: 6-19-87 **HOUSE SPONSOR:** Hackney

Senate Bill 691 allows an eligible corporation or a governmental entity to establish and operate a foreign trade zone upon compliance with all federal requirements. Previously, each entity seeking to establish a foreign trade zone had to have individual legislative approval.

Corporations

HOUSE BILL 5 **HOUSE AUTHOR:** Hackney
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Glasgow

House Bill 5 requires agencies responsible for issuing permits to businesses to adopt rules regarding the procedures by which the agencies process applications and issue the permits. The rules must address specific time periods for acknowledging receipt of an application and for denying or approving the application. The bill also requires state agencies, when considering the adoption of rules, to prepare a statement of the effect of the proposed rule on small businesses.

HOUSE BILL 77 **HOUSE AUTHOR:** Williamson
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Armbrister

House Bill 77 amends the Business & Commerce Code by adding to the list of trade practices considered to be false, misleading, or deceptive. The act prohibits use of the term "corporation," "incorporated," or an abbreviation of either of those terms in the name of a business that is not incorporated.

HOUSE BILL 175 **HOUSE AUTHOR:** Hackney
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Anderson

House Bill 175 requires the secretary of state to notify applicants for use of a corporate name that filing corporation forms with the secretary of state does not authorize the use of a corporate name in violation of the rights of another under federal and state trademark law, the Assumed Business or Professional Name Act, or common law.

The bill also provides that a corporation that is delinquent in a tax owed the state may not be awarded a contract by the state or be granted a permit or license by the state or any state agency.

HOUSE BILL 418 **HOUSE AUTHOR:** Wolens
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Farabee

House Bill 418 amends the Texas Business Corporation Act, the Texas Miscellaneous Corporation Laws Act, and the Texas Non-Profit Corporation Act to address a number of inconsistencies in current law and modernize the substantive corporation laws of Texas. The bill makes numerous technical changes and repeals inconsistent and superseded sections of the statutes.

One significant change will allow corporations to use alternative insurance arrangements to provide for the indemnification of directors and officers. Another significant provision allows mergers, consolidations, or dissolutions of corporations undergoing federal reorganization, such as a Chapter 11 bankruptcy.

HOUSE BILL 1180 **HOUSE AUTHOR:** Schoolcraft
EFFECTIVE: 6-11-87 **SENATE SPONSOR:** Tejeda

Before filing articles of dissolution, a corporation must notify each known creditor of and claimant against the corporation of its intent by registered mail. House Bill 1180 allows a corporation to notify its creditors and claimants of the intention to dissolve by either registered or certified mail.

SENATE BILL 260 **SENATE AUTHOR:** Henderson
EFFECTIVE: 8-31-87 **HOUSE SPONSOR:** Hury

Senate Bill 260 amends the Texas Miscellaneous Corporation Laws Act to allow shareholders of a corporation to limit the liability of corporate directors except in certain specified instances.

SENATE BILL 563 **SENATE AUTHOR:** Farabee
EFFECTIVE: 9-1-87 **HOUSE SPONSOR:** Wolens

Senate Bill 563, the Texas Revised Limited Partnership Act, modernizes existing state law to conform with practices that have evolved in the use of limited partnerships. Among the major provisions, the bill deemphasizes the certificate filed with the secretary of state and gives greater importance to the partnership agreement in establishing the relations among partners. Certain aspects of Texas corporate law are incorporated, such as providing for mergers and consolidations of limited partnerships.

SENATE BILL 916 **SENATE AUTHOR:** Green
EFFECTIVE: 5-25-87 **HOUSE SPONSOR:** Collazo

Senate Bill 916 repeals provisions for trust companies under the Texas Business Corporation Act and creates more detailed provisions for the creation and regulation of trust companies under The Texas Banking Code. It lists the powers of trust companies, grants authority to the banking commissioner to deal with violations, and authorizes the State Banking Board to establish rules and regulations necessary to process charter applications. The bill also provides guidelines for foreign corporations seeking to establish trust powers in the state.

Contracts

HOUSE BILL 275 **HOUSE AUTHOR:** Millsap
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Parmer

House Bill 275 requires that a home improvement contract must contain a warning that failure to meet the terms and conditions of the contract may result in loss of legal ownership of the home.

HOUSE BILL 1881 **HOUSE AUTHOR:** Russell
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Anderson

Many contracts entered into by a Texan and an out-of-state party contain a provision stating that if a contractual dispute arises, the laws of the other state will be applied. House Bill 1881 requires that a contract with this type of provision must state, in boldfaced print, that any conflict arising from the contract is subject to the laws of another state. If the provision is not in boldfaced print, the provision is voidable.

HOUSE BILL 1947 **HOUSE AUTHOR:** Robnett
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Harris

House Bill 1947 allows a borrower and lender, by written agreement, to modify or extend the terms and conditions of a secondary mortgage loan.

HOUSE BILL 2087 **HOUSE AUTHOR:** Hury
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Krier

House Bill 2087 repeals an article of the Texas General Arbitration Act that required any written contract with a provision for arbitration to contain the provision typed in underlined capital letters or rubber-stamped on the first page.

SENATE BILL 651 **SENATE AUTHOR:** Parker
EFFECTIVE: 9-1-87 **HOUSE SPONSOR:** R. Lewis

Senate Bill 651 requires that a contract between a sales representative and his principal be in writing. It also provides for payment to the sales representative in the absence of a written contract. The bill also makes Texas the venue for any actions arising under the contract and provides a means for recovering damages from the principal for unpaid commissions.

Miscellaneous Business Legislation

HOUSE BILL 49 **HOUSE AUTHOR:** Watson
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Brooks

House Bill 49, the Texas Membership Camping Resort Act, establishes regulations for membership camping clubs. The bill provides for registration with the Texas Department of Labor and Standards, specifications for a membership contract, and a recision period for all prospective purchasers if they did not visit the camping resort before signing. It also requires that operators of membership camping resorts maintain personal property insurance and liability insurance.

HOUSE BILL 162 **HOUSE AUTHOR:** Barton
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Barrientos

House Bill 162 requires hotels to have audible visual smoke detectors using strobe lights for hearing impaired persons.

HOUSE BILL 665 **HOUSE AUTHOR:** Glossbrenner
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Parmer

House Bill 665 requires municipalities to include detailed plans and specifications for trench safety systems in their bid documents and contracts if the trench excavation will exceed five feet. The plans must meet Occupational Safety and Health Administration standards.

HOUSE BILL 742 **HOUSE AUTHOR:** Connelly
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Edwards

Under the federal Fair Credit Reporting Act, consumers who are denied credit based on a credit report have the right to review and correct the contents of their credit file at no charge. Some consumers have reportedly

paid extensive fees to credit repair clinics to investigate their credit records. House Bill 742 establishes regulations for credit service organizations doing business in Texas. The bill requires credit service organizations to advise consumers of their rights under the Fair Credit Reporting Act before the consumer signs a contract. It also requires the organization to fully describe the services they will provide and give the consumer three days to cancel any contract with the credit repair clinic.

HOUSE BILL 744 **HOUSE AUTHOR:** Dutton
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Harris

House Bill 744 requires organizations soliciting the purchase of prepaid funeral benefits to create a fund for such purpose by means of a life insurance policy or annuity contract. The amounts paid or collected pursuant to a contract are to be deposited in an interest-bearing account insured by the federal government. The bill also contains provisions to protect the consumer of prepaid funeral benefits.

HOUSE BILL 752 **HOUSE AUTHOR:** Hinojosa
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Uribe

The Texas Enterprise Zone Act was passed by the 68th Legislature in an attempt to provide a state economic development tool that could target severely distressed local economies. Procedures were established for designation as an enterprise zone and for carrying out the day-to-day administration of the act. However, implementation of the 1983 law was made contingent on the passage of federal legislation granting tax and regulatory relief, and congress has since failed to pass the legislation. House Bill 752 amends the Texas Enterprise Zone Act by removing language that refers to the federal designation.

The bill makes several additional changes in the original legislation. The provisions establishing an Enterprise Zone Board are deleted and the board's authority is transferred to the newly created Texas Department of Commerce. The economic distress criteria for designation as an enterprise zone are changed and several items are added to the information required in a zone request. The bill also establishes procedures to designate qualified businesses as enterprise projects, which makes them eligible for certain tax incentives.

HOUSE BILL 855 **HOUSE AUTHOR:** Parker
EFFECTIVE: 6-18-87 **SENATE SPONSOR:** Caperton

House Bill 855 amends the Texas Manufactured Housing Standards Act. Financial institutions will be allowed to obtain temporary registration from the Texas Department of Labor and Standards in order to sell repossessed mobile homes. Manufacturers are required to warrant that each new HUD-Code home meets the requirements of the U.S. Department of Housing and Urban Development and the National Manufactured Home Construction and Safety Standards Act of 1974. The manufacturer must also guarantee that all appliances and equipment were installed according to instructions and that the home is free from defects. The manufactured homeowners recovery fund is established to be used to compensate consumers with unsatisfied claims under certain conditions. Other provisions of the bill relate to various fees that can be charged for inspections, registrations, and required courses of instruction.

HOUSE BILL 875 **HOUSE AUTHOR:** Schlueter
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Edwards

House Bill 875 amends The Securities Act to modernize notice requirements that the State Securities Board must follow in cease and desist hearings and to clarify the commissioner's authority to require that unlawful dealer activities be stopped. It also increases some fees, alters the fee structure, and adds several new fees to recover administrative costs.

HOUSE BILL 1230 **HOUSE AUTHOR:** Gibson
EFFECTIVE: see below **SENATE SPONSOR:** Anderson

House Bill 1230 revises the Texas Pawnshop Act. The minimum assets requirement necessary to obtain a pawnshop license is increased to $150,000 and an alternate method is provided if the consumer credit commissioner cannot verify that the requirement has been met.

The $500 limit on fees for examining a pawnshop's books is removed. The bill also expands the information required for a pawnshop transaction or a lost ticket. Other provisions require issuers of retail credit, manufactured housing financing, and motor vehicle financing to register with the Office of Consumer Credit Commissioner. Except for deletion of the $500 limit, which takes effect September 1, 1987, House Bill 1230 takes effect on June 20, 1987. See also Senate Bill 23 from the 2nd Called Session at the end of this section.

HOUSE BILL 1261 **HOUSE AUTHOR:** Criss
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Anderson

House Bill 1261 amends regulations relating to personnel services. The definition of personnel service is clarified. A personnel service is prohibited from collecting a fee prior to the client's acceptance of an offer of employment. A violation may now be prosecuted under the Deceptive Trade Practices-Consumer Protection Act.

House Bill 1261 also increases the authority of the commissioner of the Texas Department of Labor and Standards to apply administrative processes and penalties to personnel services violating relevant provisions.

HOUSE BILL 2193 **HOUSE AUTHOR:** H. Cuellar
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Anderson

House Bill 2193, the Uniform Fraudulent Transfer Act, replaces previous legislation on fraudulent transfer issues and establishes a uniform act for governing fraudulent transfers of assets and fraudulent obligations. Among its provisions, the bill clarifies when a person or general partnership is considered insolvent and what can be considered assets for purposes of evaluation. The bill also defines what constitutes a transfer, when a transfer is voidable regarding current and future creditors, and provides remedies for creditors seeking payment of a debt. Also included are the defenses, liability, and protections given to a person to whom property was transferred. The bill retains but renumbers a previous provision making gifts of tangible personal property void unless there is evidence of a deed or probated will or the receiver of the gift has actual possession.

SENATE BILL 464 **SENATE AUTHOR:** Brown
EFFECTIVE: 9-1-87 **HOUSE SPONSOR:** Criss

Senate Bill 464 makes several changes in the Health Spa Act. Two exemptions are added to the requirement that prepaid memberships be held in an escrow account. Exempted from the requirement are cases where a spa was closed after a natural disaster and a spa was relocated to a site within 10 miles of the original site if the closings lasted no longer than one month.

The bill clarifies what is considered a "closing" and when an operator must give a full refund. It also requires that a contract must state the opening date of the spa.

SENATE BILL 524 **SENATE AUTHOR:** Farabee
EFFECTIVE: 5-25-87 **HOUSE SPONSOR:** Cain

Commercial driver-training instruction, including defensive driving classes, must be conducted in a licensed commercial driver-training school or one of its branches. Senate Bill 524 allows defensive driving courses that are approved by the Department of Public Safety to be taught in other locations if the location is approved by the department. The bill also removes certain limitations on which students may be taught by exempted school facilities.

SENATE BILL 551 **SENATE AUTHOR:** Jones
EFFECTIVE: 6-19-87 **HOUSE SPONSOR:** Gavin

Many religious denominations have self-insured or self-funded plans to provide for pensions and other benefits for the ministers and employees of the church or of conventions, associations, or affiliates of the church. These plans were included in legislation, passed in 1985, that created a broad definition of "unauthorized insurance." Senate Bill 551 exempts these plans from that provision and all provisions of the Insurance Code, and provides for the operation of church benefits plans by church benefits boards.

SENATE BILL 1142 **SENATE AUTHOR:** Harris
EFFECTIVE: 9-1-87 **HOUSE SPONSOR:** Criss

Senate Bill 1142 establishes regulations for career counseling services. Owners of these services are required to obtain a certificate of authority from the Texas Department of Labor and Standards. The bill also sets guidelines for handling complaints, requires specific contract forms, and lists certain prohibited acts. Procedures for enforcement and investigative authority are established.

SENATE BILL 1479 **SENATE AUTHOR:** Krier
EFFECTIVE: 6-17-87 **HOUSE SPONSOR:** Uher

Senate Bill 1479 legalizes certain bingo games that are run by a business for promotional or advertising purposes.

SENATE BILL 23 (2nd C.S.) **SENATE AUTHOR:** McFarland
EFFECTIVE: 8-3-87 **HOUSE SPONSOR:** Millsap

House Bill 1230, passed during the Regular Session of the 70th Legislature, contained a provision that amended the Texas Pawnshop Act to prohibit a political subdivision from discriminating against a licensee by zoning the licensed premise as anything other than general retail. Senate Bill 23, 2nd Called Session, repeals that provision.

Bills relating to commercial fisheries are summarized in the parks and wildlife chapter.

Occupational Regulation

HOUSE BILL 36 **HOUSE AUTHOR:** Criss
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Uribe

House Bill 36 requires that businesses involved in removing or encapsulating asbestos from public buildings be licensed by the Texas Department of Health. To receive a license, business operators and their employees must complete a federally approved course on asbestos removal and meet all federal standards. The business must also have access to appropriate disposal sites for asbestos waste and is required to keep certain records concerning each removal project.

HOUSE BILL 78 **HOUSE AUTHOR:** Criss
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Green

House Bill 78 provides that, in addition to enforcement by the Texas State Board of Plumbing Examiners, each plumbing inspector may enforce the provisions of the Plumbing License Law.

HOUSE BILL 160 **HOUSE AUTHOR:** Danburg
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Henderson

House Bill 160 amends statutory law to provide that a towing company or parking facility owner who recklessly damages a vehicle in violation of that law shall be liable to the vehicle's owner or operator for $100 plus three times the amount of fees assessed in the removal, towing, or storage of the vehicle.

HOUSE BILL 559 **HOUSE AUTHOR:** Oakley
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Barrientos

House Bill 559 authorizes the Texas Commission on Law Enforcement Officer Standards and Education to license persons as public security officers. A person employed on the effective date of the act as an armed security officer by the state or a political subdivision of the state is required to obtain a license from the commission by September 1, 1989, and a person who becomes so employed after the effective date of the act is required to have a license at the time of employment.

HOUSE BILL 625 **HOUSE AUTHOR:** Harrison
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Sims

House Bill 625 directs the Texas Structural Pest Control Board to set requirements for issuing technician licenses to certain pest control business employees. Previously, an employee could engage in pest control under supervision of a certified applicator.

HOUSE BILL 798 **HOUSE AUTHOR:** Ceverha
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Leedom

State law prohibits anyone except a licensed electrician or a state-certified alarm installer from installing a battery-powered smoke detector in any building. House Bill 798 provides an exemption from the law to an individual or organization that provides and installs, free of charge, a battery-powered smoke detector in a single-family or two-family residence.

HOUSE BILL 812 **HOUSE AUTHOR:** Yost
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Brown

Private investigators in Texas must file a $10,000 surety bond and a certificate of insurance with the Texas Board of Private Investigators and Private Security Agencies. If these are not kept up to date, the investigator's license will be suspended. House Bill 812 allows the board to rescind the suspension of a license if the licensee

can prove that the coverage is still in effect. The proof must be submitted within 10 days after the date of the suspension.

HOUSE BILL 1961 **HOUSE AUTHOR:** Wolens
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Leedom

House Bill 1961 amends the Air Conditioning Contractor License Law. Two classes of licenses are created, and minimum standards are set for each class. The bill establishes guidelines for dealing with consumer complaints and creates an advisory board. It also provides various exemptions from the requirements and clarifies the distinction between licensed plumbers and licensed air conditioning and refrigeration contractors.

HOUSE BILL 2466 **HOUSE AUTHOR:** Colbert
EFFECTIVE: 6-19-87 **SENATE SPONSOR:** Tejeda

The 69th Legislature enacted legislation that regulates massage therapists and massage establishments. House Bill 2466 amends the statute to allow massage therapists to receive physician referrals and to specify that a person who has entered a plea of nolo contendere or receives deferred adjudication to offenses involving prostitution or sexual offenses is ineligible for registration. It also clarifies the relationship between these state regulations and local regulations on point.

SENATE BILL 604 **SENATE AUTHOR:** Santiesteban
EFFECTIVE: see below **HOUSE SPONSOR:** Millsap

Effective September 1, 1992, Senate Bill 604 provides new requirements for registration as a professional engineer and for certification as an engineer-in-training. Effective September 1, 1987, the bill also makes changes relating to examination fees.

SENATE BILL 605 **SENATE AUTHOR:** Santiesteban
EFFECTIVE: 9-1-87 **HOUSE SPONSOR:** Millsap

Senate Bill 605 revises the Texas Engineering Practice Act. The bill expands the authority of the State Board of Registration for Professional Engineers to regulate the practice of engineering in Texas. Travis County is established as the venue for suits filed by the board. The bill allows a person who holds a certificate of registration or license issued by any state or foreign country to apply for registration in Texas, rewords the exemption from registration given to some out-of-state engineers, and makes violations of the Texas Engineering Practice Act a Class A misdemeanor. The bill also requires that the engineer's seal be affixed to all plans, plats, and reports prepared by that engineer.

SENATE BILL 620 **SENATE AUTHOR:** Jones
EFFECTIVE: 9-1-87 **HOUSE SPONSOR:** Schlueter

Senate Bill 620 amends the Plumbing License Law. It allows field representatives of the Texas State Board of Plumbing Examiners to make on-site license checks, investigate consumer complaints, assist municipal inspectors, and issue citations. The bill also modifies the requirements for renewal of a plumbing license and increases the penalty for practicing without a license from a Class C to a Class B misdemeanor.

SENATE BILL 1161 **SENATE AUTHOR:** Brooks
EFFECTIVE: 9-1-87 **HOUSE SPONSOR:** McDonald

Senate Bill 1161 amends several provisions of the Texas Pharmacy Act. The bill allows the Texas State Board of Pharmacy to meet in executive session for disciplinary hearings relating to a pharmacist or pharmacy student who is impaired because of chemical abuse or mental or physical illness. It authorizes the board to suspend a license on an initial charge for a felony drug offense and to revoke the license on final conviction.

Persons furnishing information to the board regarding an impaired pharmacist are provided confidentiality and immunity from civil liability.

A new staggered system is established for renewal of pharmacy licenses. The bill also gives the board authority to commission employees as peace officers for the purpose of enforcing the Texas Pharmacy Act and violations of the Texas Controlled Substances Act and Dangerous Drug Act relating to the practice of pharmacy, and expands recordkeeping requirements for certain persons and facilities regulated by the board.

SENATE BILL 1497 **SENATE AUTHOR:** Farabee
EFFECTIVE: 9-1-87 **HOUSE SPONSOR:** Harrison

Senate Bill 1497 revises The Veterinary Licensing Act to update the statute as recommended by the State Board of Veterinary Medical Examiners. Among the significant changes, Senate Bill 1497 alters several definitions, clarifies exemptions to the act, and changes the composition of the board from seven licensed veterinarians and two members of the public to six licensed veterinarians and three members of the public. The bill allows the board to impose a civil penalty, in addition to existing sanctions, against a licensee who violates any provision of the act. An offense for violations is established as a Class B misdemeanor.

SENATE BILL 20 (2nd C.S.) **SENATE AUTHOR:** Armbrister
EFFECTIVE: 10-20-87 **HOUSE SPONSOR:** Berlanga

Senate Bill 20 provides rules for athlete agents who engage in contract negotiations with amateur collegiate athletes. The bill requires sports agents working in Texas to register with the secretary of state's office and to post a surety bond. An agent who does not register is barred from contacting athletes in Texas. Copies of agreements between a college athlete and a sports agent must be filed with the state and with the athlete's school. The schools are required to set a 30-day period in which agents are legally allowed to contact athletes before their final year of eligibility. Agents are prohibited from signing athletes until their eligibility has expired and cannot offer inducements until the athlete has been drafted.

HOUSE BILL 1512 **HOUSE AUTHOR:** A. Smith
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Henderson

House Bill 1512 expands the category of officials who may acknowledge or prove a written instrument outside the United States or its territories. The bill allows an instrument acknowledged outside the United States or its territories that contains a stamp, certificate, or seal of a notary public or other official in a foreign language to be recorded if a correct English translation is attached, the accuracy of which has been sworn to before an officer authorized to administer oaths, and any apostille relating to the acknowledgement complies with the Hague Convention provisions.

It also increases certain fees that may be charged by notaries public and expands the reasons the secretary of state may consider in determining whether to reject an application or suspend or revoke the commission of a notary public.

In addition, House Bill 1512 changes certain recordkeeping requirements of a notary public. Notaries public qualified before September 1, 1985, will be required to print or stamp their name and the expiration date of their commission under their signature if the seal they use does not contain this information.

See also House Bill 1329 in the environment/water chapter.

Regulation of Health-Related Businesses and Occupations

SENATE BILL 36 (2nd C.S.) **SENATE AUTHOR:** Sarpalius
EFFECTIVE: see below **HOUSE SPONSOR:** Riley

The U.S. Department of Housing and Urban Development (HUD), which sponsors a program to insure mortgages of nursing homes, long-term care homes, and hospitals, requires that a certificate of need be issued by a designated state agency before it will underwrite the mortgage. Texas and the federal government in the last two years have eliminated the certificate-of-need requirement for other health facilities, and in 1985 the Texas Health Facilities Commission, the state agency formerly designated for this purpose, was abolished. This act grants the Texas Department of Health authority to execute any form required by HUD to enable a health care facility to obtain financing under the HUD mortgage insurance program, provided that the Texas Health Facilities Commission previously has granted a certificate of need to the facility and provided that execution of the form is the only obstacle to HUD approval. The act takes temporary effect on August 3, 1987, and subsequently expires on September 1, 1987.

SENATE BILL 803 **SENATE AUTHOR:** McFarland
EFFECTIVE: 6-19-87 **HOUSE SPONSOR:** Madla

This act authorizes the inclusion of controlled substances in emergency medication kits maintained by licensed convalescent and nursing homes.

HOUSE BILL 37 **HOUSE AUTHOR:** A. Hill
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Brooks

House Bill 37 specifies that nursing homes, custodial care homes, and similar institutions licensed by the Texas Department of Health must comply with the 1985 Life Safety Code of the National Fire Protection Association.

HOUSE BILL 97 **HOUSE AUTHOR:** McDonald
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Santiesteban

The 69th Legislature passed legislation that required respiratory care practitioners to be certified by the Texas Board of Health. Those persons who were practicing at the time were issued temporary certificates. House Bill 97 allows those persons with temporary certificates to obtain permanent certificates to practice respiratory care if they have met the examination requirements by September 1, 1987.

HOUSE BILL 168 **HOUSE AUTHOR:** Finnell
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Brooks

House Bill 168 requires all board and lodging homes for senior citizens or disabled persons to register with the Texas Department on Aging. The department shall establish rules for registration and charge a registration fee. The department shall also keep a registry that is available to the public and other state agencies. The bill also sets requirements for advertising of registered board and lodging homes.

HOUSE BILL 420 **HOUSE AUTHOR:** Kubiak
EFFECTIVE: 5-7-87 **SENATE SPONSOR:** Brooks

House Bill 420 directs the Texas Department of Health to include training in the care of persons with Alzheimer's disease in their required employee orientation and training for certain personnel employed in nursing homes.

HOUSE BILL 677 **HOUSE AUTHOR:** Barton
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Farabee

Continuing care retirement communities are retirement centers that include both residential living facilities and a health care center. Those facilities require substantial entrance fees in addition to other monthly fees in return for an assurance of a continuing living arrangement throughout retirement. House Bill 677 requires those communities to obtain a certificate of authority from the State Board of Insurance and authorizes the board to establish criteria for granting or revoking the certificates. The bill also sets disclosure requirements and requires the provider to establish certain escrow funds.

HOUSE BILL 876 **HOUSE AUTHOR:** G. Luna
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Brooks

House Bill 876 directs the licensing agency having jurisdiction and the Texas Department of Human Services to adopt rules to reduce the amount of paperwork nursing homes and similar institutions are required to complete and maintain without jeopardizing patient safety.

HOUSE BILL 1085 **HOUSE AUTHOR:** Madla
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Barrientos

House Bill 1085 makes changes in the regulation of facilities that treat chemically dependent persons. The Texas Commission on Alcoholism is allowed to inspect facilities with chemical dependency treatment programs regardless of any other facility accreditation.

An exemption from licensure is provided for some boarding homes and shelters if licensed by another agency or providing peer support services at no cost.

HOUSE BILL 1469 **HOUSE AUTHOR:** Colbert
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Brooks

House Bill 1469 validates all actions and proceedings of the board of directors of a health facilities development corporation completed before March 1, 1987, that authorize the issuance of notes, bonds, or refunding bonds and provides exceptions in certain cases involving pending litigation.

HOUSE BILL 1739
EFFECTIVE: 9-1-87

HOUSE AUTHOR: Schoolcraft
SENATE SPONSOR: Krier

This act requires that each resident of a nursing home or custodial care home be asked once per year whether the resident wishes to have a dental examination and possible treatment at the patient's own expense. The act requires that the home use all reasonable efforts to arrange for such examination if desired by the patient but precludes liability by the home for costs associated with the examination.

HOUSE BILL 2030
EFFECTIVE: 6-19-87

HOUSE AUTHOR: Colbert
SENATE SPONSOR: Brooks

House Bill 2030 establishes requirements for health facilities development corporations that issue, sell, or deliver bonds for cash management purposes. The bonds must mature no later than 24 months from the date issued. The user is required to file a cash flow forecast that must contain a detailed report of estimated revenues and expenditures for each month for a period of time not exceeding one year.

HOUSE BILL 2560
EFFECTIVE: see below

HOUSE AUTHOR: Wright
SENATE SPONSOR: Brooks

House Bill 2560 amends several provisions of the Medical Practice Act. The concepts of "medical peer review" and "continuing threat to public welfare" are incorporated within the act for use by the Texas State Board of Medical Examiners in its investigations.

The bill directs the board to include summaries of disciplinary orders made against physicians in the information that the board must distribute to physicians, health care entities, certain legislative committees, public libraries, and, on request, members of the general public. The board is also directed to establish a toll-free number that can provide the same information.

Several new grounds for cancellation, revocation, or suspension of a medical license are added to the act, and the board is required to suspend the license of a physician who is serving a prison term regardless of the offense. The board may not grant probation to a physician who poses a continuing threat to the public welfare. The bill specifies that certain findings of the board are to remain confidential except where provided. Medical peer review committee and health care entity findings are required to be submitted to the board. The bill provides guidelines for civil actions including those brought against a person or health care entity who reports a violation.

House Bill 2560 takes effect September 1, 1987, except for provisions repealing certain reporting requirements applicable to medical professional liability insurers, which take effect January 1, 1988.

SENATE BILL 203
EFFECTIVE: 5-29-87

SENATE AUTHOR: McFarland
HOUSE SPONSOR: Waldrop

Texas law provides for peer review procedures for dentists. Certain peer review committees formed under a dental association are immune from civil liability. Senate Bill 203 changes the requirements for immunity from a stipulation that the dental association under which the committee is formed have a 75 percent membership of the licensed dentists in that area to a requirement that the association be incorporated under the Texas Non-Profit Corporation Act or have tax-exempt status from the Internal Revenue Service.

SENATE BILL 207
EFFECTIVE: 9-1-87

SENATE AUTHOR: Leedom
HOUSE SPONSOR: Wright

Senate Bill 207 changes the fees that the Texas Board of Health may charge hospitals for licenses, construction plan reviews, and field surveys.

SENATE BILL 263
EFFECTIVE: 1-1-88

SENATE AUTHOR: Brooks
HOUSE SPONSOR: Criss

Home health services are a combination of medical, nursing, therapy, and personal care services that are provided to a patient in the home. Senate Bill 263 requires that certain group policies of accident and sickness insurance offer home health service coverage along with other standard benefits. This coverage was not previously available under most insurance policies.

SENATE BILL 462
EFFECTIVE: 8-31-87

SENATE AUTHOR: Armbrister
HOUSE SPONSOR: Earley

Senate Bill 462 allows a health facilities development corporation to amend its required filing of a description of the proposed facility after bonds are issued, but before the bond proceeds are used, with certain

limitations. The bill also amends the definition of "cost" to include various costs associated with a program of self-insurance or risk management.

SENATE BILL 525 **SENATE AUTHOR:** Farabee
EFFECTIVE: 8-31-87 **HOUSE SPONSOR:** Madla

Senate Bill 525 increases the fees charged for various services and administrative functions performed by the Texas Board of Physical Therapy Examiners.

SENATE BILL 635 **SENATE AUTHOR:** Uribe
EFFECTIVE: 9-1-87 **HOUSE SPONSOR:** Berlanga

Senate Bill 635 requires the Board of Physical Therapy Examiners to prepare information relating to previous disciplinary action against a physical therapist, which will be made available to the public. The board is also directed to establish a toll-free telephone number to make the information available during business hours. The bill makes participation in continuing education programs mandatory and requires persons seeking to renew their license to give evidence that they have fulfilled the continuing education requirements.

SENATE BILL 819 **SENATE AUTHOR:** Armbrister
EFFECTIVE: 9-1-87 **HOUSE SPONSOR:** Saunders

Senate Bill 819 gives a nursing home that is accredited by the Joint Commission on Accreditation of Hospitals under the long-term care standards the option of submitting the annual accreditation review when renewing its license rather than being inspected by the Texas Department of Health.

SENATE BILL 1134 **SENATE AUTHOR:** Brooks
EFFECTIVE: 9-1-87 **HOUSE SPONSOR:** C. Evans

Senate Bill 1134 directs the Texas Department of Health to establish an optional system to certify institutions that meet certain standards for the specialized care and treatment of persons with Alzheimer's disease.

SENATE BILL 1160 **SENATE AUTHOR:** Brooks
EFFECTIVE: 9-1-87 **HOUSE SPONSOR:** McDonald

Senate Bill 1160 amends the state laws regulating the practice of nursing. Among the major provisions, the bill requires various health care facilities and other entities to report disciplinary actions against nurses to the Board of Nurse Examiners. With certain exceptions, civil immunity is granted to persons who report complaints to the board. The bill also establishes a system of professional peer review for registered nurses.

It increases the fees that the board is authorized to charge and authorizes the use of revenue collected for additional prosecutors, hearing examiners, investigators, and support staff. It also amends certain penalty provisions.

SENATE BILL 1403 **SENATE AUTHOR:** Brooks
EFFECTIVE: 8-31-87 **HOUSE SPONSOR:** Guerrero

Senate Bill 1403 requires hospitals to provide, on request, an itemized statement of an individual's bill within 10 days of the receipt of the request. The bill gives the Texas Department of Health authority to enforce the regulation.

SENATE BILL 1421 **SENATE AUTHOR:** Brooks
EFFECTIVE: 9-1-87 **HOUSE SPONSOR:** A. Smith

Dental laboratories are required to register annually with the State Board of Dental Examiners, and it is illegal for a dentist to knowingly use an unregistered laboratory. Senate Bill 1421 makes those provisions more enforceable and establishes stricter requirements for registration. The bill requires applicants for dental laboratory registration to provide proof that at least one certified dental technician works on the premises and that at least one employee working on the premises has completed a minimum of 10 hours of continuing education during the registration period. The bill specifies that dentists are to be provided with a list of registered laboratories. A dental laboratory is required to provide the dentist with its registration number at the time a dental prosthetic appliance is delivered. The bill also creates the Dental Laboratory Council to review applications for registration or renewal and to recommend rules for prescribing the content of continuing education courses.

SENATE BILL 1435 **SENATE AUTHOR:** Henderson
EFFECTIVE: 6-18-87 **HOUSE SPONSOR:** Colbert

State-supported health-related institutions and nonprofit health-related institutions are allowed to establish themselves as cooperative associations. State law governs the activities of those associations. Senate Bill 1435 adds housekeeping, child-care services for employees, laundry, waste removal, communication services, and other specified activities to the list of properties and facilities that eligible institutions may provide.

SENATE BILL 1439 **SENATE AUTHOR:** Brooks
EFFECTIVE: 9-1-87 **HOUSE SPONSOR:** Madla

Senate Bill 1439 requires certain group insurance policies that provide coverage for treatment of mental or emotional illness or disorder in a hospital to also include coverage for treatment in a residential treatment center or crisis stabilization unit.

The act also provides minimum standards for the certification of medical radiologic technologists.

SENATE BILL 87 (2nd C.S.) **SENATE AUTHOR:** Brooks
EFFECTIVE: 9-1-87 **HOUSE SPONSOR:** Gavin

House Bill 2560, passed during the Regular Session of the 70th Legislature, made several changes in the Medical Practice Act. The bill attempted to improve the reporting requirements of insurance companies that provide medical professional liability coverage to physicians. However, the wording in the bill would have substantially delayed such reports. Senate Bill 87, 2nd Called Session, requires certain specified information to be reported to the Texas State Board of Medical Examiners and establishes time frames for its submission.

See also Senate Bill 200 in the chapter on human services/mental health and mental retardation.

CIVIL REMEDIES AND PROCEDURES

Certainly the most significant civil remedies and procedures legislation passed during the 70th Legislature's Regular Session and 1st Called Session was the group of bills known as the "tort reform" package. The product of more than a year of research and study, the bills represent an attempt to alleviate serious problems within the liability insurance system, such as dramatically rising liability premiums and shortages of certain types of coverage.

The tort reform legislation, as passed, largely reflects the recommendations of the Joint Committee on Liability Insurance and Tort Law and Procedure, an interim study committee appointed by Lieutenant Governor William P. Hobby and House Speaker Gibson D. "Gib" Lewis early in 1986. The committee was charged with "studying the availability and cost of commercial, professional, and governmental liability insurance and the impact of the tort recovery process on the insurance industry." After gathering testimony and evidence at six hearings, which included 48 hours of testimony from 86 witnesses, the joint committee defined the liability insurance crisis as a crisis of unacceptably volatile industry profitability driven by two structural forces: the cyclical nature of liability underwriting, exacerbated by a practice known as "cash flow underwriting," and the unpredictability of the civil justice system. The package of tort reform bills, which includes Senate Bill 202 from the Regular Session and Senate Bills 2, 5, 6, 7, 8, and 9 from the 1st Called Session, is intended to address these problems.

Other legislation of interest in the area of civil remedies and procedures includes Senate Bill 281, which effectively restricts the abusive use of palimony suits; Senate Bill 1436, which permits a court to refer cases to qualified neutral parties for alternative dispute resolution; and House Bill 2320, which is intended to prevent civil actions for damages where the plaintiff was committing a felony or attempting suicide at the time the cause of action arose.

Tort Reform

SENATE BILL 202 — **SENATE AUTHOR:** Farabee
EFFECTIVE: 9-1-87 — **HOUSE SPONSOR:** T. Smith

Senate Bill 202 reduces the liability exposure of certain charitable organizations. The terms "charitable organization," "volunteer," "employee," and "good faith" are defined for purposes of the act. Except as specifically provided, a volunteer who is serving as an officer, director, or trustee of a charitable organization is immune from civil liability for any act or omission resulting in death, damage, or injury if the volunteer was acting in the course of his duties with the organization. Except as specifically provided, the liability of a nonhospital charitable organization in a civil suit is limited to a maximum amount of $500,000 for each person, $1,000,000 for each single occurrence of bodily injury or death, and $100,000 for each single occurrence of injury to or destruction of property. Certain types of organizations are specifically exempted from the protection offered by this act.

SENATE BILL 2 (1st C.S.) — **SENATE AUTHOR:** Jones
EFFECTIVE: 9-2-87 — **HOUSE SPONSOR:** Gavin

Senate Bill 2 requires certain liability insurance carriers to make annual reports to the State Board of Insurance regarding direct writing of liability insurance in the state. Similar requirements are established for the reporting of all claims closed by a liability insurance carrier.

The act creates a division of consumer protection within the State Board of Insurance.

Wherever possible, the board is required to use data from within the state regarding liability rates and policies in developing rates applicable to Texas policy holders.

The insurance board is required to conduct annual hearings to review and promulgate the premium rates charged by carriers of automobile insurance. Also, the insurance board may approve commercial, malpractice, and multiperil liability rates only for a maximum of two years.

With certain exceptions, a carrier is prohibited from canceling a liability insurance policy after it has been in effect for 60 days.

Senate Bill 2 provides for revised and expanded risk control management.

The act requires the licensing of risk managers, with certain specified exceptions.

The State Board of Insurance is authorized to establish a market assistance program to assist those who have difficulty securing liability insurance coverage. If the board determines that the market assistance program is not sufficient to make liability insurance available to nonprofit organizations, then the Texas Nonprofit Organization Liability Insurance Underwriting Association is created.

The board is authorized to promulgate rules and monitor the activities of surplus lines agents. The form of notice required on surplus lines policies is revised and other requirements are placed on surplus lines insurance.

The act authorizes the creation of risk management pools for school districts and junior college districts by resolution of their boards of trustees. Additionally, the act authorizes creation of separate excess liability pools for counties, school districts, and junior college districts.

On agreement of the presiding officers of at least 25 cities or groups of cities who have formed an insurance pool under the provisions of The Interlocal Cooperation Act, the Texas public entity excess insurance pool is created.

Life insurance companies authorized to do business in Texas are authorized to reinsure property and casualty insurance.

Senate Bill 2 provides an exception to prior law that prohibited carriers from insuring against punitive damages for a health care provider or physician. The State Board of Insurance is authorized to approve coverage of a hospital on a policy of medical professional liability insurance.

The maximum amount of medical liability insurance coverage that may be provided by the Texas Medical Liability Joint Underwriting Association is increased.

Senate Bill 2 is discussed in greater detail in the insurance chapter of this volume.

SENATE BILL 5 (1st C.S.) **SENATE AUTHOR:** Montford
EFFECTIVE: 9-2-87 **HOUSE SPONSOR:** Toomey

Senate Bill 5 revises the Civil Practice and Remedies Code with regard to procedures and remedies in civil actions for personal injury, property damage, or death, including the determination and limitations of liability and damages.

Among its more prominent features, the bill provides a basis for determining whether a pleading is frivolous. Courts are permitted to impose sanctions against attorneys or parties who file frivolous pleadings or motions.

In regard to negligence cases, the act preserves the existing law that bars recovery of damages if a claimant is more than 50 percent responsible for his own injuries. For cases involving damages against the manufacturer, distributor, or retailer of a product, the act bars recovery by a claimant who is at least 60 percent responsible for his own injuries.

The general rules of joint and several liability are modified to protect parties who are judged to be minimally responsible for an injury. Under prior law, a minimally responsible party could, in certain cases, be forced to pay all of the damages awarded against the other defendants in a suit; under this act, in cases where the claimant is at least partially at fault, a defendant can be held jointly and severally liable only if his percentage of responsibility is greater than 20 percent and exceeds the claimant's percentage of liability. However, in cases involving injuries resulting from pollution of the environment or exposure to hazardous substances, a minimally responsible party may be required to pay all damages.

Exemplary, or punitive, damages may be awarded under this act if a claimant shows that a defendant's conduct was fraudulent, malicious, or grossly negligent. The amount of exemplary damages is limited to four times the amount of the actual damages or $200,000, whichever is greater. However, this limitation does not apply to intentional torts or damages resulting from malice as defined within the act. Exemplary damages may be awarded against drug manufacturers only if a claimant shows that the manufacturer failed to comply with federal regulations, or if the manufacturer failed to report information regarding significant risks of adverse side effects.

The act also expands the list of municipal functions covered under the Texas Tort Claims Act's limitations on liability to include such functions as city services, civic centers, community centers, recreational facilities, road repairs, and sanitation and storm sewers. The limitations on municipal liability are raised to $250,000 for each person, $500,000 for each occurrence of bodily injury, and $100,000 for each occurrence of property damage.

Under certain conditions, public servants are released from personal liability for harm resulting from the performance of their duties for the state.

SENATE BILL 6 (1st C.S.) **SENATE AUTHOR:** Montford
EFFECTIVE: 9-2-87 **HOUSE SPONSOR:** Toomey

Senate Bill 6 limits the time during which prejudgment interest may accrue to the period beginning on the 180th day after the date the defendant receives written notice of a claim or on the date the suit is filed, whichever occurs first, and ending on the day before the date judgment is rendered. Exceptions are provided for cases where the judgment for a claimant is more or less than the amount of a settlement offered by the defendant. Additionally, the act grants the court discretion to order that prejudgment interest may or may not accrue during periods of delay in a trial.

Provisions are made regarding the computation of prejudgment interest where a settlement offer is made for other than a cash payment. The rate of prejudgment interest is set at the rate of postjudgment interest.

SENATE BILL 7 (1st C.S.) **SENATE AUTHOR:** Montford
EFFECTIVE: 9-2-87 **HOUSE SPONSOR:** Toomey

Senate Bill 7 repeals the provision of the venue law that formerly allowed railroad companies to be sued in a county solely because the company had railroad tracks in that county. Under this act, railroad companies are treated as any other corporation for purposes of venue in civil actions.

SENATE BILL 8 (1st C.S.) **SENATE AUTHOR:** Farabee
EFFECTIVE: see below **HOUSE SPONSOR:** Colbert

Senate Bill 8 seeks to reduce the state's exposure to liability risks by establishing comprehensive risk management programs in all state agencies. Under this act, the Industrial Accident Board must promulgate guidelines for such programs and assist agencies with their implementation before January 1, 1989.

The act provides for the creation of a division of risk management within the Industrial Accident Board, and for the appointment of a state risk manager. The powers and duties of both the division and the manager are delineated, and the division is required to report to the legislature regarding the operation and management of the division on or before January 1, 1991. The state risk manager is authorized to promulgate rules and regulations to carry out the purposes of the act.

The costs of administering the act will be reimbursed to the Industrial Accident Board by each state agency through interagency contracts, as authorized by The Interagency Cooperation Act.

Provisions relating to the creation, powers, and duties of the division and appointment of a state risk manager are effective January 1, 1989. The remainder of the act is effective September 2, 1987.

SENATE BILL 9 (1st C.S.) **SENATE AUTHOR:** Farabee
EFFECTIVE: 9-2-87 **HOUSE SPONSOR:** Colbert

Senate Bill 9 provides for the creation of the Texas Nonprofit Organizations Liability Pool to provide primary and excess liability insurance coverage for nonprofit organizations and their officers and employees. Under this act, the pool may be created on the written agreement of the chief executives of a minimum of 15 nonprofit organizations.

The act establishes requirements for participation in the pool, delineates the scope of pool coverage, and provides for a plan of operation to establish the pool. Additionally, it provides for and delineates the duties of a board of trustees for the pool. Provisions pertaining to employees, records, general powers and duties of the pool, investments, contributions, premium rates, punitive damages, nonrenewal of coverage, and shortages of money are included.

The bill also provides that, with certain specified exceptions, the pool is not considered to be engaged in the business of insurance, and the Insurance Code and other insurance laws of this state do not apply to the pool.

Senate Bill 9 is discussed in greater detail in the insurance chapter of this volume.

Other Legislation

SENATE BILL 198 **SENATE AUTHOR:** Glasgow
EFFECTIVE: 9-1-87 **HOUSE SPONSOR:** P. Hill

This amendatory act provides that, in an action in which citation may be served on the secretary of state, the service may be made by certified mail, return receipt requested, by the clerk of the court in which the case is pending or by the party or the party's representative.

SENATE BILL 281 **SENATE AUTHOR:** Caperton
EFFECTIVE: 8-31-87 **HOUSE SPONSOR:** Hackney

Prior law prohibited enforcement of an agreement made on consideration of marriage unless the agreement was in writing and signed by the party charged with the obligation. This act effectively restricts the abusive use of palimony suits by extending the same prohibition to agreements made on consideration of nonmarital conjugal cohabitation.

SENATE BILL 417 **SENATE AUTHOR:** Whitmire
EFFECTIVE: 9-1-87 **HOUSE SPONSOR:** Dutton

Senate Bill 417 adds the delivery or use of a controlled substance to the list of activities that constitute a common nuisance and a public nuisance. A suit to enjoin and abate a common nuisance may be brought by an individual, by the attorney general, or by a district, county, or city attorney. The voters of an election precinct or adjacent election precinct may request the district, county, or city attorney to authorize a meeting regarding a public nuisance. If the attorney finds that a public nuisance exists, the attorney may initiate appropriate available proceedings against the persons owning or operating the place at which the public nuisance exists. Remedies for a court-determined public nuisance are delineated.

SENATE BILL 530 **SENATE AUTHOR:** Glasgow
EFFECTIVE: 9-1-87 **HOUSE SPONSOR:** P. Hill

Under prior law, a party in a civil suit was required to request the clerk of the appropriate court to prepare and issue citations, writs of execution, abstracts of judgments, and lists of costs incurred in civil suits. Senate Bill 530 amends the law to permit a plaintiff or the plaintiff's attorney to prepare such court documents without the assistance of the clerk.

SENATE BILL 643 **SENATE AUTHOR:** Montford
EFFECTIVE: 9-1-87 **HOUSE SPONSOR:** R. Smith

Senate Bill 643 adopts the rules of each national collegiate athletic association and provides that a person who violates any such rule is liable for damages in an action brought by a regional collegiate athletic association or an institution under certain specified circumstances. Defenses are delineated and certain damages are specified.

SENATE BILL 930 **SENATE AUTHOR:** McFarland
EFFECTIVE: 6-19-87 **HOUSE SPONSOR:** Dutton

This amendatory act provides that a court may dismiss an affidavit of inability to pay if the allegation of poverty is false or the action is frivolous or malicious. Conditions are provided that may be considered by the court in finding an action frivolous or malicious. A judgment may be rendered for costs, but the state is not liable for any of those costs.

SENATE BILL 1332 **SENATE AUTHOR:** Brooks
EFFECTIVE: 6-19-87 **HOUSE SPONSOR:** Betts

This amendatory act adds communication districts to the list of governmental units covered by the Texas Tort Claims Act of the Civil Practice and Remedies Code.

SENATE BILL 1357 **SENATE AUTHOR:** Brooks
EFFECTIVE: 9-1-87 **HOUSE SPONSOR:** A. Smith

This amendatory act provides that, with certain specified exceptions, a harbor ship pilot is not liable for claims arising from acts or omissions relating to his performance as a pilot. The act limits a pilot's liability for damages to $1,000.

SENATE BILL 1436 **SENATE AUTHOR:** Krier
EFFECTIVE: 6-20-87 **HOUSE SPONSOR:** Hury

Senate Bill 1436 provides that a court may, at its discretion, provide for judicial referral of cases to qualified impartial third parties for alternative dispute resolution. The act establishes procedures for the referral of pending disputes and provides for notification of the parties, mediation, mini-trials, moderated settlement conferences, and summary jury trials. It further establishes appointment procedures and qualifications for impartial third parties and delineates their standards and duties. Provisions regarding the effects of written

settlement agreements, the need for statistical reporting, and the confidentiality of communications in dispute resolution procedures are also included in the act.

HOUSE BILL 160 **HOUSE AUTHOR:** Danburg
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Henderson

House Bill 160 amends statutory law to provide that a towing company or parking facility owner who recklessly damages a vehicle in violation of that law shall be liable to the vehicle's owner or operator for $100 plus three times the amount of fees assessed in the removal, towing, or storage of the vehicle.

HOUSE BILL 372 **HOUSE AUTHOR:** Hackney
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Anderson

Under prior law, a section of the Civil Practice and Remedies Code pertained to service of citation against a corporation or joint-stock association. This amendatory act removes all reference to corporations from that section.

HOUSE BILL 440 **HOUSE AUTHOR:** Hinojosa
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Caperton

A state agency may be required to pay the court costs and attorney's fees of a small business when the small business prevails in a dispute with the state agency. Grounds for recovery under this act are delineated.

HOUSE BILL 815 **HOUSE AUTHOR:** Hury
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Montford

Under current Texas law, permission to sue the state or its agencies is granted by legislative resolution. This act delineates the effect and conditions inherent in a resolution granting permission to sue the state.

HOUSE BILL 1003 **HOUSE AUTHOR:** Criss
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Brooks

This amendatory act provides that a member of a county hospital's board of managers is considered a county officer for purposes of tort claims under Chapter 102, Civil Practice and Remedies Code.

HOUSE BILL 1453 **HOUSE AUTHOR:** C. Harris
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Harris

House Bill 1453 provides that a public transportation authority established under certain statutory articles is a "unit of government" as defined by the Texas Tort Claims Act. If an independent contractor is performing a function of the authority, the contractor is liable for damages to the extent that the authority would be liable if the authority were performing the function.

HOUSE BILL 2320 **HOUSE AUTHOR:** C. Evans
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** McFarland

House Bill 2320 provides that it is an affirmative defense to a civil action for damages for personal injury if the plaintiff was committing a felony or committing or attempting to commit suicide at the time the cause of action arose. The act does not apply to an action brought under the workers' compensation law of Texas, or an action against an insurer based on a contract, statute, or common law.

HOUSE BILL 2486 **HOUSE AUTHOR:** Colbert
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Caperton

House Bill 2486 amends the law pertaining to receivership for local religious congregations. Under prior law, a person appointed receiver of a church was required to be an active member of a church of like faith. This act substitutes the term "religious congregation" for the term "church" and provides that a person appointed receiver for a religious congregation need not be a member of a like faith; however, if an organization is appointed receiver, the organization must be a recognized organization of like faith.

CORRECTIONS

Corrections legislation in the 70th Legislature was primarily intended to bring the state into compliance with federal court orders pertaining to overcrowding and other prison conditions. The problem was addressed through directives to the Texas Department of Corrections, revision of parole standards, and acquisition of additional facilities. House Bill 680 requires an annual review of inmate classification procedures and revises the manner in which inmates accrue good time; Senate Bill 215 authorizes release and parole of inmates under emergency overcrowding conditions; Senate Bill 251 authorizes the Texas Board of Corrections to contract with counties or private vendors for the provision of prison facilities and correctional services; and House Bill 947 authorizes contracts with the federal government to secure additional facilities.

The Texas Department of Corrections, Texas Youth Commission, Board of Pardons and Paroles, Texas Adult Probation Commission, and Texas Juvenile Probation Commission were subjects of sunset review. Renewal legislation relating to those agencies is summarized in the government—sunset legislation chapter.

Texas Department of Corrections

HOUSE BILL 680 — **HOUSE AUTHOR:** Morales
EFFECTIVE: 9-1-87 — **SENATE SPONSOR:** Farabee

House Bill 680 requires the Texas Board of Corrections to review at least annually the rules and policies of the Texas Department of Corrections relating to the classification of inmates for the purpose of awarding good conduct time. The board is authorized to direct the department to use different classification standards depending on the extent of prison overcrowding.

The manner in which inmates accrue good conduct time is revised to require diligent participation in educational, industrial, agricultural, or other work programs as a prerequisite to earning good conduct time. The act reduces the maximum good conduct time that an inmate may earn, but it also shortens the actual calendar time an inmate must serve before becoming eligible for parole. Separate provisions are made for the parole of inmates serving consecutive felony sentences so that at least a portion of the sentence for each offense is served.

The act prohibits the release of certain violent offenders to mandatory supervision.

All provisions of the act apply only to persons sentenced for offenses committed before the effective date of the act.

HOUSE BILL 2158 — **HOUSE AUTHOR:** Hightower
EFFECTIVE: 8-31-87 — **SENATE SPONSOR:** Farabee

House Bill 2158 authorizes the director of the Texas Department of Corrections or his designee to grant limited law enforcement powers and duties to employees of the department. The scope of such powers and duties is defined, and employees acting in the capacity of peace officers are exempted from certain certification requirements that apply to peace officers generally.

Parole

HOUSE BILL 51 — **HOUSE AUTHOR:** Hackney
EFFECTIVE: 4-29-87 — **SENATE SPONSOR:** McFarland

House Bill 51 amends the Code of Criminal Procedure to facilitate transfer of eligible inmates of the Texas Department of Corrections to halfway houses. The governor's approval of a presumptive parole date set by the Board of Pardons and Paroles is no longer required. A candidate for parole who has been previously denied release by the board is no longer ineligible, and the board is required to send certain information to the director of the halfway house prior to transferring a prisoner.

HOUSE BILL 1133 — **HOUSE AUTHOR:** T. Smith
EFFECTIVE: 6-17-87 — **SENATE SPONSOR:** Brown

House Bill 1133 allows inmates of county jails to accrue good conduct time as well as time credits for manual labor in calculating the amount of time by which a jail sentence may be reduced.

SENATE BILL 215 **SENATE AUTHOR:** McFarland
EFFECTIVE: see below **HOUSE SPONSOR:** Hightower

Senate Bill 215 amends statutory provisions related to the release of inmates from the Texas Department of Corrections under emergency overcrowding conditions.

The director of the department, the governor, and the attorney general are required to take certain notice and certification measures during periods when the inmate population of the department exceeds 95 percent.

Provision is made for releasing and paroling certain inmates in order to return to maximum allowable population levels.

The department is required to submit periodic facilities expansion and improvement reports to the governor and Legislative Budget Board; the content of such reports is specified.

Rights of inmates and obligations of the department are clarified in the event that the prison population reaches 95 percent of capacity.

Specific conditions of parole for persons released during periods of overcrowding are provided with respect to restitution, community service, and intensive parole program requirements. Potential conditions of parole are expanded to include participation in an intensive probation program, drug testing, and counseling for drug abusers.

In addition to making revisions in parole law, Senate Bill 215 also establishes expanded probation options for judges. Judges are directed to suspend imposition of a sentence and place a defendant on intensive probation if certain conditions are met, and defendants may be placed on or removed from intensive probation only by court order. Provision is made for modification of conditions within the intensive probation program by a probation officer. On finding probation violations, a court is authorized to extend the period of probation in certain circumstances rather than revoking probation.

The Texas Adult Probation Commission is authorized to develop and fund department-managed programs for intensive supervision. The commission may also transfer certain funds from one program to another for the purpose of diverting defendants from commitment to the Texas Department of Corrections or providing information to judges and prosecutors on available diversion programs.

The act creates an emergency appropriation fund and transfers $32.5 million to the fund from amounts appropriated to the State Department of Highways and Public Transportation. Certain sums are then appropriated from the emergency appropriation fund to the attorney general for payment of workers' compensation claims, to the Texas Department of Corrections for expenditure for compliance with federal court orders, and to the Board of Pardons and Paroles for use in halfway houses and intensive supervision programs. The funds may be appropriated only if the governor determines that expenditures are necessary to comply with federal court orders. The funds appropriated are in addition to funds previously appropriated to these entities.

The above provisions of Senate Bill 215 take effect February 20, 1987. Effective September 1, 1987, a provision of the Code of Criminal Procedure authorizing the Board of Pardons and Paroles to release certain prisoners to mandatory supervision is repealed.

Correctional Facilities

HOUSE BILL 947 **HOUSE AUTHOR:** P. Moreno
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Barrientos

House Bill 947 authorizes the Texas Board of Corrections and the Board of Pardons and Paroles to contract with the federal government for the lease of unused military bases and other federal facilities for the purpose of housing minimum security inmates and releasees in custody of the board. The act requires that a contract be made only after funds are appropriated for this purpose, that the facilities be located in various parts of the state, and that the facilities comply with relevant constitutional standards and court orders.

HOUSE BILL 1503 **HOUSE AUTHOR:** C. Johnson
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Blake

House Bill 1503 requires the Texas Department of Corrections to lease the Skyview unit of Rusk State Hospital from the Texas Department of Mental Health and Mental Retardation to house mentally ill inmates. The Texas Department of Corrections is also required to build new facilities at the Skyview unit so the capacity

can be increased to 500 inmates. Maintenance and support services will be provided by the Texas Department of Mental Health and Mental Retardation.

The Texas Department of Mental Health and Mental Retardation will transfer the current Skyview patients to a maximum security unit to be established at Vernon State Hospital. Facilities at Wichita Falls State Hospital will be renovated to house patients displaced by the relocation of the maximum security unit.

The act also requires the Texas Department of Corrections and the Texas Department of Mental Health and Mental Retardation to adopt a memorandum of understanding specifying construction schedules, patient and inmate transfer schedules, and the administrative and supervisory roles of each agency.

SENATE BILL 251 **SENATE AUTHOR:** Farabee
EFFECTIVE: 4-14-87 **HOUSE SPONSOR:** Hackney

Senate Bill 251 allows the Texas Board of Corrections to contract with private vendors or the commissioners court of a county for the financing, construction, operation, maintenance, and management of correctional facilities. The act establishes facility standards that must be met, security level of inmates that may be confined, and the conditions under which contracts may be awarded. The Sunset Advisory Commission is required to file a report with the 72nd Legislature on the quality and costs of services provided by any contractor and those provided by the state. The Board of Pardons and Paroles and the Texas Department of Corrections are authorized to enter into interagency contracts for the placement of offenders in correctional facilities.

Inmate Crime

HOUSE BILL 412 **HOUSE AUTHOR:** Hightower
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** McFarland

House Bill 412 makes it an offense for an inmate of the Texas Department of Corrections to possess or conceal a deadly weapon in a penal institution. Prior law required that an inmate be found with the weapon on or about his body before an offense was committed.

HOUSE BILL 441 **HOUSE AUTHOR:** Stiles
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** McFarland

House Bill 441 makes it an offense, with certain exceptions, for any person to possess or take a controlled substance or dangerous drug into a city or county jail or onto property belonging to the Texas Department of Corrections. Prior law required that visitors be observed taking drugs into a penal facility before they would be prosecuted.

SENATE BILL 5 **SENATE AUTHOR:** Brown
EFFECTIVE: 9-1-87 **HOUSE SPONSOR:** C. Johnson

Senate Bill 5 defines the liability incurred by an inmate of the Texas Department of Corrections who intentionally damages state property. The act requires the department to establish a hearing procedure, provides for appeal, and authorizes the department to seize contents of an inmate's trust fund. Payments in satisfaction of damages to state property may be included as a condition of the inmate's parole contract.

Miscellaneous

SENATE BILL 719 **SENATE AUTHOR:** Caperton
EFFECTIVE: 8-31-87 **HOUSE SPONSOR:** C. Evans

Senate Bill 719 amends current law to create the Interagency Council on Mentally Retarded, Developmentally Disabled, and Mentally Ill Offenders. It lists definitions and specifies the membership, powers, and duties of the council. The 27-member council will be composed of nine at-large members appointed by the governor and the executive head or designated representative of certain specified agencies and associations. The council is required to determine the status of mentally retarded, developmentally disabled, and mentally ill offenders within the criminal justice system, identify needed services, and develop a plan to meet treatment, rehabilitation, and educational needs of these offenders, including case management and community-based alternatives to incarceration. Another important duty of the council is to develop and implement a pilot

program that will be a collaborative community-based alternative to divert nonviolent mentally or emotionally impaired offenders from the criminal justice system and rehabilitate them.

COURTS

This chapter summarizes legislation affecting court administration and organization, much of it applicable only to particular localities. In the 70th Legislative Session, much of the activity in this area involved housekeeping provisions relating to the creation of new courts or the expansion of established court jurisdiction. One trend that gained credence in the session was the creation of magistrate courts and the appointment of specialized masters in large metropolitan areas to help reduce the staggering caseload of many courts. This section also includes revisions in the Judicial Retirement System to bring it within compliance of the Federal Age Discrimination in Employment Act that became effective in January 1987.

Court Administration Act

SENATE BILL 687 — **SENATE AUTHOR:** Farabee
EFFECTIVE: see below — **HOUSE SPONSOR:** Toomey

Senate Bill 687 provides that the supreme court may adopt rules of administration setting policies and guidelines for the operation and management of the court system. Any such rules adopted would remain in effect unless disapproved by the legislature. The act also stipulates that educational programs be provided on an equitable basis to all judges and court personnel of the courts of the state if adequate funding is available. It revises qualifications required of retired and former judges who wish to remain available for temporary assignments and clarifies the powers granted to them. The act also establishes the State Board of Regional Judges to administer funds appropriated to the district court support account and to the child support and court management account of the judicial fund. Finally, the act describes the types of cases that may be referred to masters and the right of appeal each party has to the decision of the master. Some of its provisions take effect August 31, 1987; others, September 1, 1987.

HOUSE BILL 636 — **HOUSE AUTHOR:** Hury
EFFECTIVE: 8-31-87 — **SENATE SPONSOR:** Brooks

House Bill 636 amends the Court Administration Act to allow a former district judge who has served as the judge of more than one district court to be exempt from having to meet the four-year service requirement to be eligible as a visiting judge.

Existing Courts

SENATE BILL 64 — **SENATE AUTHOR:** Green
EFFECTIVE: 6-20-87 — **HOUSE SPONSOR:** Shelley

Senate Bill 64 authorizes Harris County juvenile court judges to appoint masters to serve their courts. Compensation for these services will be determined by the Harris County Commissioners Court. The act provides for the referral to masters of cases brought (1) under Title 1, 2, 3, or 4 of the Family Code; (2) in connection with Rule 308-A of the Texas Rules of Civil Procedure; or (3) in connection with Chapter 46 of the Human Resources Code. The master may undertake all acts necessary and proper to perform a referral's assigned tasks unless limited by published local rule, written order, or order of the referral. On completion of the hearing, all papers relating to the case and the master's findings are given to the referring judge who may adopt, modify, correct, reject, or recommit for further information the report. If adopted, the master's report becomes the judgment or decree of the court.

SENATE BILL 113 — **SENATE AUTHOR:** Glasgow
EFFECTIVE: 4-14-87 — **HOUSE SPONSOR:** Parker

Senate Bill 113 amends existing law to provide each district court in Eastland County with the concurrent criminal jurisdiction of a county court. The County Court of Eastland County has, concurrent with the district court, the criminal jurisdiction of a county court.

SENATE BILL 233 — **SENATE AUTHOR:** Sarpalius
EFFECTIVE: 8-31-87 — **HOUSE SPONSOR:** Staniswalis

This act redesignates the County Court at Law of Potter County as the County Court at Law No. 1 of Potter County. The act also grants the county courts at law in Potter County concurrent jurisdiction with the

district courts in cases involving appeals of final rulings and decisions of the Industrial Accident Board, eminent domain cases and proceedings, family law matters, and in civil cases where the matter in controversy exceeds $500 but does not exceed $50,000, exclusive of interest. The district clerk is to serve as the clerk of the court in the aforementioned types of proceedings. Finally, Senate Bill 233 provides that the Potter County Commissioners Court may pay the judges of the county courts at law an annual salary that is at least equal to $1,000 less than the total salary of the district judge.

SENATE BILL 340 **SENATE AUTHOR:** Leedom
EFFECTIVE: 8-31-87 **HOUSE SPONSOR:** Wolens

This act makes changes to the law relating to the municipal courts of record in Dallas. The act affects the jurisdiction of the courts, the administration of the courts, and the practice and procedure in the courts.

SENATE BILL 488 **SENATE AUTHOR:** Barrientos
EFFECTIVE: 10-1-87 **HOUSE SPONSOR:** Delco

Senate Bill 488 redesignates the County Court at Law Number 4 of Travis County as the Probate Court No. 1 of Travis County. The act grants the court concurrent jurisdiction with the county courts at law of Travis County and jurisdiction concurrent with the district court in civil cases where the amount in controversy does not exceed the jurisdictional limit provided for by law for the county courts at law of Travis County. In addition to having the general jurisdiction of a probate court, the Probate Court No. 1 has general jurisdiction over all proceedings instituted under the Texas Mental Health Code, the Texas Alcohol and Drug Abuse Services Act, over those that involve the commitment of drug-dependent persons, and over eminent domain proceedings.

SENATE BILL 841 **SENATE AUTHOR:** Caperton
EFFECTIVE: 6-19-87 **HOUSE SPONSOR:** Garcia

This act modifies the language that grants the supreme court appellate jurisdiction over matters considered in the appellate court dealing with errors. Senate Bill 841 restricts granting appeal due to errors to those of "such importance to the jurisprudence of the state that it requires correction." The act removes the prohibition against issuance of writs of error for cases involving family law matters.

SENATE BILL 920 **SENATE AUTHOR:** Tejeda
EFFECTIVE: 9-1-87 **HOUSE SPONSOR:** Gibson

The Code of Criminal Procedure is amended to increase the jurisdictional limits of municipal courts. The jurisdictional limit of municipal courts for violations of fire safety, zoning, and public health and sanitation ordinances is raised to $2,000. The limit for violations of all other ordinances, including the illegal dumping of refuse, is increased to $500. Municipal courts are granted concurrent jurisdiction with justice courts in all criminal cases where the punishment is assessed by fine only in an amount not to exceed $500. The fine that a city governmental body may assess for violations of fire safety, zoning, or public health and sanitation ordinances is limited to an amount not to exceed $2,000. Fines for violations of all other ordinances are limited to $500.

In addition, the act provides that it is an offense to use a vehicle for illegal dumping. Such an offense is punishable by a fine not to exceed $2,000.

SENATE BILL 1125 **SENATE AUTHOR:** Armbrister
EFFECTIVE: 8-31-87 **HOUSE SPONSOR:** Holzheauser

Senate Bill 1125 changes the name of the County Court at Law of Victoria County to the County Court at Law No. 1 of Victoria County and increases the ceiling on the jurisdictional amount in controversy in civil cases from $5,000 to $20,000.

SENATE BILL 1334 **SENATE AUTHOR:** Armbrister
EFFECTIVE: 6-18-87 **HOUSE SPONSOR:** Riley

Senate Bill 1334 grants the County Court at Law of Williamson County concurrent jurisdiction with the district court over family law matters, appeals of final rulings and decisions of the Industrial Accident Board, and cases where the matter in controversy exceeds $500 and does not exceed $50,000.

SENATE BILL 1336 **SENATE AUTHOR:** Armbrister
EFFECTIVE: 8-31-87 **HOUSE SPONSOR:** Riley

Senate Bill 1336 redesignates the County Court at Law of Williamson County as the County Court at Law No. 1 of Williamson County. The act expands its concurrent jurisdiction with the district court to include cases in which the matter in controversy exceeds $500 but does not exceed $50,000 (previously limited to $10,000); cases involving family law matters; and appeals of final rulings and decisions of the Industrial Accident Board.

SENATE BILL 1374 **SENATE AUTHOR:** Glasgow
EFFECTIVE: 5-27-87 **HOUSE SPONSOR:** Williamson

Senate Bill 1374 is an amendatory act restricting the probate jurisdiction of the County Court at Law of Parker County. It grants the court jurisdiction, concurrent with the district court, over contested probate matters and provides that the court may receive the transfer of such matters from the constitutional county court despite a requirement of the Probate Code that states such matters must be transferred to the district court. The contested proceeding may be transferred between the county court at law and the district court as provided by local rules of administration.

SENATE BILL 1419 **SENATE AUTHOR:** Farabee
EFFECTIVE: 6-20-87 **HOUSE SPONSOR:** Gavin

Senate Bill 1419 redesignates the County Court at Law of Wichita County as the County Court at Law No. 1 of Wichita County. The act increases the maximum amount for the concurrent civil jurisdiction shared by the district courts and the county courts at law from $10,000 to $50,000. The county courts at law nos. 1 and 2 are also given concurrent jurisdiction with the district court in appeals of final rulings and decisions of the Industrial Accident Board, regardless of the amount in controversy.

SENATE BILL 1517 **SENATE AUTHOR:** Caperton
EFFECTIVE: 6-19-87 **HOUSE SPONSOR:** R. Smith

Senate Bill 1517 amends the Government Code to reflect the creation of the 361st Judicial District, which is composed of Brazos County, and deletes a similar section from the Judicial Districts Act of 1969 to avoid duplication. The act provides for the terms of the 361st District Court and for the compensation of the judge of the court to be paid by the Commissioners Court of Brazos County.

In addition, the act deletes Rockwall County from the 86th Judicial District and places it within the jurisdiction of the 354th Judicial District.

HOUSE BILL 624 **HOUSE AUTHOR:** Eckels
EFFECTIVE: 6-20-87 **SENATE SPONSOR:** Henderson

House Bill 624 relates to actions and procedures concerning matters within the jurisdiction of the justice and small claims court and to the concurrent jurisdiction of county courts. The act provides that a county court has concurrent jurisdiction with justice courts in civil cases where the matter in controversy exceeds $200 in value but does not exceed $2,500, exclusive of interest. A justice court has original jurisdiction in civil matters in which exclusive jurisdiction is not in district or county court and the amount in controversy does not exceed $2,500, exclusive of interest. The act gives small claims courts concurrent jurisdiction with justice courts in counties with a population of 400,000 or more.

Other provisions of House Bill 624 make it possible to institute an action in small claims court by appearing before a clerk of the court and filing a statement of the claim under oath. When a judgment is rendered, if the defendant fails to make immediate payment, the judgment may be enforced as in justice court.

The act amends the Property Code to provide specific procedures to be followed in forcible entry and detainer actions where personal property of a tenant is to be removed from a tenant's premises and stored in a public warehouse under a writ of possession. "Premises" is redefined to mean "rental unit" for the purposes of Chapter 24, Property Code. The rights of parties affected by issuance of a writ of possession are specified, including the right of a warehouseman to place a lien on the tenant's personal property for the payment of reasonable moving and storage charges.

HOUSE BILL 637 **HOUSE AUTHOR:** Hury
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Brooks

This amendatory act repeals provisions relating to the salaries of court reporters of certain judicial districts.

HOUSE BILL 788 **HOUSE AUTHOR:** Saunders
EFFECTIVE: 6-17-87 **SENATE SPONSOR:** Armbrister

This act clarifies that the jurisdiction of the Fayette County Court is concurrent with the district court in certain listed cases.

HOUSE BILL 907 **HOUSE AUTHOR:** H. Cuellar
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Zaffirini

House Bill 907 expands the jurisdiction of the County Court at Law of Webb County to include civil cases where the matter in controversy exceeds $500 but does not exceed $50,000, and appeals of final rulings and decisions of the Industrial Accident Board, regardless of the amount in controversy. The act authorizes the judge to participate in the management of the probation department serving the county, and grants him, for that purpose, the same duties and powers of a district judge trying criminal cases. In addition, the act provides that the commissioners court may set the salary of the county judge of Webb County at an amount not to exceed $20,000 per annum and restricts it to be no more than the salary, including any county supplements, received by the district judge of Webb County.

HOUSE BILL 917 **HOUSE AUTHOR:** Seidlits
EFFECTIVE: 5-14-87 **SENATE SPONSOR:** Farabee

The act amends existing law to give the County Court at Law of Grayson County, concurrent with the county court and the County Court at Law No. 2 of Grayson County, the general jurisdiction of a probate court. It also grants the judge of a county court at law the authority to sit on a case following the disqualification or recusal of the judge in the court where the case is pending.

HOUSE BILL 1270 **HOUSE AUTHOR:** Watkins
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Montford

This amendatory act changes the beginning of terms for the 70th and 161st district courts from March and September to January and July.

HOUSE BILL 2220 **HOUSE AUTHOR:** Grusendorf
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Leedom

House Bill 2220 is an amendatory act establishing jurisdiction in municipal courts over the forfeiture and final judgment of all bail and personal bonds taken in criminal cases over which the court has jurisdiction. The act further stipulates that in all appeals to a county court from justice and municipal courts, other than municipal courts of record, the trial in the county court shall be de novo. Appeals from final judgments in bond forfeiture proceedings must also be heard by the county court if the court has jurisdiction. An appeal to a county court from a municipal court of record may be based only on errors reflected in the record. The act provides that the county bail bond board may appoint a presiding judge from a municipal court in the county to serve on the board. Finally, a judge is granted the authority to enter final judgments in bond forfeiture proceedings and to assess costs incurred because of the defendant's failure to appear against the principal and sureties.

HOUSE BILL 2508 **HOUSE AUTHOR:** R. Smith
EFFECTIVE: 6-19-87 **SENATE SPONSOR:** Caperton

This act redesignates the County Court at Law of Brazos County as the County Court at Law No. 1 of Brazos County.

HOUSE BILL 2523 **HOUSE AUTHOR:** Rangel
EFFECTIVE: 5-28-87 **SENATE SPONSOR:** Truan

This act amends statutory provisions relating to the jurisdiction of the County Court at Law of Kleberg County, increasing the ceiling on the jurisdictional amount from $20,000 to $50,000 in civil cases. The County Court at Law of Kleberg County is also granted concurrent jurisdiction with the district court in felony cases to conduct arraignments and pretrial hearings and to accept guilty pleas.

HOUSE BILL 2551 **HOUSE AUTHOR:** Denton
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Edwards

House Bill 2551 gives both the County Court at Law of McLennan County and the County Court at Law No. 2 of McLennan County concurrent jurisdiction with the district court in civil cases where the matter in controversy exceeds $500 but does not exceed $20,000.

HOUSE BILL 2558 **HOUSE AUTHOR:** C. Johnson
EFFECTIVE: 6-19-87 **SENATE SPONSOR:** Blake

This act expands the jurisdiction of the County Court at Law of Anderson County to include jurisdiction concurrent with the district court in appeals of final rulings and decisions of the Industrial Accident Board, regardless of the amount in controversy.

HOUSE BILL 2586 **HOUSE AUTHOR:** Holzheauser
EFFECTIVE: 1-1-88 **SENATE SPONSOR:** Armbrister

The statute relating to the County Court at Law No. 1 of Calhoun County is amended to provide that the court has concurrent civil jurisdiction with the district court in matters where the amount in controversy exceeds $500 and does not exceed $50,000, excluding interest, court costs, and attorney's fees. House Bill 2586 also grants concurrent civil jurisdiction with the district court in proceedings involving slander or defamation of character; suits for the trial of title to land and for the enforcement of liens on land; suits on behalf of the state to recover penalties, forfeitures, or escheats; suits for the trial of right to property levied on by virtue of a writ of execution, sequestration, or attachment if property levied on is valued at $500 or more; and contested elections.

HOUSE BILL 2592 **HOUSE AUTHOR:** Watkins
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Montford

House Bill 2592 sets the terms of court for the County Court at Law of Ector County and the County Court at Law No. 2 of Ector County. It also provides for the commissioners court to compensate the judges of those courts with annual salaries set at no more than $1,000 less than the salary paid by the state to a district judge.

HOUSE BILL 2611 **HOUSE AUTHOR:** D. Hudson
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Lyon

House Bill 2611 is an amendatory act authorizing the Court of Appeals for the 12th Court of Appeals District to conduct business in the city of Tyler or the county seat of any county within the district, as the court determines is necessary or convenient, except that all cases originating in Smith County must be heard and transacted in Tyler.

SENATE BILL 51 (2nd C.S.) **SENATE AUTHOR:** Lyon
EFFECTIVE: 9-1-87 **HOUSE SPONSOR:** Guerrero

Senate Bill 51 amends the Government Code to provide that a judge of a county court at law in Smith County may be paid an annual salary that is equal to the amount that is $1,000 less than the total annual salary, including supplements, paid a district judge in the county.

HOUSE BILL 9 (2nd C.S.) **HOUSE AUTHOR:** Williamson
EFFECTIVE: 10-20-87 **SENATE SPONSOR:** Glasgow

House Bill 9 expands the jurisdiction of a county court at law in Wise County to include concurrent jurisdiction with the district court in eminent domain cases and in civil cases where the amount in controversy exceeds $500 but does not exceed $20,000. Additionally, the county court at law judge may issue certain emergency orders and temporary orders arising under the Family Code in a case filed in district court if the district judge is absent from the county.

HOUSE BILL 92 (2nd C.S.) **HOUSE AUTHOR:** Polumbo
EFFECTIVE: 10-20-87 **SENATE SPONSOR:** Whitmire

House Bill 92 grants county civil courts at law in counties with a population of two million or more concurrent jurisdiction with district courts in civil cases where the matter in controversy exceeds $500 and does not exceed $50,000 and in deciding the issue of title to real or personal property. The act also grants original and concurrent jurisdiction with the district courts in final rulings and decisions of the Industrial Accident Board, regardless of the amount in controversy.

HOUSE BILL 133 (2nd C.S.) **HOUSE AUTHOR:** P. Hill
EFFECTIVE: 10-20-87 **SENATE SPONSOR:** Harris

Current law denies criminal law jurisdiction to county courts that have criminal district courts in the same county. House Bill 133 clarifies the law to provide that this limitation applies only to the jurisdiction of constitutional county courts and does not affect the jurisdiction of any statutory county court.

New Courts

The acts that create new courts contain similar provisions relating to jurisdiction, terms, writ power, practice and procedure, and other matters incident to the creation of a new court.

SENATE BILL 536 **SENATE AUTHOR:** Leedom
EFFECTIVE: 5-25-87 **HOUSE SPONSOR:** A. Hill

This act allows the governing body of the city of Garland to create by ordinance one or more municipal courts of record.

SENATE BILL 599 **SENATE AUTHOR:** Santiesteban
EFFECTIVE: 6-11-87 **HOUSE SPONSOR:** Perez

This act creates the El Paso Criminal Law Magistrate Court with jurisdiction over offenses allegedly committed in El Paso County except for that portion of the county within the corporate limits of Vinton, Texas. Senate Bill 599 specifies the jurisdiction of the magistrate court and provides that the El Paso Council of Judges oversees the court. The court is created on September 1, 1992, or at an earlier date as determined by the El Paso County Commissioners Court.

SENATE BILL 1335 **SENATE AUTHOR:** Armbrister
EFFECTIVE: 8-31-87 **HOUSE SPONSOR:** Riley

Senate Bill 1335 authorizes the creation of the County Court at Law No. 2 of Williamson County on January 1, 1991, or on an earlier date to be determined by the commissioners court. The County Court at Law of Williamson County and the County Court at Law No. 2 of Williamson County are given concurrent jurisdiction with the district courts where the matter in controversy exceeds $500 but is less than $50,000, involves cases of family law matters, or involves appeals of final rulings and decisions of the Industrial Accident Board.

SENATE BILL 1362 **SENATE AUTHOR:** Sarpalius
EFFECTIVE: 9-1-87 **HOUSE SPONSOR:** Smithee

Senate Bill 1362 authorizes the governing body of the city of Amarillo to create municipal courts of record. The act also defines jurisdiction and provides for rules of the new courts.

HOUSE BILL 186 **HOUSE AUTHOR:** Cooper
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Barrientos

House Bill 186 is an amendatory act that redesignates the County Court at Law of Hays County as the County Court at Law No. 1 of Hays County. It also creates the County Court at Law No. 2 of Hays County on January 1, 1992, or on an earlier date to be determined by the Commissioners Court of Hays County. The county courts at law are given jurisdiction concurrent with the district court in civil cases when the amount in controversy exceeds $500 and does not exceed $50,000, exclusive of interest; in appeals of final rulings and decisions of the Industrial Accident Board; and in eminent domain cases and proceedings, regardless of the amount in controversy.

HOUSE BILL 339 **HOUSE AUTHOR:** Givens
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Montford

House Bill 339 creates the County Court at Law No. 3 of Lubbock County; the court is created on January 1, 1988, or on an earlier date to be determined by the commissioners court. The jurisdiction of the county courts at law nos. 1 and 2 of Lubbock County is broadened to include concurrent civil jurisdiction with the district courts in suits affecting the parent-child relationship, in civil cases where the matter in controversy exceeds $500 but does not exceed $50,000, and in appeals of final rulings and decisions of the Industrial

Accident Board, regardless of the amount in controversy. The criminal district attorney of Lubbock County represents the state in all prosecutions before these courts.

HOUSE BILL 517 **HOUSE AUTHOR:** C. Harris
EFFECTIVE: 6-19-87 **SENATE SPONSOR:** McFarland

House Bill 517 authorizes the creation of municipal courts of record in Arlington with the governing body in that city determining the number required.

HOUSE BILL 975 **HOUSE AUTHOR:** Kubiak
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Caperton

House Bill 975 creates the County Court at Law of Washington County effective January 1, 1989, or on an earlier date determined by the commissioners court. The court has, in addition to concurrent jurisdiction with the county court in all probate matters, concurrent civil jurisdiction with the district court in family law matters, appeals of final rulings and decisions of the Industrial Accident Board, and cases in which the matter in controversy exceeds $500 but does not exceed $50,000.

HOUSE BILL 1879 **HOUSE AUTHOR:** C. Evans
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Glasgow

House Bill 1879 is an amendatory act that authorizes the creation of municipal courts of record in certain cities if their formation is necessary to provide a more efficient disposition of appeals from municipal courts. The act provides for their creation, their jurisdiction, the selection of judges and their duties, the duties of the clerk and other personnel, and practice and procedure in the court.

HOUSE BILL 2190 **HOUSE AUTHOR:** Marchant
EFFECTIVE: 6-19-87 **SENATE SPONSOR:** Harris

This act authorizes the governing body of the city of Addison to create a municipal court of record and any number of similar courts of record required to efficiently dispose of cases. The act provides for the jurisdiction of the court, the selection of the judge, the duties of court personnel, and practice and procedure in the court.

HOUSE BILL 2526 **HOUSE AUTHOR:** C. Evans
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** McFarland

This act creates the County Court at Law No. 3 of Tarrant County effective March 1, 1988. The act grants county courts at law nos. 1 and 2, as well as the new court, jurisdiction concurrent with the district courts in civil cases when the matter in controversy exceeds $500 and does not exceed $50,000; in appeals of final rulings and decisions of the Industrial Accident Board; and in matters of eminent domain, regardless of the amount in controversy.

HOUSE BILL 2574 **HOUSE AUTHOR:** Smithee
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Sarpalius

This act creates the County Court at Law No. 2 of Randall County on January 1, 1989, or on an earlier date to be determined by the commissioners court.

HOUSE BILL 101 (2nd C.S.) **HOUSE AUTHOR:** C. Evans
EFFECTIVE: 10-20-87 **SENATE SPONSOR:** Parmer

House Bill 101 authorizes the creation of four county criminal courts in Tarrant County on September 1, 1991, or on an earlier date to be determined by the commissioners court of the county.

Judges

SENATE JOINT RESOLUTION 6 (2nd C.S.) **SENATE AUTHOR:** Lyon
FOR ELECTION: 11-3-87 **HOUSE SPONSOR:** Blackwood

Senate Joint Resolution 6, if adopted by voters in the November 3 election, will amend the requirements of the constitution regarding justice of the peace and constable precincts within a county. Currently, no county may have more than eight precincts, and each precinct no more than two justices of the peace, unless a city of 18,000 or more is wholly contained within the county. Senate Joint Resolution 6 will allow counties of 150,000 or more to place more than one justice of the peace in each precinct, as determined to be necessary by the commissioners court.

SENATE BILL 236 **SENATE AUTHOR:** Montford
EFFECTIVE: 9-1-87 **HOUSE SPONSOR:** Robnett

Senate Bill 236 authorizes the Lubbock County Commissioners Court to pay district judges an annual salary of not less than $4,000 for service on the juvenile board. Effective January 1, 1988, the annual salary is to be no less than $6,500 for that service. The compensation is to be in addition to all other provided or allowed by law for district judges.

SENATE BILL 306 **SENATE AUTHOR:** Jones
EFFECTIVE: 4-14-87 **HOUSE SPONSOR:** Carriker

The act authorizes the commissioners courts of Fisher, Mitchell, and Nolan counties to pay district court judges an annual salary for administrative services. The salary must not exceed $1,000 less than the combined yearly salary from state and county sources received by each justice for the court of appeals district in which Fisher, Mitchell, and Nolan counties are located. The act validates payments made on or after January 1, 1987.

SENATE BILL 489 **SENATE AUTHOR:** Barrientos
EFFECTIVE: 6-11-87 **HOUSE SPONSOR:** Delco

Senate Bill 489 increases the amount of compensation received by the judges of the county courts at law nos. 1, 2, 3, and 4 of Travis County to an amount that is at least equal to the salary paid district judges from the general revenue fund of the state, but not more than $1,000 less than the annual salary, including supplements, received by the district judges in Travis County. The act also creates three new county courts at law in Travis County.

SENATE BILL 497 **SENATE AUTHOR:** Caperton
EFFECTIVE: 6-17-87 **HOUSE SPONSOR:** Hury

This amendatory act subjects certain candidates for judicial office to Canon 7, Code of Judicial Conduct, and any other relevant portion of the code. If the candidate is a judge, he is subject to sanctions by the State Commission on Judicial Conduct. Attorneys in violation of the Code of Judicial Conduct are subject to sanctions by the state bar. If the candidate is not an attorney or judge and he has violated the code, he is subject to review by the attorney general or the local district attorney for appropriate disciplinary action.

SENATE BILL 659 **SENATE AUTHOR:** Green
EFFECTIVE: 8-31-87 **HOUSE SPONSOR:** Hackney

This act authorizes the justices of the peace in Harris County to select a presiding judge and a copresiding judge. The copresiding judge has the same duties and responsibilities as the presiding judge when the presiding judge is absent. The act further authorizes the presiding judge to appoint a special judge in the absence of a Harris County justice of the peace and provides for the special judge's compensation.

SENATE BILL 1024 **SENATE AUTHOR:** Parker
EFFECTIVE: 5-20-87 **HOUSE SPONSOR:** Stiles

This amendatory act authorizes the Chambers County Commissioners Court to supplement the compensation of judges of the district courts having jurisdiction in Chambers County. This supplemental salary is set by the commissioners court; however, the salary may not exceed the amount necessary to make the combined yearly salary of the judges from state and county sources equal to $1,000 less than the combined yearly salary received by each associate justice of the court of appeals in the court of appeals district in which Chambers County is located.

SENATE BILL 1454 **SENATE AUTHOR:** Farabee
EFFECTIVE: 9-1-87 **HOUSE SPONSOR:** Carriker

Senate Bill 1454 raises the cap on the amount of additional compensation judges may receive for service on the Juvenile Board of the 50th Judicial District. The amount of compensation is raised from $1,200 to $6,000.

HOUSE BILL 153 **HOUSE AUTHOR:** Willis
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** McFarland

This amendatory act raises the ceiling on compensation for presiding judges of certain administrative judicial districts to $10,000 annually. The salary set by the Texas Judicial Council is to be apportioned according to the population of the counties composing the region, rather than the population of each judicial district comprising the administrative judicial district.

HOUSE BILL 187 **HOUSE AUTHOR:** Taylor
EFFECTIVE: 6-20-87 **SENATE SPONSOR:** Edwards

House Bill 187 eliminates those provisions of the Judicial Retirement System of Texas that have caused retirement benefits to be reduced or calculated at a lower rate for judges who continue to serve past certain ages. The changes were designed to bring the system into compliance with amendments to the federal Age Discrimination in Employment Act that became effective January 1, 1987. Under prior law in Plan One of the system, a judge who retired within one year after completing judicial service was entitled to 60 percent of salary if the retirement occurred before the judge reached the age of 71 (or on becoming eligible to receive a benefit, if later) and 50 percent of salary if the retirement occurred otherwise. Under Plan Two, a judge was entitled to three percent of final average salary for each month of service that occurred before the month after the month in which the judge reached the age of 70 and two percent for each month of service thereafter. Under the new law, benefits based on retirements or deaths that occur on or after the effective date of House Bill 187 will be calculated at the applicable higher rate.

HOUSE BILL 287 **HOUSE AUTHOR:** Hollowell
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Lyon

House Bill 287 relates to the disqualification of visiting judges assigned to hear a civil case. The act limits each party to a civil case to one objection to the assignment.

HOUSE BILL 442 **HOUSE AUTHOR:** G. Thompson
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Parmer

House Bill 442 authorizes the judges of the district courts in Tarrant County that give preference to criminal cases and the judges of the criminal district courts of the county to appoint criminal magistrates. The act establishes standards and compensation for the position, defines proceedings that may be referred, enumerates the powers and limitations of the magistrate, and creates authority to assign magistrate costs to the nonprevailing party. The referring court maintains supervisory power over the magistrate; however, if no modifications are made to the magistrate's ruling, it becomes the decree of the court.

HOUSE BILL 657 **HOUSE AUTHOR:** Earley
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Armbrister

This act requires the state bar to provide judicial training related to abuse, including sexual abuse or neglect of children. The training must emphasize statutory and case law related to videotaping and competency of a child's testimony and provide methods for eliminating trauma to the child caused by the court proceedings.

HOUSE BILL 771 **HOUSE AUTHOR:** P. Hill
EFFECTIVE: 6-17-87 **SENATE SPONSOR:** McFarland

House Bill 771 authorizes magistrates in Dallas County to accept a plea of guilty in misdemeanor cases in criminal court, with any fine or fees collected forwarded to the county clerk.

HOUSE BILL 1219 **HOUSE AUTHOR:** S. Johnson
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Lyon

The act provides guidelines and procedures for district judges to follow in calling a court of inquiry.

HOUSE BILL 1251 **HOUSE AUTHOR:** T. Smith
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Farabee

This act mandates the appropriation of funds from the judicial and court personnel training fund to the supreme court to provide for the continuing legal education of judges and court personnel in the state. Standards, requirements, and contents of the programs are to be monitored by a Supreme Court Education Committee, the composition of which is also prescribed by the act.

HOUSE BILL 1311 **HOUSE AUTHOR:** Burnett
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Sims

This amendatory act stipulates that the combined annual salary from state and county sources received by certain judges may not exceed $1,000 less than the combined salary received by each justice of the court of appeals in the court of appeals district of the stipulated county. The counties affected by this act are Coke, Concho, Irion, Runnels, Schleicher, Sterling, and Tom Green.

HOUSE BILL 1356 **HOUSE AUTHOR:** Cain
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Johnson

This act provides that a judge may order that a trial be conducted by a special judge in civil or family law matters, on the agreement of the parties. The special judge is to be a retired or former district judge who meets certain criteria. The order of referral may designate the time and place for trial but must specify the issue referred and the name of the special judge.

HOUSE BILL 1523 **HOUSE AUTHOR:** Hury
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Farabee

This act amends the Government Code to make public all papers, documents, evidence, and records considered by the State Commission on Judicial Conduct if the commission issues a public admonition, warning, reprimand, or requirement that a person obtain additional training or education.

HOUSE BILL 1604 **HOUSE AUTHOR:** Garcia
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Tejeda

House Bill 1604 is an amendatory act establishing, in counties with populations between 900,000 and 1,000,000, a maximum salary of county court at law judges that does not exceed the annual salary paid any district judge sitting in the county.

HOUSE BILL 2171 **HOUSE AUTHOR:** Polumbo
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Whitmire

This act requires the commissioners courts of counties having populations in excess of 2,000,000 to set salaries for county judges at not less than $1,000 more per annum than the annual salaries received by judges of county criminal courts at law. Judges of county civil courts at law shall receive an annual salary at least equal to that of a probate county judge.

HOUSE BILL 2513 **HOUSE AUTHOR:** Eckels
EFFECTIVE: 5-14-87 **SENATE SPONSOR:** Brown

House Bill 2513 reduces the length of service required to qualify as a retired justice or judge for the purpose of conducting marriage ceremonies from 15 to 12 years.

HOUSE BILL 2567 **HOUSE AUTHOR:** Willis
EFFECTIVE: 6-18-87 **SENATE SPONSOR:** Parker

The act changes the selection of judges of municipal courts of record from direct election to appointment for two-year terms by the governing body of the city of Fort Worth. House Bill 2567 also mandates that the governing body of the city provide an official court reporter to the municipal courts of record and stipulates certain procedures for appeals.

HOUSE BILL 142 (2nd C.S.) **HOUSE AUTHOR:** Hury
EFFECTIVE: 10-20-87 **SENATE SPONSOR:** Caperton

House Bill 142 establishes an appeals procedure for decisions of the State Commission on Judicial Conduct. Under this act, a judge who receives any type of sanction is entitled to request a review of the commission's decision by a court of review, to be composed of three courts of appeal justices selected by the chief justice of the supreme court. A decision by the commission to institute removal proceedings is not appealable to a court of review. The decision of a special court of review is not appealable.

Jurors

SENATE BILL 249 **SENATE AUTHOR:** Washington
EFFECTIVE: 9-1-87 **HOUSE SPONSOR:** L. Evans

No provision in Subchapter B, Government Code, currently exists to accommodate the needs of deaf jurors. This act restricts the instances in which a deaf juror may be disqualified from service and provides for a court-appointed interpreter to communicate the proceedings and deliberations of a trial.

HOUSE BILL 924 **HOUSE AUTHOR:** C. Evans
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Glasgow

The act creates an exemption from jury service for a person who is a resident of a county of at least 200,000 if the person has served as a petit juror in the county within the last 24 months. This exemption would not apply, however, if the plan used to select jurors uses the same record of names for over two years.

HOUSE BILL 2408 **HOUSE AUTHOR:** Shea
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Harris

House Bill 2408 amends the Code of Criminal Procedure to provide guidelines for the postponement of jury service for a juror and recess of proceedings based on the occurrence of a religious holy day that would prohibit a juror from taking part in a court proceeding.

HOUSE BILL 2449 **HOUSE AUTHOR:** Colbert
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Glasgow

This amendatory act provides that, on the submission of a written affidavit to the court, a party to a criminal or civil action required to appear at a court proceeding on a religious holy day that he observes may receive a continuance from taking part in a proceeding for that particular day. Similarly, prospective jurors, on the filing of an affidavit, may be dismissed from jury service entirely or rescheduled for another day. On the filing of such an affidavit by an individual who is already serving as a juror, the court must grant a one-day recess. The facts stated on these affidavits do not require corroboration.

Juvenile Boards

SENATE BILL 1501 **SENATE AUTHOR:** Caperton
EFFECTIVE: 6-17-87 **HOUSE SPONSOR:** Saunders

This amendatory act expands the composition of the juvenile board in Austin County to include the judge of each statutory county court in the county.

HOUSE BILL 623 **HOUSE AUTHOR:** Gavin
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Farabee

This act amends the law regarding membership of the Wichita County Juvenile Board to include as board members the judge of each statutory county court in the county. It also authorizes the board's administrator to appoint his own assistants. Prior law required the assistants to be confirmed by the board. Persons or facilities providing services to juveniles under a contract with the juvenile board or commissioners court and licensed or registered with a state or federal agency are exempted from the control and supervision of the juvenile board regarding appointments, salaries, and suspensions.

Child support payment fees apply to child support orders issued by any court of Wichita County, not just a district court as stipulated by prior law. Child support service fees are raised from $1.50 per month to $2.50 per month. In addition, the person responsible for the payment of the fee must also pay an operations initiation fee of $10. This fee shall be recorded and handled in the same manner as child support service fees. The fee for adoption investigation services is raised from $10 per case to $100 per case.

HOUSE BILL 2509 **HOUSE AUTHOR:** Rudd
EFFECTIVE: 6-18-87 **SENATE SPONSOR:** Montford

This act revises the composition and powers of the Dawson County Juvenile Board.

HOUSE BILL 2532 **HOUSE AUTHOR:** Hollowell
EFFECTIVE: 6-19-87 **SENATE SPONSOR:** Lyon

This act alters the composition of the Van Zandt County Juvenile Board to include the criminal district attorney of the county and the district judge of the 294th Judicial District and removes the county attorney of Van Zandt County from the board. House Bill 2532 also provides for joint operations between the Van Zandt County Juvenile Board and the juvenile boards of other counties. Finally, the act enumerates the specific duties and requirements of the board, which include establishing a juvenile probation department, and mandates compensation for service on the board to be set by the Van Zandt Commissioners Court.

HOUSE BILL 2588 **HOUSE AUTHOR:** Williamson
EFFECTIVE: 6-19-87 **SENATE SPONSOR:** Glasgow

House Bill 2588 authorizes the creation of a citizens' advisory council to the Parker County Juvenile Board to keep the board informed of current community issues relating to juveniles. It also expands the composition of the juvenile board to include the judges of any statutory county court having jurisdiction in the county.

HOUSE BILL 2602 **HOUSE AUTHOR:** Clemons
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Blake

House Bill 2602 amends existing law to provide that the Angelina County Juvenile Board is composed of the county judge, the judge of each statutory county court in the county, and the judge of each district court having jurisdiction in the county.

The act also provides for the members of the Angelina County Juvenile Board to receive additional compensation for their added duties.

Bail Bond Boards

HOUSE BILL 39 **HOUSE AUTHOR:** Blackwood
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Lyon

This amendatory act directs the county bail bond board to meet at least once a month. Prior law required the board to meet every 30 days.

HOUSE BILL 784 **HOUSE AUTHOR:** Blackwood
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Lyon

The act defines who may serve as a designee to a county bail bond board and adds presiding municipal judges to the board. It also requires an individual applying for a license to be a bondsman to file with the treasurer of the county where he is seeking a license an amount that is no less than $50,000, except in counties with populations of fewer than 250,000, in which case the amount to be filed is $10,000. The applicant may instead execute in trust to the board deeds to property that is appraised at a value of at least $50,000, or $10,000 in counties with populations of fewer than 250,000.

Prosecutors

SENATE BILL 148 **SENATE AUTHOR:** Farabee
EFFECTIVE: see below **HOUSE SPONSOR:** R. Lewis

Senate Bill 148, in addition to bringing the Government Code into conformity with legislation passed during the 69th Legislative Session concerning the Professional Prosecutors Act, adds the district attorneys representing the 110th and 253rd judicial districts, the criminal district attorneys for Bowie, Calhoun, and Jasper counties, and the county attorneys performing the duties of district attorneys in Orange County, while removing district attorneys representing the 39th and 235th judicial districts.

Effective on January 1, 1989, the act adds the district attorney for the 49th Judicial District. Other provisions of the act take effect on September 1, 1987.

SENATE BILL 162 **SENATE AUTHOR:** Caperton
EFFECTIVE: 8-31-87 **HOUSE SPONSOR:** Kubiak

Senate Bill 162 entitles the county attorney of Milam County to be compensated by the state for representation of the state before the district court. Such compensation is to be in the same manner and amount as provided by general law for district attorneys, including an amount for staff salaries and expenses equal to the amount provided in the General Appropriations Act to be paid for those purposes to a district attorney who serves a single county. If the county attorney receives compensation or expenses from the state under this act, Milam County is not entitled to receive funds from the state for this purpose.

SENATE BILL 163 **SENATE AUTHOR:** Caperton
EFFECTIVE: 9-1-87 **HOUSE SPONSOR:** Hightower

Senate Bill 163 amends the Government Code to provide that the district attorney for the 258th Judicial District also act as district attorney for the Second 9th Judicial District in San Jacinto County, for Trinity

County, and for the 9th Judicial District in San Jacinto County. The 9th district attorney is restricted to service in Montgomery and Waller counties.

SENATE BILL 591 — **SENATE AUTHOR:** Blake
EFFECTIVE: 9-1-87 — **HOUSE SPONSOR:** Hightower

This amendatory act creates the office of criminal district attorney for Polk County and abolishes the office of county attorney in that county. The act also provides compensation guidelines and a list of duties for the created office.

SENATE BILL 748 — **SENATE AUTHOR:** Glasgow
EFFECTIVE: 8-31-87 — **HOUSE SPONSOR:** Gibson

This act allows a district or county attorney, not otherwise prohibited from privately practicing, to carry on a private practice of law in addition to his official duties, subject to the discretion of the commissioners court. The practice may be conducted out of offices provided for his official use.

HOUSE BILL 591 — **HOUSE AUTHOR:** Laney
EFFECTIVE: 5-27-87 — **SENATE SPONSOR:** Sarpalius

This amendatory act broadens the duties of the district attorney for the 64th Judicial District to include representation of the state in all criminal cases before the county court and justice courts in Hale County.

HOUSE BILL 696 — **HOUSE AUTHOR:** Burnett
EFFECTIVE: 8-31-87 — **SENATE SPONSOR:** Sims

This act authorizes a county or district attorney to purchase liability insurance for himself and his staff to protect against claims arising from the performance of his official duties. Premiums may be paid out of expense accounts appropriated by the state and/or county.

HOUSE BILL 745 — **HOUSE AUTHOR:** S. Johnson
EFFECTIVE: 9-1-87 — **SENATE SPONSOR:** Harris

House Bill 745 is an amendatory act that allows the Commissioners Court of Collin County to supplement the compensation paid by the state to the criminal district attorney.

HOUSE BILL 1077 — **HOUSE AUTHOR:** Berlanga
EFFECTIVE: 8-31-87 — **SENATE SPONSOR:** Zaffirini

This act provides that a city attorney or his deputy may prosecute appeals from municipal court to a county court, county court at law, or any appellate court, with the county attorney's consent.

HOUSE BILL 1568 — **HOUSE AUTHOR:** Parker
EFFECTIVE: see below — **SENATE SPONSOR:** Jones

House Bill 1568 broadens the duties of the district attorney of the 35th Judicial District to include performing the duties of the county attorney of Brown County. The act also provides that the Commissioners Court of Brown County may supplement the district attorney's salary to compensate for the additional duties. This portion of the act takes effect on January 1, 1989; however, a portion of the act that repeals a section of a statute requiring the district attorney to assist the county attorney of Coleman County or requiring him to perform the duties of district attorney in that county, takes effect on September 1, 1987.

HOUSE BILL 2274 — **HOUSE AUTHOR:** Waterfield
EFFECTIVE: 6-19-87 — **SENATE SPONSOR:** Sarpalius

Under prior law, the Moore County district attorney was the only person authorized to act as a prosecutor for the Moore County Court at Law. House Bill 2274 additionally authorizes the county attorney and criminal district attorney of Moore County to serve as prosecutors in the Moore County Court at Law. The act also establishes a six-person jury for the court.

HOUSE BILL 2345 — **HOUSE AUTHOR:** Whaley
EFFECTIVE: 6-20-87 — **SENATE SPONSOR:** Farabee

This act provides that the commissioners court of Briscoe County or Dickens County may supplement the compensation of the district attorney serving those counties. The district attorney may also perform the function of county attorney in either or both counties if one does not exist.

HOUSE BILL 159 (2nd C.S.) **HOUSE AUTHOR:** Eckels
EFFECTIVE: 8-3-87 **SENATE SPONSOR:** Blake

House Bill 159 amends the Government Code to exempt the initial appointee to the office of criminal district attorney of Polk County from the six-months' residency requirement.

Public Defenders

SENATE BILL 1449 **SENATE AUTHOR:** Caperton
EFFECTIVE: 9-1-87 **HOUSE SPONSOR:** Saunders

The act authorizes the Colorado County Commissioners Court to appoint an attorney to serve as public defender of the county and describes the qualifications for the office and duties of the office.

SENATE BILL 1458 **SENATE AUTHOR:** Zaffirini
EFFECTIVE: 6-19-87 **HOUSE SPONSOR:** H. Cuellar

This act creates the office of public defender in Webb County and specifies qualifications for appointment, duties, and obligations of the office.

HOUSE BILL 449 **HOUSE AUTHOR:** Geistweidt
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Sims

The act authorizes the appointment of a public defender for the 33rd Judicial District and describes the qualifications and duties of the holder.

Miscellaneous

SENATE BILL 151 **SENATE AUTHOR:** Glasgow
EFFECTIVE: 5-6-87 **HOUSE SPONSOR:** Parker

This act amends existing law to restrict the issuance of writs of mandamus by a court of appeals, to district or county court judges within the court of appeals' own court of appeals district.

SENATE BILL 386 **SENATE AUTHOR:** Krier
EFFECTIVE: 9-1-87 **HOUSE SPONSOR:** Roberts

Prior law allowed the commissioners court of a county to establish and finance alternative systems for resolving citizen disputes. To help finance the system, court costs could be set by the commissioners court in an amount not to exceed $5, to be paid in each civil case, except suits for delinquent taxes, filed in a county or district court of the county. Senate Bill 386 increases the amount that may be charged to a maximum of $10.

SENATE BILL 476 **SENATE AUTHOR:** Caperton
EFFECTIVE: 9-1-87 **HOUSE SPONSOR:** Hury

Senate Bill 476 is an amendatory act that provides for interest to accrue on court costs as well as certain judgments. The interest is compounded annually.

SENATE BILL 925 **SENATE AUTHOR:** Tejeda
EFFECTIVE: 9-1-87 **HOUSE SPONSOR:** Grusendorf

Senate Bill 925 is an amendatory act that adjusts certain fees collected by justice courts, county courts, and small claims courts in civil matters.

SENATE BILL 1346 **SENATE AUTHOR:** Green
EFFECTIVE: 6-17-87 **HOUSE SPONSOR:** Watson

This amendatory act requires a person to hold a current Reverse Skills Certificate, Comprehensive Skills Certificate, Master's Comprehensive Skills Certificate, or Legal Skills Certificate issued by the National Registry of Interpreters for the Deaf or a current Level III, IV, or V Certificate issued by the Board for Evaluation of Interpreters to act as a qualified interpreter at a criminal or commitment proceeding.

SENATE BILL 1384 **SENATE AUTHOR:** Green
EFFECTIVE: 6-11-87 **HOUSE SPONSOR:** Patronella

This act allows a county to continue to collect a $50 fee from a party in litigation, in addition to the district court's collection of fees as allowed by statute or court order, for the county's handling of trust funds.

SENATE BILL 1385 **SENATE AUTHOR:** Green
EFFECTIVE: 6-11-87 **HOUSE SPONSOR:** Patronella

The act specifies that, in counties having populations in excess of 2.4 million, all money paid into the registry of a court shall be handled by the district clerk to be deposited in a special "registry fund." Senate Bill 1385 also enumerates the additional duties of the district clerk and methods to be used in choosing a depository bank.

SENATE BILL 1409 **SENATE AUTHOR:** Lyon
EFFECTIVE: 6-11-87 **HOUSE SPONSOR:** P. Hill

Senate Bill 1409 requires the commissioners court of any county that is a member of a supreme judicial district having a population of at least 1.9 million persons to establish an appellate judicial system to assist the court of appeals in its supreme judicial district in processing appeals from the county courts, county courts at law, probate courts, and district courts. Funding of the system shall come from a court costs fee set by the county commissioners not to exceed $5 for each civil suit, except suits for delinquent taxes, brought in any of those courts. The fee shall be deposited in an appellate justice system fund and used solely for this purpose. The act grants the commissioners courts all power necessary to make the system effective including contracting with corporations to assist in the administration of the system and education of judicial staff.

HOUSE BILL 123 (2nd C.S.) **HOUSE AUTHOR:** C. Harris
EFFECTIVE: 8-3-87 **SENATE SPONSOR:** Green

This act allows the court to postpone a juror's service to a date specified by the court. The discharge or postponement of a juror's service based on his religious beliefs may only be granted if the juror provides an affidavit.

In addition, the Penal Code is amended to declare that it is an offense for a public servant who is a judge, justice, or employee of an appellate court to reveal the content or result of a proposed or actual judicial decision or opinion to any person other than a judge, justice, or employee of the same appellate court before its release as a public record or announcement to all parties involved. Other provisions of this act are included in the family law chapter.

HOUSE BILL 1150 **HOUSE AUTHOR:** Patronella
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Green

The act further defines the duties of the clerk of a district court to include maintaining, arranging, and preserving the records relating to or lawfully deposited in the clerk's office.

HOUSE BILL 288 **HOUSE AUTHOR:** Smithee
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Tejeda

House Bill 288 provides that public servants commit an offense if they intentionally reveal the result or content of a proposed or actual appellate judicial decision or opinion prior to its release as a public record or its announcement to all parties. The act also provides that persons, who act with the intent to obtain benefit or with the intent to harm another, commit an offense for intentionally soliciting or receiving such information from a public servant when they know that the information has not been disclosed. In addition to public officials and employees, the definition of "public servants" includes jurors. An offense under this act is a third degree felony.

HOUSE BILL 1685 **HOUSE AUTHOR:** Patronella
EFFECTIVE: 6-19-87 **SENATE SPONSOR:** Green

In counties with a population of two million or more, this act authorizes the district clerk to collect a fee of $20 for each civil case in district court in which a jury trial is applied for, or $17 for each civil case in a county court. The jury fee is in addition to any other fee allowed by law or rule.

HOUSE BILL 2604 **HOUSE AUTHOR:** Gibson
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Anderson

This act amends the Government Code, requiring trial courts to give preference to claims under the Federal Employers' Liability Act and the Jones Act when setting trials and hearings.

CRIMINAL JUSTICE AND PROCEDURE

The 70th Legislature passed many bills relating to criminal justice and procedure. Legislation was enacted to place restrictions on the owners of vicious dogs. Crime victims are now entitled to reimbursement for psychiatric care or counseling and may testify at parole hearings. Juvenile records are, for the first time, now admissible in a criminal proceeding under certain circumstances. Other measures were enacted to curb the growing problem of inhalant abuse by creating the Special Inhalant Abuse Committee and requiring the sellers of abusable glue and paint to obtain permits from the Texas Department of Health. Vehicle and traffic offenses are summarized in the chapter on transportation and highways.

Controlled Substances

HOUSE BILL 173 **HOUSE AUTHOR:** Blackwood
EFFECTIVE: see below **SENATE SPONSOR:** Zaffirini

House Bill 173 raises the offense of intentionally, knowingly, or recklessly selling or delivering a substance containing a volatile chemical to a person under age 18 from a Class C to a Class B misdemeanor. The act also defines inhalant paraphernalia, imposes penalties for the use or possession of inhalant paraphernalia, provides penalties for the delivery of glue or abusable paint to a person younger than 18 years old, and provides for the latter offense to be reduced from a felony to a misdemeanor if, at the time of the delivery, the person or his employer had a valid glue and paint sales permit for the location of the sale or if he had a valid sales tax permit for the location of the sale and had not been previously convicted of this offense.

House Bill 173 directs business establishments that sell abusable glue or paint to post signs containing warnings of the penalties involved in selling, delivering, or abusing these products. Failure to display such a sign constitutes a misdemeanor offense.

Further provisions of the act regulate the sale of abusable glue and paint, direct the Texas Department of Health to develop procedures for the issuance and renewal of glue and paint sales permits no later than October 1, 1987, and provide for funds received from the sale of these permits to be deposited in the general revenue fund to cover the costs involved in administering this act and to finance education projects concerning the hazards of abusable glue and aerosol paint and the prevention of inhalant abuse.

Finally, House Bill 173 calls for the establishment of the Special Inhalant Abuse Committee to be formed by October 1, 1987. The committee will monitor and evaluate the effects of this act and report findings and recommendations to the 71st Legislature no later than February 15, 1989.

This act takes effect January 1, 1988, except that sellers required to have glue and paint sales permits are not required to have them until January 1, 1988, or the 90th day after the department adopts procedures regarding the issuance of the permits, whichever is later. Similarly, the provisions of the act that provide for the reduction of the offense of delivery of an abusable glue or paint from a felony to a misdemeanor do not take effect until the date on which a seller is required to have a permit.

HOUSE BILL 685 **HOUSE AUTHOR:** T. Smith
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Parker

The Texas Controlled Substances Act is amended to define and regulate the sale and transfer of certain chemical precursors to controlled substances and controlled substance analogues. A "controlled substance analogue" is defined to mean a substance that has a similar chemical structure or produces an effect similar to or greater than the effects of those controlled substances named in Schedule 1 or 2 or Penalty Group 1 or 2 of the Texas Controlled Substances Act. The act creates offenses and imposes penalties for the manufacture, delivery, or possession of controlled substance analogues.

House Bill 685 also requires manufacturers, wholesalers, retailers, or other persons who sell, transfer, or furnish certain named chemical precursors to keep, for at least two years, a record of detailed information regarding each transaction and file a written report with the director of the Department of Public Safety following each transaction. The department may by rule name additional precursors to the list for the purposes of recordkeeping if warranted by an evidenced proliferation of the substance in the illicit manufacture of a controlled substance. A report that has been filed with the department must be updated should the person who filed the report become aware of a change in the information. Records kept under this act must be made available for inspection by a peace officer and a failure to comply with these recordkeeping requirements is a

Class A misdemeanor or, if it is a second conviction for the same offense, it is a felony of the third degree. The requirements do not apply to a narcotic product that includes a precursor substance if the product can be bought over the counter.

HOUSE BILL 817 **HOUSE AUTHOR:** T. Smith
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Barrientos

A person engaged in research, the training of animals to detect marihuana, or designing or calibrating devices to detect marihuana may receive authorization from the director of the Department of Public Safety to possess, distribute, plant, and cultivate marihuana under the provisions of House Bill 817. This act also provides that a district court may order a law enforcement agency to deliver controlled substances, raw materials, or drug paraphernalia that have been forfeited to a person who is authorized by the Department of Public Safety to conduct the aforementioned research with controlled substances.

SENATE BILL 552 **SENATE AUTHOR:** Montford
EFFECTIVE: 9-1-87 **HOUSE SPONSOR:** Polumbo

Senate Bill 552 provides that a prescribing practitioner must, within 72 hours of authorizing an emergency oral or telephonically communicated prescription, deliver a written prescription in person or by mail to the dispensing pharmacist at the pharmacy where the prescription was dispensed. The pharmacist or the pharmacy that employs the pharmacist must in turn send the Department of Public Safety its copy of the prescription no later than the 30th day after the date the prescription was dispensed. In addition to making some nonsubstantive changes, the act also adds certain controlled substances to Penalty Groups 2, 3, and 4 of the Texas Controlled Substances Act.

SENATE BILL 1001 **SENATE AUTHOR:** Zaffirini
EFFECTIVE: 9-1-87 **HOUSE SPONSOR:** Berlanga

State law prohibits the inhalation, ingestion, or other misuse of 23 itemized volatile chemicals. Senate Bill 1001 adds chlorofluorocarbons to the list and applies the prohibition not only to the 24 chemicals, but also to isomers of those chemicals.

SENATE BILL 1035 **SENATE AUTHOR:** Tejeda
EFFECTIVE: 9-1-87 **HOUSE SPONSOR:** Hinojosa

This act defines the term "anabolic steroids" and includes coverage of these steroids and human growth hormones in the Dangerous Drugs Act. The act prohibits a practitioner from prescribing, dispensing, delivering, or administering an anabolic steroid or human growth hormone for any reason other than a valid medical purpose in the course of his medical practice. Bodybuilding, muscle enhancement, or increasing muscle bulk or strength by a person who is in good health is not considered a valid medical purpose. A practitioner or pharmacist is restricted from prescribing, dispensing, or delivering an anabolic steroid or human growth hormone without a written prescription. It is an exception to this requirement if a practitioner administers it in his office for a valid medical purpose.

The act prescribes that it is a felony of the third degree to violate these requirements or for a person who is not a practitioner or pharmacist to possess more than 250 tablets or eight 2cc bottles of an anabolic steroid, human growth hormone, or combination of both. A second conviction under this act is a felony of the second degree.

Juveniles

HOUSE BILL 683 **HOUSE AUTHOR:** T. Smith
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Farabee

Under prior law, the admission of a defendant's juvenile record was inadmissible in a criminal proceeding. House Bill 683 provides that evidence of a defendant's adjudication of delinquency based on a violation of a penal law of a felony grade may be introduced unless the adjudication was based on conduct committed more than five years before the commission of the offense for which he is on trial and, during the five-year period before trial, the person did not engage in conduct for which he had been found a delinquent child or a child in need of supervision and did not commit an offense for which he had been convicted.

The act allows a prosecuting attorney to examine the juvenile record of a child to obtain admissible evidence for the punishment phase of a criminal proceeding. The juvenile court, on written request, must provide a copy of the record to the prosecuting attorney.

In addition, House Bill 683 directs juvenile court judges, at the beginning of an adjudication hearing, to explain to the child and the child's parents the law relating to the admissibility of a juvenile court adjudication in a criminal proceeding.

HOUSE BILL 1906 **HOUSE AUTHOR:** Guerrero
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Zaffirini

House Bill 1906 applies the same procedures relating to the release of an adult on bail who has been charged with driving while intoxicated to a minor charged with the same offense. The act further provides that a child being detained for such an offense shall be held in a facility certified as suitable for the detention of children. If convicted, the minor may be required to perform a specified number of hours of community service work in lieu of a fine.

Law Enforcement

HOUSE BILL 41 **HOUSE AUTHOR:** Burnett
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Sims

House Bill 41 grants special agents of the Criminal Investigation Division and inspectors of the Internal Security Division of the Internal Revenue Service limited law enforcement authority to have the powers of arrest, search, and seizure with respect to felony offenses.

HOUSE BILL 279 **HOUSE AUTHOR:** Hightower
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Green

House Bill 279 grants special agents and law enforcement officers of the United States Forest Service limited law enforcement authority to have the powers of arrest, search, and seizure with respect to felony offenses.

HOUSE BILL 527 **HOUSE AUTHOR:** Stiles
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Brown

This act adds a new section to the Penal Code to provide that a peace officer, jailer, guard, or correctional officer is justified in using force, to the degree he believes necessary, against someone in custody to maintain the security of the penal institution, the safety and security of other persons in custody or employed by the institution, or his own safety.

HOUSE BILL 635 **HOUSE AUTHOR:** Carter
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** McFarland

Prior law required the Department of Public Safety to maintain centralized records of prior driving while intoxicated convictions and involuntary manslaughter driving while intoxicated convictions. House Bill 635 repeals the system of maintaining those records at the Department of Public Safety and instead requires the county clerk to maintain a fingerprint record in the files of persons convicted of those offenses or any misdemeanor offenses that are punishable by confinement in jail.

HOUSE BILL 1175 **HOUSE AUTHOR:** Earley
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Caperton

This amendatory act restricts a law enforcement officer from entering a residence to make a warrantless arrest unless he obtains permission from a person who resides there or circumstances require him to take immediate action without first obtaining permission to enter.

HOUSE BILL 2456 **HOUSE AUTHOR:** Tallas
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Brown

This amendatory act requires that a blood specimen of a driving while intoxicated suspect being taken at the request or order of a peace officer be taken in a sanitary place that is periodically inspected by the county in which the sample is taken.

SENATE BILL 1 **SENATE AUTHOR:** Brown
EFFECTIVE: 9-1-87 **HOUSE SPONSOR:** Morales

This act provides an exception to the exclusionary rule. It states that evidence obtained by a law enforcement officer acting in good faith on a warrant issued by a neutral magistrate based on probable cause is admissible in a criminal case, even if there are technical problems with the warrant.

SENATE BILL 82 **SENATE AUTHOR:** Green
EFFECTIVE: 9-1-87 **HOUSE SPONSOR:** Blackwood

Senate Bill 82 amends the Code of Criminal Procedure to grant a peace officer who is outside his jurisdiction the authority to make warrantless arrests if certain crimes are being committed within the officer's presence or view. It further details procedures to be taken by a peace officer following such an arrest and extends to the officer's workers' compensation insurance coverage.

SENATE BILL 1077 **SENATE AUTHOR:** Tejeda
EFFECTIVE: 9-1-87 **HOUSE SPONSOR:** Garcia

This act amends the Code of Criminal Procedure to include among those who may issue search warrants a judge of a municipal court of record who is an attorney licensed by the State of Texas.

See also House Bill 391 and House Bill 957 in the chapter on higher education relating to security personnel employed by colleges and universities.

Offenses and Penalties

HOUSE BILL 113 **HOUSE AUTHOR:** Collazo
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Zaffirini

House Bill 113 relates to the offense of interference with child custody. It makes it an offense for a noncustodial parent to entice or persuade a child to leave the parent having custody of the child. For an individual to be adjudged guilty of this offense, he must have removed the child from the area of the court's jurisdiction with the intention of depriving the court of its authority over the child. It is a defense to prosecution of this offense if the person returns the child to the area of the court's jurisdiction within three days after the date of the offense.

The act also makes it a third degree felony for a person to abduct a child for remuneration and provides for the registration, license, or commission of a private investigator to be revoked on proof that the investigator abducted or tried to abduct a child from the person having custody or physical possession of the child.

HOUSE BILL 161 **HOUSE AUTHOR:** Danburg
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Krier

House Bill 161 amends the Penal Code to make the offense of aggravated sexual assault apply in certain circumstances to a person who forces his or her spouse to engage in non-consensual sexual intercourse. Certain technical problems present in House Bill 161 were corrected in Senate Bill 35 of the 2nd Called Session.

SENATE BILL 35 (2nd C.S.) **SENATE AUTHOR:** Krier
EFFECTIVE: 9-1-87 **HOUSE SPONSOR:** Danburg

Senate Bill 35 corrects certain technical problems in House Bill 161 from the Regular Session of the 70th Legislature. That bill made the offense of aggravated sexual assault apply, in certain circumstances, to a person who forces his or her spouse to engage in non-consensual sexual intercourse.

HOUSE BILL 349 **HOUSE AUTHOR:** Geistweidt
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Henderson

The Code of Criminal Procedure is amended to set the limitation period for the offense of organized criminal activity at the same period as that of the most serious offense that is the object of the organized criminal activity.

HOUSE BILL 359 **HOUSE AUTHOR:** Wright
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Washington

House Bill 359 declares that it is a defense to prosecution of the offense of possession of an antique device if the person has a gambling device that is 30 years old or older and not used for gambling, gambling

promotion, or keeping a gambling place and if the person furnishes certain information regarding the device to the sheriff of the county where the device is kept.

HOUSE BILL 494 **HOUSE AUTHOR:** Guerrero
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Caperton

House Bill 494 sets a 10-year statute of limitations for the offenses of indecency with a child and the sexual assault on a child.

HOUSE BILL 571 **HOUSE AUTHOR:** Valigura
EFFECTIVE: see below **SENATE SPONSOR:** Blake

The Penal Code is amended to declare that it is a misdemeanor offense for a person to keep in his custody a dog that has engaged in vicious conduct if, within 60 days after the date of such conduct, the person does not restrain the dog on a leash or in an enclosure at all times and have insurance coverage of at least $100,000 insuring against liability of the person for damages resulting from bodily injury to a person that is caused by the dog. The act further provides that the court may order the destruction of a dog if it can be proven at a hearing that the dog caused the death of a person or if a dog has been convicted of engaging in vicious conduct on two separate occasions. Some provisions of the act take effect on August 31, 1987; others take effect on September 1, 1987.

HOUSE BILL 592 **HOUSE AUTHOR:** Barton
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Green

Current law provides that it is an offense to make, possess, or provide to another person an item that falsely represents another as a peace officer or a reserve law enforcement officer. House Bill 592 provides that it is a defense to prosecution for this offense if the item was used exclusively for decorative purposes or for use in an artistic or dramatic presentation. The act further declares that it is an offense to intentionally or knowingly misrepresent an object as property belonging to a law enforcement agency. The act raises these offenses to the status of Class B misdemeanors.

HOUSE BILL 705 **HOUSE AUTHOR:** Heflin
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Henderson

House Bill 705 provides that it is an offense to sell, manufacture, distribute, or possess any document that is deceptively similar to a personal identification certificate or driver's license issued by the Department of Public Safety unless the document has "NOT A GOVERNMENT DOCUMENT" printed diagonally in solid red capital letters at least one-fourth inch high on the front and back of the document. If a person is convicted of this offense or a violation of a license or certificate provision, the person's license will be suspended for a period of not less than 90 days or more than 365 days. The act further provides that a peace officer may confiscate a document that does not display the required disclaimer on it. It is declared a Class C misdemeanor to sell, manufacture, or distribute such a document and a Class B misdemeanor if a person has previously been convicted of the same offense. A second conviction for possession of such a document is a Class C misdemeanor. The act does not apply to a government agency, office, or political subdivision authorized to produce or sell personal identification certificates or to employers who provide certificates to their employees for business purposes. In addition, House Bill 705 allows the attorney general, district attorney, or prosecuting attorney performing the duties of a district attorney to bring suit in a county where there is a threat of a violation of this act to prohibit a violation from taking place.

HOUSE BILL 826 **HOUSE AUTHOR:** Morales
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Armbrister

House Bill 826 amends the Penal Code to provide that it is a Class C misdemeanor offense for a person being arrested to give a law enforcement officer a false name, address, or birth date. The offense is a Class B misdemeanor if the defendant was a fugitive from justice at the time of the offense or the defendant was previously convicted of the same offense.

HOUSE BILL 1904 **HOUSE AUTHOR:** Guerrero
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Zaffirini

The Penal Code is amended to provide that it is a Class A misdemeanor offense to employ a child to work in a sexually oriented commercial activity.

HOUSE BILL 1939 **HOUSE AUTHOR:** Tallas
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Brown

It is a Class A misdemeanor for a person, firm, association, or corporation to remove or alter a serial number or distinguishing identification mark from a tractor, farm implement, or unit of special mobile equipment for the purpose of concealing or destroying the identity of the item. It is also an offense to possess such an item with the intention of delivering it to another or selling it. Any item of this nature may be seized by a peace officer. If the rightful owner is located, he must place a new serial number on the item within 30 days after reclaiming the property. If the rightful owner is unknown, the equipment must be forfeited to the state and affixed with a property inventory control number before it can be used for state purposes or sold at public auction.

HOUSE BILL 2278 **HOUSE AUTHOR:** Gibson
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Farabee

This act amends existing law to declare that it is a defense to prosecution of the offense of receiving deposits in failing financial institutions if the accounts of the institution are insured or guaranteed by an agency or instrumentality of the United States government or in accordance with the Texas Credit Union Act.

HOUSE BILL 2575 **HOUSE AUTHOR:** Warner
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Glasgow

House Bill 2575 permits the affirmative defense to the offense of indecency with a child to be used only if the defendant is a member of the opposite sex who is not more than two years older than the victim and did not use duress, force, or a threat against the victim at the time of the offense.

HOUSE BILL 2576 **HOUSE AUTHOR:** Warner
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Glasgow

This act broadens the offense of sexual assault involving sexual contact with a child to include more kinds of impermissible contact.

SENATE BILL 102 **SENATE AUTHOR:** Leedom
EFFECTIVE: 9-1-87 **HOUSE SPONSOR:** S. Johnson

This act declares that it is a misdemeanor offense to disable a fire exit alarm unless the person is authorized to do so by the person having custody or control of the building or the part of the building where the fire exit is located.

SENATE BILL 120 **SENATE AUTHOR:** Montford
EFFECTIVE: 9-1-87 **HOUSE SPONSOR:** Horn

Senate Bill 120 broadens the offense of involuntary manslaughter to include causing the death of an individual by operating an airplane, helicopter, or boat while intoxicated. The definition of intoxication is amended to conform with that in Article 6701l-1 of the Revised Statutes.

SENATE BILL 342 **SENATE AUTHOR:** Farabee
EFFECTIVE: 9-1-87 **HOUSE SPONSOR:** Hinojosa

This act amends the Penal Code to exclude from the definition of "bet" the offer of a carnival contest prize with a value not greater than $25 if the recipient of the prize is the carnival game contestant. It also removes the word "mechanical" from the definition of a gambling device, amends the offense of "gambling promotion" to include a person who engages in bookmaking, and defines the term "bookmaking."

SENATE BILL 701 **SENATE AUTHOR:** Washington
EFFECTIVE: 9-1-87 **HOUSE SPONSOR:** L. Evans

Senate Bill 701 redefines the offense of burglary of a coin-operated machine to include coin collection machines and coin collection receptacles.

SENATE BILL 920 **SENATE AUTHOR:** Tejeda
EFFECTIVE: 9-1-87 **HOUSE SPONSOR:** Gibson

The Code of Criminal Procedure is amended to increase the jurisdictional limits of municipal courts. The jurisdictional limit of municipal courts for violations of fire safety, zoning, and public health and sanitation ordinances is raised to $2,000. The limit for violations of all other ordinances, including the illegal dumping of

refuse, is increased to $500. Municipal courts are granted concurrent jurisdiction with justice courts in all criminal cases where the punishment is assessed by fine only in an amount not to exceed $500. The fine that a city governmental body may assess for violations of fire safety, zoning, or public health and sanitation ordinances is limited to an amount not to exceed $2,000. Fines for violations of all other ordinances are limited to $500.

In addition, the act provides that it is an offense to use a vehicle for illegal dumping. Such an offense is punishable by a fine not to exceed $2,000.

See also House Bill 288 in the chapter on public officials and employees.

Pretrial Procedure

HOUSE BILL 23 **HOUSE AUTHOR:** Roberts
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Brown

House Bill 23 amends the Code of Criminal Procedure to provide that a defendant is entitled to a speedy trial which, for a criminal action when the defendant is accused of a felony, means within 180 days from the commencement of the action. Prior law had required a trial to be held within 120 days from the commencement of the action. If the court discharges a defendant because of a failure to provide a speedy trial or because the defendant was in custody and no indictment was presented, the discharge is a bar to further prosecution for the offense discharged or for any other offense arising out of the same transaction, other than an offense of a higher grade that the prosecuting attorney did not have the primary duty to prosecute. When computing the time the state has to prepare for trial, periods of delay that arose because the defendant was a fugitive, forfeited his bail, or resisted being returned to the state, any period where the defendant was released from custody without bail, and any reasonable period of delay caused by exceptional circumstances not under the direct control of the state's attorney, such as time needed to complete a scientific analysis, must be excluded from the computation.

After the conclusion of the 70th Regular Session, the Court of Criminal Appeals held the Texas Speedy Trial Act unconstitutional, and indicated that any changes made by House Bill 23 would not cure the constitutional problems inherent in the act.

HOUSE BILL 65 **HOUSE AUTHOR:** L. Evans
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Washington

In selecting a jury, the attorneys for each side of the case have a fixed number of challenges they can make to the seating of potential jurors. House Bill 65 provides that the defendant in a jury trial may request the court to dismiss the present array and call for a new array of potential jurors if the defendant is a member of an identifiable racial group, if he can offer evidence to prove that the attorney for the state exercised peremptory challenges to exclude certain persons strictly because of their race, and if the state's attorney cannot give a racially neutral explanation for the challenges.

HOUSE BILL 95 **HOUSE AUTHOR:** Danburg
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Washington

The Code of Criminal Procedure requires the court to admonish a defendant before accepting his plea of guilty or nolo contendere. This act provides that the court may make this admonition either orally or in writing. If the admonition is written, the defendant and his attorney must sign a statement stating that the defendant understands the admonition and is aware of the consequences of his plea. If the defendant is unable or refuses to sign such a statement, the admonition must be given orally.

HOUSE BILL 249 **HOUSE AUTHOR:** C. Harris
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Glasgow

House Bill 249 provides that, under certain circumstances, a magistrate in a county bordering a county in which an arrest was made may inform a defendant of his rights.

HOUSE BILL 109 (2nd C.S.) **HOUSE AUTHOR:** C. Harris
EFFECTIVE: 10-20-87 **SENATE SPONSOR:** Parmer

Under the provisions of House Bill 249, passed by the 70th Legislature during the Regular Session, a person may be arraigned by a magistrate in a county bordering the county in which the arrest was made.

House Bill 109 amends the law to allow a prisoner to be detained for up to 72 hours, in a jail in the county where he was arraigned, before being transferred to the county jail of the county in which the arrest occurred.

HOUSE BILL 1104 **HOUSE AUTHOR:** Waldrop
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Parker

House Bill 1104 adds a new subchapter to the Code of Criminal Procedure to detail the powers and duties of a justice of the peace with regard to conducting inquests and ordering autopsies.

Under the provisions of the act, offenses are created for moving a body or tampering with a death scene, hindering an inquest by hindering a justice of the peace's entrance to the death scene, failing to notify a justice of the peace in all cases where an inquest is required, and tampering with a lock or seal at a death scene.

The measure additionally gives district attorneys and criminal district attorneys the power to require a justice of the peace to conduct an inquest, requires an inquest to be performed if the deceased is suspected of dying from the sudden infant death syndrome, and provides that a county may, at its own expense, create an office of death investigator to assist persons conducting inquests.

The act also repeals Article 49.23 of the Code of Criminal Procedure that required a justice to preserve and deliver to the district clerk all evidence and possessions that the justice believed showed the real cause of death of a person or the person who caused the death. Article 49.24, which provided that a justice of the peace could require bail of a witness required to appear before a grand jury or court, is also repealed.

HOUSE BILL 1827 **HOUSE AUTHOR:** Morales
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Tejeda

This act amends existing law to require the listing of additional information on a personal bond. Such information includes the defendant's date and place of birth, height, weight, eye color and hair color, driver's license number and state of issuance, and nearest relative's name and address.

SENATE BILL 1108 **SENATE AUTHOR:** Farabee
EFFECTIVE: 9-1-87 **HOUSE SPONSOR:** T. Smith

The Code of Criminal Procedure is amended to grant an indigent defendant the right to representation by counsel in any adversarial judicial proceeding when punishment could result in imprisonment, in any other criminal proceeding if the court determines that the interests of justice require representation, and in certain appellate and postconviction habeas corpus matters. An appointed counsel is entitled to have 10 days to prepare for a proceeding. The right to counsel may be waived by a defendant on a form provided by the court. The waiver may be withdrawn at any time; however, such a withdrawal would not entitle a defendant to the repeat of a proceeding previously held or waived solely on the grounds of the subsequent appointment or retention of counsel.

Other provisions of Senate Bill 1108 specify factors the court must consider in determining the indigency of a defendant, require an indigent to complete a form to request a court-appointed attorney, and provide for court-appointed attorneys to be compensated for their services according to fee schedules adopted by the county and district criminal judges within each county. The court may require a defendant to pay, in whole or in part, the cost of legal services if it determines he is financially capable of doing so. Finally, the county that paid for an attorney to represent a juvenile in a criminal action may bring a civil action to recover costs against a parent or other person financially responsible for a child if the person is capable of paying for legal services for the child but refuses to do so.

Trial Procedure

HOUSE BILL 313 **HOUSE AUTHOR:** Blackwood
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Edwards

This amendatory act requires that an evaluation of certain criminal defendants be conducted to determine whether they need drug or alcohol counseling. This act details at what stage in the proceedings such an evaluation should be conducted, provides that the court can require a defendant to submit to an evaluation as a condition of probation, and requires the court to charge the defendant for the evaluation. The court may waive the cost of the evaluation if it finds the defendant indigent.

HOUSE BILL 554 **HOUSE AUTHOR:** Ovard
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Leedom

This amendatory act limits the cumulative total of suspended sentences in felony cases to not more than 10 years and the cumulative total of suspended sentences in misdemeanor cases to an amount that does not exceed the maximum period of imprisonment applicable to the misdemeanor cases but not more than two years. It further provides that if a defendant has been convicted on two or more cases and the court suspends the imposition of the sentence in one of the cases, the court may not order a sentence of confinement to begin on the completion of a suspended sentence for an offense.

HOUSE BILL 631 **HOUSE AUTHOR:** Larry
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Anderson

House Bill 631 provides that the court may order that, for each day's confinement served by a defendant, he receive credit toward payment of the fine and costs assessed against him at the rate of $45 a day. He may, at the same time, receive credit for each day's confinement served by him as punishment for the offense. For a defendant serving concurrent sentences for two or more misdemeanors, the court may order that he receive credit toward the satisfaction of costs and fines imposed for each separate offense. In addition, the court and sheriff of the county are given discretion to grant an additional two days' credit for each day served to an inmate who participates in an approved county work program, rehabilitation program, restitution program, or education program.

HOUSE BILL 679 **HOUSE AUTHOR:** Hury
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** McFarland

This act authorizes defense counsel, in his discretion, to make the defendant's opening statement after the opening statement for the state.

HOUSE BILL 697 **HOUSE AUTHOR:** Melton
EFFECTIVE: 6-17-87 **SENATE SPONSOR:** Glasgow

This act provides that the court may subpoena child witnesses. If the person in charge of the child fails to produce the child in court, the person is subject to penalties for contempt and a writ of attachment may be issued for the person and the child.

SENATE BILL 185 **SENATE AUTHOR:** Glasgow
EFFECTIVE: 6-20-87 **HOUSE SPONSOR:** Parker

Senate Bill 185 discharges the liability of a surety if, before a bond is forfeited, the surety surrenders the accused to the sheriff of the county of prosecution or presents the sheriff with an affidavit stating that the accused is incarcerated in federal custody, in the custody of any state, or in the custody of any county of the state. The bond will be discharged and the surety absolved of liability after verification of the information by the sheriff. The act provides that a surety who wants to surrender the accused can file an affidavit of such intention with the court and specifies the information to be included on the affidavit. Provisions are made to allow for the refund of a forfeited bond to a surety under certain circumstances, after court costs, costs accrued by the county for the return of the principal, and interest accrued on the bond amount are deducted. The act allows a surety to file, within two years of a final judgment on a bond forfeiture, a special bill of review to request the court to reform the final judgment and grant a total or partial refund of the bond to the surety after the deduction of costs.

Posttrial Procedure and Probation

HOUSE BILL 684 **HOUSE AUTHOR:** Toomey
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Henderson

This act amends the Penal Code to redefine the term "criminal episode," as it relates to multiple prosecutions, to mean the commission of two or more offenses, regardless of whether the harm is directed toward or inflicted on more than one person or item of property, if the offenses are committed in carrying out the same transaction or carrying out two or more transactions that are connected or constitute a common plan or scheme or the offenses are the repeated commission of the same or similar offenses.

HOUSE BILL 1196 **HOUSE AUTHOR:** Valigura
EFFECTIVE: 6-20-87 **SENATE SPONSOR:** Barrientos

Current law requires the Board of Pardons and Paroles to notify the sheriff, prosecuting attorney, and district judge in the county where a person was convicted that the parole or clemency of the prisoner is being considered by the board or the governor, at least 10 days before ordering parole or granting clemency. This act requires that the county to which the prisoner is released also receive this notification. In addition, no later than 10 days after transferring a prisoner to a halfway house, the board must notify the sheriff of the county where the prisoner was convicted and the sheriff and felony prosecutor in the county where the halfway house is located of the transfer.

HOUSE BILL 1826 **HOUSE AUTHOR:** Morales
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Tejeda

This amendatory act provides that the court may require a person who has been convicted of the offense of indecency with a child, sexual assault, aggravated sexual assault, or injury to a child or an elderly individual, and is being placed on probation, to pay all or a portion of any costs incurred by the victim for psychological counseling on a finding that the probationer is able to make such payments. These payments must be made within one year from the date of the order.

HOUSE BILL 2107 **HOUSE AUTHOR:** Patronella
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Green

House Bill 2107 adds a new section to the Code of Criminal Procedure to set fees for the services of peace officers in counties having populations of two million or more to be paid by defendants with misdemeanor convictions.

HOUSE BILL 2187 **HOUSE AUTHOR:** Hinojosa
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Farabee

This act amends the Code of Criminal Procedure to provide for the disposition of unclaimed or abandoned personal property seized by a peace officer of a municipality. If seized by such an officer, the property must be delivered to the purchasing agent of the municipality. The purchasing agent, after following procedures to notify the owner of the property, may offer it for sale and place any proceeds into the treasury of the municipality. The act also provides that a municipal or county law enforcement agency that seized property may request that it be returned and converted for agency use, provided that when the agency has completed the intended use of the property, the property is returned to the purchasing agent or sheriff to be placed for sale.

HOUSE BILL 2308 **HOUSE AUTHOR:** Stiles
EFFECTIVE: 6-19-87 **SENATE SPONSOR:** Brown

This act requires a person who is a prisoner in a county jail to reimburse the county for any medical, dental, or health services he received while in jail. The county shall provide assistance to indigent prisoners in applying for reimbursement through the Indigent Health Care and Treatment Act or the hospital district of which he is a resident. The act also grants the county authority to recover the amount expended in a civil action.

SENATE BILL 26 **SENATE AUTHOR:** Barrientos
EFFECTIVE: 8-31-87 **HOUSE SPONSOR:** Hightower

The Board of Pardons and Paroles is required, in criminal cases where there has been a change of venue, to notify certain officers in the county of original prosecution before ordering the parole of a prisoner or at least 10 days after recommending the granting of executive clemency by the governor. This notification is only required if, within 30 days after the date the prisoner was sentenced, those officials requested in writing that they be notified of any future release of the prisoner. The act also requires that the original county of prosecution be included in the information contained in the written judgment of the court.

SENATE BILL 43 **SENATE AUTHOR:** Farabee
EFFECTIVE: 8-31-87 **HOUSE SPONSOR:** Morales

Senate Bill 43 provides that when a new trial is ordered by a court of appeals or the Court of Criminal Appeals on the basis of an error made in the punishment stage of a trial, the original finding of guilt will stand and only a new hearing on the punishment stage of the trial will be held. The defendant can elect to have a jury

assess his punishment. Both the state and the defendant can introduce certain types of evidence at the new trial. If there is a reversal in a capital murder case, the cause will stand as it would have stood if a new trial had been granted by the court below.

SENATE BILL 152 — **SENATE AUTHOR:** Glasgow
EFFECTIVE: 8-31-87 — **HOUSE SPONSOR:** Parker

This act provides that the state may petition a magistrate to hold a hearing for the disposition of stolen property when a criminal action relating to the property is not pending.

SENATE BILL 1115 — **SENATE AUTHOR:** Tejeda
EFFECTIVE: 9-1-87 — **HOUSE SPONSOR:** Blackwood

The Code of Criminal Procedure is amended to require a magistrate to order a weapon destroyed or forfeited to the state following the final conviction of a person for an offense involving a prohibited weapon.

SENATE BILL 1277 — **SENATE AUTHOR:** Edwards
EFFECTIVE: 9-1-87 — **HOUSE SPONSOR:** Berlanga

Senate Bill 1277 provides that a court may sentence a corporation or association found guilty of an offense that provides a penalty including imprisonment, or that provides no specific penalty, to pay a fine in an amount fixed by the court not to exceed $50,000 if, as a result of an offense classified as a felony or Class A misdemeanor, an individual suffers serious bodily injury or death.

SENATE BILL 1422 — **SENATE AUTHOR:** McFarland
EFFECTIVE: 9-1-87 — **HOUSE SPONSOR:** C. Harris

Current law provides that, on the conviction of a defendant in misdemeanor cases that are punishable by fine only, the court may suspend the imposition of a fine and defer final disposition of the case for 180 days. This act seeks to clarify that those traffic misdemeanor cases disposed of by the defensive driving program are excluded from this law. Senate Bill 1422 also provides that the court may assess a special expense, not to exceed the amount of the fine assessed, if the complaint is dismissed and provides that records relating to a dismissed complaint may be expunged.

State Right to Appeal

SENATE JOINT RESOLUTION 34 — **SENATE AUTHOR:** Montford
FOR ELECTION: 11-3-87 — **HOUSE SPONSOR:** Hury

Senate Joint Resolution 34 proposes a constitutional amendment granting the state a limited right to appeal in criminal cases.

SENATE BILL 762 — **SENATE AUTHOR:** Montford
EFFECTIVE: see below — **HOUSE SPONSOR:** Hury

Senate Bill 762 is the enabling legislation to give the state the right to appeal certain decisions in criminal cases. This act would take effect if the proposed constitutional amendment contained in Senate Joint Resolution 34 is approved by the voters on November 3, 1987.

Restitution and Victims' Compensation and Rights

HOUSE BILL 56 — **HOUSE AUTHOR:** S. Johnson
EFFECTIVE: 9-1-87 — **SENATE SPONSOR:** Farabee

This act amends existing law to provide that a victim, guardian of a victim, close relative of a deceased victim, or a representative of one of those persons may appear in person and testify at a parole hearing. The act further provides that victim impact statements and inmates' arrest records are confidential but shall be made available to the governor and parole board on request.

HOUSE BILL 150 — **HOUSE AUTHOR:** Richardson
EFFECTIVE: 8-31-87 — **SENATE SPONSOR:** Montford

House Bill 150 entitles a victim, guardian of a victim, or close relative of a deceased victim to the same right to notification of parole consideration that someone who has filed a victim impact statement is entitled to, provided the person makes a written request to the Board of Pardons and Paroles to receive such notification.

The name and address of a person entitled to receive this information must be kept confidential unless the person approves the disclosure or the board or the Texas Department of Corrections is required to disclose the information by a court of competent jurisdiction.

HOUSE BILL 878 **HOUSE AUTHOR:** Millsap
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Parker

House Bill 878 amends the Crime Victims Compensation Act to eliminate the requirement that claimants under the act suffer from financial stress and to expand the definition of "victim" to allow immediate family members of homicide victims or persons who reside in the same household and were related to the victim within the second degree of consanguinity to recover costs of psychiatric care or counseling. The act also increases allowable child-care expenses from $30 per week per child to $50 per week per child up to a maximum of $125 per week per family.

HOUSE BILL 1552 **HOUSE AUTHOR:** Yost
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Brown

The Code of Criminal Procedure is amended to entitle victims to be informed of the amount of compensation available to them under the Crime Victims Compensation Act and the procedures to be followed in applying for such compensation. They are also entitled to information regarding parole procedures and notification of a prisoner's release. The Texas Crime Victim Clearinghouse and the Texas Adult Probation Commission, together with the Board of Pardons and Paroles, are directed to develop a form to be used to record the impact of an offense on a victim and to develop a victim information booklet. The agencies are to update this information, as well as any other information provided to victims by the commission, by December 1 of each odd-numbered year.

The act specifies the items and assistance that victim assistance coordinators are to provide to a victim, guardian of a victim, or close relative of a deceased victim and provides for a person to acknowledge receipt of the information. In addition, the act sets court costs to be paid by defendants convicted of violating municipal ordinances with those costs going to the compensation to victims of crime fund.

SENATE BILL 269 **SENATE AUTHOR:** McFarland
EFFECTIVE: 8-31-87 **HOUSE SPONSOR:** C. Evans

Senate Bill 269 adopts the Texas Theft Liability Act that holds a person who commits theft liable for the amount of actual damages plus an additional sum not to exceed $1,000 that may be assessed by the court. A parent or other person in control of a child who commits a theft is liable for the amount of actual damages in an amount not to exceed $5,000. The act also entitles the person who prevails in a suit under this act to be awarded court costs and reasonable attorney's fees.

SENATE BILL 1021 **SENATE AUTHOR:** McFarland
EFFECTIVE: 9-1-87 **HOUSE SPONSOR:** Millsap

Senate Bill 1021 expands the definition of "victim" as it is used in the Crime Victims Compensation Act to include an immediate family member of a victim who is a child if the immediate family member requires psychological or psychiatric counseling as a direct result of the crime. The act bars a victim from filing a claim unless the victim reports the crime within 72 hours after it was committed to the appropriate state or local public safety or law enforcement agency. This reporting requirement does not apply if the victim is a child. The Industrial Accident Board can extend the time for filing if it determines that the extension is justified by extraordinary circumstances. The act further requires a claimant to file an application not later than one year after the date of the crime unless the claimant is a child who is a victim or is an immediate family member of a child who is a victim and the family member requires psychological or psychiatric counseling as a result of the crime.

SENATE BILL 1300 **SENATE AUTHOR:** Caperton
EFFECTIVE: 8-31-87 **HOUSE SPONSOR:** Hinojosa

Senate Bill 1300 provides a victim, guardian of a victim, or close relative of a deceased victim the right to a safe and secure waiting area, separate from other witnesses, before testifying in any proceeding concerning the offender, the right to the prompt return of property used as evidence, the right to have his employer notified that there may be a need to be absent from work, and the right to have unpaid creditors informed of the reasons for nonpayment of debts.

The act also requires the court, if it has received a victim impact statement and is placing the defendant in the case on probation, to forward the statement to the probation department along with the papers in the case. In addition, the Texas Crime Victim Clearinghouse is directed to report the findings of a survey it is conducting to the 71st Legislature rather than the 70th Legislature.

SENATE BILL 1392 — **SENATE AUTHOR:** Parmer
EFFECTIVE: 9-1-87 — **HOUSE SPONSOR:** Hinojosa

This act provides for the confidentiality of identifying information of sex offense victims. The Sexual Assault Prevention and Crisis Services Program of the Texas Department of Health is required to develop a pseudonym form to record the name, address, telephone number, and pseudonym of victims of sexual assault or aggravated sexual assault. If a victim chooses to complete such a form, the pseudonym will be used to refer to the victim in all public files and records concerning the offense. The act also declares that it is a Class C misdemeanor for a public servant to intentionally or knowingly disclose this confidential information to any person who is not assisting in the investigation or prosecution of the offense or to anyone other than the defendant, the defendant's attorney, or a person specified in an order of the court.

Miscellaneous

HOUSE BILL 163 — **HOUSE AUTHOR:** Rudd
EFFECTIVE: 8-31-87 — **SENATE SPONSOR:** Montford

This act entitles the commissioners court of a county to contract with another commissioners court to pay expenses and reimburse compensation paid by a county to an attorney pro tem. It also makes provisions for an attorney who is not disqualified to act in a case to request the court to permit himself to be excused from the case for good cause.

HOUSE BILL 475 — **HOUSE AUTHOR:** Hinojosa
EFFECTIVE: 5-6-87 — **SENATE SPONSOR:** Uribe

This act corrects improper cross-references in the Code of Criminal Procedure.

HOUSE BILL 2146 — **HOUSE AUTHOR:** Horn
EFFECTIVE: 8-31-87 — **SENATE SPONSOR:** Brown

Current law requires that the testimony of a child who has been the victim of an offense may be taken in a room other than the courtroom and that such testimony may be televised in the courtroom by closed circuit equipment to the court, the attorneys involved, the finder of fact, any person whose presence would contribute to the well-being of the child, and persons necessary to operate the equipment. The law permits the defendant to observe and hear the testimony of the child but ensures that the child cannot hear or see the defendant. House Bill 2146 amends this law to allow for recesses before or during cross-examination of the child for the defendant's attorney to confer with his client and expands the number of people who may observe the child's testimony to include the court reporter.

SENATE BILL 66 (2nd C.S.) — **SENATE AUTHOR:** Parmer
EFFECTIVE: 10-20-87 — **HOUSE SPONSOR:** Hinojosa

The child testimony statute, Article 38.071 of the Code of Criminal Procedure, provided for the admissibility of videotaped statements by child victims, the closed circuit presentation of testimony, and the videotaped recording of a child's testimony for use in trial. The videotape portion of the statute, Section 2, was held unconstitutional by the Court of Criminal Appeals on July 1, 1987.

Senate Bill 66 restructures the statute to allow admissibility of the initial videotape only if the defendant is given the opportunity to videotape a cross-examination of the child, under certain conditions.

In addition, the act requires a person indicted for the offenses of sexual assault or aggravated sexual assault to undergo a test, at the direction of the court, to determine if the person has a sexually transmitted disease, acquired immune deficiency syndrome (AIDS), human immunodeficiency virus (HIV) infection, antibodies to HIV, or infection with any other probable causative agent of AIDS. The court shall notify the victim of the alleged offense of the test result.

EDUCATION—HIGHER

Much of the higher education legislation enacted by the 70th Legislature during the Regular Session reflected the recommendations of the Select Committee on Higher Education. The committee had been charged with making a comprehensive study of higher education in the state during the previous interim. In addition to numerous meetings, the committee also commissioned a management audit to study governance, funding, and administrative policies of institutions and systems. The keystone of their report was the basic tenet that an investment in higher education is an investment in Texas' future economic diversification and prosperity. House Concurrent Resolution 106 contains a comprehensive statement of goals, priorities, and policies in the Texas Charter for Public Higher Education. House Bill 2181 makes the statutory changes necessary to implement the policy statements contained in the charter. Three other bills also implement recommendations of the Select Committee on Higher Education. House Bill 2183 relates to core curriculum; Senate Bill 994 makes major changes regarding teacher education; and House Bill 2182 mandates comprehensive testing of students for skills in reading, writing, and math necessary to perform college-level work.

Recommendations, Select Committee on Higher Education

HOUSE BILL 2181 **HOUSE AUTHOR:** G. Lewis
EFFECTIVE: 6-20-87 **SENATE SPONSOR:** Parker

House Bill 2181 makes the statutory changes necessary to implement the recommendations of the Select Committee on Higher Education that are contained in the Texas Charter for Public Higher Education (HCR 106).

The name of the Coordinating Board, Texas College and University System is changed to the Texas Higher Education Coordinating Board, and its responsibilities are enlarged. The board is required to develop a five-year master plan and report annually to the legislature on the current state of higher education. Other new requirements include:

(1) developing a policy on transferability of lower division course credit;
(2) establishing a management information system;
(3) publishing information on admission policies, transfer policies, financial assistance, and other matters of interest to high school students choosing an institution in which to enroll;
(4) developing guidelines to report student performance;
(5) developing a statewide telecommunications network for teaching and data transmission; and
(6) reviewing all doctoral programs offered by higher education institutions.

The board is also given authority to set, by rule, maximum enrollment limits at higher education institutions and to administer funds authorized by the legislature, such as the competitive research awards.

A section is added to the Education Code detailing the responsibilities of governing boards, system administrations, and higher education institutions. Permission is granted to governing boards to charge up to twice the prescribed minimum tuition rates for graduate students. An important exception to the foreign student tuition rate has been granted to Mexican nationals who are enrolled in institutions located in border counties and who can prove financial need. They will be allowed to pay resident tuition rates.

A role and mission statement for public junior colleges is added to the code, as well as a new role and mission statement for Texas State Technical Institute. The previous role and mission statement for TSTI is repealed.

Several important changes in funding procedures are incorporated in the bill. The coordinating board is required to submit a comprehensive summary and analysis of institutional appropriation requests to the governor and each legislature, mandating that the schools submit their requests to the board at the same time the requests are submitted to the Legislative Budget Board. Base funding will be appropriated as a single amount and may be used on an unrestricted basis among the various elements of the base funding formula. Institutions also may keep the unexpended balance of the previous fiscal year appropriations. New incentive and special initiative funding is established for the board to allocate for certain specified purposes. An important statement about faculty compensation policies is added to the code. Governing boards will strive, to the greatest extent possible, to establish compensation for faculty that is at least equal to the nationwide average among similar institutions.

Significant changes in the way the state funds research programs are contained in the bill. The research enhancement program, the advanced research program, and the advanced technology program are established and their purposes, funding, and administration are specified. The awards will be granted competitively on a peer review basis. Materials and equipment purchased with these funds will not be subject to State Purchasing and General Services Commission authority. A research assessment program is also set up to provide for biennial review of all research programs. Each institution will be allowed to keep overhead cost recovery funds generated by research grants, and no more than 50 percent of such funds will be counted to reduce general revenue funds appropriated to the institution.

Several recommendations from the Coopers and Lybrand management audit commissioned by the Select Committee on Higher Education are also included in the bill. The coordinating board is required to adopt management policies regarding human resources and physical plants that are designed to improve productivity and streamline operations. The state auditor and the board are required jointly to prescribe a uniform system of financial accounting and reporting to be used by all institutions for maximum consistency and easier comparison.

HOUSE BILL 2182 **HOUSE AUTHOR:** Delco
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Parker

House Bill 2182 amends the Education Code to require all full-time and part-time freshmen enrolled in institutions of higher education to be tested for reading, writing, and mathematics skills necessary to perform college-level work. The Texas Higher Education Coordinating Board is required to develop minimum performance standards, procedures, and guidelines for administering the test. The testing instrument must be diagnostic in nature, and the same test must be used at all higher education institutions. Performance on the test may not be used as an admission criterion. Students who perform below the prescribed minimum standards must participate in remediation programs provided by the institutions and may not enroll in upper division courses until their test results meet or exceed the minimum standards in all areas. The test will be administered to students beginning in the fall semester of 1989. Institutions are required to report to the coordinating board on an annual basis regarding test results and remediation effectiveness. The reports must identify the high school from which each tested student graduated and include a statement as to whether the student's performance was above or below the standard.

HOUSE BILL 2183 **HOUSE AUTHOR:** Delco
EFFECTIVE: 6-17-87 **SENATE SPONSOR:** Parker

House Bill 2183 amends the Education Code to require public institutions of higher education to submit a statement detailing the content, rationale, and objectives of its core curriculum (liberal arts, humanities, sciences, and political, social, and cultural history) to the Texas Higher Education Coordinating Board. An advisory committee will evaluate the statements and make recommendations, such as the number of semester hours required in these courses for graduation. The bill also gives the legislature authority to appropriate funds to the coordinating board to be used for incentive funding to reward institutions that achieve exemplary educational objectives consistent with the core curriculum.

SENATE BILL 994 **SENATE AUTHOR:** Parker
EFFECTIVE: 9-1-87 **HOUSE SPONSOR:** Delco

Senate Bill 994 amends the Education Code to require an academic major other than education for state teacher certification effective September 1, 1991. It also prohibits the State Board of Education from requiring more than 18 semester hours of education, including student teaching, for the certificate. Additional hours may be required for certification in bilingual education, English as a second language, early childhood education, and special education.

The bill requires the Central Education Agency to collect data on the performance of teacher education program graduates on state-mandated exit tests and data on teacher performance on the statewide appraisal system. The Central Education Agency will report this information to the respective higher education institutions and to the Texas Higher Education Coordinating Board. The data will be included in deliberations on accreditation status for teacher education programs.

A comprehensive teacher induction program will be developed by the State Board of Education and the coordinating board. The program will include a year of teaching supervised cooperatively by a team of

experienced teachers, school administrators, and university faculty. The State Board of Education and the coordinating board will also be required to develop and implement a program designed to identify and recruit talented students into the teaching profession.

The coordinating board is given authority to award grants for research support in teaching, curriculum development, learning, and early childhood education. The grants will be awarded on a competitive basis.

Administration

SENATE BILL 262 **SENATE AUTHOR:** McFarland
EFFECTIVE: 6-18-87 **HOUSE SPONSOR:** Marchant

Senate Bill 262 amends the Education Code to expand the definition of an institution of higher education to include language that appears in a subsequent section. It also allows a city to designate more than one nonprofit corporation to act on its behalf in the issuance of bonds to assist higher education institutions in providing educational and housing facilities. The bill amends law relating to actions taken by members of governing bodies in which they may have a financial interest. It specifically excludes members of higher education authorities unless the action would provide financial benefit to institutions constituting a source of income to the member.

SENATE BILL 327 **SENATE AUTHOR:** Caperton
EFFECTIVE: 8-31-87 **HOUSE SPONSOR:** R. Smith

Senate Bill 327 amends the Education Code to designate the Texas Veterinary Medical Diagnostic Laboratory as an agency of higher education. It also allows the employees of the laboratory to participate in the retirement system and personnel benefits available to employees of The Texas A&M University System and repeals a section of current law requiring Texas A&M University to make state land in Brazos County available to house the laboratory facilities.

SENATE BILL 658 **SENATE AUTHOR:** Zaffirini
EFFECTIVE: 8-31-87 **HOUSE SPONSOR:** H. Cuellar

Senate Bill 658 amends the Education Code to change the designation of Laredo State University from an educational center to an educational institution. It removes language authorizing the Texas Higher Education Coordinating Board to discontinue operation of the institution and removes a stipulation that the university must be in compliance with coordinating board requirements before it can be converted to a free-standing institution.

SENATE BILL 726 **SENATE AUTHOR:** Whitmire
EFFECTIVE: 9-1-87 **HOUSE SPONSOR:** Colbert

Senate Bill 726 amends the Education Code to authorize the separation of control and management of the Houston Community College System from that of the Houston Independent School District. It provides for creation of a board of trustees and establishes parameters for single-member districts, election provisions, and term lengths. The bill also allows transfer of ad valorem taxing authority to the junior college district board of trustees with certain specified limitations.

SENATE BILL 756 **SENATE AUTHOR:** Caperton
EFFECTIVE: 6-11-87 **HOUSE SPONSOR:** Perry

Senate Bill 756 amends the Education Code to delete the requirement that the Real Estate Research Center at Texas A&M University be located within the College of Agriculture. This gives the university administration flexibility to place the center in an area more suited to its mission, such as the College of Business.

SENATE BILL 784 **SENATE AUTHOR:** Glasgow
EFFECTIVE: 5-15-88 **HOUSE SPONSOR:** Horn

Senate Bill 784 changes the name of North Texas State University to the University of North Texas throughout the Education Code.

SENATE BILL 791 **SENATE AUTHOR:** Parker
EFFECTIVE: 5-28-87 **HOUSE SPONSOR:** Price

Senate Bill 791 amends the Education Code to authorize the Lamar University regents to increase student fees used to operate and maintain the student center.

SENATE BILL 792 **SENATE AUTHOR:** Parker
EFFECTIVE: 6-19-87 **HOUSE SPONSOR:** Collazo

Senate Bill 792 amends the Education Code to allow the Lamar University regents to lease, sell, or trade certain university property to the city of Port Arthur.

SENATE BILL 899 **SENATE AUTHOR:** Leedom
EFFECTIVE: 6-20-87 **HOUSE SPONSOR:** Hammond

Senate Bill 899 amends the Education Code to allow junior college districts to enter into credit agreements necessary for issuing adjustable rate revenue bonds. By utilizing this procedure, interest rates on revenue bonds may be greatly reduced, thereby saving the districts a considerable amount when financing construction projects.

SENATE BILL 1062 **SENATE AUTHOR:** Brooks
EFFECTIVE: 5-28-87 **HOUSE SPONSOR:** Colbert

This amendatory act sets out provisions for cooperative agreements between medical and dental schools and public hospitals in order to provide clinical education for medical and dental students in the most effective manner possible.

SENATE BILL 1301 **SENATE AUTHOR:** Caperton
EFFECTIVE: 8-31-87 **HOUSE SPONSOR:** Cooper

Senate Bill 1301 relates to optional retirement plans for certain employees of institutions of higher education. It requires contributions to the optional retirement program to be made by salary reduction, ensuring a tax-sheltered status. It also provides that annuity benefits are to be available when participants reach the age of 70-1/2 years.

SENATE BILL 1144 **SENATE AUTHOR:** Harris
EFFECTIVE: 6-19-87 **HOUSE SPONSOR:** C. Evans

Senate Bill 1144 amends the Education Code by providing that prior Texas Higher Education Coordinating Board approval is not required for construction, repair, or rehabilitation of privately owned facilities located on land leased from higher education institutions. The financing for the projects must not come from public funds, and the facilities must be used exclusively for auxiliary enterprises. The bill will facilitate the use of cooperative public-private agreements that have been used to finance such projects as student housing and parking garages.

HOUSE BILL 1901 **HOUSE AUTHOR:** Guerrero
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Barrientos

House Bill 1901 amends the State Purchasing and General Services Act by permitting the delegation to an institution of higher education the authority to enter into space-lease contracts under certain conditions.

HOUSE BILL 15 **HOUSE AUTHOR:** L. Evans
EFFECTIVE: 6-19-87 **SENATE SPONSOR:** Washington

House Bill 15 amends the Education Code to designate Harris County or Travis County as the venue for suits brought against Texas Southern University. The bill also sets forth procedures for serving citations.

HOUSE BILL 299 **HOUSE AUTHOR:** Shaw
EFFECTIVE: 4-14-87 **SENATE SPONSOR:** Montford

House Bill 299 amends the Education Code to allow the expenditure of state appropriations for maintenance and operation, including student housing and food service, at Southwest Collegiate Institute for the Deaf. Previously, a rider in the General Appropriations Act for fiscal year 1987 provided this authority. The statutes governing the institute only allowed expenditures for certain specified academic programs and services.

HOUSE BILL 391 **HOUSE AUTHOR:** Hightower
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Glasgow

House Bill 391 amends the Education Code to give campus security personnel the status of peace officers and specifically defines their jurisdictions, powers, and immunities. The bill also adds public technical institutes to the list of entities that may employ and commission peace officers for security reasons.

HOUSE BILL 629 **HOUSE AUTHOR:** Vowell
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Santiesteban

House Bill 629 amends the Education Code to allow a student union fee to be established at The University of Texas at El Paso for the purpose of operating and maintaining a student union building.

HOUSE BILL 957 **HOUSE AUTHOR:** Leonard
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Edwards

House Bill 957 amends the Education Code to allow security personnel employed by private higher education institutions to be certified as adjunct police officers within certain designated geographical areas adjacent to the institution's campus. Such adjunct police officers are given full peace officer authority to be exercised only in the designated area. The bill sets out procedures for certifying personnel and requires the individual to meet local police training standards.

HOUSE BILL 1271 **HOUSE AUTHOR:** Watkins
EFFECTIVE: 6-17-87 **SENATE SPONSOR:** Krier

House Bill 1271 amends current law to allow the governing board of an institution of higher education to change the length of the work day and the work week. Some institutions had expressed an interest in trying a 10-hour day, four-day work week during summer sessions in order to achieve maximum operational efficiency.

HOUSE BILL 1483 **HOUSE AUTHOR:** D. Hudson
EFFECTIVE: 6-11-87 **SENATE SPONSOR:** Green

House Bill 1483 amends the Education Code to require the destruction of criminal history information collected on certain employees of higher education institutions after the expiration of any probationary terms stated on employment contracts. Previously, the law required this information to be sealed and stored, which had created a problem with storage space because of the quantity of materials.

HOUSE BILL 1561 **HOUSE AUTHOR:** Delco
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Barrientos

House Bill 1561 amends the Education Code to place the Texas State University System under the eminent domain statutes of the Property Code, eliminating conflict between the two codes and making the system's procedures for obtaining land consistent with other state agencies. Venue for all suits brought by the Texas State University System and The University of Texas System to recover delinquent student loans is established in Travis County, thus eliminating the need to file suits in every county.

HOUSE BILL 1831 **HOUSE AUTHOR:** Watkins
EFFECTIVE: Fall semester 1987 **SENATE SPONSOR:** Montford

House Bill 1831 amends the Education Code to recodify existing statutes relating to authorization of various fees at institutions of higher education. It also allows for the increase of certain fees to cover costs, defines voluntary and compulsory fees, and specifies what income should be accounted for as educational and general funds.

HOUSE BILL 2136 **HOUSE AUTHOR:** Collazo
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Johnson

House Bill 2136 amends the Education Code to designate rare books, original manuscripts, personal papers, unpublished letters, and audio and video tapes donated to higher education institutions for historical research purposes as confidential. It allows public access to the materials to be restricted to protect their value and the donors' privacy.

See also Senate Bill 321 in the general government chapter.

HOUSE BILL 2281 **HOUSE AUTHOR:** Cooper
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Barrientos

House Bill 2281 amends the Education Code to require notification of the student fees advisory committee of a higher education institution if the president will recommend substantially different student fees to the governing board than the committee has recommended to the administration. The notice must be given as soon as possible to allow the committee time to request being included on the board's meeting agenda to comment on the recommendations. If the board's decision differs from that of the committee, the president is required to deliver a written explanation of the decision within 30 days.

Economic Development, Research and Development

SENATE BILL 372 **SENATE AUTHOR:** Caperton
EFFECTIVE: 9-1-87 **HOUSE SPONSOR:** A. Luna

Senate Bill 372 amends the State Purchasing and General Services Act by requiring the State Purchasing and General Services Commission to delegate, on request, to an institution or other agency of higher education the authority to purchase supplies and services for research projects from state funds appropriated for that purpose.

SENATE BILL 776 **SENATE AUTHOR:** Edwards
EFFECTIVE: 8-31-87 **HOUSE SPONSOR:** Colbert

Senate Bill 776 amends the Education Code to establish the Texas Innovation Information Network System (TIINS), which is a nonprofit public-private partnership designed to act as a statewide data network to assist in technology transfer and research support. The bill sets out the powers and duties of the board of directors, establishes an advisory committee, and specifies the objectives of TIINS. It also lists the initial regional innovation centers and designates the location of the lead center, which will be at the Texas Engineering Experiment Station. User fees will be charged to sustain the system after it is fully operational. The bill authorizes the legislature to appropriate up to $250,000 per year for two years to help with program development.

SENATE BILL 1100 **SENATE AUTHOR:** Zaffirini
EFFECTIVE: 9-1-87 **HOUSE SPONSOR:** A. Luna

Senate Bill 1100 amends the Education Code to restrict the eligibility of gifts to the Texas Eminent Scholars Program. Previously, private sector donations to any academic discipline were eligible for this program, which was created in 1983 to attract and retain eminent scholars. Gifts are matched by state appropriations. The bill restricts eligible donations to certain specified disciplines that will contribute significantly to economic development.

SENATE BILL 1487 **SENATE AUTHOR:** Brooks
EFFECTIVE: 6-20-87 **HOUSE SPONSOR:** Criss

Senate Bill 1487 amends the Education Code to change the designation of Texas A&M University at Galveston from a special purpose school to an institution of higher education. This will permit a broader scope of instruction, including the offering of graduate level courses and special programs leading to the licensing of graduates as officers in the United States Flag Fleet. The bill defines the school as a research institute supporting marine science and oceanography programs at Texas A&M University and The University of Texas. It also allows higher fees to be charged to the license-option students.

HOUSE BILL 102 **HOUSE AUTHOR:** Delco
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Edwards

House Bill 102 establishes an engineering and science recruitment fund to consist of private donations, federal grant money, and state appropriations. The fund will allocate money to eligible, nonprofit organizations for programs that help women and minorities to prepare for engineering or science undergraduate studies. The State Board of Education is required to establish guidelines for fund allocation, and the Texas Higher Education Coordinating Board is required to determine which groups are eligible for funding. The bill also establishes an advisory committee and requires annual reports from each funded organization.

HOUSE BILL 1405 **HOUSE AUTHOR:** Richardson
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Caperton

House Bill 1405 amends the Education Code to establish a technology transfer function within the Texas Engineering Experiment Station, the Technology Business Development Division, which is analogous to the Center for Technology Development and Transfer within The University of Texas System. It sets forth the public purpose, objectives, and duties of the Technology Business Development Division and permits the Texas Engineering Experiment Station to participate in commercial ventures relating to the development, manufacture, or marketing of new technologies.

HOUSE BILL 1407 **HOUSE AUTHOR:** Blackwood
EFFECTIVE: 4-29-87 **SENATE SPONSOR:** Edwards

House Bill 1407 amends the Education Code by establishing the fund for the National Center for Manufacturing Sciences. The fund will consist of appropriations and private grants, which will be made available to the center if it is located in Texas. If the center is located elsewhere, the private money will be returned and any state appropriations will be available for redistribution.

HOUSE BILL 2392 **HOUSE AUTHOR:** Richardson
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Barrientos

House Bill 2392 amends the Education Code to allow The University of Texas at Austin to lease vacant land on the Balcones Tract to nonprofit corporations, which would construct research facilities on the land and lease them back to the university. At the end of the lease term, the land and facilities would revert to The University of Texas System. This method of financing research facilities enables the university to take advantage of certain federal grant money that would be used as lease payments and to acquire additional research facilities without using state funds.

HOUSE BILL 2597 **HOUSE AUTHOR:** Colbert
EFFECTIVE: 6-20-87 **SENATE SPONSOR:** Henderson

House Bill 2597 amends the Education Code to establish the Texas Center for Superconductivity at the University of Houston-University Park. It sets forth the purpose, powers, and duties of the center, authorizes the establishment of an advisory council, and allows the center to coordinate research activities concerning superconductivity at other universities. The center may contract with private research entities and may accept federal and private funds. The bill makes an appropriation of $1.5 million from the oil overcharge settlement funds to finance the operations of the center, contingent on United States Department of Energy approval.

See also Senate Bill 39 in the environment/water chapter and Senate Bill 705 in the county government chapter.

Students and Faculty

SENATE BILL 24 **SENATE AUTHOR:** Barrientos
EFFECTIVE: 9-1-87 **HOUSE SPONSOR:** Patronella

Senate Bill 24 amends the Education Code to expand the definition of hazing and to stiffen penalties. Failure to report a hazing incident is made an offense. The bill also states that consent is not a defense to prosecution. It requires educational institutions to publish and distribute a summary of the provisions and repeals the section of the Education Code that previously defined hazing.

SENATE BILL 543 **SENATE AUTHOR:** Parker
EFFECTIVE: 8-31-87 **HOUSE SPONSOR:** Delco

Senate Bill 543 amends the Education Code to require postsecondary institutions to report the performance of first-year students to the last attended high school or junior college. The reports must include certain test scores, remedial courses required, and grade point averages. The Texas Higher Education Coordinating Board and the State Board of Education are required to establish guidelines for the reports.

HOUSE BILL 1401 **HOUSE AUTHOR:** A. Luna
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Edwards

House Bill 1401 amends the Education Code to establish minimum standards for intellectual property policies of higher education institutions. It requires the commissioner of higher education to review the policy statements filed with the Texas Higher Education Coordinating Board by all public higher education institutions in the state to determine if certain specified matters are addressed. If it is determined that a policy statement does not meet minimum standards, the institution is permitted to file an amended version. The bill requires each institution to have an intellectual property policy by August 31, 1988. Institutions not meeting this requirement may not receive funds under any state-run competitive research or advanced technology program.

HOUSE BILL 1402 **HOUSE AUTHOR:** A. Luna
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Edwards

House Bill 1402 amends the Education Code to require higher education institutions, when determining faculty academic workloads, to recognize that research and professional development are also important elements of the workload, instead of only looking at classroom teaching hours. It allows an employee of an institution of higher education who is the inventor of an intellectual property to own an equity interest in a business that has an agreement with the state relating to the further development or commercialization of that intellectual property. The bill also permits the higher education institution involved in the agreement to place an individual on the governing board of the business in order to protect the institution's interests.

HOUSE BILL 2079 **HOUSE AUTHOR:** Horn
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Glasgow

House Bill 2079 amends the Education Code to establish the Texas Academy of Mathematics and Science to be operated as a division of the University of North Texas under the direction of the board of regents. The academy will provide a rigorous academic program emphasizing math and science for gifted and talented high school juniors and seniors who will be housed on campus. The students will also be allowed to attend college courses and receive college credit for them. The academy is entitled to foundation school program allotments, and the regents are authorized to use available funds and accept grants for the academy's operation. An advisory board is established to make recommendations on certain specified subjects and to conduct annual program evaluations. If funding is available, the academy may begin operations on January 2, 1988.

The bill also allows other public institutions of higher education to establish such academies subject to the approval of the Texas Higher Education Coordinating Board.

SENATE BILL 81 (2nd C.S.) **SENATE AUTHOR:** Barrientos
EFFECTIVE: 8-3-87 **HOUSE SPONSOR:** Cavazos

Senate Bill 81 amends the Education Code to allow the Texas opportunity plan fund to provide loan assistance to needy students who are ineligible under federal guidelines. The loan repayment period is extended to 10 years. The bill also allows the Texas Higher Education Coordinating Board to charge loan origination fees to offset operating expenses for the loans.

HOUSE BILL 10 (2nd C.S.) **HOUSE AUTHOR:** Kuempel
EFFECTIVE: 10-20-87 **SENATE SPONSOR:** Jones

House Bill 10 amends current law by making the definition of faculty member for purposes of participation in the teacher retirement system more specific. It also makes eligibility to participate in the optional retirement program subject to rules adopted by the Texas Higher Education Coordinating Board. Previously, individual higher education governing boards promulgated participation rules. The bill also adds a new section stating that persons participating in the optional retirement program before September 1, 1987, are entitled to continue their participation.

HOUSE BILL 64 (2nd C.S.) **HOUSE AUTHOR:** Delco
EFFECTIVE: 8-4-87 **SENATE SPONSOR:** Jones

House Bill 64 amends the Education Code to allow nonresident students with competitive academic scholarships who are enrolled in clinical and biomedical research training programs leading to both doctor of medicine and doctor of philosophy degrees to pay resident tuition and fee rates.

EDUCATION—PUBLIC

The most notable occurrence relating to public education during the 70th Legislature's Regular Session was not a bill, but a landmark court decision that may radically change the way the state funds public schools. On April 29, 1987, State District Judge Harley Clark handed down his decision in Edgewood Independent School District v. Kirby, a decision that the current system of state aid allocation was unconstitutional and should be set aside. The judge gave the state until September 1, 1990, to develop a different approach to public school funding.

The lawsuit, filed in 1984, pitted 67 property-poor school districts against 48 wealthier districts. The poor districts argued that the current system of state fund allocation, even with equalization enrichment added in 1984, denied children from property-poor districts an equal educational opportunity because of the wide disparity in spending per pupil across the state. The average expenditure per student in the 100 wealthiest school districts in 1985-1986 was $7,233; in the 100 poorest districts, the average expenditure amounted to $2,978. The average tax rate in the poorest districts was 74¢ per $100 valuation; the wealthiest districts had an average tax rate of 47¢ per $100 valuation. As a result of the differences in property tax bases across the state, it takes a much greater effort in poor districts to raise needed tax dollars than the effort required in wealthy districts.

The ruling came too late in the session for the legislature to respond. A decision has been made to appeal the ruling. However, the issue will be one that must be considered in future sessions.

The other noteworthy occurrence in the public education area was the failure of most attempts to alter the omnibus school reforms enacted in 1984. One measure of interest to public school teachers, however, is Senate Bill 335, which repeals the provision mandating subject area testing of already licensed teachers. This provision had not been implemented because of the estimated cost of developing such tests. During the 2nd Called Session, Senate Bill 86 was passed, which calls for a referendum to determine if the State Board of Education should stay an appointed board or revert to an elected body in 1989, as mandated by current law.

Administration

SENATE BILL 598 — **SENATE AUTHOR:** Lyon
EFFECTIVE: 8-31-87 — **HOUSE SPONSOR:** Hammond

Senate Bill 598 amends the Education Code to raise the maximum number of textbooks that can appear on the State Board of Education approved list for each subject. The bill requires that remedial and advanced texts should appear on the list, if available. It also expands the definition of textbook to include computer software if it can be provided at similar costs. The bill applies to textbooks adopted for the 1988-89 school year and thereafter.

SENATE BILL 1473 — **SENATE AUTHOR:** Parker
EFFECTIVE: 9-1-87 — **HOUSE SPONSOR:** Haley

Senate Bill 1473 amends the Education Code to allow school districts to enter into lease or lease-purchase agreements for school buses. The contract must be economically advantageous to the district and may not be for a term exceeding 10 years. If a district elects to enter into such an agreement, it will not affect eligibility for transportation funding through the Foundation School Program.

HOUSE BILL 59 — **HOUSE AUTHOR:** Taylor
EFFECTIVE: 8-31-87 — **SENATE SPONSOR:** Edwards

House Bill 59 amends the Education Code to allow school districts to use private employment agencies with certain specified restrictions.

HOUSE BILL 176 — **HOUSE AUTHOR:** D. Hudson
EFFECTIVE: 9-1-87 — **SENATE SPONSOR:** Lyon

House Bill 176 amends the Education Code to require that an election held to determine whether a school district will be divested of authority over a junior college must also provide, by separate proposition, for ad valorem taxing authority for the proposed new junior college district. Both propositions must pass before a school district can divest its authority.

HOUSE BILL 306 **HOUSE AUTHOR:** Grusendorf
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** McFarland

House Bill 306 amends the Education Code to allow volunteer physicians and nurses to administer nonprescription and prescribed medication to students if the school provides liability insurance. Previously, school district employees were allowed to administer medication, but volunteers, even with medical training, could not do so.

HOUSE BILL 353 **HOUSE AUTHOR:** Barton
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Lyon

House Bill 353 amends the Education Code to allow the governing board of the Texas School for the Blind to obtain criminal history records from law enforcement agencies on current and prospective employees who provide direct care to children. The school may discharge a current employee who refuses to provide a set of fingerprints on request and may deny employment to a job applicant who refuses to do so. If the investigation finds that certain specified criminal offenses have been committed, that information may be released to the superintendent of the school. The board is required to adopt rules to prevent harassment of employees through the request or use of criminal records and rules governing the use of confidential information obtained in this manner.

HOUSE BILL 471 **HOUSE AUTHOR:** C. Harris
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Glasgow

House Bill 471 amends the Education Code to require a law enforcement agency to furnish to a school district in a timely manner requested criminal history information relating to a job applicant.

HOUSE BILL 1543 **HOUSE AUTHOR:** Aikin
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Parker

House Bill 1543 amends the Education Code to require that the costs of masters or overseers of operations be paid by school districts that do not satisfy accreditation standards. Previously, the state had paid the cost of this assistance, which is estimated to be approximately $60,000 per year.

HOUSE BILL 1617 **HOUSE AUTHOR:** Grusendorf
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Edwards

House Bill 1617 amends the Education Code to require the approval of the boards of trustees of affected school districts when changes such as annexation, detachment, consolidation, or abolition are made to district boundaries. It also allows appeals of boundary change decisions to the commissioner of education, who is required to consider the educational interests of affected students in his decision.

HOUSE BILL 1642 **HOUSE AUTHOR:** Colbert
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Farabee

House Bill 1642 amends the Education Code by making several changes to the sections relating to education of the visually handicapped. Language is changed to reflect current terminology. The functions and purposes of the Texas School for the Blind are set forth, and the school is required to establish criteria for the admission, review, and dismissal process that will constitute part of the statewide plan for the education of the visually handicapped that the Central Education Agency is required to develop. The advisory committees to the Texas School for the Blind Governing Board are eliminated. The requirement that specialty medical and psychological services (other than ophthalmological and optometric services) be provided to the school's students is removed. The bill allows the Central Education Agency to contract with the Texas School for the Blind to provide consultation and technical assistance to local school districts. It also requires school districts to supply lists detailing the names, addresses, telephone numbers, and dates of birth of blind or visually impaired students to the superintendent of the Texas School for the Blind to be used in disseminating information about services, eligibility, and rights of the visually handicapped.

HOUSE BILL 1758 **HOUSE AUTHOR:** Culberson
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Brown

House Bill 1758 amends the Education Code to require schools to post in the main administration building a map of the school's attendance area and a notice that includes aggregate test score results by grade level, information on student enrollment, pupil-teacher ratios, and a statement that the school's annual performance

report is available in the school library. Copies of the map and notice must be available in the main office of the school.

HOUSE BILL 2106 **HOUSE AUTHOR:** Patronella
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Whitmire

House Bill 2106 amends the Education Code to require that boundaries of single-member trustee districts of public school districts with 150,000 or more students must conform to established voting precinct lines.

HOUSE BILL 2347 **HOUSE AUTHOR:** Colbert
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Green

House Bill 2347 amends the Education Code to require that the State Board of Education include in its biennial report the minimum basic accountable costs per student needed to meet accreditation standards. Previously, the code required the annual average accountable costs to be included. The majority of the members of the advisory committee appointed by the board to assist in this determination may not be employees or officials of a school district. The previous language required that a majority of the committee be school principals or superintendents.

SENATE BILL 86 (2nd C.S.) **SENATE AUTHOR:** Parker
EFFECTIVE: 10-20-87 **HOUSE SPONSOR:** Hammond

Currently, the appointed State Board of Education is scheduled to become an elected board in 1989. Senate Bill 86 provides for a referendum to be held November 3, 1987, to determine whether the members should be elected or appointed. If appointment of the board is approved by the voters, provisions of the bill providing for an appointed rather than elected board will take effect. If the referendum proposition fails, board members will be elected in November 1988, as provided by current law.

HOUSE BILL 177 (2nd C.S.) **HOUSE AUTHOR:** Hammond
EFFECTIVE: 7-21-87 **SENATE SPONSOR:** Jones

House Bill 177 provides that transfers from the general revenue fund to the foundation school fund may not exceed the amount appropriated for the foundation school program during the upcoming fiscal biennium. If the state's share of the foundation school program exceeds the amount appropriated, the State Board of Education will adopt a proration formula to reduce each district's allocation. The bill also sets forth procedures for determining a district's rollback tax rate.

Students and Education Programs

SENATE BILL 176 **SENATE AUTHOR:** Brown
EFFECTIVE: 8-31-87 **HOUSE SPONSOR:** Hightower

Senate Bill 176 amends the Education Code to allow a student to enroll in a driver education and traffic safety course if the student will be at least 15 years of age before the course ends. Previously, the student was required to be at least 15 when he enrolled in the course. This requirement hampered school districts when planning for semester-long driver education courses.

HOUSE BILL 723 **HOUSE AUTHOR:** A. Hill
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Leedom

House Bill 723 amends the Education Code to add arson and felony criminal mischief to the list of offenses for which a student may be removed from class or expelled from school without requiring the school district to provide an alternative education program.

HOUSE BILL 858 **HOUSE AUTHOR:** McWilliams
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Brooks

House Bill 858 amends the Education Code to prohibit public school students from smoking or using other tobacco products at school related activities both on and off school property.

HOUSE BILL 1010 **HOUSE AUTHOR:** Martinez
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Edwards

House Bill 1010 amends the Education Code to require the Central Education Agency to develop a program for reducing student dropout rates. The program must include standardized statewide recordkeeping,

documentation of student transfers, and follow-up procedures with the goal of reducing the longitudinal dropout rate to no more than five percent of the total student population. The agency is required to submit biennial reports detailing current and projected dropout rates and the plan to reduce them.

A statewide dropout information clearinghouse will be developed by the agency to collect and disseminate data on programs, services, and prevention strategies. An interagency coordinating council is created to provide a resource network.

Each school district is required to provide remedial and support programs for at-risk students and must document the effectiveness of such programs. Districts are also required to designate at least one at-risk coordinator to collect local data on dropouts and coordinate the programs for high-risk students.

The bill also expands the list of items to be considered by the State Board of Education when setting accreditation standards to include the effectiveness of a school district's remedial and support programs.

HOUSE BILL 1050 **HOUSE AUTHOR:** C. Evans
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Parker

House Bill 1050 amends the Education Code to require school districts to identify gifted and talented students and establish programs for them in each grade level by the 1990-1991 school year. It also changes the funding level for programs such as the academic decathlons. The bill requires the State Board of Education to take into consideration unique local needs when establishing rules for approval of gifted and talented programs and also requires the board to review the statutory limit on the number of children in a district who are eligible for gifted and talented programs and report their findings and recommendations to the 71st Legislature.

HOUSE BILL 1894 **HOUSE AUTHOR:** Millsap
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** McFarland

House Bill 1894 amends the Education Code to require that the written report of a comprehensive individual assessment of a student in need of special education be completed within 60 days of the referral.

Teachers and District Employees

SENATE BILL 335 **SENATE AUTHOR:** Parker
EFFECTIVE: 4-25-87 **HOUSE SPONSOR:** Haley

Senate Bill 335 amends the Education Code by deleting the provision mandating subject area testing of public school teachers. It also repeals sections dealing with development, preparation, and performance on the tests.

SENATE BILL 696 **SENATE AUTHOR:** Caperton
EFFECTIVE: 9-1-87 **HOUSE SPONSOR:** Haley

Senate Bill 696 amends the Education Code to change the length of certain probationary periods in employment contracts for public school teachers. If a person has been employed as a teacher for five of the last eight years prior to initial employment in a new school district, the probationary term may not exceed one year. If a teacher was dismissed for good cause from his most recent job in a school district, the probationary term may be extended to two years if the teacher agrees.

SENATE BILL 994 **SENATE AUTHOR:** Parker
EFFECTIVE: 9-1-87 **HOUSE SPONSOR:** Delco

Senate Bill 994 amends the Education Code to require an academic major other than education for state teacher certification effective September 1, 1991. It also prohibits the State Board of Education from requiring more than 18 semester hours of education, including student teaching, for the certificate. Additional hours may be required for certification in bilingual education, English as a second language, early childhood education, and special education.

The bill requires the Central Education Agency to collect data on the performance of teacher education program graduates on state-mandated exit tests and data on teacher performance on the statewide appraisal system. The Central Education Agency will report this information to the respective higher education institutions and to the Texas Higher Education Coordinating Board. The data will be included in deliberations on accreditation status for teacher education programs.

A comprehensive teacher induction program will be developed by the State Board of Education and the coordinating board. The program will include a year of teaching supervised cooperatively by a team of

experienced teachers, school administrators, and university faculty. The State Board of Education and the coordinating board will also be required to develop and implement a program designed to identify and recruit talented students into the teaching profession.

The coordinating board is given authority to award grants for research support in teaching, curriculum development, learning, and early childhood education. The grants will be awarded on a competitive basis.

HOUSE BILL 1217 — **HOUSE AUTHOR:** T. Smith
EFFECTIVE: 6-18-87 — **SENATE SPONSOR:** Parker

House Bill 1217 amends the Education Code to establish requirements for issuing a Texas teaching certificate to a teacher from another state. A certificate must be issued to an applicant if the person has a degree from an accredited institution and a valid teaching certificate from the other state and performs satisfactorily on the subject matter tests currently required of Texas teacher education program graduates.

HOUSE BILL 1619 — **HOUSE AUTHOR:** Grusendorf
EFFECTIVE: 9-1-87 — **SENATE SPONSOR:** Parker

House Bill 1619 amends the Education Code to remove the statutory requirements for specific types of in-service training for public school teachers. Instead, the State Board of Education is required to provide, by rule, instruction in appropriate subject areas such as special education, recognition of abuse and neglect, recognition of dyslexia and appropriate teaching strategies, discipline management, and teacher appraisal. The board is not limited to these areas in providing the training.

HOUSE BILL 2462 — **HOUSE AUTHOR:** Patronella
EFFECTIVE: 6-18-87 — **SENATE SPONSOR:** Uribe

House Bill 2462 amends the Education Code to require the State Board of Education to provide teacher editions of textbooks printed in braille or large type for teachers who are blind or visually impaired.

HOUSE BILL 377 — **HOUSE AUTHOR:** Grusendorf
EFFECTIVE: 9-1-87 — **SENATE SPONSOR:** McFarland

House Bill 377 amends the Education Code by changing the filing deadline for candidates for school boards and junior college district boards to be consistent with filing periods for city elections that were changed in 1985 in the Election Code recodification. Runoff election dates are also changed to conform to present law.

HOUSE BILL 1007 — **HOUSE AUTHOR:** Beauchamp
EFFECTIVE: 9-1-87 — **SENATE SPONSOR:** Tejeda

House Bill 1007 amends the Education Code to require that motor vehicles, trailers, and semitrailers owned by school districts or higher education institutions have the name of the district or institution printed on the side of the vehicle. Exceptions are provided for vehicles used by campus security personnel, peace officers, chancellors, and presidents of higher education institutions.

HOUSE BILL 2351 — **HOUSE AUTHOR:** Colbert
EFFECTIVE: 6-19-87 — **SENATE SPONSOR:** Uribe

House Bill 2351 validates all school districts in the state, including junior and regional college districts, all acts of school districts, the elections of members of the boards of trustees, and all bonds and elections authorizing the issuance of bonds. The bill has no effect on pending court action or any action pending before a local board of trustees, the commissioner of education, or the State Board of Education.

HOUSE BILL 173 (2nd C.S.) — **HOUSE AUTHOR:** Haley
EFFECTIVE: 10-20-87 — **SENATE SPONSOR:** Parker

House Bill 173 amends the Education Code by changing certain aspects of the teacher appraisal process. The bill allows an appraiser who is a classroom teacher to appraise another classroom teacher if the appraiser is chairman of a department whose job description includes classroom observation responsibilities. The number of required annual appraisals is changed for teachers on levels two, three, and four of the career ladder whose most recent appraisal reflected outstanding performance. Instead of two appraisals per year, teachers meeting this requirement will only be appraised once a year. The bill provides for the State Board of Education to develop a separate appraisal instrument for administrators that must be based on job-related criteria. It also removes provisions relating to advancement on the career ladder for teachers initially employed for the 1986-87

school year. The State Board of Education is required to conduct a study to determine the feasibility of using student performance as a basis for career ladder assignments.

Teacher Retirement

HOUSE BILL 2623 **HOUSE AUTHORS:** Denton, C. Harris
EFFECTIVE: see below **SENATE SPONSOR:** Edwards

House Bill 2623 provides benefit increases ranging from five percent to 20 percent for annuitants of the Teacher Retirement System and amends the Teacher Retirement Act to increase the lump-sum death benefit. It also allows the state to decrease its contribution rate for fiscal years 1988 and 1989 from the current eight percent to 7.2 percent. Some provisions of the act take effect on August 31, 1987; others on September 1, 1987.

SENATE BILL 630 **SENATE AUTHOR:** Farabee
EFFECTIVE: 8-31-87 **HOUSE SPONSOR:** Kuempel

Senate Bill 630 implements recommendations by the Teacher Retirement System of Texas board of trustees to comply with various federal requirements. It includes changes in eligibility for membership, benefits available, and required reports by retirees, and eliminates certain requirements for reports by trustees.

The Teacher Retirement System is also affected by House Bill 2252 in the chapter on public officials and employees.

ELECTIONS

In the wake of the enactment of the Election Code two years ago, legislative activity in this area was relatively light. Measures were enacted relating to voter registration, candidates for office, election administration, and other matters, but the highlights of elections legislation in the 70th Legislature were House Bill 1818, a total revision of statutes regulating political funds and campaigns, and House Bill 1412, which provides greater safeguards against ballot tabulation fraud in computer voting systems.

Campaign Finance

HOUSE BILL 1818 **HOUSE AUTHOR:** Hilbert
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Edwards

The substantive revision of the Election Code enacted by the 69th Legislature transferred the old law regulating political funds and campaigns to Title 15 of the code without any substantive changes. House Bill 1818, a total revision of Title 15, eliminates conflicts and inconsistencies, clarifies vague and ambiguous provisions, deletes or replaces invalid or obsolete provisions, standardizes variant procedures, replaces unworkable procedures, and makes the statute more coherent and organized. The bill makes a number of important changes from current law, including:

1. Specific-purpose committees are prohibited from converting political contributions to the personal use of a candidate, officeholder, former candidate, or former officeholder. A candidate or officeholder who makes expenditures from his personal funds for campaign or officeholder purposes may be reimbursed for those expenditures from political contributions and may pay federal income taxes due on interest and other income earned on political contributions from those contributions.
2. A general-purpose committee is prohibited from making political contributions or expenditures until it has had its campaign treasurer appointment on file for 60 days and has accepted political contributions from at least 10 persons. A general-purpose committee also may not make a contribution to another general-purpose committee unless the other committee is listed in the campaign treasurer appointment of the contributor committee.
3. Reporting schedules regarding political funds are standardized for candidates, specific-purpose committees, and general-purpose committees.
4. An officeholder who is required to file with an authority other than the secretary of state and who has not accepted political contributions that exceed $500 or made political expenditures that exceed $500 by the end of a reporting period is not required to file a report covering that period.
5. A prevailing defendant in a suit for damages involving unlawful campaign contributions or expenditures or unlawful reporting of political contributions or expenditures may recover attorney's fees.
6. Exceptions to the restrictions on making or accepting political contributions immediately before or during a regular legislative session are made for two circumstances: (a) to defray expenses incurred in connection with an election contest; and (b) for use by a person who was defeated at the general election held immediately before the session was convened or by a specific-purpose committee supporting only that person.
7. Loans made for campaign or officeholder purposes that in the aggregate exceed $50 must be reported. The report must include the dates of loans, the interest rate if below the prime rate on the date of the loan, and the full names of the makers and guarantors of the loans.
8. Persons other than officeholders are prohibited from using a representation of the Great Seal of Texas in political advertising.

HOUSE BILL 1608 **HOUSE AUTHOR:** Schlueter
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Armbrister

Current law requires a specific-purpose committee in an election involving a state or district office to file with the secretary of state a written appointment of a campaign treasurer. House Bill 1608 requires the written appointment to include the name of the candidate the committee supports or opposes and the office sought by the candidate. The committee is also required to immediately file an amended appointment if that information changes.

The bill also reduces the number of reports of political funds required to be filed by specific-purpose committees organized in support of only unopposed candidates. Instead of the three or four reports required of

opposed candidates and other specific-purpose committees, these committees will be required to file only semiannual reports under the same schedule provided for unopposed candidates.

HOUSE BILL 2002 **HOUSE AUTHOR:** P. Hill
EFFECTIVE: 6-11-87 **SENATE SPONSOR:** Henderson

House Bill 2002 brings the deadline for candidates required to file financial statements into line with the new primary date enacted by the 69th Legislature in its 1st Called Session. For candidates filing under the regular deadline for the general primary election, the filing period is expanded from 30 to 40 days and the 15-day extension is eliminated. The bill also gives the secretary of state 15, rather than 10, days to mail copies of the financial statement form to candidates.

Ballot Processing

SENATE BILL 1071 **SENATE AUTHOR:** Krier
EFFECTIVE: 9-1-87 **HOUSE SPONSOR:** Madla

Under current law, a ballot voted absentee by mail must be returned to the absentee voting clerk by mail in the official carrier envelope or it will not be counted. Senate Bill 1071 allows the carrier envelope to be delivered in another envelope and specifies that it must be delivered by mail or by common or contract carrier.

HOUSE BILL 1412 **HOUSE AUTHOR:** Hackney
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Edwards

Technological advances have led to the development of computer voting systems that are vulnerable to ballot tabulation fraud. House Bill 1412 provides a variety of safeguards against such fraud. The major provisions of the bill include expansion of the secretary of state's authority to inspect and approve voting systems, equipment, and software; requirements for security measures for ballot boxes and computer terminals; requirements for testing equipment in systems with decentralized ballot tabulation; and provisions for recounting and checking results. In addition, the bill allows for an initial recount of electronic voting system results without a specific ground. Normally, an initial recount of election results may be obtained only if one of several statutorily defined circumstances exists.

HOUSE BILL 1775 **HOUSE AUTHOR:** H. Cuellar
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Zaffirini

House Bill 1775 adds language to the law relating to unlawful removal of voted ballots from a ballot box so that the act is an offense only if a person commits it knowingly or intentionally. The bill also upgrades the offense of removing voted ballots from a ballot box from a Class A misdemeanor to a third degree felony and upgrades the offense of attempting to remove voted ballots from a Class B misdemeanor to a Class A misdemeanor.

HOUSE BILL 1854 **HOUSE AUTHOR:** Horn
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Edwards

House Bill 1854 amends the procedure for entering on the election returns the election results registered on a mechanical voting machine that produces a printout of the votes cast. In a case where a printout is illegible, the bill gives the presiding election judge the authority to open the sealed registering counters on the night of the election and, with the aid of an election clerk, enter the results on the returns. Under current law, the local canvassing authority would have to be brought in at a later date to open the counters and enter the results on the returns.

The bill also clarifies the requirement that damaged or partially invalid ballots that are duplicated for automatic counting must bear the serial number of the original ballot.

HOUSE BILL 1855 **HOUSE AUTHOR:** Horn
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Brown

House Bill 1855 applies the eligibility requirements prescribed for precinct election judges to central counting station managers, those for precinct presiding judges to presiding judges of central counting stations, and those for precinct election clerks to counting station clerks. The bill also disqualifies officers of a political subdivision from service at a central counting station, but allows the general custodian of election records to

serve as manager or presiding judge of a central counting station notwithstanding the custodian's status as a candidate.

HOUSE BILL 19 (2nd C.S.) **HOUSE AUTHOR:** Glossbrenner
EFFECTIVE: 10-20-87 **SENATE SPONSOR:** Farabee

House Bill 19 makes a number of changes in the Election Code relating to recounts of elections. Among the major provisions of the bill are new provisions governing the withdrawal of a recount petition; deadlines for reviewing a recount petition for compliance with legal requirements and for scheduling the recount; additional eligibility requirements for a member of the recount committee; provisions for a second recount of disputed ballots; provisions for representation of a political party or a specific-purpose committee at a recount; and provisions excluding recording devices and bystanders from the area in which a recount is being conducted.

Voter Registration

SENATE BILL 1441 **SENATE AUTHOR:** Harris
EFFECTIVE: see below **HOUSE SPONSOR:** Horn

Senate Bill 1441 amends a number of provisions in the Election Code relating to voter registration applications. It provides: (1) that omission of an applicant's zip code does not invalidate a voter registration application; (2) that an applicant may appoint an agent to submit a document correcting registration information on his behalf; (3) that the offense of attempting to induce another person to make a false statement on a registration application is changed from a third degree felony to a Class B misdemeanor; (4) that it is a Class B misdemeanor offense for a person to knowingly make a false statement on a registration application; and (5) that a registration certificate for a voter whose residence has no address must contain a concise description of the location of the voter's residence. This description must also appear on the voter registrar's original and supplemental lists of registered voters.

Under current law, if a voter's registration renewal certificate is returned undelivered, and a notation to that effect appears on the precinct list of registered voters when he appears at the polling place, the voter may vote in that precinct by executing an affidavit of residence. Senate Bill 1441 requires a voter registrar to provide affidavits of residence to election authorities in a number equal to at least 10 percent of the voters in each precinct whose names appear on the list of returned certificates.

A voter registrar is required by the bill to cancel a voter's registration immediately on receipt of notice that the voter has applied for a limited ballot in another county or that the voter has registered to vote outside the state. An absentee voting clerk must notify the voter registrar in a voter's former county of residence that the voter has applied for a limited ballot within 30 days of having received the application.

A voter registrar is also required by the bill to deliver the lists of registered voters to election authorities before the beginning of absentee voting by mail in an election. Current law sets the beginning of absentee voting in person as the deadline for delivery of the lists.

Finally, the bill changes various dates to adjust the voting year to the new March primary date. These changes affect voter registration certificate expiration dates and deadlines for filing reports with the secretary of state on voter registration by precinct, returned registration certificates, and new, canceled, and changed registrations. The dates relating to changing precinct boundaries are also changed. Except for the precinct boundary date changes, all date adjustments take effect September 1, 1989. All other parts of the bill take effect September 1, 1987.

HOUSE BILL 613 **HOUSE AUTHOR:** Perez
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Edwards

House Bill 613 adds the city or county and state, or foreign country, in which an applicant was born to the list of items that must be included on a voter registration application.

Political Candidates

SENATE BILL 935 **SENATE AUTHOR:** Montford
EFFECTIVE: 9-1-87 **HOUSE SPONSOR:** Robnett

Current law requires a candidate for municipal elected office to file an application for a place on the ballot no later than the 45th day prior to the election. Senate Bill 935 provides that, if no candidate files for a place

on the ballot for an office by the deadline, the filing deadline for that office is extended to 5 p.m. of the 40th day before the election. The act affects only cities with four-year council terms (Lubbock only).

SENATE BILL 495 **SENATE AUTHOR:** Green
EFFECTIVE: 9-1-87 **HOUSE SPONSOR:** Hackney

Senate Bill 495 conforms the Election Code to acts of the 69th Legislature relating to filing fees and petitions required to accompany an application for a place on the general primary election ballot. The bill also changes requirements for certain judicial candidates in counties with a population of more than 2,400,000 (Harris only). Current law requires judicial candidates in Harris County, except justices of the peace, who do not submit a filing fee plus a petition with 250 signatures to submit a petition with 500 signatures. Justices of the peace may submit either a fee only or a petition with 500 signatures. Under Senate Bill 495, all these candidates must submit either a filing fee and a petition with 250 signatures or no fee and a petition with 750 signatures.

HOUSE BILL 1853 **HOUSE AUTHOR:** Horn
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Edwards

House Bill 1853 clarifies election law relating to the regular filing deadline for an application for a place on the ballot by an independent candidate in the general election by adding a provision that an application filed by mail is considered to be filed at the time of its receipt by the appropriate authority.

HOUSE BILL 1956 **HOUSE AUTHOR:** Grusendorf
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Parmer

House Bill 1956 changes the language regarding the applicability of the subchapter containing general provisions for candidates' petitions so that the reference is to each petition filed in connection with a candidate's application for a place on the ballot rather than to a petition filed under the code in connection with such an application.

HOUSE BILL 2276 **HOUSE AUTHOR:** Finnell
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Edwards

A candidate's application for a place on the general primary election ballot must be accompanied by the appropriate filing fee or a petition that satisfies certain requirements. House Bill 2276 increases the minimum number of signatures that must appear on the petition.

Election Administration

HOUSE BILL 50 **HOUSE AUTHOR:** Hackney
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Edwards

House Bill 50 requires the presiding judge at a polling place to post written notice, beginning at 9:30 a.m. and at each two-hour interval until 5:30 p.m., of the total number of registered voters who have voted in that precinct. The notice must be posted at an outside entrance to the polling place on an official form prescribed by the secretary of state. Prior to the opening of the polls, at all entrances that a voter may use, the judge must also post a written notice of the date, hour, and place for convening the precinct convention.

HOUSE BILL 1052 **HOUSE AUTHOR:** C. Evans
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Sarpalius

The Election Code provides that, in addition to other election notices, a notice must be posted on the bulletin board used to post notices of the meetings of the governing body of the political subdivision that the election authority serves. House Bill 1052 requires this notice to include the location of each polling place.

Currently, if precincts are consolidated for a primary election, election notices must state which precincts have been combined to form each consolidated precinct and the location of the polling place in each consolidated precinct. For each precinct that has been combined, at the polling place used in the preceding general election, notice of the precinct's consolidation and the location of the polling place in the consolidated precinct must be posted. The notice must remain posted continuously from the 10th day before the election through election day. In House Bill 1052, these requirements are moved to other sections of the Election Code and made applicable to special elections also.

HOUSE BILL 1090 **HOUSE AUTHOR:** Beauchamp
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Barrientos

House Bill 1090 makes it a Class C misdemeanor offense to violate restrictions on assessing a charge for the use of a public building for a polling place.

HOUSE BILL 2369 **HOUSE AUTHOR:** Hackney
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Farabee

House Bill 2369 amends the list of requirements for a certificate of appointment for a poll watcher to include the signature of the appointee. Further, the bill requires that when the watcher reports for service, the presiding judge shall require the watcher to countersign the certificate to ensure that the watcher is the same person who originally signed the certificate.

Political Parties

HOUSE BILL 2144 **HOUSE AUTHOR:** McKinney
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Caperton

Under current law, in a county that is situated in more than one senatorial district, a senatorial district convention must be held in each part of the county that is situated in a different senatorial district. House Bill 2144 allows such counties to hold a county convention if the political party rules permit them to do so.

HOUSE BILL 2370 **HOUSE AUTHOR:** Hackney
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Edwards

Under current law, a precinct convention chairman is required to deliver a list of convention participants and a list of delegates and alternates selected by the convention to the county clerk. House Bill 2370 requires originals and copies of these records to be delivered to the party's county chairman instead. The county chairman is to retain the copies of the lists until the end of the voting year in which they are received.

HOUSE BILL 2417 **HOUSE AUTHOR:** Glossbrenner
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Farabee

House Bill 2417 requires the voter registrar to deliver precinct lists of registered voters used for a primary election to the party county chairman as soon as practicable after a request and before the beginning of absentee voting in person for the election in which the lists are to be used. The bill also provides that the acceptance of each voter for voting in the primary election shall be indicated on the precinct list of registered voters furnished for use in the party's conventions at the same time that acceptance is indicated on the list furnished for use in the election. Finally, the presiding judge in a primary election is required to retain and provide at the appropriate time the list of registered voters to be used in the party's conventions.

Miscellaneous

HOUSE BILL 377 **HOUSE AUTHOR:** Grusendorf
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** McFarland

House Bill 377 amends the Education Code by changing the filing deadline for candidates for school boards and junior college district boards to be consistent with filing periods for city elections that were changed in 1985 in the Election Code recodification. Runoff election dates are also changed to conform to present law.

HOUSE BILL 612 **HOUSE AUTHOR:** Hackney
EFFECTIVE: see below **SENATE SPONSOR:** Edwards

House Bill 612 is an omnibus measure that includes changes in election statutes on a number of topics.

Changes relating to voter registration include: (1) removal of a requirement that an application state that the applicant has not been found mentally incompetent; (2) changes in procedures for delivery of voter registration applications received by volunteer deputy registrars to the voter registrar; (3) a limitation on the size of application forms for registration by mail; (4) changes in procedures relating to the state's payments for voter registration; and (5) changes conforming voter registration statutes to the changes in the voting year.

Absentee voting changes include: (1) eliminating the reference to the circumstance under which a person can vote absentee by personal appearance; (2) allowing applicants for mail absentee ballots to apply for the

main election and any resulting runoff elections on the same application and giving criteria for determining the timeliness of applications; (3) changing the information required on a mail absentee ballot application; (4) making it a Class B misdemeanor offense to knowingly provide false information on an application; (5) allowing applications and absentee ballots to be delivered to the clerk by common or contract carrier; (6) authorizing absentee voting for all Sundays in an absentee voting period; (7) requiring authorities to provide for absentee voting on Saturday or Sunday upon petition of at least 15 registered voters; (8) allowing a clerk to approve an application if a person's voter registration will be effective on election day; (9) prescribing procedures for a clerk to handle an application for an election for which he is not serving as absentee voting clerk; (10) requiring a clerk to put the voter's name on the carrier envelope and to give notice of the amount of postage required to return the ballot if the material weighs more than one ounce; (11) requiring clerks to check for returned ballots after the normal delivery time on the last day of the voting period; (12) prescribing procedures for delivering second applications to applicants with defective applications by means other than mail; (13) prescribing procedures for handling carrier envelopes that do not fully comply with requirements; (14) providing for public inspection of copies of applications for mail absentee ballots; (15) excluding bystanders from meetings of absentee ballot boards; and (16) providing for appointment of and procedures of signature verification committees.

Changes relating to conducting elections include: (1) restricting absences from polling places of precinct workers who are on duty at the time of a manual count or examination of the ballots; (2) requiring a posting of the number of people who have voted at a precinct at intervals throughout the election day; and (3) prohibiting the wearing of political badges within a certain distance of polling places.

With regard to precincts, the bill (1) raises the maximum number of voters per precinct allowed in counties with populations between 175,000 and 250,000 that use voting systems; and (2) changes the months for precinct boundary review and change.

Changes relating to the ballot include: (1) requiring persons who print ballots to file certain information with the secretary of state; (2) prohibiting descriptions that appear on the ballot to distinguish candidates with similar names from referring to a public office; (3) changing requirements related to printing write-in spaces on the ballot; and (4) changing ballot instructions on races in which more than one candidate is to be elected and on straight-party voting.

Some sections of the bill affect candidates for office: (1) applications for a place on the ballot by independent candidates in the general election are considered filed at the time of receipt by the appropriate authority; (2) deadlines for withdrawal of candidates and for determining whether a deceased, withdrawn, or ineligible candidate's name will be omitted from the ballot are changed to conform to recently changed filing deadlines for local offices; and (3) deadlines relating to declarations and certifications of write-in candidates are changed.

Provisions affecting the parties include: (1) a requirement that notice of the precinct convention be posted at each door of the polling place before the polls open; (2) a provision clarifying that counties do not have to pay printing costs for absentee ballots in primary elections; (3) clarifications in the requirement to remit to the secretary of state any primary fund surpluses following the election; (4) a requirement that records of precinct convention participants be delivered directly to county chairmen; (5) an exemption from the requirement for filing lists of convention participants with the secretary of state; and (6) a provision standardizing application requirements for candidates for nomination by a convention of a political party.

Other provisions include: (1) authorization for the secretary of state to prescribe voting booth standards and to allow a county to place a poll list in a container other than ballot box no. 3; (2) changes in the procedures for entering election results on returns from mechanical voting machines when the printouts are illegible; (3) a requirement that certain canvasses be conducted by the statutory deadline even if the deadline falls on a weekend or holiday; (4) a prohibition against corporations and labor organizations making contributions or expenditures in connection with recall elections; and (5) a requirement that five months' notice be given before a change in an electoral boundary of a political subdivision becomes effective for election purposes. Certain provisions of the act making date adjustments take effect on September 1, 1989. All other provisions take effect September 1, 1987.

HOUSE BILL 2364 **HOUSE AUTHOR:** Hackney
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Edwards

House Bill 2364 eliminates the requirement that the office title be printed on a ballot if there are no candidates on the ballot for that particular office and write-in votes are not permitted by law. Also, in an election in which write-in votes may be counted only for names appearing on a list of write-in candidates, if no candidate's name is to appear on either the ballot or the list of write-in candidates for the particular office, the office title is not required to be printed on the ballot.

The bill also amends the wording of ballot instructions relating to a contest in which more than one candidate is to be elected. Instead of "vote for" and the number of candidates to be elected, the instructions are to read "vote for none, one, two, . . . or _____", so that a voter clearly understands that he has the option of voting for less than the total number of offices to be filled.

The bill also provides that, if no candidate's name appears on the list of write-in candidates for a particular office in an election in which write-in votes may be counted only for names appearing on the list, a write-in space is not required for that office on an electronic system ballot on which a voter indicates a vote by making a mark on the ballot.

HOUSE BILL 2371 **HOUSE AUTHOR:** Hackney
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Edwards

Current law requires that ballot box no. 3 must contain, among other items, a copy of the poll list. Because the computer-generated poll list for Harris County will not fit into the ballot box, House Bill 2371 allows the copy of the list to be placed in another container if the secretary of state determines that placement in the other container is more suitable for a particular election.

HOUSE BILL 28 (2nd C.S.) **HOUSE AUTHOR:** C. Evans
EFFECTIVE: 10-20-87 **SENATE SPONSOR:** McFarland

House Bill 28 makes several changes in current law relating to election dates. The bill changes one of the uniform election dates from the third to the first Saturday in May and provides that a resulting runoff election is to be held on one of the last two Saturdays in May. The bill also qualifies the exclusion of bond elections from the uniform election date requirement so that the entity holding the election is required to issue a conclusive and incontestable finding that holding the election on a different date is in the public interest. An election for the levy of a tax for the maintenance of a public school or college, unless ordered before the effective date of this act, is no longer exempt from the uniform election date provisions.

The bill also allows a city bordering the Gulf of Mexico and having a population of more than 230,000 (Corpus Christi only) to continue to hold its general election for officers on any Saturday in April in odd-numbered years. Other sections of the bill relate to political subdivisions' options for changing election dates.

ENERGY

Energy legislation in the 70th Legislature included the Oil Overcharge Restitutionary Act (Senate Bill 33 from the 2nd Called Session) and a measure to further encourage cogeneration (Senate Bill 141). Certain measures relating to mineral leasing are summarized in the chapter on public lands.

Oil Overcharge

SENATE BILL 33 (2nd C.S.) **SENATE AUTHOR:** Jones
EFFECTIVE: 9-1-87 **HOUSE SPONSOR:** Ceverha

Recent litigation has resulted in the award to Texas consumers of more than $200 million through judgments, settlements, and agreements relating to overcharges for crude oil and refined petroleum products during the period from 1973 to 1981 of mandatory federal price controls on those items. The State of Texas, as trustee of the funds, must devise a program consistent with federal guidelines for the restitution of that money to those aggrieved energy consumers.

The Oil Overcharge Restitutionary Act, Senate Bill 33 from the 2nd Called Session, authorizes for the 1988-1989 fiscal biennium 23 disbursement programs. The programs include an allocation to Texas' Native American citizens; several types of low-income energy assistance, including subsidies for utility service and the weatherization of residences; grants to public and nonprofit schools and health care facilities to identify and install promising energy conservation measures; grants to municipalities for energy audits and transportation-related energy savings; funding of mass transit and other transportation energy programs, including the study of high-speed rail transit; support for energy conservation in the agricultural sector; energy conservation assistance to community foundations serving the nonprofit sector; energy audits, extension services, and other energy conservation projects broadly serving the public and private sectors, including Texas businesses; a similarly targeted revolving loan program to finance energy-saving capital improvements; funding of energy research and development, including research relating to alternative energy and enhanced oil and gas recovery; support for research in high energy physics; funding of the state's Office of Public Utility Counsel for consumer-related energy conservation activities; plugging of abandoned oil and gas wells; and assistance to the shrimping industry in converting to new fishing technology.

The Oil Overcharge Restitutionary Act establishes an oil overcharge account in the general revenue fund and transfers to it all money derived from oil overcharge litigation, including future amounts. The comptroller of public accounts is directed, within that account, to separately track the various cases and settlements from which funds are derived and to track how the funds from each source are used and expended. Actual funding is activated by Article V, Section 81, of Senate Bill 1 (general appropriations act), which appropriates to the 23 programs a total of $234,250,000, including $98,600,000 for the revolving loan program. Authorization for spending these funds, under Senate Bill 33, expires September 1, 1989.

The Oil Overcharge Restitutionary Act vests administration of the 23 programs with the governor's office, which can make individual grants or finance individual projects within those programs contingent on approval by a two-member review committee consisting of the lieutenant governor and speaker of the house of representatives. The governor's office is assisted by a three-member technical advisory panel. The governor's office is given authority to develop criteria for project eligibility and evaluation, and for some programs has discretion to require that recipients match the grants from the oil overcharge account or otherwise share in project costs.

Each of the 23 programs created by the Oil Overcharge Restitutionary Act is under the supervision of a state agency. In some cases the act specifies the agency and in other cases the governor's office makes the determination. The governor's office also has the authority to establish additional grant programs beyond the 23 that are cited.

The legislation transfers to the governor's office the energy efficiency division of the Public Utility Commission of Texas. That transfer supersedes provisions of Senate Bill 115 from the Regular Session transferring the division to the State Purchasing and General Services Commission, and renders the earlier transfer ineffective.

The energy efficiency division continues its administration of various federal energy conservation programs and becomes the supervising agency for certain of the state restitutionary programs. The governor's office,

through the division, is directed to adopt energy conservation design standards applicable to new buildings constructed by state agencies and by state-supported colleges and universities. The office and division are empowered to adopt energy conservation rules for existing buildings and to encourage or implement renovations and retrofits to improve the energy efficiency of those buildings. Other duties of the division include the maintenance of data on energy use among state-owned buildings; the training of designated state-government personnel in energy management; the provision of technical energy assistance, including advice on utility purchases and the financing of capital improvements; the monitoring of utility bills in conjunction with state agencies and the state auditor's office; and the preparation for possible adoption by city governments of model energy conservation building codes.

House Bill 2597, discussed in the chapter on appropriations, awards another $1.5 million in oil overcharge funds to the Texas Center for Superconductivity.

Oil and Gas Production

HOUSE BILL 2143 **HOUSE AUTHOR:** McKinney
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Santiesteban

Under the "relinquishment act," (Subchapter F, Chapter 52, Natural Resources Code) pertaining to land on which the state owns mineral but not surface rights, the surface owner of the property is designated as agent of the state for purposes of negotiating oil and gas leases. For service as the state's agent, the surface owner shares in resultant lease proceeds.

In 1985, the 69th Legislature enacted a measure to reduce certain abuses whereby some surface owners were leasing to themselves or to businesses or other close associates. The 1985 legislation prohibited this practice and also put restrictions on practices whereby surface owners reacquired leases by assignment from the first lessee and subleased to a second lessee without the state receiving a share of the proceeds from the second lease.

A major part of the 1985 law was the imposition on surface owners of a fiduciary duty to act in good faith on behalf of the state in leasing for oil and gas purposes. For certain breaches of that duty the surface owner can possibly forfeit his status as the state's leasing agent. In such cases the state reassumes leasing powers and, under the provisions of House Bill 2143, the forfeiting surface owner loses entitlement to any share of revenue from future leases by the state.

House Bill 2143 imposes fiduciary responsibilities, similar to those for oil and gas, on surface owners leasing for development of lignite, coal, sulfur, potash, uranium, and thorium ("soft" minerals). The prohibition against self-dealing again applies, with breaches of duty leading to (1) a penalty of 10 percent on sums due the state as a result of the breach; (2) possible forfeiture of rights as the state's leasing agent; and (3) the concomitant loss of a share of future revenue in the event of such forfeiture. The legislation amends prospecting provisions relating to uranium, thorium, and salt. Also, it revises mineral leasing laws covering situations where the surface owner cannot be located.

HOUSE BILL 2056 **HOUSE AUTHOR:** Wallace
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Green

This act makes numerous detailed changes relating to the leasing of public land, primarily leasing for oil and gas. On Gulf and tidewater land, the changes in the law authorize a temporary, three-year royalty reduction for gas leased by royalty bid at a rate exceeding 25 percent, except for gas that has been pooled or unitized. The reduction authorization, which varies according to the value of the gas, applies to gas valued below $3 per thousand cubic feet and produced from the lease between September 1, 1987, and September 1, 1990. The School Land Board has discretion whether to grant the authorized reduction.

The act gives the commissioner of the General Land Office or other applicable state officials the discretion to set monthly deadlines for royalty payments. However, those dates may not be set earlier than the previous monthly deadlines established by law. For state-owned land rented for purposes such as grazing, the legislation provides for a 10 percent penalty on rent overdue by 15 days. Lessees for soft minerals, meanwhile, become liable for payment of damages resulting from incidental surface activities.

A surface owner acting as the state's agent for oil and gas leasing on relinquishment land, should he breach his fiduciary duty, must pay a penalty of 10 percent on the sum due the state as a result of the breach. This is

the same penalty as is imposed by House Bill 2143 on a surface owner acting as the state's agent on relinquishment land for other types of mineral leasing.

House Bill 2056 amends time requirements relating to the payment of shut-in royalties and the duration of leases and lease extensions if drainage production occurs on land adjacent to the shut-in lease. Generally, the act standardizes provisions applicable to such drainage, enabling the lessee to pay the state compensatory royalties in lieu of drilling offset wells.

State audits of lessee records are made confidential and limits are placed on the state's ability to perform repeat audits of the same records. Also, filing procedures relating to assignments and releases are modified, and a person to whom a lease is transferred must assume associated liability for unpaid royalties to the state.

Various sections of House Bill 2056 amend statutes relating to free royalty interests. Other sections deal with the disposition of escrow accounts on protest payments, the waiver or forfeiture of preferential leasing rights by adjacent mineral owners, delay rentals applicable to leases that are the subject of litigation, procedures governing lease suspension, and other topics.

A portion of the act also relates to the Antiquities Committee. That part is summarized in the chapter on state government.

HOUSE BILL 1030 **HOUSE AUTHOR:** Craddick
EFFECTIVE: 6-20-87 **SENATE SPONSOR:** Sims

House Bill 1030 prescribes the procedure for timely mailing of royalty payments under leases of permanent university land. Previously, a royalty payment was considered timely only if it was received by the due date. The bill provides that a postmark by the due date is sufficient.

HOUSE BILL 2363 **HOUSE AUTHOR:** Hackney
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Santiesteban

House Bill 2363 applies to any suit filed on or after August 31, 1987, by an oil or gas royalty recipient to recover his share of any proceeds from the sale of oil or gas, and provides for the judicial award to successful plaintiffs of reasonable attorney's fees and minimum damages of $200.

HOUSE BILL 2591 **HOUSE AUTHOR:** Craddick
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Uribe

House Bill 2591 authorizes a third-party first purchaser of oil or gas, meaning a first purchaser other than the operator of the well, to discharge his or her security obligations by paying the operator if arrangements have been made for that operator to collect sums on behalf of those with ownership interests in the oil or gas. In such case, the owners' secured interest applies thereafter to the operator, relieving the third-party purchaser of double liability in certain bankruptcy situations.

SENATE BILL 825 **SENATE AUTHOR:** McFarland
EFFECTIVE: 8-31-87 **HOUSE SPONSOR:** C. Evans

The Natural Resources Code makes unlawful the production, storage, or transportation of oil or gas so as to cause waste. A party owning an interest in oil or gas may sue another for injurious waste. Senate Bill 825 amends the code to allow a defendant in such a suit to use as a defense the "reasonably prudent operator" standard (the standard of conduct that a reasonably prudent operator would have followed, given the same circumstances).

Energy Utilities

SENATE BILL 141 **SENATE AUTHOR:** Farabee
EFFECTIVE: 6-11-87 **HOUSE SPONSOR:** Laney

Cogeneration, the combined-process generation of electric power and industrial heat, was the subject of interim study by the Joint Special Committee on Cogeneration, established by the 69th Legislature. Senate Bill 141 implements one of the committee's recommendations.

Under the new law, a cogenerator or other small power producer, and the utility to which the cogenerator or producer plans to supply firm electric power, may submit the completed or tentative agreement to the Public Utility Commission of Texas (PUC) for certification. If the PUC determines that statutory conditions are met, or if the PUC fails to reach a determination within the statutory deadline, certification is granted for the life of

the agreement or for 15 years, whichever is the shorter duration. Certification entitles the utility to have its payments under the agreement considered as reasonable and necessary operating expenses in PUC ratemaking proceedings, and provides additional contractual guarantees to the utility, supplier, and third-party financiers.

SENATE BILL 142 **SENATE AUTHOR:** Farabee
EFFECTIVE: 6-11-87 **HOUSE SPONSOR:** Laney

The Public Utility Commission of Texas (PUC) issues or denies certificates of convenience and necessity for various types of energy facilities. Senate Bill 142, pertaining to new electric transmission facilities, requires the PUC to act on a certificate application within one year of its filing. Otherwise, a writ of mandamus may be sought in a Travis County district court to compel the PUC to approve or deny the application. The legislation affects only applications filed after June 11, 1987.

SENATE BILL 344 **SENATE AUTHOR:** Harris
EFFECTIVE: 8-31-87 **HOUSE SPONSOR:** Perry

A gas utility, as a regulated entity, has a duty to maintain a gas supply and distribution system for customers or former customers to which it previously has extended service. Senate Bill 344 relieves a gas utility of the duty to maintain sufficient gas supplies and physical capacity to serve a large-volume contract customer who reduces or ceases service from the utility and purchases gas or an alternate energy source elsewhere, except to the extent that the customer continues to purchase service from the utility or to the extent that the utility is contractually obligated to maintain specified levels of service. The measure does not diminish the authority of the Railroad Commission of Texas to apportion gas under curtailment plans and to require utilities to comply with related orders.

SENATE BILL 1036 **SENATE AUTHOR:** Tejeda
EFFECTIVE: 6-19-87 **HOUSE SPONSOR:** Morales

Certain corporations furnishing natural gas, electricity, and power may exercise the power of eminent domain. Senate Bill 1036 authorizes such a corporation to exercise its eminent domain authority should it become a general partner in a partnership or other combination.

Liquefied Petroleum Gas

HOUSE BILL 1260 **HOUSE AUTHOR:** R. Lewis
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Glasgow

This act regulates the filling and servicing of butane or other liquefied petroleum gas (LPG) tanks that typically are sold or leased to a user and filled and serviced contractually by the installer or some other dealer. House Bill 1260 prohibits the selling, filling, servicing, delivery, or use of an LPG tank except by the owner, or by a person having written authorization from the owner, or except in cases of emergency, when the filling of a tank by someone else is allowed if the owner is unavailable and the person occupying the premises signs a written request for service. It is a misdemeanor if a written request from the occupier of any premises is obtained under false pretenses, if any of the prohibitions described in the act are violated, or if someone besides the owner tampers in any way with a container or its fixtures.

SENATE BILL 1177 **SENATE AUTHOR:** Armbrister
EFFECTIVE: 6-11-87 **HOUSE SPONSOR:** Gibson

This act authorizes the Railroad Commission of Texas, in considering a license or license renewal application for liquefied petroleum gas (LPG) handlers, to take into account any past safety noncompliance by the applicant, and directs the commission to deny a license or license renewal if the applicant has a history of noncompliance. The commission, by rule, may establish courses of instruction for prospective LPG handlers, for licensees who have not maintained necessary qualifications, or for those who have had their licenses revoked. Other provisions provide probation periods; increase the minimum fine for first-time misdemeanor violations of LPG laws from $25 to $100; clarify requirements relating to licensees' proof of insurance; allow the commission to establish certain fees; and delete provisions, applicable to master plumbers and journeymen, that previously exempted them from obtaining a license for purposes of LPG installation or repair.

ENVIRONMENT/WATER

The 70th Legislature passed several water finance measures in 1987, including Senate Joint Resolution 54 proposing a constitutional amendment to authorize an additional $400 million in water development bonds. Senate Bill 807 and House Bill 734, respectively, create a revolving loan program to finance local wastewater treatment facilities and establish a Texas Water Resources Finance Authority to purchase local water bond issuances. Water utility legislation was limited to House Bill 1459, which enacted noteworthy changes to water ratemaking procedures. Senate Bill 683, meanwhile, continued bay and estuary studies applicable ultimately to water development and water rights permits. Among water quality legislation, Senate Bill 779 creates a new program for the regulation of underground storage tanks. House Bill 1875, similarly, establishes a program for the regulation of on-site sewage disposal systems. Solid waste legislation was highlighted by Senate Bill 39 creating a Hazardous Waste Research Center at Lamar University in Beaumont and by House Bill 2051 applying to municipal solid waste and sludge the same type of management hierarchy applied by the previous legislature to hazardous waste. Two measures, House Bill 72 from the 2nd Called Session and House Bill 822, move Texas closer to the selection and opening of a site for the disposal of low-level radioactive waste. Also, House Bill 1353 and House Bill 908 give the Department of Public Safety greater responsibility with respect to the transport of hazardous materials. Finally, the 70th Legislature passed three new laws relating to air quality.

Water Project Finance

SENATE JOINT RESOLUTION 54 — **SENATE AUTHOR:** Montford
FOR ELECTION: 11-3-87 — **HOUSE SPONSOR:** T. Smith

Senate Joint Resolution 54 proposes a constitutional amendment to authorize issuance by the Texas Water Development Board (TWDB) of an additional $400 million in water development bonds. Of the total, $200 million would be allocated to water supply projects, $150 million to water quality enhancement projects (potentially supporting the federal matching fund requirements of Senate Bill 807), and $50 million to flood control. The amendment would authorize the review and approval, by a statutorily designated entity containing officials of the three branches of state government, of (1) bond issuance, (2) use of bond proceeds, and (3) related TWDB rules.

HOUSE BILL 72 (2nd C.S.) — **HOUSE AUTHOR:** T. Smith
EFFECTIVE: see below — **SENATE SPONSOR:** Montford

This act is the enabling legislation for Senate Joint Resolution 54 from the Regular Session and takes effect if and when the constitutional amendment proposed by that joint resolution is approved by Texas voters. The act makes conforming amendments to the Water Code to authorize $400 million of additional water development bonds, allocated as described in the preceding summary. After January 1, 1988, the (1) issuance of bonds or (2) use of bond proceeds to finance water projects is prohibited unless the issuance or project has been approved by the state's bond review board (created by Senate Bill 1027 from the Regular Session, the summary for which is found in the chapter on state government).

SENATE BILL 807 — **SENATE AUTHOR:** McFarland
EFFECTIVE: 6-17-87 — **HOUSE SPONSOR:** T. Smith

Recent legislation of the United States Congress has phased out a federal grant program supporting the construction and upgrade of local wastewater treatment facilities. That program is being replaced with a revolving loan program for the same purpose that requires 20 percent matching funds from the states. Senate Bill 807 creates a water pollution control fund at the state level composed of 80 percent federal funds, legislative appropriations, transfers from the Texas Water Development Board's existing water quality enhancement account, and other sources. The TWDB, as administrator of the fund, may make loans at below-market rates or interest-free. The maximum life of the loans is 20 years beyond the completion of the treatment facilities that they finance. The fund can also be used to provide loan guarantees, buy or refinance debt obligations of local governments, or otherwise assist with the financing of treatment facilities.

Senate Bill 807 also authorizes a revenue bond program, with proceeds from bond sales directed to a new water resource fund and used, among other things, to provide the state's 20 percent matching funds for water pollution control. Contingent on adoption by local recipients of water conservation programs, the second fund can be used for various other types of financial assistance.

HOUSE BILL 734 **HOUSE AUTHOR:** T. Smith
EFFECTIVE: 6-20-87 **SENATE SPONSOR:** Jones

House Bill 734, known as the "defeasance" bill, creates the Texas Water Resources Finance Authority, with powers to issue revenue debt in the open market and to use the proceeds to purchase from the Texas Water Development Board (TWDB) water project bonds of local political subdivisions held within the TWDB's portfolio. The intent is to avoid the potential situation where payback revenue from local water projects is insufficient to cover demands on the TWDB's own bond issuances. In that situation, under current law, the TWDB can either tap the state's general revenue or can sell part of its portfolio on the open market (or back to the political subdivisions) to cover the deficiency. Under House Bill 734, the TWDB can also defease, or pay off, some of its outstanding debt by selling portions of its portfolio instead to the Texas Water Resources Finance Authority. The authority, as an entity of the state, would preserve state control of the political subdivisions' bonds though without pledging the state's credit. The authority's purchase of bonds from the TWDB would be financed by the authority's issuance of its own privately insured revenue debt, making the authority the ultimate recipient of payback proceeds from the local water projects.

The first section of House Bill 734 delineates the powers of the Texas Water Resources Finance Authority, which is governed by a board of directors of six members identical to the board membership of the TWDB. The legislation allows the authority, on approval by the bond review board created by Senate Bill 1027 (state government chapter), to issue bonds with a 50-year maximum maturation rate and an interest rate up to the maximum net effective rate allowed by law. House Bill 734 also empowers the authority to use its bond proceeds to purchase political subdivisions' bonds from the TWDB and to contract for the latter to collect income on those bonds. Should a political subdivision default on bonds held by the authority, the state attorney general is directed to intervene legally. The authority can sue or be sued, but its officials have no personal liability. An annual financial audit of the authority must be conducted either by the state auditor or by an outside accountant.

Subsequent sections of House Bill 734 authorize the sale of bonds by the TWDB to the authority. The TWDB need not first give the applicable political subdivision preferential opportunity to purchase the bonds, nor need the TWDB advertise the sale or take competitive bids. The TWDB may also contract to sell bonds to the authority in advance of actually purchasing them. Mirroring the first section, provisions relating to the TWDB allow it to enter into a contract to ensure debt service by political subdivisions on bonds that it sells to the authority.

SENATE BILL 259 **SENATE AUTHOR:** Montford
EFFECTIVE: 3-24-87 **HOUSE SPONSOR:** T. Smith

Senate Bill 259 amends the Water Code by permitting the Texas Water Development Board to invest certain money credited to the development fund and money in the interest and sinking fund in obligations of the state or of any political subdivision in the United States. Under this act, the board may determine the lending rate. The act repeals several earlier provisions of the Water Code.

SENATE BILL 324 **SENATE AUTHOR:** Montford
EFFECTIVE: 9-1-87 **HOUSE SPONSOR:** Yost

This act, reversing the roles provided for in previous law, assigns to the Texas Water Development Board responsibility for reviewing the feasibility of proposed federal water projects and assigns to the Texas Water Commission responsibility for designating local sponsorship of federal water projects.

SENATE BILL 410 **SENATE AUTHOR:** Montford
EFFECTIVE: 5-26-87 **HOUSE SPONSOR:** T. Smith

In 1985 the legislature approved a law and Texas voters approved a constitutional amendment enabling creation of an agricultural soil and water conservation program. One part of that program offers grants to water districts to purchase equipment to evaluate the efficiency of irrigation systems. Another part offers loans to underground water conservation districts and to soil and water conservation districts, who in turn make low-interest loans to farmers and ranchers to adopt more efficient irrigation systems. Senate Bill 410 extends the pilot loan component through fiscal 1989 to allow the use of unspent funds and authorizes loans to irrigation districts for loans to farmers and ranchers or for conversion of districts' irrigation water delivery

systems. It extends the grants component to dryland and rangeland water conservation projects and expands the uses of grants to include demonstration activities as well as measurement and evaluation.

SENATE BILL 585 **SENATE AUTHOR:** Santiesteban
EFFECTIVE: 9-1-87 **HOUSE SPONSOR:** T. Smith

This act reorganizes, clarifies, and standardizes portions of the Water Code dealing with financial assistance to local governments by the Texas Water Development Board. The act more explicitly defines the nature of water supply projects, water quality enhancement works and projects, and flood control measures eligible for assistance. It revises statutory language dealing with the issuance and refunding of bonds by the board to support the state's financial assistance and generally gives the board discretion to set interest rates on bonds up to the maximum net effective rate allowable by law. The act also adds standardized language, present elsewhere in the Water Code, requiring certain loan recipients to implement water conservation programs. Substantively, the act authorizes recipient political subdivisions, acting without need for a local election, to pledge revenue to repay loans for flood control purposes. Previously, only taxes could be pledged for that purpose. Another new provision authorizes grants for water supply and wastewater services to economically distressed areas. Areas implicitly targeted by this provision include certain colonias of South Texas.

HOUSE BILL 1509 **HOUSE AUTHOR:** Shelley
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Henderson

This act deletes a requirement that a political subdivision seeking a loan for a water project from the Texas Water Development Board obtain advance certification from the Texas Water Commission confirming that the political subdivision has the necessary water rights. The act instead allows the executive administrator of the Texas Water Development Board to issue a finding confirming those rights.

Water Utilities

HOUSE BILL 1459 **HOUSE AUTHOR:** T. Smith
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Montford

This act pertains to rate changes and service delivery by water and sewer utilities. It makes three major changes with respect to ratemaking procedures. First, the act deletes the option for cities to surrender to the Texas Water Commission original jurisdiction over rates charged within city limits. Second, the act gives the commission appellate jurisdiction over rates charged by water districts and over rates charged by city-owned utilities to customers outside city limits, and establishes as strictly appellate the commission's jurisdiction over nonprofit water and sewer corporations. Third, for private utilities operating within city limits and under city jurisdiction, or for those operating outside city limits and under commission jurisdiction, the act deletes a requirement that proposed rate requests automatically undergo a hearing for purposes of approval. Instead, having given the city or commission notice, the utility under the new law may implement the rate change without a hearing unless the change is challenged by a specified number of affected ratepayers. Should a challenge occur, payments proceed at the increased rate pending ultimate disposition of the matter, but the city or commission may direct all or part of the resultant increased revenue into an escrow account for possible refund to ratepayers if the rate increase is ultimately denied or lowered. Records must be kept of proceedings on the rate case unless all parties involved waive the requirement. Rate increase filings by private utilities under the new scheme are limited to one per year.

The act authorizes the commission to revoke certificates of public convenience and necessity to a water or sewer utility for failure to provide continuous adequate service. It authorizes assessment by the commission of administrative penalties up to $500 per day for violations of applicable laws or regulations. In addition, the act establishes fees for processing rate change requests and certificate applications, the amount of the fee to vary according to the number of connections served by the utility. Finally, the legislation provides for adoption by the commission of rules governing the billing of water and sewer utilities for apartments and mobile home complexes, either submetered or prorated.

See also House Bill 2035 in the chapter on city government.

Water Rights and Stream Management

SENATE BILL 683 **SENATE AUTHOR:** Montford
EFFECTIVE: 9-1-87 **HOUSE SPONSOR:** Holzheauser

In 1985, in conjunction with a constitutional water package subsequently approved by Texas voters, the 69th Legislature directed the Texas Department of Water Resources (TDWR) together with the Parks and Wildlife Department and special advisory committees to conduct studies of Texas' various bays and estuaries to collect data toward the determination of associated freshwater inflow needs. The same legislature reorganized the TDWR into the Texas Water Development Board (TWDB) and Texas Water Commission (TWC). Senate Bill 683 clarifies resultant jurisdictional problems relating to the two water agencies, designating the TWDB and Parks and Wildlife Department to collect data and undertake studies of the bays and estuaries and the TWC and Parks and Wildlife Department to evaluate and review the studies toward the determination of necessary freshwater inflows. The advisory committees for the various bays and estuaries are revamped accordingly to include representation from both water agencies. Senate Bill 683 sets the deadline for study completion as December 31, 1989.

HOUSE BILL 650 **HOUSE AUTHOR:** Kubiak
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Caperton

This act confers on the Texas Water Commission the responsibility to remove tree parts or other naturally accumulated debris that are obstructing a navigable stream. The act prohibits a river authority from requiring removal or other displacement of a floating structure unless the commission, on investigating, finds that it constitutes an obstruction.

HOUSE BILL 1783 **HOUSE AUTHOR:** Craddick
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Brown

House Bill 1783 allows the Texas Water Commission to place stream flow restrictions and other conditions in water rights permits to protect the priority of senior water rights.

HOUSE BILL 1787 **HOUSE AUTHOR:** J. Harris
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Brown

House Bill 1787 amends the Water Code by authorizing the appointment of a watermaster for a river basin when the rights of senior water rights holders are deemed to be threatened.

HOUSE BILL 1788 **HOUSE AUTHOR:** J. Harris
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Brown

This act authorizes the Texas Water Commission to issue term permits for water rights, covering a specified term of years, if a senior water right for the water has not been perfected. However, the commission is directed to deny a permit application if the holder of the senior right can show that the term permit would disrupt his own beneficial water use or if issuance would jeopardize financial commitments made to projects to optimally develop an area's water resources. Term permits remain subordinate to any senior appropriative water rights and are not automatically renewable on expiration.

HOUSE BILL 1912 **HOUSE AUTHOR:** Berlanga
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Truan

This act relates to the appropriation of state water from the Gulf of Mexico for purposes of saltwater mariculture. The act exempts such appropriation from the requirement of a water rights permit, provided that the Texas Water Commission is given advance official notification. The commission may reduce or temporarily halt the appropriation if it is found to negatively affect the natural productivity of a bay or estuary.

Water Quality

SENATE BILL 779 **SENATE AUTHOR:** Santiesteban
EFFECTIVE: 9-1-87 **HOUSE SPONSOR:** Millsap

Recent amendments to federal law mandate the implementation of an underground storage tank program, to be administered at the state and local levels, to curb leakage of stored fluids resulting in the contamination of underground water supplies. Senate Bill 779 places regulatory authority regarding underground storage tanks

with the Texas Water Commission. Regulated facilities include service station gasoline tanks and various other containers of petroleum and hazardous substances, excluding most pipelines and petroleum production facilities as well as septic tanks and other exempted receptacles. Containers of hazardous waste (distinct from hazardous substances) are excluded from the purview of the new legislation, being subject to other regulatory requirements.

Senate Bill 779 directs the commission to develop a regulatory program, adopt performance standards for new underground storage tanks, and establish leak detection practices to identify accidental releases. Tank owners or operators must register tanks with the commission, pay annual fees of up to $25 per tank, report accidental releases, and take corrective action in accordance with commission rules in the event of such releases. The commission itself may intervene to take corrective action, should the owner or operator be unable, unwilling, or unavailable. The law grants the commission powers to issue emergency orders to deter or respond to leaks. It makes owners and operators of tanks liable for the reimbursement of associated commission costs. Fees, reimbursements, federal funds, and other monies are deposited in a newly created underground storage tank fund in the state treasury and used to support the regulatory program.

SENATE BILL 434 **SENATE AUTHOR:** Krier
EFFECTIVE: 9-1-87 **HOUSE SPONSOR:** Patrick

This act authorizes the imposition of fees by the Texas Water Commission for the processing of water pollution abatement plans, sewage collection plans, hazardous substance or hydrocarbon storage plans, amendments to any such plans, and associated project inspections relating to protection of the Edwards Aquifer. The commission is authorized to adopt by rule a fee schedule ranging from $100 to $2,000. The act establishes criteria, based on the physical scope of the plans, to be used in determining the fees.

SENATE BILL 1191 **SENATE AUTHOR:** Brown
EFFECTIVE: 8-31-87 **HOUSE SPONSOR:** Riley

This act allows anyone affected by a city action relating to water pollution outside city limits to appeal the action to the Texas Water Commission or district court. An appeal must be filed within 60 days of the city's action. The issue to be determined by the commission or court is whether the action is invalid, arbitrary, unreasonable, inefficient, or ineffective. The act authorizes the commission to adopt related administrative fees.

HOUSE BILL 938 **HOUSE AUTHOR:** Holzheauser
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Armbrister

Under this act, if the executive director of the Texas Water Commission acquires information confirming that usable groundwater in a county is being contaminated so as to constitute a public health hazard, the executive director shall give written notice to the county judge and county health officer not later than the 30th day after the date the executive director receives the information confirming the contamination. Written notice shall also be given to any person under the commission's jurisdiction who is suspected of contributing to the contamination and to any other state agency with jurisdiction over any person who is suspected of contributing to the contamination.

HOUSE BILL 1148 **HOUSE AUTHOR:** Schlueter
EFFECTIVE: 6-17-87 **SENATE SPONSOR:** Jones

This act establishes a moratorium until April 1991 on new permits for discharges of waste or pollutants into or adjacent to Salado Creek, a tributary of the Lampasas River, or any body of water flowing into the creek. The Texas Water Commission is directed, during the interval, to conduct a study of the effects that discharges are having and that additional discharges would have on the creek's water quality. The act, which expires simultaneously with the moratorium, does not apply to a permit granted before its effective date.

HOUSE BILL 1327 **HOUSE AUTHOR:** C. Johnson
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Jones

Holders of waste discharge permits from the Texas Water Commission pay an annual waste treatment inspection fee. This act revamps the fee structure, which was based previously solely on the volume of discharge. The act gives the commission authority to establish by rule a fee schedule that takes into account such factors as discharge volume, pollutant composition and toxic potential, heat load, and characteristics of the stream segment or body of water into which the discharge is to be made. The maximum annual fee under the new legislation is $11,000.

HOUSE BILL 1347 **HOUSE AUTHOR:** J. Harris
EFFECTIVE: see below **SENATE SPONSOR:** Armbrister

This act amends the regulatory authority of the Texas Water Well Drillers Board, a licensing panel affiliated administratively with the Texas Water Commission. The act divides regulated drillers into four categories by type of well: (1) water wells designed to produce groundwater, excluding certain wells to produce water for injection purposes; (2) injection wells as defined previously; (3) dewatering wells designed to lower a water table or potentiometric surface; and (4) monitoring wells designed to identify subsurface fluid quantities or to track subsurface fluid movements. Type (3) and (4) wells, which are new categories, exclude those associated with mineral production. Although the act takes effect September 1, 1987, dewatering well drillers and monitoring well drillers have until January 1, 1988, to obtain their respective licenses. The Texas Water Commission may set additional requirements for their examination, in addition to examination requirements set by the Texas Water Well Drillers Board. The act increases from 30 to 60 days the time period for delivering drilling logs to the commission. It modifies applicable civil penalties for noncompliance with drilling statutes and rules, and confers on drillers the duty to report encounters with bad water to the commission and to report knowledge of abandoned or deteriorated wells to the appropriate landowner. The landowner, under the new law, must plug or cap the well within six months.

HOUSE BILL 1586 **HOUSE AUTHOR:** Staniswalis
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Sarpalius

This act requires a permit from the Texas Water Commission for underground shafts penetrating an aquifer and for associated tunnels, rooms, and chambers. Excluded from the act's applicability are permanent tunnels, oil and gas wells and borings, geothermal energy drilling, solid waste and hazardous waste facilities, activities regulated by the commission under the state's water quality laws, and prospecting and mining on state-leased lands for coal, lignite, sulfur, potash, uranium, or thorium. The act's major application would be subsurface excavations associated with the evaluation of a site or placement of a repository in the Texas Panhandle for the disposal of high-level nuclear waste.

Permit applications for subsurface excavations, under the act, require plans for casing or otherwise lining and sealing shafts and tunnels, controlling ground movements, managing water inflow, managing the surface storage or other handling of spoils and industrial waste, mitigating and monitoring water pollution, and decommissioning the site. Environmental impact statements or similar documents required by federal or state law must be appended to the application. The commission may issue a permit if it finds that: (1) the excavation is in the public interest; (2) existing property rights are not impaired; (3) surface storage of spoils or waste will not harm adjacent farmland; (4) ground and surface water can be adequately protected from pollution; and (5) the applicant has demonstrated financial responsibility. The commission is directed also to consider geological and hydrological conditions, present and potential economic development in the area, and present and prospective local demands for fresh water. The act requires the commission to adopt performance standards for subsurface excavations and, no later than December 30, 1987, to propose rules implementing its subsurface excavation regulatory program. The commission is granted entry and inspection powers for sites receiving permits.

HOUSE BILL 1647 **HOUSE AUTHOR:** Cooper
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Barrientos

This act defines as "greywater" the wastewater from showers, bathtubs, clothes washing machines, handwashing lavatories, and sinks excluding those used for food preparation or for the disposal of chemical and biological ingredients. The act gives to the Texas Water Commission and Texas Department of Health authority to adopt standards for greywater coming under their wastewater regulatory authority to assure that its use for irrigation, agricultural, domestic, commercial, or industrial purposes does not create a nuisance or contribute to pollution.

Sewage Treatment and Disposal

HOUSE BILL 1875 **HOUSE AUTHOR:** Millsap
EFFECTIVE: see below **SENATE SPONSOR:** Caperton

Effective September 1, 1987, House Bill 1875 establishes a program within the Texas Department of Health for the regulation of on-site sewage disposal systems. Such systems, generally referring to septic tanks and similar on-site sewage facilities, are defined to include those producing up to 5,000 gallons of waste per day. Unaffected, however, are on-site sewage disposal systems serving a single residence and located on a tract of land at least 10 acres in size, for which the sewage or field line is at least 100 feet away from the edge of the property.

The department, under the new program, has responsibility to adopt appropriate rules and to issue permits for the construction, operation, extension, repair, or alteration of on-site sewage disposal systems. The department also registers installers and inspects systems in operation. Alternatively, the department at the initiative of a local government entity can delegate its regulatory authority to that entity, provided that the entity adopts the department's rules on the subject and sets forth a program for enforcement. The local government may, if it chooses, adopt standards more stringent than the department's. The local government, as authorized agent for the department, is itself subject to an annual departmental inspection, with results to be reported to the Texas Board of Health, and can lose its designation following a departmental hearing on the subject if found to be inconsistently enforcing the department's minimum regulatory requirements.

The Texas Department of Health or its local government agent may issue an order for repairs to an on-site sewage disposal system, seek an injunction to restrain regulatory violations, and otherwise institute legal proceedings for noncompliance. Activity conducted without a required permit or an installation performed by an unregistered party constitutes a misdemeanor, punishable by a fine of $50 to $100. Repeat offenses are subject to a fine of $125 to $500, one month's confinement in jail, or both.

Effective September 1, 1989, House Bill 1875 repeals provisions relating to pollution monitoring of private sewage facilities (septic tanks and chemical toilets) by the Texas Water Commission and county governments.

HOUSE BILL 1326 **HOUSE AUTHOR:** Shelley
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Santiesteban

House Bill 1326 assigns to the Texas Water Commission the review and approval of all plans for sewage treatment and disposal systems that handle primarily domestic waste. Previously, the Texas Department of Health exercised review and approval authority for systems of this type built independently by cities or developers without state or federal funds.

HOUSE BILL 1329 **HOUSE AUTHOR:** C. Johnson
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Jones

The Water Code requires a certificate of competency for businesses that operate sewage treatment facilities. Employees of those businesses who operate a facility likewise must hold a certificate of competency. House Bill 1329 provides for annual fees of up to $500 and $25, respectively, for business and employee certificates. The Texas Water Commission is authorized to set the amounts by rule, not to exceed the specified maximums.

HOUSE BILL 32 (2nd C.S.) **HOUSE AUTHOR:** T. Smith
EFFECTIVE: 11-1-87 **SENATE SPONSOR:** Montford

This act creates the On-site Wastewater Treatment Research Council, consisting of 11 members appointed by the governor, to award competitive grants for applied research and for technology-transfer activities to improve on-site wastewater treatment. Grants come from a new fund to be supported by a $10 fee imposed on on-site wastewater treatment permits issued by the Texas Department of Health or by a city, county, public health authority, or river authority. Eligibility for research grants is limited to accredited Texas colleges and universities. The council, which is subject to sunset review in 1989, may use funds derived from permit proceeds to contract with the Texas Department of Health for administrative and staff support.

See also Senate Bill 436 in the chapter on city government.

Litter

HOUSE BILL 717 **HOUSE AUTHOR:** Polumbo
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Green

House Bill 717 changes the fine for highway littering to not less than $10 nor more than $200. However, if it is shown at the trial of the defendant that he has been previously convicted of such an offense, the offense is punishable by a fine of not less than $100 nor more than $1,000, by confinement in jail for not more than one year, or by both. Each day of a continuing violation is considered a separate offense. The previous fine was $50 to $400 irrespective of whether the littering was an initial or repeat offense.

HOUSE BILL 2174 **HOUSE AUTHOR:** Patronella
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Green

This act strengthens misdemeanor penalties associated with unlawful means of storing, depositing, or disposing of certain waste and litter. For residential or business waste, first offenses remain subject to the same misdemeanor criminal penalty as before, a fine of $10 to $200; but repeat offenses are now punishable by a fine of $10 to $1,000, jail confinement for up to 30 days, or both. Prohibitions applicable to such waste (redefined to include garbage, rubbish, refuse, and used tires) are clarified to encompass any type of storage, deposit, or disposal that may contaminate ground or surface water or contribute to the breeding of insects or rodents. The act also authorizes the Texas Department of Health, in conjunction with a city or county, to initiate a civil suit in district court to obtain injunctive relief against actual or potential violators of the prohibition and to seek appropriate civil penalties (the same amount as the misdemeanor penalty). The act amends and standardizes various sections of the Texas Litter Abatement Act to classify first offenses for littering as Class C misdemeanors (maximum $200 fine) and repeat offenses as Class A misdemeanors (maximum $2,000 fine, up to one year confinement, or both).

Solid Waste and Hazardous Waste

SENATE BILL 39 **SENATE AUTHOR:** Parmer
EFFECTIVE: 4-25-87 **HOUSE SPONSOR:** Stiles

This act establishes the Hazardous Waste Research Center at Lamar University to coordinate research and related programs directed toward the minimization of hazardous waste generation and the optimal management and disposal of hazardous waste once generated. The center involves a consortium consisting initially of Lamar and three other state university affiliates: The University of Texas at Austin; the Texas Engineering Experiment Station of The Texas A&M University System; and the University of Houston-University Park. The center is governed by a policy board composed of one representative from each of the four universities, and the policy board in turn is assisted by an advisory council composed of two members from private industry and two other members appointed by each university. The consortium may be enlarged to include additional entities. Moreover, the center may enter into agreements with other universities in Texas and the United States, private research organizations, and private industry. The center is authorized to receive federal funds and legislative appropriations with the proviso that funding be disbursed equitably among the consortium participants in accordance with policies established by the policy board. The center is authorized to: (1) conduct primary and secondary research; (2) collect, analyze, and disseminate information; (3) develop public policy recommendations; (4) provide waste management training; (5) evaluate technologies for the treatment and disposal of waste; (6) implement demonstration projects and pilot studies relating to particular technologies; and (7) extend other related services.

SENATE BILL 92 **SENATE AUTHOR:** Green
EFFECTIVE: 8-31-87 **HOUSE SPONSOR:** Patronella

Industrial solid and hazardous wastes generated by manufacturers sometimes may be useful as raw materials for other chemical businesses, and many states have established clearinghouses to link generators and users. Senate Bill 92 directs the Texas Water Commission to establish an industrial solid and hazardous waste materials exchange to provide information on methods for waste treatment and recovery, particular quantities of waste available in Texas for such treatment and recovery, and parties interested in acquiring certain types of waste. The commission may contract for the operation of the exchange by another entity and may enter into reciprocity agreements to exchange information with other states.

SENATE BILL 1446 **SENATE AUTHOR:** Farabee
EFFECTIVE: 9-1-87 **HOUSE SPONSOR:** Schlueter

Enactments of the 69th Legislature extensively amended the state's Solid Waste Disposal Act with respect to the regulation of hazardous waste. Senate Bill 1446 is partly a housekeeping measure designed to consolidate the amendments, renumber sections of the act, and make other technical corrections. It also makes substantive changes, however. Applicants seeking hazardous waste permits no longer need execute a bond in advance to satisfy financial responsibility requirements. Rather, as long as they indicate their plans in that regard, they can defer actually implementing financial guarantees until just before they begin accepting waste at a facility. Senate Bill 1446 also exempts pending permit applications from review by the Texas Air Control Board, except for proposed facilities to incinerate waste. The measure also clarifies that modifications to an existing waste facility are not subject to provisions enacted in 1985 that encouraged permit applicants to undergo a local citizen review mechanism popularly referred to as the "Keystone siting process."

Senate Bill 1446 deletes statutorily specified fees charged to generators of hazardous waste and instead gives the Texas Water Commission discretion to set the annual fee within a range of $50 to $15,000. Other provisions grant the commission authority to issue orders for corrective action or future compliance by a violator of the act, either in lieu of or in addition to the assessment of administrative civil penalties. If an alleged violator appeals an administrative penalty to the courts but does not prevail, the new law provides for the recovery by the state from the appellant of attorney's fees and other legal expenses. Finally, Senate Bill 1446 adds protections for persons who innocently purchase land contaminated by past owners through improper waste management practices. The purchaser, in acquiring the property, however, must have made reasonable inquiries, consistent with good business practice, as to the past ownership and uses of the property.

HOUSE BILL 134 **HOUSE AUTHOR:** Melton
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Anderson

The Comprehensive Municipal Solid Waste Management, Resource Recovery, and Conservation Act, passed originally by the legislature in 1983, provided among other things that each city and county review the provision of solid waste management services in their respective jurisdictions and ensure the provision of such services by a deadline of December 31, 1987. House Bill 134, in anticipation of revisions to U.S. Environmental Protection Agency solid waste regulations due to be implemented over the next two years, postpones that deadline until the end of 1989. It also exempts from the requirement counties with a population of 30,000 or less.

HOUSE BILL 814 **HOUSE AUTHOR:** Williamson
EFFECTIVE: 11-1-87 **SENATE SPONSOR:** Tejeda

Solid waste regulation in Texas is divided between the Texas Water Commission, which has jurisdiction over hazardous and industrial waste, and the Texas Department of Health, which has jurisdiction over municipal waste. House Bill 814 provides that a permit application relating to a solid waste facility, if determined by the department or commission to be administratively incomplete, be amended within 270 days to include the additional needed information. Otherwise, the application is to be considered withdrawn.

HOUSE BILL 1621 **HOUSE AUTHOR:** C. Johnson
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Henderson

The federal government has established a superfund to clean up abandoned hazardous waste disposal sites that pose special health threats. House Bill 1621 authorizes the Texas Water Commission to indemnify engineers or contractors engaged in activities relating to the cleanup of a site against claims or liability associated with actual or threatened releases of hazardous substances. Protection from liability extends only to ordinary negligence, not gross negligence or wilful misconduct. Furthermore, the commission can offer indemnification only if the engineer or contractor demonstrates that liability insurance is unavailable and only if the federal government agrees in turn to indemnify the Texas Water Commission. House Bill 1621 applies to contracts entered into by the commission on or after the effective date.

HOUSE BILL 2051 **HOUSE AUTHOR:** Oakley
EFFECTIVE: 6-19-87 **SENATE SPONSOR:** Parmer

The 69th Legislature in 1985 established as public policy a hierarchy of preferred hazardous waste management methods to reduce the quantity and environmental effects of such waste. House Bill 2051 enacts

comparable hierarchies for municipal sludge and other municipal solid waste, respectively. For the former, preference is to be given in descending order to: minimization of sludge production and minimization of toxin and heavy-metal concentrations in the sludge; treatment of the sludge to reduce its quantity, or to remove pathogens, and to recover beneficial by-products; marketing and distribution of sludge products; land application for beneficial use; land treatment; and landfilling. For the latter, preference is to be given in descending order to: minimization of waste generation; reuse or recycling of the waste; treatment to destroy or reprocess the waste; and land disposal. The new law directs the Texas Department of Health to apply these hierarchies in its solid waste management plan for the state, in its solid waste regulations, and in its criteria for approval of regional and local solid waste management plans.

HOUSE BILL 1869 **HOUSE AUTHOR:** Valigura
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Brooks

This act sets specific requirements for public notice issued by the Texas Department of Health with regard to applications for a permit to establish a landfill site. Notice must be published in the major newspaper serving the county, advising citizens of the opportunity for a public hearing on the permit application. Such notice must be published at least once a week during the two weeks preceding the deadline for requesting a hearing. In addition, the department by certified or registered mail must provide timely notice to each residence, business, and owner of property within one mile of the proposed landfill site.

A second portion of the act requires the Texas Department of Health, acting by October 1, 1989, unless the 71st Legislature by that time enacts legislation on the subject, to implement rules for the handling, transport, and disposal of infectious waste consistent with the recommendations of a legislative interim committee studying the subject.

SENATE BILL 1383 **SENATE AUTHOR:** Whitmire
EFFECTIVE: 8-31-87 **HOUSE SPONSOR:** Saunders

The Texas Department of Health regulates municipal solid waste sites and classifies those sites into nine types designated by Roman numeral. Type IV landfills are authorized to receive brush, debris from construction and demolition activities, and other rubbish provided that none of these contain decomposable waste, referred to as putrescible waste, that is likely to become putrid, cause odors, and attract disease vectors. Senate Bill 1383 reinforces the latter prohibition by restricting access to Type IV landfills by vehicles or containers which, by being completely enclosed, might hide putrescible waste. Vehicles or containers likewise must be free of hazardous or infectious waste. Persons operating such vehicles or hauling such containers must obtain a special departmental permit, transport the solid waste according to a schedule and route approved by the department, and allow its inspection by a departmental official. Certain municipal vehicles and otherwise regulated solid waste compactors are exempt from these requirements, so long as they certify that the contents of the vehicles or compactors are free of prohibited putrescible, hazardous, or infectious waste. Persons who deliver solid waste to a Type IV landfill, except in accordance with the new law, commit an offense and are subject to Class B misdemeanor penalties. Senate Bill 1383 also establishes an annual inspection program for Type IV landfills and provides for apportionment of inspection costs among the holders of Type IV permits.

HOUSE BILL 2124 **HOUSE AUTHOR:** J. Harris
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Armbrister

This act adds procedural, substantive, and financial requirements pertaining to the approval by the Texas Water Commission of permits for hazardous waste management facilities and hazardous waste injection wells. Hearings on a permit may not proceed until evidence has been placed in the record demonstrating that hearing notice has been given to affected persons. In the case of injection applications, the act clarifies that state agencies and other parties to which the commission has submitted the application for review have 30 days to make recommendations. Hearings on an injection well permit may not commence until the Railroad Commission of Texas forwards its required letter indicating that disposal of waste via the well will not negatively affect oil or gas formations.

Permit approval for a hazardous waste management facility or hazardous waste injection well is conditioned on three additional findings by the Texas Water Commission, beyond those in the current law: that the applicant has provided for proper operation of the facility or well; that the applicant has effectively acquired the property, or use of the property, on which the facility or well is to be located; and that

the applicant, if the facility or well is to be located outside an industrial area, has taken measures to minimize resultant burdens on public roadways, local law enforcement, or emergency medical or firefighting services. The act amends financial responsibility requirements to allow use of letters of credit but to partially preclude use of a "claims made" policy.

The new legislation affects applications first submitted after the effective date. One final provision directs the Texas Water Commission, in keeping with the Administrative Procedure and Texas Register Act, to index and make available for public inspection all rules, written statements of policy, regulatory interpretations, and all final opinions, orders, and decisions.

See also House Bill 1699 in the section on low-level radioactive waste.

Low-Level Radioactive Waste

SENATE BILL 62 (2nd C.S.) **SENATE AUTHOR:** Zaffirini
EFFECTIVE: 10-20-87 **HOUSE SPONSOR:** Agnich

Under federal law, low-level radioactive waste that now goes to one of three disposal sites (South Carolina, Nevada, or Washington) must be disposed of individually by the state generating the waste or by that state in combination with neighboring states that join it in a compact. Failure to meet established federal deadlines for opening a disposal site can be penalized either by denying further use of the three existing sites to the noncompliant state or compact or by allowing future disposal there only at significantly increased monetary charges. The Texas Low-Level Radioactive Waste Disposal Authority, created in 1981 and assigned the task of selecting a Texas disposal site, has focused recently on two sites in Hudspeth County, one located on permanent school fund (PSF) land and the other located on permanent university fund (PUF) land. Those lands are managed by the School Land Board and the Board of Regents of The University of Texas, respectively.

This act reinforces previous legislation giving preference to a suitable site on PSF or PUF land over equally suitable sites elsewhere. Should the authority locate and select a proposed site on PSF or PUF land, it is authorized to enter the land to conduct a detailed technical characterization of the site as required by existing law. On completion of requisite studies, if the authority decides to purchase the site for disposal purposes, the School Land Board or university regents must have the land and its minerals appraised and must convey title to both to the authority at a price equal to the appraised value. In addition, if a PSF site is chosen, the authority must lease from the School Land Board a buffer zone and implement within that zone a rangeland and wildlife management plan to help restore it ecologically.

The act deletes former provisions allowing the authority to contract with a private entity to operate the disposal site, instead requiring that any contracting of operations be only with a competent political subdivision or state agency. The new legislation allows disposal below ground level only if, in addition to other existing statutory requirements, waste is contained within either a reinforced concrete barrier or a technologically equivalent or superior medium, in a manner so the waste can be monitored and retrieved. Shallow land burial in earthen trenches is prohibited.

Other provisions relate to nuclear power plants that are prospectively planned to commence operations in Texas. Each public utility operating or constructing a nuclear power reactor is required to provide on-site, low-level radioactive waste storage facilities sufficient to accommodate five years' worth of low-level waste generation. The Texas Low-Level Radioactive Waste Disposal Authority is directed to study the volumes and types of waste that would result from eventual decommissioning of Texas nuclear power reactors and to report on the subject to appropriate committees of the legislature no later than November 11, 1988.

HOUSE BILL 822 **HOUSE AUTHOR:** Saunders
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Sims

House Bill 822 establishes within the state treasury a low-level waste account derived from federal funds, waste disposal fees charged waste generators, and other sources. The purpose of the account is to reimburse the state for startup costs associated with finding, building, and opening a disposal site; to provide economic impact assistance to political subdivisions affected by the Texas site; to support associated rangeland and wildlife management activities; to pay for decommissioning when the disposal facility is eventually closed; and to meet other expenses. Maximum payments by a single waste generator are limited to $300,000 to $500,000 annually.

The legislation directs the board of directors of the authority to adopt criteria to identify political subdivisions that can reasonably be expected to incur expenses for supportive services as a result of placement

of the disposal site in their locality. Those affected governmental entities, as identified by the board, are entitled to impact assistance funds in an aggregate amount equal to at least 10 percent of the disposal facility's gross receipts derived from waste generators. The authority is directed to meet with representatives of the affected entities, and with county officials of the county in which the site is located, at least once a year.

House Bill 822 also provides for the creation of a Citizens Advisory Committee composed of one representative each from the affected political subdivisions. Advisory committee members are assigned to devise criteria by which to evaluate adverse impacts on their communities and to make recommendations to the authority's board of directors regarding allocation of impact assistance funds. Allocation rests ultimately with the board, subject to a requirement that, except in cases of unusual impact, no affected governmental entity may receive a fraction of the total impact assistance funds exceeding its fraction of the affected entities' combined taxable property value. The board's allocation is not reviewable by the regional planning commission for the area.

To further support compensating economic benefits to local communities in return for their acceptance of the disposal site, contractors with the authority are required where possible to use local materials and resources. One other component of the legislation authorizes lease by the authority of up to 65,000 acres of permanent school or permanent university land near the site for rangeland and wildlife management purposes.

HOUSE BILL 1699 **HOUSE AUTHOR:** Shaw
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Zaffirini

House Bill 1699 requires that "mixed waste" containing a combination of hazardous and low-level radioactive waste be disposed of at the state's low-level radioactive waste disposal site in accordance with not only the Texas Low-Level Radioactive Waste Disposal Authority Act, but also the state Solid Waste Disposal Act and federal Resource Conservation and Recovery Act of 1976 governing hazardous waste.

Other Toxic Substances

HOUSE BILL 2140 **HOUSE AUTHOR:** Watson
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Whitmire

House Bill 2140 amends the Hazard Communication Act, the "right-to-know" measure passed by the 69th Legislature to inform workers of chemicals they are handling. The amendment authorizes the collection of fees from manufacturing and nonmanufacturing employers, not to exceed $50 per submission, for the filing of workplace chemical lists required by the act. Employers with multiple or temporary workplaces may submit consolidated filings if the lists are shorter than a specified length.

SENATE BILL 537 **SENATE AUTHOR:** Parker
EFFECTIVE: 9-1-87 **HOUSE SPONSOR:** Watson

This act establishes the Toxic Substances Coordinating Committee. Composed of seven members representing specified state agencies, the committee is established to better coordinate communication among the member agencies concerning those agencies' respective efforts to regulate toxic substances and harmful physical agents. Regarding those substances and agents, the committee is assigned to develop a plan providing for intergovernmental regulatory cooperation, health risk assessment of emergency responses to accidents, prevention and control of adverse health effects, integrated data collection and management, and public education. The tentative plan is to be presented for review by the governor and seven agency heads by May 1988, and agency recommendations on plan implementation forwarded to the governor and legislative presiding officers by the following October. Provisions of the act expire without sunset review on September 1, 1999.

House Bill 1896, summarized in the chapter on agriculture, extends right-to-know legislation to cover farm workers.

Transportation Controls

HOUSE BILL 1353 **HOUSE AUTHOR:** Cain
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Farabee

Hazardous materials include such materials as hazardous wastes, radioactive materials, explosives, corrosives, flammable liquids and solids, and poisons. The Railroad Commission of Texas regulates hired motor carriers that transport such materials, and the Texas Water Commission tracks hazardous waste components within hazardous waste or hazardous materials shipments. The Department of Public Safety (DPS) administers safety regulations for the proper packaging and labeling of transported hazardous materials, and an emergency management division within the governor's office, assisted by an interagency Emergency Management Council, coordinates responses to disasters generally. Counties are required to establish countywide emergency management programs, and cities may establish such programs at their option.

House Bill 1353 revises this scheme for disaster responses to transportation accidents involving releases of hazardous materials on public roads or railroads. It directs the DPS to adopt rules relating to the required reporting by transporters of accidents involving hazardous materials releases, and it assigns to the DPS the responsibility for on-site coordination of hazardous materials transportation emergencies. The DPS may adopt federal reporting rules, or portions thereof, by reference. If not, its rules must be consistent with federal rules. The DPS is also established as the central state repository for statistical information on incidents involving releases of hazardous materials.

HOUSE BILL 908 **HOUSE AUTHOR:** Cain
EFFECTIVE: 1-1-88 **SENATE SPONSOR:** Lyon

House Bill 908 expands regulations concerning the safe operation of motor carriers, including those that transport hazardous materials. The regulations, to be adopted by the Department of Public Safety (DPS), must be consistent with federal law on motor carrier safety and hazardous materials transport and must include provisions to ensure that: the vehicles are safe; responsibilities imposed on a driver do not impair the driver's ability to operate the vehicle safely; the driver is physically able; and the motor carrier is able to assure any damages. The act sets out insurance requirements, limits the authority of other entities to regulate such carriers, and requires carriers to declare knowledge of safety regulations. DPS officers and certified peace officers in cities with a population of at least 300,000 are authorized to detain motor vehicles subject to these safety regulations. The act provides for offenses and suits relating to the violation of regulations. A violation constitutes a Class C misdemeanor and is subject to a maximum civil penalty of $200 for each day of noncompliance or for each act of noncompliance.

The act also changes (1) provisions relating to companies approved to provide insurance for motor bus companies, and (2) provisions relating to companies approved to issue bonds or insurance policies for motor carriers.

HOUSE BILL 1838 **HOUSE AUTHOR:** Cain
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Johnson

House Bill 1838 authorizes county commissioners courts to adopt a regulatory program, applicable to transport through unincorporated county areas, requiring permits for trucks carrying liquid septic tank residues. A county may conduct joint truck inspections with cooperating cities and develop a single manifest form and permit system to be used by those cities and the county. The county is authorized, as well, to contract for services relating to the regulatory program and to assess fees to cover administrative costs.

Air Quality

SENATE BILL 1130 **SENATE AUTHOR:** Green
EFFECTIVE: 9-1-87 **HOUSE SPONSOR:** Watson

This act allows the Texas Air Control Board, or its executive director if delegated authority by the board, to issue emergency orders allowing exceptional releases of air contaminants if related to reconstruction activities necessary to deal with a natural or other catastrophe and avoid more serious peril. An applicant for such an order must demonstrate, among other things, that there are no practical alternatives to such contaminant emissions and that the emissions will not cause or contribute to a condition of air pollution. Orders may be

issued with or without an advance hearing, but if issued without a hearing, one must be scheduled as soon as possible.

SENATE BILL 1360 **SENATE AUTHOR:** Jones
EFFECTIVE: 6-11-87 **HOUSE SPONSOR:** Rudd

One alternative being considered to control hydrocarbon emissions and resultant ozone pollution arising from the transportation sector is the use of "Stage II" vapor recovery systems. Such systems involve modification of the equipment used at service stations to refuel vehicles. The subject is currently under review by the U.S. Environmental Protection Agency (EPA), and Senate Bill 1360 prohibits the Texas Air Control Board from requiring the use of such systems until the EPA determines that their deployment is required to enable compliance with the federal Clean Air Act.

HOUSE BILL 528 **HOUSE AUTHOR:** S. Hudson
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Johnson

House Bill 528 prohibits the Texas Air Control Board from approving a construction permit for a new lead smelting plant within 3,000 feet of anyone's residence. Exceptions include modifications of previously operating plants, plants originally outside the limit when placed in operation, areas inside the limit where lead smelting operations previously have been conducted, and plants with a production capacity of 200 pounds of lead per hour or less.

HOUSE BILL 1432 **HOUSE AUTHOR:** Oakley
EFFECTIVE: 6-19-87 **SENATE SPONSOR:** Armbrister

The Texas Clean Air Act mandates that a concrete plant must be screened for possible long-term pollutants. House Bill 1432 clarifies language that exempts concrete plants next to a site temporarily undergoing highway construction from the requirement.

FAMILY LAW

Juvenile delinquency was the subject of several legislative enactments in 1987. House Bill 682 provides for determinate sentences for children who engage in certain violent delinquent conduct. Under the act the child is transferred from the Texas Youth Commission to the Texas Department of Corrections when the child becomes 18 if the child has not completed his sentence. Other enactments amended the definitions of "delinquent conduct" and "conduct indicating a need for supervision." Additional laws relating to juveniles may be found in the criminal justice and procedure chapter and in the chapter on transportation and highways.

The power of protective orders in family violence cases was expanded with the passage of House Bill 110 to restrict a party from going to or near the residence, child-care facility, or school of the protected child. Senate Bill 1111 declares that it is an offense to violate such an order.

The 70th Legislature also passed legislation on other aspects of family law including child abuse, marriage, missing children, and laws that affect the parent-child relationship.

Child Abuse

HOUSE BILL 169 — **HOUSE AUTHOR:** Blackwood
EFFECTIVE: 8-31-87 — **SENATE SPONSOR:** Lyon

The Family Code contains provisions to provide immunity from prosecution to individuals who report cases of child abuse. House Bill 169 amends this law to exclude from immunity persons who report their own abusive conduct.

HOUSE BILL 1742 — **HOUSE AUTHOR:** Millsap
EFFECTIVE: 8-31-87 — **SENATE SPONSOR:** Glasgow

House Bill 1742 adds a new section to the Family Code relating to the investigation of anonymous reports of child abuse. A preliminary investigation is required to ascertain whether a more thorough investigation needs to be conducted based on any corroborative evidence that may be found.

HOUSE BILL 2146 — **HOUSE AUTHOR:** Horn
EFFECTIVE: 8-31-87 — **SENATE SPONSOR:** Brown

Current law requires that the testimony of a child who has been the victim of an offense may be taken in a room other than the courtroom and that such testimony may be televised in the courtroom by closed circuit equipment to the court, the attorneys involved, the finder of fact, any person whose presence would contribute to the well-being of the child, and persons necessary to operate the equipment. The law permits the defendant to observe and hear the testimony of the child but ensures that the child cannot hear or see the defendant. House Bill 2146 amends this law to allow for recesses before or during cross-examination of the child for the defendant's attorney to confer with his client and expands the number of people who may observe the child's testimony to include the court reporter. See also Senate Bill 66 in the criminal justice and procedure chapter.

SENATE BILL 390 — **SENATE AUTHOR:** Krier
EFFECTIVE: 8-31-87 — **HOUSE SPONSOR:** Earley

Prior law required a person who suspects a child has been or will be abused or neglected, has died of abuse or neglect, has violated school attendance laws on three or more occasions, or has been missing from home without permission for a lengthy period of time on three or more occasions, to make a nonaccusatory report to any local or state law enforcement agency and either the Texas Department of Human Services or the agency designated by the court to protect the child in question. This act amends the law to require that a report be made to only one of these agencies.

SENATE BILL 1084 — **SENATE AUTHOR:** Lyon
EFFECTIVE: 6-19-87 — **HOUSE SPONSOR:** Madla

This act sets forth the circumstances under which the statement or testimony of a child under the age of 12, who is alleged to have been abused, is admissible into evidence in a contested administrative hearing involving a state agency in which an issue is the abuse of the child. The act also makes provisions for the person conducting the hearing to allow the child's testimony to be taken in a room other than the hearing room and televised by closed circuit equipment in the hearing room, providing the recording meets certain criteria.

Delinquency

HOUSE BILL 323 **HOUSE AUTHOR:** Burnett
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Sims

This act provides that a child who has been taken into custody may not be given a polygraph examination without the consent of the child's attorney or the juvenile court unless the child is transferred to criminal court for prosecution.

HOUSE BILL 502 **HOUSE AUTHOR:** Cavazos
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Zaffirini

House Bill 502 amends the Family Code to remove the offense of inhalant abuse from the classification of "conduct indicating a need for supervision." As this offense was upgraded to a Class B misdemeanor by the 69th Legislature in 1985 and is punishable by confinement in jail, the offense is now classified as "delinquent conduct."

HOUSE BILL 682 **HOUSE AUTHOR:** T. Smith
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Tejeda

This bill amends Title 3 of the Family Code to provide a process by which a juvenile court may order determinate sentences for children who engage in delinquent conduct that includes the violation of Penal Code provisions relating to certain specified violent felonies. The prosecuting attorney may refer a petition that alleges conduct within the defined category of delinquent conduct to the grand jury. If the grand jury approves the petition, the jury for proceedings in the juvenile court relating to the petition must consist of 12 persons. If the court or jury finds that the child engaged in the conduct alleged in a petition approved by a grand jury, the court or jury may sentence the child to commitment in the Texas Youth Commission with a transfer to the Texas Department of Corrections at the age of 18. The term of the sentence may not exceed 30 years. A release hearing must be held when the child becomes 18 and may be held before that time on the request of the Texas Youth Commission. If the court does not order the release of the child under the supervision of the commission at age 18, the court shall order transfer of the child to the Texas Department of Corrections for completion of the sentence.

To accommodate this new procedure, the bill makes additional amendments related to the designation and jurisdiction of juvenile courts, juries in juvenile court, juvenile court records, the fingerprinting and photographing of children, and release from the Texas Department of Corrections.

The bill also provides for the admission into evidence of certain juvenile court adjudication records in the penalty phase of a criminal trial.

HOUSE BILL 1079 **HOUSE AUTHOR:** H. Cuellar
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Zaffirini

The Family Code is amended to alter the definition of "delinquent conduct" to include conduct that violates state laws prohibiting driving while intoxicated or under the influence of intoxicating liquor (third or subsequent offense) or driving while under the influence of any narcotic drug or of any other drug to the degree that renders the child incapable of safely driving a vehicle (third or subsequent offense).

SENATE BILL 218 **SENATE AUTHOR:** Uribe
EFFECTIVE: 9-1-87 **HOUSE SPONSOR:** Hinojosa

This act requires the juvenile court to determine whether there is probable cause to believe a child committed the offense alleged prior to transferring the case to district court for criminal proceedings. At the time the case is transferred, an examining trial may be held if good cause exists; if it does not, the case shall be referred to the grand jury.

SENATE BILL 225 **SENATE AUTHOR:** Zaffirini
EFFECTIVE: 6-20-87 **HOUSE SPONSOR:** Collazo

Senate Bill 225 amends provisions of the Family Code that define conduct indicating a need for supervision, excluding persons who are married, divorced, or widowed from the definition of "child" as it is used in the section referring to truancy from school and the voluntary absence of a child from his home.

SENATE BILL 1069 **SENATE AUTHOR:** Harris
EFFECTIVE: 6-20-87 **HOUSE SPONSOR:** Richardson

Senate Bill 1069 exempts records required to be maintained under the laws regulating the operation of motor vehicles from the requirement that files and records relating to a child be kept separately from adult records.

See also Senate Bill 17 and Senate Bill 33 in the chapter on sunset legislation.

Family Violence

HOUSE BILL 110 **HOUSE AUTHOR:** Collazo
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Krier

This amendatory act expands the power of protective orders in family violence cases to include a prohibition that would restrict a party from going to or near the residence, child-care facility, or school of the protected child. It further requires that a copy of the protective order be sent to the child-care facility or school.

HOUSE BILL 161 **HOUSE AUTHOR:** Danburg
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Krier

House Bill 161 amends the Penal Code to make the offense of aggravated sexual assault apply in certain circumstances to a person who forces his or her spouse to engage in non-consensual sexual intercourse. Certain technical problems present in House Bill 161 were corrected in Senate Bill 35 of the 2nd Called Session.

SENATE BILL 35 (2nd C.S.) **SENATE AUTHOR:** Krier
EFFECTIVE: 9-1-87 **HOUSE SPONSOR:** Danburg

Senate Bill 35 corrects certain technical problems in House Bill 161 from the Regular Session of the 70th Legislature. That bill made the offense of aggravated sexual assault apply, in certain circumstances, to a person who forces his or her spouse to engage in non-consensual sexual intercourse.

SENATE BILL 1111 **SENATE AUTHOR:** Krier
EFFECTIVE: 9-1-87 **HOUSE SPONSOR:** Collazo

This act declares that a person commits a criminal offense if he goes to or near the residence, child-care facility, or school of a child protected by a court order. Reconciliatory actions or agreements made by the persons affected by the order do not negate its validity or enforceability unless made by the applicant for the order or the person under protection.

SENATE BILL 1255 **SENATE AUTHOR:** Zaffirini
EFFECTIVE: 6-20-87 **HOUSE SPONSOR:** Garcia

This act provides that an emergency shelter facility may provide shelter and care to a minor mother, married or unmarried, not emancipated by court order, and not accompanied by a parent, who is the sole financial support of her natural children. The care is limited to 15 days unless the facility receives consent to continue services from her parents or guardian or she has qualified for Aid to Families With Dependent Children and her name is on a waiting list for housing assistance. The act also exempts emergency shelter facilities providing care to minor mothers from having to be licensed by the Texas Department of Human Services unless the facility would otherwise require licensing as a child-care facility.

SENATE BILL 1348 **SENATE AUTHOR:** Brooks
EFFECTIVE: 8-31-87 **HOUSE SPONSOR:** Hinojosa

Senate Bill 1348 amends the Family Code to limit the fees and costs that may be charged in a proceeding for a protective order. The application fee for the protective order is $16 and the fee for service of citation is limited to $20 if delivery is made in person or the cost of postage if delivery is made by registered or certified mail. The person against whom the order is directed must reimburse the applicant for all fees and costs incurred in obtaining the order or face penalties for being held in contempt of court.

Marriage

HOUSE BILL 203 **HOUSE AUTHOR:** P. Hill
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Caperton

House Bill 203 prohibits a right of action by one spouse against a third party for alienation of affection.

HOUSE BILL 317 **HOUSE AUTHOR:** Tallas
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Brown

Previously, parental consent for the marriage of certain minors was required at the time application was made for a marriage license. House Bill 317 broadens these provisions to allow for parental consent to be given in the 30-day period before the date the application is made for the marriage license.

HOUSE BILL 1213 **HOUSE AUTHOR:** Arnold
EFFECTIVE: 1-1-88 **SENATE SPONSOR:** Johnson

This act requires the county clerk to indicate the time at which a marriage license is issued on the license itself. It further amends the law to provide that a marriage is voidable and subject to annulment if it occurs during the 72-hour period immediately following the issuance of the marriage license unless the applicant is a member of the armed forces and is on active duty or he has obtained an order from the district court permitting the marriage ceremony to take place within that time period.

SENATE BILL 887 **SENATE AUTHOR:** Krier
EFFECTIVE: 9-1-87 **HOUSE SPONSOR:** Morales

This act amends provisions of the Family Code to grant courts the authority to issue protective orders in divorce or annulment cases, provides for the order to keep certain information confidential, and provides for the order to contain a warning declaring it an offense to violate the terms of the order and stating the punishment for such an offense. The act further requires the distribution of protective order information to local law enforcement officials where the person seeking protection resides, establishes certain conditions under which an applicant may agree to an order, and specifies procedures relating to the issuance and delivery of the order.

SENATE BILL 893 **SENATE AUTHOR:** Caperton
EFFECTIVE: see below **HOUSE SPONSOR:** Perez

Senate Bill 893 adopts the Uniform Premarital Agreement Act that details the types of agreements persons may enter into prior to marriage. It also grants spouses the right to engage in partition or exchange agreements. Partition or exchange agreements provide that spouses may, at any time in their marriage, partition or exchange between themselves any part of their community property to become the separate property of one of the spouses. They may also agree that any income or property arising from the separate property owned by one of them, will be the separate property of the owner. Provisions of partition or exchange agreements are void that were entered into with the intention of defrauding a creditor. The agreements can be recorded in the deed records of the county where the party resides and in the county where the real property is located. Recording the agreement in the county where the real property is located serves as constructive notice to a good faith purchaser or a creditor. The provisions of the act take effect on September 1, 1987.

In addition, Senate Bill 893 amends the Probate Code to provide that spouses may agree in writing that all or part of their community property which is titled or held indicia of title becomes the property of the surviving spouse on the death of the other spouse. Prior law required a more convoluted procedure whereby a written agreement was required between the spouses and a financial institution so that funds on deposit would be partitioned into separate property to be held in joint tenancies. In order for these amendments to take effect, voters must approve a proposed constitutional amendment (Senate Joint Resolution 35) authorizing automatic inheritance by a surviving spouse of a deceased spouse's community property interest. The text of Senate Joint Resolution 35 is included in the probate chapter.

SENATE BILL 1322 **SENATE AUTHOR:** Caperton
EFFECTIVE: 9-1-87 **HOUSE SPONSOR:** Hackney

The Family Code is amended to delete references to obtaining a medical examination certificate or exemption order as a prerequisite to applying for a marriage license. The act also provides that a county clerk

may require documentation to show that a prior marriage has been dissolved if either of the applicants for the marriage license is under 18 years old.

HOUSE BILL 168 (2nd C.S.) **HOUSE AUTHOR:** C. Harris
EFFECTIVE: 11-1-87 **SENATE SPONSOR:** Caperton

This act amends the Family Code to provide that the court must determine, in a divorce decree or annulment, all rights of both spouses in an insurance policy, retirement benefits, and other financial plans. It terminates the designation of an ex-spouse as the beneficiary of a life insurance policy or of pension benefits after divorce unless the decree provides otherwise, the insured or employee takes action to redesignate the ex-spouse as beneficiary, or the ex-spouse is named as beneficiary in trust for a dependent of one or both spouses. The act also provides a method to resolve disputes involving conflicts of laws regarding the division of property and defines the personal liabilities of a spouse for the acts of the other spouse.

Missing Children

SENATE BILL 223 **SENATE AUTHOR:** Zaffirini
EFFECTIVE: 6-18-87 **HOUSE SPONSOR:** Collazo

Senate Bill 223 amends the Human Resources Code by changing the definition of "missing child" to include runaway children. It also requires local law enforcement agencies to immediately start an investigation if the well-being of the child is considered to be in danger.

HOUSE BILL 593 **HOUSE AUTHOR:** H. Cuellar
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Zaffirini

This amendatory act authorizes law enforcement officers to photograph or fingerprint a child taken into custody if the officer is unable to determine the identity of a child after making a reasonable attempt to do so. It further provides for the release of records and information concerning a child to the Texas Crime Information Center and the National Crime Information Center if the child has been reported as missing or if the child has escaped from the custody of a juvenile detention facility, the Texas Youth Commission, or any other agency to which the child has been committed. The fingerprints and photograph of a missing or escaped child may also be sent to the Department of Public Safety and the Federal Bureau of Investigation to aid in finding the child.

HOUSE BILL 538 **HOUSE AUTHOR:** Richardson
EFFECTIVE: see below **SENATE SPONSOR:** Sims

The Family Code is amended to allow the law enforcement files and records of a child to be transferred to and disseminated by the Texas Criminal Information Center and the National Crime Information Center if the child has been reported as missing by a parent, guardian, or conservator or has escaped from a juvenile detention facility, the Texas Youth Commission, or any other agency to which the child has been committed. It also provides that the fingerprints and photographs of these children may be sent to and indexed into the files of the Department of Public Safety and the Federal Bureau of Investigation to aid in finding the child.

House Bill 538 also adds new provisions to the Education Code establishing guidelines for voluntary missing child prevention and identification programs in which public schools and nonpublic schools may participate. Certain provisions of this act take effect on August 31, 1987; others take effect on September 1, 1987.

HOUSE BILL 1630 **HOUSE AUTHOR:** Collazo
EFFECTIVE: 6-19-87 **SENATE SPONSOR:** Parker

House Bill 1630 amends the Human Resources Code to give the Department of Public Safety authority to accept donations for the missing children and missing persons information clearinghouse.

Parent—Child

HOUSE BILL 128 **HOUSE AUTHOR:** P. Moreno
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Santiesteban

House Bill 128 provides that the court having jurisdiction may waive the making and filing of a pre-adoption report normally required before placing a child for adoption if the child's biological parents cannot be found and, because of this, there is not sufficient information available to compile a report.

HOUSE BILL 144 **HOUSE AUTHOR:** Hackney
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Caperton

House Bill 144 amends the Family Code to allow judges to modify orders or decrees involving parent custody, child support, or visitation of children if the circumstances in the case have substantially changed since the date a decision was rendered by the court rather than when the order was signed by the judge and physically entered on the judgment docket by the court clerk. Similarly, when a motion for a change of managing conservator is filed within one year after the date of rendition of the order or decree that designated the conservator, rather than the date of issuance, a supporting affidavit must accompany the motion.

The act also declares that a notice of assignment of right to support filed under provisions of the Human Resources Code does not constitute a modification of an order to pay child support.

HOUSE BILL 614 **HOUSE AUTHOR:** Hinojosa
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Caperton

House Bill 614 requires a court to consider evidence of the intentional use of abusive physical force by a parent against his or her spouse or against a child committed within a two-year period preceding the filing of a petition for divorce or annulment or during the pendency of a suit in determining which parent to appoint as managing conservator of the child. The act further provides that the court shall appoint one parent as the managing conservator or both of the parents as joint managing conservators unless the appointment would not be in the best interest of the child because it would physically impair the child's physical health or emotional development.

HOUSE BILL 617 **HOUSE AUTHOR:** C. Evans
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Caperton

House Bill 617 amends numerous provisions of the Family Code relating to the appointment, rights, privileges, duties, and powers of sole and joint managing conservators. Parents may be appointed joint managing conservators if it is in the best interest of the child. A grandparent or other person may seek managing conservatorship of a child if the child's current environment presents a serious and immediate question concerning the child's welfare. The act also provides that the court may charge attorney's fees as costs against an offending party who files a frivolous motion to modify an order of joint conservatorship.

HOUSE BILL 2291 **HOUSE AUTHOR:** Garcia
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Caperton

This act provides that a petition filed by the Texas Department of Human Services requesting the involuntary termination of parental rights may be granted if the court finds that the parent has a mental or emotional illness that would render him unable to care for the child to the age of 18, that the department has been the permanent managing conservator of the child for the preceding six months, and that the termination is in the best interest of the child. It also makes provisions for the appointment of an attorney ad litem to represent the parent and for a hearing to be held on the issue.

HOUSE BILL 2328 **HOUSE AUTHOR:** C. Harris
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Armbrister

House Bill 2328 amends existing law to allow the court to grant reasonable access to a biologic or adoptive grandparent in a suit affecting the parent-child relationship. The section of the Family Code relating to possession of or access to a child does not apply if the grandparent is the parent of a person whose parental rights have been terminated by court order or death and the child has been adopted by a person other than the spouse of the former spouse of the parent whose rights have been terminated.

SENATE BILL 531 **SENATE AUTHOR:** Armbrister
EFFECTIVE: 8-31-87 **HOUSE SPONSOR:** C. Harris

Senate Bill 531 requires the court to give precedence to a final hearing in a suit brought by a governmental entity or authorized agency seeking termination of parental rights or the rights of an alleged father over other civil cases if the termination is being sought to free the child for adoption and discovery has been completed or enough time has elapsed for it to have been completed had discovery been diligently pursued. It also provides that, in a suit affecting the parent-child relationship, the court may give precedence to setting a final hearing for the case over other civil cases if it finds that the delay of ordinary scheduling practices would unreasonably affect the best interest of the child.

SENATE BILL 632 **SENATE AUTHOR:** Farabee
EFFECTIVE: 6-20-87 **HOUSE SPONSOR:** Perez

This act requires a mother, alleged father, and child to submit to blood testing of seven independent genetic systems and additional testing, if necessary, to establish paternity. The testing must be extensive enough to exclude 95 percent of the male population from the possibility of being the child's father. If the tests yield such results, the alleged father has the burden of proving that he is not the father of the child. Additional testing may not be required if the testing has shown that the man did not father the child or if the costs of the testing have reached the greatest amount that can be reasonably borne by one or more parties to the suit. The act also establishes venue for such suits.

SENATE BILL 652 **SENATE AUTHOR:** Glasgow
EFFECTIVE: 9-1-87 **HOUSE SPONSOR:** Eckels

Senate Bill 652 amends the Family Code to exclude a child's mother from the persons who may execute an affidavit disclaiming interest in a child and waiving notice or the service of citation in any suit filed that affects the parent-child relationship.

SENATE BILL 654 **SENATE AUTHOR:** Glasgow
EFFECTIVE: 9-1-87 **HOUSE SPONSOR:** Eckels

This act grants to a person or authorized agency, named managing conservator in an irrevocable or unrevoked affidavit of relinquishment of parental rights, the right to possession of the child superior to the right of the person executing the affidavit and the right to consent to the medical and surgical treatment of the child.

SENATE BILL 656 **SENATE AUTHOR:** Glasgow
EFFECTIVE: 9-1-87 **HOUSE SPONSOR:** Eckels

This act provides that a petition for the adoption of a child by a person other than the child's stepparent, grandparent, aunt, or uncle by birth, marriage, or prior adoption will not be granted until a copy of the health, social, educational, and genetic history report signed by the adoptive parents has been filed in the record of the suit and, if required, a certificate has been obtained from the Texas Department of Human Services acknowledging receipt of the report and a copy of the report summary. The act further states that the validity of an adoption decree is not subject to attack because of a failure to include these documents in the record of the suit.

SENATE BILL 1002 **SENATE AUTHOR:** Zaffirini
EFFECTIVE: 9-1-87 **HOUSE SPONSOR:** Madla

This act delineates who may consent to the immunization of a minor when it is required for admission to a day care center or school. The person giving consent must indicate that he has received information on the benefits and adverse effects of the immunizations on forms provided by the Texas Department of Health.

SENATE BILL 1123 **SENATE AUTHOR:** Armbrister
EFFECTIVE: 6-19-87 **HOUSE SPONSOR:** Toomey

Senate Bill 1123 amends many provisions of the Family Code relating to paternity and the voluntary legitimation of a child. The act details the information regarding an alleged father that must be included on a petition in a suit affecting the parent-child relationship, describes when an alleged father is entitled to service of citation, entitles either party in a suit to deny the alleged father's paternity and puts the burden of rebutting the allegation on that party, and declares any temporary orders valid and enforceable unless superceded by a final decree finding nonpaternity. It further provides that a suit to establish paternity or a suit to terminate parental rights may be brought before the birth of the child and states that, if a man fails to appear and defaults or if he admits the allegation of paternity, the blood test requirement is waived. The court, in a voluntary legitimation suit, may find a man to be the father of an illegitimate child without the consent of the mother, if the man executed a statement of paternity that is found to be true by the court. On a finding of paternity, the court may order retroactive support to be paid to the mother for a portion of prenatal and postnatal costs she incurred. Senate Bill 1123 also prohibits the filing of a paternity suit when a court has already rendered a final judgment establishing paternity, terminating the parent-child relationship between the child and each living parent of the child, or has granted a petition for adoption of the child. In addition, it details under what circumstances the rights of an alleged father may be terminated.

HOUSE BILL 167 (2nd C.S.) **HOUSE AUTHOR:** C. Harris
EFFECTIVE: 11-1-87 **SENATE SPONSOR:** Farabee

House Bill 167 revised provisions of the Family Code relating to the enforcement of child support orders or orders seeking possession of or access to a child. Violations of temporary restraining orders or injunctions are made punishable by contempt. A person who fails to appear for a hearing is subject to arrest by the issuance of a capias, which is treated in a manner similar to a misdemeanor arrest warrant and may be entered in a local police computer. The court, to ensure the person's appearance at the contempt hearing, may release the individual on bond. If the person remains in custody, the hearing is to take place within five days of arrest unless waived by the person. An indigent person facing possible imprisonment for nonpayment of support is entitled to the services of a court-appointed attorney.

The Supreme Court of Texas is required to establish an advisory committee to adopt guidelines for courts to follow in determining the amount of child support to be ordered. The court may also establish an advisory committee to aid the trial courts of the state in determining the times and conditions for possession of or access to a child.

The act allows courts to modify child support orders to extend support past the 18th birthday of a child who is still in high school. It further states the procedure for the enforcement of a permanent order for child support or possession of or access to a child when enforcement is being sought by a motion for contempt. The act also requires a person found guilty of a failure to pay child support to pay the attorney's fees of the party bringing suit in addition to all court costs and other amounts past due. Finally, the financial inability to pay child support is now considered to be an affirmative defense and is no longer an element of the offense of criminal nonsupport.

See also House Bill 365 and House Bill 368 in the probate chapter.

Miscellaneous

HOUSE BILL 201 **HOUSE AUTHOR:** A. Smith
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Edwards

This amendatory act exempts persons serving, in suits affecting the parent-child relationship brought by a governmental entity, as court-appointed volunteer advocates or as members of an administrative review board from civil liability for their actions while serving in this capacity unless the act or failure to act is wilfully wrongful or grossly negligent.

SENATE BILL 1138 **SENATE AUTHOR:** Caperton
EFFECTIVE: 9-1-87 **HOUSE SPONSOR:** Hackney

Senate Bill 1138 makes a number of nonsubstantive corrections to the Family Code, eliminating grammatical inconsistencies, the duplication of provisions, and inconsistent usage of slightly different terms intended to have the same meaning.

HOUSE BILL 123 (2nd C.S.) **HOUSE AUTHOR:** C. Harris
EFFECTIVE: 8-3-87 **SENATE SPONSOR:** Green

The Family Code is amended to provide that certain family law masters may reside anywhere within the administrative judicial region in which the court to which the master is appointed is located. Other provisions of this act are summarized in the chapter on courts.

HOUSE BILL 166 (2nd C.S.) **HOUSE AUTHOR:** C. Harris
EFFECTIVE: 11-1-87 **SENATE SPONSOR:** Farabee

House Bill 166 amends the Family Code to bring it into conformity with the Revised Uniform Reciprocal Enforcement of Support Act as amended in 1968.

GOVERNMENT—CITY

This chapter describes legislation concerning city government, except for legislation applicable also to other levels of government, which is placed in the chapter on general government, and legislation applicable to city personnel, which is placed in the chapter on public officials and employees. Among the legislation passed by the 70th Legislature were acts placing restrictions on annexation powers (Senate Bill 962), empowering cities to contract with a private vendor for the operation of a jail (House Bill 80, 2nd Called Session), and lifting residency restrictions on most municipal employees (House Bill 824).

Incorporation and Annexation

This section includes relevant validating acts.

SENATE BILL 962 — **SENATE AUTHOR:** Barrientos
EFFECTIVE: 9-1-87 — **HOUSE SPONSOR:** Saunders

Senate Bill 962 revises the annexation authority of municipalities. Certain limitations are imposed on the permissible size and location of proposed annexations. If authorized by its charter, a home-rule city is empowered to make limited-purpose annexations, but the city is required to give notice and hold two public hearings prior to instituting annexation proceedings. Under this act, a city must prepare, and the city's governing body must approve, a plan of services and regulatory requirements, which must then be attached to the ordinance annexing the territory for limited purposes. The act also sets a three-year expiration date for limited-purpose annexations and requires the city in question to fully annex the area within 90 days of the expiration date. The act prohibits certain strip annexations and includes a provision for the automatic disannexation of territory that any city fails to annex for full purposes by September 1, 1988.

A procedure for creation of political subdivisions providing utilities and other services within a city's extraterritorial jurisdiction is outlined, including provision for appeal to the courts in disputed cases. Various limitations are imposed on a city's power to annex such subdivisions, and the subdivision is authorized to issue bonds for construction and maintenance of roadways.

A procedure by which a political subdivision may contract with a city for provision of utilities and other services is detailed, and a process of appeal to the Texas Water Commission and to the courts is provided. Only legally subdivided tracts may be connected to a district's water or wastewater system after the effective date of the act.

SENATE BILL 395 — **SENATE AUTHOR:** Barrientos
EFFECTIVE: 6-19-87 — **HOUSE SPONSOR:** T. Smith

Senate Bill 395 amends existing law relating to the power of certain general-law cities to annex portions of water or sewer districts unilaterally. The act permits a city incorporated after 1983 that is, after incorporation of the district, incorporated over all or any portion of the district to annex the district's territory located outside the city without the consent of the inhabitants or property owners of the territory.

SENATE BILL 785 — **SENATE AUTHOR:** Glasgow
EFFECTIVE: 8-31-87 — **HOUSE SPONSOR:** Parker

Senate Bill 785 validates annexations by home-rule municipalities accomplished or attempted before March 1, 1987, including annexations of territory not contiguous to the municipalities. The act does not validate a municipality's annexation of territory in the extraterritorial jurisdiction of another municipality without the consent of that municipality. The act is inapplicable to certain matters that have been or currently are before the courts.

SENATE BILL 1174 — **SENATE AUTHOR:** Parmer
EFFECTIVE: 5-20-87 — **HOUSE SPONSOR:** C. Harris

Senate Bill 1174 validates all governmental acts of a municipality regarding the adoption of a home-rule charter and all governmental acts of the municipality since adoption or attempted adoption of the charter. The act validates the incorporation proceedings of all cities that incorporated or attempted to incorporate under the General Laws of Texas and that have functioned or attempted to function as incorporated cities, and validates all governmental proceedings of such city since the incorporation or attempted incorporation. The act also

validates the governmental acts of a city relating to annexation or attempted annexation of adjacent territory by the city prior to March 1, 1987, but exempts certain types of annexation, as well as governmental acts relating to the creation and operation of a tax increment financing zone. The act is inapplicable to certain matters that have been or currently are in court.

HOUSE BILL 1349 **HOUSE AUTHOR:** Russell
EFFECTIVE: 6-19-87 **SENATE SPONSOR:** Anderson

House Bill 1349 details the procedure by which a municipality that has ceased to have any residents may be abolished. Under this act, after the 120th day from the date that a municipality ceases to have any residents, the owners of a majority of the land within the municipality may file a petition for the abolition of the municipality with a district court of the county in which all or a majority of the land in the municipality is located. The act requires the district judge of the court to hold a hearing on the petition within 60 days of the date the petition is filed and to give prior notice of the hearing. The act also requires the district to issue an abolition order within 10 days of finding that a petition is valid and to give notice of the abolition to the affected county commissioners court.

Public Improvements and Economic Development

SENATE BILL 482 **SENATE AUTHOR:** Johnson
EFFECTIVE: 8-31-87 **HOUSE SPONSOR:** Blair

Senate Bill 482 amends the Civil Practice and Remedies Code by expressly stating that no home-rule charter, general law, or this amendment itself may be construed to prevent a home-rule municipality with 900,000 or more inhabitants from adopting a program designed to increase participation by minority businesses in public contract awards. The act requires qualified independent determination of the extent to which minority business enterprises are available to receive awards in a city that establishes a goal of awarding a certain percentage of its public contracts to minority business enterprises. The act also requires that the governing body of the city outline acceptable assistance that may be provided by contractors or others to minority business enterprises to achieve the purposes of the program. Under this act, a home-rule charter or general law that requires competitive bidding and the award of public contracts to the lowest responsible bidders is not affected, but all prospective bidders may be required to meet uniform standards designed to ensure a reasonable degree of participation by minority business enterprises. This act expires on January 1, 1999.

SENATE BILL 1532 **SENATE AUTHOR:** Jones
EFFECTIVE: 9-1-87 **HOUSE SPONSOR:** Wallace

Senate Bill 1532 amends existing law by restricting the use of local hotel occupancy tax revenue to the promotion of tourism and the convention and hotel industry. The act specifically prohibits the use of such revenue for general revenue purposes or general governmental operations of a city.

HOUSE BILL 1551 **HOUSE AUTHOR:** Agnich
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Harris

House Bill 1551 amends existing law relating to the hotel occupancy tax by raising to seven percent (from the earlier five percent) the maximum amount of tax that a city may levy by ordinance on the consideration paid by an occupant of a sleeping room. The act requires that in a city that levies a tax in excess of four percent, no more than 55 percent (down from 65 percent) of the percentage of the tax in excess of four percent may be reserved solely for work on or pledges of payment of bonds issued for the Convention Center Complex, and at least 45 percent (up from 35 percent) must be used for advertising, conducting solicitation programs, and promoting tourism.

HOUSE BILL 2011 **HOUSE AUTHOR:** Carter
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Leedom

House Bill 2011 amends the Public Improvement District Assessment Act by allowing a city to undertake an improvement project in its extraterritorial jurisdiction if the governing body determines that the project is in the city's interest. The list of allowable public improvement projects is expanded to include streets and roads, water, wastewater, and drainage facilities, libraries, and mass transportation facilities; two or more types of improvement may be financed as a single improvement project. The act also extends the hearing notice

requirement to a newspaper published in the extraterritorial jurisdiction, specifies the order of liens against property to collect assessments and provides enforcement therefor, and permits the addition of costs incurred in the issuance of bonds to those apportioned by the city's governing body. The minimum percentage of the cost of improvements required to be paid by special assessments is raised from 10 percent to 20 percent. The act confirms the validity of petitions filed and accepted prior to the act's effective date but holds the actions of cities establishing improvement districts and undertaking improvement projects subject to law in effect at the time the actions were taken.

HOUSE BILL 2269 **HOUSE AUTHOR:** A. Luna
EFFECTIVE: 6-19-87 **SENATE SPONSOR:** Washington

Under current law, any municipality may implement a community development program on adoption of an enacting ordinance or resolution. House Bill 2269 inserts into a list of activities that may be included in such a program energy-conservation projects, renovation of closed school buildings, grants to certain nonprofit organizations for purposes of developing shared housing opportunities for the elderly, assistance to private entities when necessary or appropriate to carry out an economic development project, and the rehabilitation or development of housing assisted under the United States Housing Act of 1937.

HOUSE BILL 2297 **HOUSE AUTHOR:** Seidlits
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Uribe

The Texas Tax Increment Financing Act authorizes cities to designate reinvestment zones, issue tax increment bonds, and provide tax increment financing for the development or redevelopment of blighted areas or federally assisted new communities. (Such redevelopment zones are different from the ones authorized by the Property Redevelopment and Tax Abatement Act, referred to in the summary for Senate Bill 1225, in the chapter on Property Taxation.) House Bill 2297, relating to the annual report on the status of a zone that the city must provide to each affected taxing unit, changes the deadline for that report from July 1 to the 90th day following the end of the city's fiscal year.

HOUSE BILL 126 (2nd C.S.) **HOUSE AUTHOR:** Wright
EFFECTIVE: 10-20-87 **SENATE SPONSOR:** Brown

House Bill 126 amends the Texas Tax Increment Financing Act by exempting from any law or charter provision to the contrary a city's power to acquire and sell land, provided that the city makes financial information available on request.

SENATE BILL 40 (2nd C.S.) **SENATE AUTHOR:** Brooks
EFFECTIVE: 10-20-87 **HOUSE SPONSOR:** Hury

Senate Bill 40 amends existing law by permitting the levy of a maintenance and operation tax, not to exceed 10 cents per $100 assessed valuation, for the operation of the ports and harbors of cities on the coast of the Gulf of Mexico with 5,000 or more inhabitants. The tax may be levied only on approval by a majority of voters at an election called for this purpose. As well as empowering cities to adopt budgets for the operation of ports and harbors, the act requires that certain contracts involving the expenditure of $10,000 or more (raised from an earlier minimum of $5,000) be awarded only after competitive bidding.

Airports

SENATE BILL 1417 **SENATE AUTHOR:** McFarland
EFFECTIVE: 8-31-87 **HOUSE SPONSOR:** C. Evans

Senate Bill 1417 authorizes a joint board created under certain provisions of the Municipal Airports Act to appoint a committee from its members to review change orders to its public works contracts. At the joint board's discretion, the committee may have general authority to review and approve change orders of $100,000 or less and may authorize commencement of work under those change orders. The act stipulates that all committee-approved change orders in excess of $15,000 must be submitted to the joint board for review.

SENATE BILL 50 (2nd C.S.) **SENATE AUTHOR:** Henderson
EFFECTIVE: 8-3-87 **HOUSE SPONSOR:** A. Smith

Senate Bill 50 amends the Municipal Airports Act by adding a 40-year restriction on the term of a lease of real property that is used as nonaeronautical property and is located on an airport on which there are active

federal government aircraft operations on federal government property. Leases may be renewed for additional 40-year periods.

Buildings and Housing

HOUSE BILL 1387 **HOUSE AUTHOR:** Madla
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Zaffirini

House Bill 1387 amends the Housing Authorities Law by permitting authorities to participate in federal programs for the purchase of equipment, supplies, and certain services, including the U.S. Department of Housing and Urban Development's consolidated supply program. The act exempts authorities from applicable state laws to the extent necessary to allow this. The act requires that an authority provide, on request, any Texas vendor with the current cost published by the federal program and allow the vendor to bid on those items it believes it can provide at the same or lower delivered cost if the vendor can demonstrate that the items match the quality and specifications of those offered through the federal program.

HOUSE BILL 1964 **HOUSE AUTHOR:** A. Moreno
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Tejeda

House Bill 1964 amends the Housing Authorities Law by requiring an authority to comply with applicable state laws regarding the execution of a contractor's performance and payment bonds. Under this act, an authority authorized to do so by a federal program or regulation may waive the performance and payment bonds and accept in lieu of the bonds an unconditional and irrevocable letter of credit in the amount of the contract price.

SENATE BILL 481 **SENATE AUTHOR:** Johnson
EFFECTIVE: 8-31-87 **HOUSE SPONSOR:** Blair

Senate Bill 481 amends existing law relating to the repair or removal of substandard buildings in a home-rule municipality with a population of 700,000 or more. Under this act, a city may either repair a building at its own expense and assess the expenses on the land on which the building stands or else assess a civil penalty against the property owner for failure to repair or remove the building. The act stipulates that city-financed repair of a building may be made only to the extent necessary to bring it into compliance with minimum building standards and only if it is a residential building with 10 or fewer dwelling units. The act also sets restrictions on the city's lien to secure payment of a civil penalty or the costs of repairs or removal of the building. It also sets an annual interest rate of 10 percent on penalties and assessments and prohibits the transfer of a city's right to an assessment lien to a third party. Moreover, a lien acquired under this act by any city or town may not be foreclosed if the property in question is the residential homestead of a person 65 years of age or older. In any judicial proceeding regarding enforcement of city rights, the prevailing party is entitled to recover reasonable attorney's fees from the nonprevailing party.

Subdivisions and Developers

SENATE BILL 408 **SENATE AUTHOR:** Uribe
EFFECTIVE: 9-1-87 **HOUSE SPONSOR:** A. Moreno

Senate Bill 408 amends existing law relating to plat requirements, regulations, and utility services applicable to a subdivision of land for which a plat must be filed with a city government. A city is authorized to classify affected subdivisions and need not impose the same requirements on all classifications. The city is required to issue a certificate upon approval of a subdivision plan and to disclose information to landowners and other interested parties regarding whether a plan is required or has been prepared. Utility service to an affected subdivision is prohibited until a certificate has been issued. The city attorney or representative is authorized to seek an injunction against threatened violations and to recover damages in certain circumstances. The governing body of a city is authorized to extend the application of its rules governing plats and subdivision of land throughout its extraterritorial jurisdiction.

The conditions under which an amending plat may be issued to an applicant without a public notice and hearing are extended to include certain amendments involving six or fewer lots. The prohibition of utility service to uncertified subdivisions supersedes the authorization to provide services under a certificate of public convenience and necessity.

Subdivision regulation in counties that border the Rio Grande River is made to extend to all areas within five miles of the city and is not limited to the city's extraterritorial jurisdiction.

HOUSE BILL 1121 **HOUSE AUTHOR:** Roberts
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Armbrister

House Bill 1121 amends existing law pertaining to the authority of certain cities to make improvements to their water and sewer systems and to levy assessments for those improvements. The act expands the definition of "city" in this context to include any incorporated city, town, or village that is located in a county in which at least 60 percent of the total area is regularly covered by water and in which is located the majority of the total area of a wildlife refuge for species on the federal endangered-species list. The act also limits the authority of a city to provide for construction of improvements to improvements that benefit property that is subdivided on or after the act's effective date and for which a subdivision plat is prepared in accordance with law. Under this act, a property owner reserves the right to elect not to connect the property to the city sanitary system if the property is serviced by a septic tank prior to the act's effective date.

HOUSE BILL 1728 **HOUSE AUTHOR:** Harrison
EFFECTIVE: 6-19-87 **SENATE SPONSOR:** Sims

House Bill 1728 authorizes a city to require, as a condition of its approval of plans for a development, that the development's owner provide sufficient surety to guarantee that claims against the development, in the event of default, are satisfied. The act does not preclude claimants from seeking recovery by other means.

HOUSE BILL 1889 **HOUSE AUTHOR:** Arnold
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Johnson

House Bill 1889 amends the Bond and Warrant Law of 1931 by including developer participation contracts among the exceptions to the requirement that certain cities submit proposed contracts to competitive sealed bidding. Under a developer participation contract, a city with a population of 50,000 or more agrees to pay a part of the construction costs of public improvements, excluding buildings, related to a subdivision development and the developer agrees to construct the improvements. The act sets limits on a city's participation in the total contract price and requires the developer to provide a performance bond and to make pertinent books and records available for inspection by the city.

Contracting and Purchasing

Besides the bills below, see also House Bill 1889 in the preceding section, House Bill 1927 in the next section, and House Bill 665 in the business and occupational regulation chapter.

HOUSE BILL 80 (2nd C.S.) **HOUSE AUTHOR:** Lucio
EFFECTIVE: 8-3-87 **SENATE SPONSOR:** McFarland

House Bill 80 amends existing law by empowering the governing body of a city to contract with a private vendor or a county to finance, design, build, or generally operate a jail facility. The act outlines the conditions of such a contract, denies to a private vendor operating under contract any claim to sovereign immunity in a suit, and establishes a 500-inmate limit on the size of any facility begun after the act's effective date. The act prohibits the conversion of existing municipal jails into facilities operated by private vendors and the establishment of a jail within one-half mile of a public school, institution of higher education, or place of worship.

SENATE BILL 436 **SENATE AUTHOR:** Uribe
EFFECTIVE: 5-14-87 **HOUSE SPONSOR:** Warner

Senate Bill 436 amends the Water Code by authorizing eligible cities to enter into privatization contracts regarding sewage treatment or disposal services upon recommendation by the board of utility trustees and authorization by the governing body of the city. The act validates existing privatization contracts. Under this act, each city is required to file a copy of its privatization contract with the Texas Water Commission. The act also specifically limits the definition of a service provider.

HOUSE BILL 2035 **HOUSE AUTHOR:** Hinojosa
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Uribe

House Bill 2035 amends the Water Code by allowing a certain range of agreements between a municipality and a retail public utility that provides water or sewer service to all or part of an area that has been incorporated or annexed by the municipality. A 180-day deadline is set for the execution of any such agreement, after which the municipality may apply for single certification to provide water or sewer service to the area. The act requires a determination of the value of, and monetary compensation for, property rendered useless to a retail public utility in the event of a grant of single certification to a municipality; standards set forth in the Property Code are cited for purposes of determining the value of property and establishing the amount of compensation to be paid. An aggrieved party is granted the right to appeal a decision in the district court of Travis County and the right to seek compensation for damages sustained if a decision is reversed, and a municipality or its franchised utility is granted the right to dismiss an application for single certification without prejudice under certain conditions.

HOUSE BILL 2098 **HOUSE AUTHOR:** A. Luna
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Green

House Bill 2098 amends the Bond and Warrant Law of 1931 by permitting cities with a population of fewer than 50,000 to make certain purchases in excess of stated amounts by the competitive sealed proposal method of purchasing.

Vehicle Regulation

HOUSE BILL 1927 **HOUSE AUTHOR:** Heflin
EFFECTIVE: 6-17-87 **SENATE SPONSOR:** Brown

House Bill 1927 amends existing law by allowing all home-rule cities with a population of 380,000 or more to contract with certain counties and state agencies to enforce arrest warrants for traffic offenses. Before this amendment, the home-rule city was required to have a council-manager form of government.

SENATE BILL 243 **SENATE AUTHOR:** Leedom
EFFECTIVE: 9-1-87 **HOUSE SPONSOR:** P. Hill

Senate Bill 243 allows the governing body of an incorporated city, town, or village to adopt by ordinance a fee, not to exceed the lesser of incurred costs or $10, to be imposed by a municipal court when state law requires dismissal of a citation after the successful completion of a defensive driving class.

SENATE BILL 564 **SENATE AUTHOR:** Whitmire
EFFECTIVE: 8-31-87 **HOUSE SPONSOR:** A. Luna

Senate Bill 564 empowers municipalities to license, control, and regulate by ordinance passenger taxicab transportation services operating within the municipality's jurisdiction or on its property or property of interest.

SENATE BILL 919 **SENATE AUTHOR:** Tejeda
EFFECTIVE: 9-1-87 **HOUSE SPONSOR:** Pierce

Senate Bill 919 amends existing law by authorizing a municipality with a population in excess of 200,000 to provide for administrative adjudication of violations of city ordinances relating to parking and stopping of vehicles. Under this act, a municipality may declare the violation of such ordinances to be civil offenses and prescribe civil fines. The act establishes guidelines for the ordinances and empowers municipal courts to enforce orders compelling the attendance of witnesses and the production of documents. Also set forth in this act are a presumption of ownership of vehicles parked or stopped in violation of an ordinance, a requirement that a citation or summons provide information as to the time and place of an administrative adjudication hearing, the duties of hearing officers, and the right of a violator to appeal to a municipal court. Applicable civil penalties are established.

Cemeteries

HOUSE BILL 874 **HOUSE AUTHOR:** J. Harris
EFFECTIVE: 6-11-87 **SENATE SPONSOR:** Brown

House Bill 874 amends existing law pertaining to the establishment of cemeteries within or near cities. The act establishes requirements that must be met to establish a cemetery in or near certain cities located in counties bordering the Gulf of Mexico and having fewer than 200,000 inhabitants. A written application for authorization to establish a cemetery must be made to the governing bodies of the affected cities.

HOUSE BILL 1006 **HOUSE AUTHOR:** Arnold
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Johnson

House Bill 1006 amends existing law by authorizing the governing body of a city to appoint a perpetual care cemetery advisory board to advise the city on matters concerning standards of operation and maintenance of perpetual care cemeteries within the city limits. The act applies to a city having a population of fewer than 100,000, and whose corporate area lies in more than one county and 80 percent or more of whose boundaries are contiguous with one or more other cities. The act expires on January 1, 1989.

HOUSE BILL 130 (2nd C.S.) **HOUSE AUTHOR:** Pierce
EFFECTIVE: 10-20-87 **SENATE SPONSOR:** Tejeda

House Bill 130 amends existing law by permitting the relocation of cemeteries in cities with 750,000 or more inhabitants, provided that the relocation has prior approval of the city's governing body and that the new location of the cemetery does not comprise an area greater than that of the previous location.

Miscellaneous

HOUSE BILL 514 **HOUSE AUTHOR:** Craddick
EFFECTIVE: 6-11-87 **SENATE SPONSOR:** Sims

House Bill 514 provides clarification of the application of state statutes governing corporations to municipalities, specifically exempting an incorporated city, town, or village unless the statute in question expressly uses certain terms.

HOUSE BILL 689 **HOUSE AUTHOR:** P. Hill
EFFECTIVE: 5-25-87 **SENATE SPONSOR:** Harris

Under current law, the governing body of a municipality is authorized, under certain circumstances, to receive applications for the custody of city funds from only banking corporations, associations, or individuals doing business in the city. House Bill 689 authorizes a general-law city with a population of more than 20,000 to consider applications from any applicant in the county in which the city is located or an adjacent county.

HOUSE BILL 783 **HOUSE AUTHOR:** Gavin
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Farabee

House Bill 783 amends existing law by authorizing the city manager of Wichita Falls to appoint a clerk of the municipal courts of record and one or more official court reporters for each court as the volume of court business requires. Under House Bill 783, in a case where neither the defendant, the prosecutor, nor the judge demands the presence of a court reporter, a statement of facts may be prepared from mechanical, audio, or video recordings of the proceedings.

HOUSE BILL 824 **HOUSE AUTHOR:** Barton
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Parker

House Bill 824 prohibits the requirement by municipalities that municipal employees live within the city limits. The act does not affect residency requirements for candidates for or holders of municipal offices, nor does it apply to municipal department heads appointed by the mayor or governing body of a city. The act does permit municipalities to require residency within the United States as a condition of employment and to prescribe reasonable but nonretroactive standards with respect to the time within which municipal employees residing outside city limits must respond to a civil emergency.

HOUSE BILL 1384 **HOUSE AUTHOR:** Uher
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Caperton

House Bill 1384 amends the Hospital Authority Act by authorizing the governing body of a city to dissolve by ordinance a hospital authority created by that city. The act stipulates that such an ordinance takes effect 30 days after its adoption, during which time the dissolution may be forestalled by the filing of a petition requesting a referendum. In this event, the city must order an election on the question of the dissolution. A city may not dissolve a hospital authority unless provision for sale or transfer of the authority's assets and liabilities has been made. A dissolution may not contravene a pertinent trust indenture or bond resolution and does not impair the rights of holders of outstanding bonds, warrants, or other obligations.

HOUSE BILL 1675 **HOUSE AUTHOR:** Hury
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Armbrister

House Bill 1675 requires that a nonbinding referendum held by a home-rule city as a result of petition by the voters be held on the date of an election called on another question or for the election of municipal officers. The act specifies exceptions to this requirement, including a referendum expressly authorized by the state constitution or a statute, and the act applies only to a referendum for which a petition was filed on or after the act's effective date.

SENATE BILL 1183 **SENATE AUTHOR:** Brown
EFFECTIVE: 8-31-87 **HOUSE SPONSOR:** Wright

Under current law, land owned by a political subdivision of the state may not be sold without giving notice to the general public, including a description of the land and procedures under which sealed bids will be accepted. Exceptions include the sale of narrow unusable strips of land, streets and alleys, easements, and land to be developed with a private foundation. This act adds certain types of land owned by a city in a designated reinvestment zone to the list of exceptions.

SENATE BILL 1395 **SENATE AUTHOR:** Parmer
EFFECTIVE: 8-31-87 **HOUSE SPONSOR:** Millsap

Senate Bill 1395 amends existing law to allow a city official designated by the mayor to file a statement with the county clerk that reflects costs expended by the city for certain nuisance abatement.

SENATE JOINT RESOLUTION 26 **SENATE AUTHOR:** Montford
FOR ELECTION: 11-3-87 **HOUSE SPONSOR:** Toomey

Senate Joint Resolution 26 proposes the amendment of Article XI of the Texas Constitution by addition of a section granting the legislature power to define by law for all purposes those functions of a municipality that are to be considered governmental and those that are proprietary. The proposed amendment is to be submitted to voters at an election held on November 3, 1987. See also Senate Bill 5, 1st Called Session, in the chapter on civil remedies and procedures.

GOVERNMENT—COUNTY

This chapter describes legislation concerning county government, including those laws applicable generally to all counties in the state as well as statutes applicable selectively to certain counties. Additionally, the chapter contains two proposed constitutional amendments, House Joint Resolution 83, which affects a county's authority to perform work without compensation, and House Joint Resolution 35, which abolishes the office of county treasurer in certain counties. Also included in the chapter are laws affecting various county officers and laws pertaining to certain court fees that may be authorized by a county's commissioners court. Legislation affecting other levels of government as well as county government is discussed in the chapter on general government.

Officials and Employees

SENATE BILL 355 **SENATE AUTHOR:** Parmer
EFFECTIVE: 8-31-87 **HOUSE SPONSOR:** Stiles

Under prior law, a county auditor's annual salary could not exceed that of the county's assessor-collector of taxes. This act provides that the county auditor's salary may not exceed the compensation and allowances received by the highest paid elected county officer, other than a judge of a statutory county court.

Additionally, the act removes a former two-year residency requirement for county auditors and deletes a provision that previously allowed district judges to appoint a citizen from another county as county auditor if no qualified county resident could be procured for the position. It further requires that county auditors, during each term of office, successfully complete a minimum of 40 classroom hours of instruction relating to their duties.

Counties having a population of more than 125,000 may employ a county purchasing agent who serves at the pleasure and under the supervision of the commissioners court. A county may abolish this position at any time.

SENATE BILL 507 **SENATE AUTHOR:** Leedom
EFFECTIVE: 5-7-87 **HOUSE SPONSOR:** Shea

Under prior law, a county clerk was required to obtain a bond before entering on his duties of office. This act amends the law to permit a county to self-insure against losses that would have been covered by such a bond. The commissioners court of a county may establish a contingency fund to provide for such coverage if it is determined by the clerk that insurance coverage is unavailable at a reasonable cost. To provide revenue for the fund, the commissioners court may set a filing fee, not to exceed $5 in court suits.

SENATE BILL 914 **SENATE AUTHOR:** Green
EFFECTIVE: 5-27-87 **HOUSE SPONSOR:** Eckels

Under prior law, a county auditor in a county with a population of 2,000,000 or more was elected by a two-thirds majority of the district judges eligible to attend a meeting for that purpose. This act amends the law to require that the county auditor may be elected by a two-thirds majority of district judges present and voting at such a meeting.

HOUSE BILL 386 **HOUSE AUTHOR:** T. Smith
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Green

This amendatory act provides that a constable expressly authorized by statute to perform an act or service may do so anywhere in the county in which the constable's precinct is located. A constable may serve civil process in his county or in a contiguous county, but may not serve process related to any suit in which he has an interest.

HOUSE BILL 558 **HOUSE AUTHOR:** Williamson
EFFECTIVE: 1-1-88 **SENATE SPONSOR:** Brooks

This amendatory act requires that all county or district clerks must complete 20 hours of instruction regarding their duties within the first two years of holding such an office. Twenty hours of continuing education regarding these duties are also required at least once during each 24-month period.

HOUSE BILL 652 **HOUSE AUTHOR:** Robinson
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Montford

House Bill 652 amends procedures regarding the hiring of a county librarian for a county library. Under prior law, county librarians were appointed to office by the commissioners court for a term of two years and were required to file a bond with the county clerk. This act authorizes the commissioners court to employ county librarians to serve at the pleasure of the court, and a bond is required only at the court's discretion. The county librarian is authorized to appoint and dismiss library employees in the same manner provided by the commissioners court for other county departments.

HOUSE BILL 790 **HOUSE AUTHOR:** Eckels
EFFECTIVE: 1-1-88 **SENATE SPONSOR:** Parmer

House Bill 790 provides that a commissioners court of a county with a population exceeding 125,000 may adopt a financial disclosure reporting system for county officials, precinct officials, county judicial officials, candidates for those offices, and county employees. A civil penalty for late filing of such a report is established. The offense of knowingly failing to file a report constitutes a Class B misdemeanor under this act.

HOUSE BILL 906 **HOUSE AUTHOR:** Williamson
EFFECTIVE: 6-17-87 **SENATE SPONSOR:** Barrientos

This amendatory act provides that, upon a written agreement between a justice of the peace acting as a local registrar and a county clerk, the duties of registering births and deaths may be transferred to the county clerk. The agreement must be ratified by the commissioners court of the county.

HOUSE BILL 1003 **HOUSE AUTHOR:** Criss
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Brooks

This amendatory act provides that a member of a county hospital's board of managers is considered a county officer for purposes of tort claims under Chapter 102, Civil Practice and Remedies Code.

HOUSE BILL 1299 **HOUSE AUTHOR:** T. Smith
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Washington

Under prior law, counties were required to provide one male guard on each floor of a county jail where male prisoners were kept, one female guard on each floor where female prisoners were kept, and not fewer than two employees on guard in the main office of the jail at any time. House Bill 1299 deletes these requirements.

HOUSE JOINT RESOLUTION 35 **HOUSE AUTHOR:** Yost
FOR ELECTION: 11-3-87 **SENATE SPONSOR:** Anderson

This joint resolution proposes a constitutional amendment which, if approved by the voters, would provide for the abolition of the office of county treasurer in Gregg, Fayette, and Nueces counties. Specific provisions are made for each county to transfer county treasurer duties to other county officers.

HOUSE BILL 95 (2nd C.S.) **HOUSE AUTHOR:** Eckels
EFFECTIVE: 10-20-87 **SENATE SPONSOR:** Brown

House Bill 95 provides that a county assessor-collector is not personally liable for the loss of public funds in his custody if a district court enters a declaratory judgment that the loss is not due to the assessor-collector's negligence or misconduct.

Fees

SENATE BILL 320 **SENATE AUTHOR:** Armbrister
EFFECTIVE: 9-1-87 **HOUSE SPONSOR:** S. Hudson

Prior law required court clerks to collect a $10 fee for each civil case filed in a county or district court, with the exception of suits for delinquent taxes. The fees were paid to the county treasurer, who kept them in a separate fund for the establishment and support of county law libraries. This act raises the county law library fee to $20 per civil case and extends the authority to accept and deposit those fees to an officer performing the duties of a county treasurer.

SENATE BILL 584 **SENATE AUTHOR:** Sims
EFFECTIVE: 8-31-87 **HOUSE SPONSOR:** Shaw

To cover a county's expense in handling certain trust funds, prior law allowed a county to collect a fee of $50 from the losing party in litigation regarding the funds. This act amends that law to permit a county's commissioners court to designate the amount of the fee in an amount not to exceed $50.

SENATE BILL 715 **SENATE AUTHOR:** Tejeda
EFFECTIVE: 5-21-87 **HOUSE SPONSOR:** Williamson

This amendatory act requires that commissioners courts may not set fees for sheriffs and constables pursuant to Article 3926a, Revised Statutes, more than once during any one-year period. The fees must be set before October 1 to be effective by January 1 of the following year. Public notice of fees is required.

SENATE BILL 874 **SENATE AUTHOR:** Krier
EFFECTIVE: 6-20-87 **HOUSE SPONSOR:** Madla

Texas law provides that, in order to create supplemental funding for legal services, the Commissioners Court of Bexar County may order the collection of an additional fee, not to exceed $15, for suits affecting parent-child relationships and other family law cases. Senate Bill 874 authorizes the commissioners court to provide for a waiver of this fee for governmental agencies, private adoption agencies, or charitable organizations.

HOUSE BILL 327 **HOUSE AUTHOR:** Jones
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Glasgow

Under prior law, a county could impose an optional county registration fee for vehicles beginning in a year ending in a "5" or a "0." This act amends the law to permit imposition of an optional fee beginning in any year. If a notice is sent to vehicle owners regarding this fee, the notice must state that the fee is imposed by the county but may not state a policy reason for its imposition.

HOUSE BILL 457 **HOUSE AUTHOR:** Polumbo
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Henderson

The commissioners court of any county with a population of more than 2,200,000 may establish a fee structure enabling the county to charge a fee for a response made by the sheriff's office to a false security alarm.

HOUSE BILL 759 **HOUSE AUTHOR:** Guerrero
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Barrientos

This act provides that a county tax assessor-collector or county clerk may set and collect a fee for a check that is returned for insufficient funds or is nonpayable for any other reason considered to be the fault of the drawer. This applies to checks made in payment of taxes or any other item owed to the county. The fee collected may not be less than $15 or greater than $25.

HOUSE BILL 40 (2nd C.S.) **HOUSE AUTHOR:** Eckels
EFFECTIVE: 10-20-87 **SENATE SPONSOR:** Leedom

Current Texas law authorizes a county treasurer to collect fees for the rendering of certain services. This act extends that authority to any other county officer who receives revenue in place of the county treasurer. Additionally, it increases the fee for a returned check from a flat rate of $15 to an amount of not less than $15 or more than $25.

Roads

SENATE BILL 349 **SENATE AUTHOR:** Henderson
EFFECTIVE: 8-31-87 **HOUSE SPONSOR:** Toomey

Senate Bill 349 establishes an offense for failure to pay a toll when operating a vehicle on a county facility constructed, operated, and financed pursuant to Article 6795b-1, Vernon's Texas Civil Statutes. The offense is punishable by a fine of not more than $100, and the county may retain possession of the vehicle until all charges in connection with the offense are paid.

SENATE BILL 697 **SENATE AUTHOR:** Caperton
EFFECTIVE: 8-31-87 **HOUSE SPONSOR:** Berlanga

Senate Bill 697 amends prior law regarding election dates for bonds and taxes for road districts to conform with the current Election Code.

SENATE BILL 945 **SENATE AUTHOR:** Henderson
EFFECTIVE: 1-1-88 **HOUSE SPONSOR:** Hilbert

Senate Bill 945 removes the power of a county with a population of over two million to make certain road improvements and to levy assessments to pay for the improvements.

HOUSE BILL 1820 **HOUSE AUTHOR:** Hilbert
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Henderson

House Bill 1820 authorizes the commissioners court of a county in which the population exceeds two million to provide for the erection and maintenance of informational signs on toll roads regarding nearby businesses. Under this act, the commissioners court shall adopt orders regarding spacing requirements, size restrictions, and reasonable fees for such signs.

Finance and Purchasing

HOUSE BILL 217 **HOUSE AUTHOR:** Barton
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Leedom

House Bill 217 includes counties of more than 100,000 population among the eligible issuer-registrars authorized to register the names and addresses of owners of its outstanding bonds or other indebtedness. Trust companies organized under Texas law are included among authorized registrars for public securities. A trust company or commercial bank acting as a registrar is required to maintain the registrar records in this state. The official performing the duties of county treasurer is required to carry out the registration duties for a county that is an issuer-registrar.

The governing body of an issuer of bonds also is authorized under the act to provide for a book-entry method of record keeping and registration.

HOUSE BILL 530 **HOUSE AUTHOR:** Kubiak
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Caperton

House Bill 530 amends the County Purchasing Act to provide that separate purchases of office supplies by an individual department shall not be considered part of a single purchase and single contract by the county if the purchase is not specifically intended to avoid the competitive bidding requirements of the act.

HOUSE BILL 646 **HOUSE AUTHOR:** Waldrop
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Sims

House Bill 646 fine tunes the law relating to disposition of a county's surplus or salvage property. Obsolete items or items routinely discarded as waste are exempted from the definitions of surplus or salvage property. Unsalable items may be disposed of, rather than destroyed as required under prior law. The commissioners court must keep a record of destroyed or disposed property for one year. Prior law indicated no finite record-keeping period.

HOUSE BILL 725 **HOUSE AUTHOR:** A. Hill
EFFECTIVE: 5-20-87 **SENATE SPONSOR:** Leedom

This amendatory act permits the commissioners court of a county to adopt a procedure by which the county, as lessor, may use a sealed-bid procedure to lease any real estate, including space in a building, owned by the county. The county must publish notice of its intent to lease the real estate prior to the making of a lease.

HOUSE BILL 1002 **HOUSE AUTHOR:** Criss
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Brooks

This amendatory act permits the commissioners court of any county to purchase or lease property for hospital purposes in an adjacent county. The court may not use condemnation proceedings to acquire property outside its own county.

HOUSE BILL 1431 **HOUSE AUTHOR:** Lucio
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Parker

House Bill 1431 amends prior law regarding the investment of county funds and the security for such investments. Several types of certificates of deposit are added to the list of securities that a depository bank may pledge. The act also requires endorsement by the county and the depository bank of a certificate of deposit pledged to secure county funds before a party may pay or otherwise accept the certificate of deposit. Certain types of certificates of deposit are added to the list of permissible investments that a county treasurer may make at the direction of a commissioners court.

HOUSE BILL 1870 **HOUSE AUTHOR:** Rudd
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Montford

This act provides that any proceedings or acts of a commissioners court or a county occurring before March 1, 1987, relating to the authorization of the issuance, execution, or delivery of time warrants, the levy, collection, or pledge of taxes for the payment of time warrants, and the contracts made in connection with time warrants may not be held invalid because they were not performed in accordance with procedural or other requirements of law. Certain exemptions are made for matters involved in litigation.

HOUSE BILL 1931 **HOUSE AUTHOR:** Eckels
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Brown

House Bill 1931 amends prior law to extend competitive bidding requirements for counties to any items leased or otherwise acquired. Prior law applied only to items purchased. Lease renewals or equipment maintenance agreements that have undergone a competitive bid process within the preceding year are exempt from the process, provided that the renewal period does not exceed one year. For public works contracts or for contracts exceeding $50,000, the county may require the bidders for the contracts to provide a bid bond or a cashier's check in certain amounts. Prior law permitted only the bid bond.

Other Legislation

SENATE BILL 177 **SENATE AUTHOR:** Lyon
EFFECTIVE: 1-1-88 **HOUSE SPONSOR:** Oakley

This act establishes screening requirements for junkyards and automotive wreckage and salvage yards. It also permits the commissioners court of a county to adopt ordinances requiring a junkyard or automotive wrecking and salvage yard to be licensed by the county. Certain exemptions are provided, and provisions for injunctive relief and criminal penalties are included in the act.

SENATE BILL 583 **SENATE AUTHOR:** Sims
EFFECTIVE: 8-31-87 **HOUSE SPONSOR:** Kuempel

Senate Bill 583 permits the commissioners court of a county to prohibit or otherwise regulate the discharge of firearms on lots that are 10 acres or smaller. This act applies only to a subdivision, all or part of which is located in the unincorporated area of a county and for which a plat is required to be filed under Section 2.401 or 2.402, County Road and Bridge Act. The act provides for injunctive relief and establishes a criminal penalty for violations of regulations adopted under it.

SENATE BILL 660 **SENATE AUTHOR:** Green
EFFECTIVE: 9-1-87 **HOUSE SPONSOR:** Shelley

Senate Bill 660 authorizes the Harris County Commissioners Court to create a child support department for Harris County. Organization and responsibilities of the department are set forth. The commissioners court is authorized to set fees to be paid to the department and is permitted to contract with a private entity to provide any services authorized by this act. Certain provisions of the act relating to the child support collection duties of the chief juvenile probation officer of Harris County are repealed effective October 1, 1987. All other provisions of the act take effect on September 1, 1987.

SENATE BILL 705 **SENATE AUTHOR:** Tejeda
EFFECTIVE: 6-18-87 **HOUSE SPONSOR:** Madla

Senate Bill 705 authorizes the creation of county research and development authorities to promote scientific research and development and commercialization of research in affiliation with public and private

institutions of research, higher education, or health science centers. The process for creating an authority is set forth, and the authority's organization and powers are delineated. The authority is granted the power to issue bonds as necessary.

SENATE BILL 753 **SENATE AUTHOR:** Lyon
EFFECTIVE: 6-19-87 **HOUSE SPONSOR:** Aikin

Senate Bill 753 authorizes counties surrounding Lake Tawakoni and Lake Ray Roberts to adopt zoning and building construction ordinances to promote general welfare and encourage recreation. However, before a county may exercise the authority, the county voters must give their approval at a local option election. An ordinance adopted under this act may be enforced through injunctive relief or by a criminal penalty (Class C misdemeanor).

SENATE BILL 957 **SENATE AUTHOR:** Brooks
EFFECTIVE: 8-31-87 **HOUSE SPONSOR:** Danburg

Senate Bill 957 authorizes a commissioners court of a county with a population of 500,000 or more to establish a program to provide child-care services for county employees, county jurors, and their children. The commissioners court may determine its own guidelines regarding the scope of the child-care program and is authorized to employ staff and set fees. The commissioners court may also contract for child-care services under this act.

SENATE BILL 1055 **SENATE AUTHOR:** Green
EFFECTIVE: 9-1-87 **HOUSE SPONSOR:** Betts

Senate Bill 1055 provides that a county having a population of 2,400,000 or more may take action to abate a public nuisance in the unincorporated area of the county. The term "public nuisance" is defined, and provisions are made for penalties and civil enforcement. The act also sets forth requirements regarding abatement procedures adopted under the act, as well as provisions relating to assessment of costs, liens against the property, and the authority of county officials or employees to enter the offending premises.

SENATE BILL 1375 **SENATE AUTHOR:** Glasgow
EFFECTIVE: 9-1-87 **HOUSE SPONSOR:** Perry

This amendatory act provides that the microfilm records of county clerks, and the cameras used to produce these records, must meet the quality requirements of the American National Standards Institute. Original paper records are no longer required to be held five years before disposal.

SENATE BILL 1514 **SENATE AUTHOR:** Henderson
EFFECTIVE: 9-1-87 **HOUSE SPONSOR:** Colbert

Under prior law, the hotel occupancy tax in an incorporated city with a population of 1,200,000 or more was assessed at the rate of three percent until January 1, 1984, and at the rate of one percent after that date. This act amends the law to provide that the tax be assessed at a rate of two percent until January 1, 2001, after which time it will revert to one percent.

Prior law also provided that all other hotels be assessed a hotel occupancy tax at the rate of seven percent. This act provides that, until January 1, 2001, the applicable rate is eight percent in a county with a population of more than 2,000,000. In a county with a population of more than 2,000,000, revenues from this tax may be used to promote tourism.

HOUSE BILL 16 **HOUSE AUTHOR:** Williamson
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** McFarland

This amendatory act provides that if a county has only one jail it may be located anywhere in the county at the discretion of the commissioners court. Additionally, the commissioners court of any county is authorized to establish, maintain, and repair a branch office building or branch jail in one or more cities, other than the county seat, with a population of 15,000 or more. Branch office buildings or branch jails shall be constructed, operated, and maintained in the same manner as courthouses and jails located at a county seat.

The act also provides that the commissioners courts of all counties having a population of more than 25,000 but fewer than 25,050 are authorized to construct, operate, and maintain a branch office building or branch jail; these facilities are to be constructed, operated, and maintained in the same manner as courthouses and jails located at a county seat.

HOUSE BILL 142 **HOUSE AUTHOR:** Hury
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Brown

House Bill 142 amends prior law to permit a commissioners court of a county to acquire any property inside or outside the county in order to obtain a surface water supply or to transport and deliver surface water. A public hearing is required to acquire land outside the county. The court is further authorized to contract with any political subdivision of the state for the management and operation of such property or property interests.

HOUSE BILL 166 **HOUSE AUTHOR:** Clemons
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Blake

This act provides that a commissioners court of a county with a population of fewer than 100,000 may adopt ordinances requiring the licensing of a waste hauler who transports waste in the unincorporated area of a county. The terms "waste" and "waste hauler" are defined for purposes of the act, and certain exemptions are noted. Injunctive relief and a criminal penalty (Class C misdemeanor) are the enforcement mechanisms for the ordinances.

HOUSE BILL 254 **HOUSE AUTHOR:** C. Harris
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** McFarland

This act authorizes the commissioners court of a county, at the request of the county clerk, to establish and maintain one or more branch offices within the county for the purpose of issuing marriage licenses. If the building where the branch office is located is owned by the county, the commissioners court shall operate and maintain it in the same manner as the county courthouse. The county clerk may authorize one or more of the clerk's deputies to work in the branch office.

HOUSE BILL 597 **HOUSE AUTHOR:** Schlueter
EFFECTIVE: 5-18-87 **SENATE SPONSOR:** Jones

This amendatory act permits any county to provide for emergency ambulance service within the county, including all necessary equipment, personnel, and maintenance for the service. Prior law applied only to counties with a population of more than 9,800 but fewer than 20,000 inhabitants.

HOUSE BILL 850 **HOUSE AUTHOR:** Carriker
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Montford

This act permits Garza County to adopt zoning and building regulations for areas surrounding Lake Alan Henry and Post Lake. The Commissioners Court of Garza County is authorized to adopt zoning regulations in accordance with a comprehensive plan. The commissioners court may divide the county into districts for the purposes of zoning and shall appoint a zoning commission consisting of an ex officio chairman and four additional members. Procedures governing adoption of regulations and district boundaries are set forth, as are the duties and responsibilities of the zoning commission. The commissioners court is authorized to enforce this act or regulations adopted under it; penalties for noncompliance are delineated.

HOUSE BILL 1314 **HOUSE AUTHOR:** Garcia
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Tejeda

Under prior law, county jail dormitories and day rooms were required to be designed to accommodate not more than 24 prisoners each. This act amends the law to permit the design of dormitories and day rooms to accommodate not more than 48 prisoners each.

HOUSE BILL 2299 **HOUSE AUTHOR:** Hilbert
EFFECTIVE: 6-18-87 **SENATE SPONSOR:** Henderson

This amendatory act authorizes any hospital authority in a county with a population of more than two million to issue bonds to finance eligible projects.

HOUSE BILL 2622 **HOUSE AUTHOR:** Eckels
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Henderson

House Bill 2622 amends prior law to grant counties the authority to regulate a variety of matters. The commissioners court of a county may require that a plat and purchase contract contain a statement describing the extent to which water will be made available to a subdivision. In lieu of a bond, a subdivision owner may deposit cash, a letter of credit issued by a federally insured financial institution, or other acceptable financial guarantee with the county judge.

The commissioners court of a county with a population of more than 1,400,000 is authorized to regulate roadside vendors. An offense is created for violation of a county regulation. A commissioners court of any county is authorized to establish building lines or setback lines on public roads, subject to certain restrictions.

A municipality's authority to regulate signs does not apply to on-premise signs in the extraterritorial jurisdiction of municipalities in certain counties. However, the commissioners court of a county with a population of more than 2,400,000 may regulate such signs, subject to certain requirements. Provisions for penalties and injunctive relief under this section are set forth.

HOUSE JOINT RESOLUTION 83 **HOUSE AUTHOR:** Stiles
FOR ELECTION: 11-3-87 **SENATE SPONSOR:** Sims

This joint resolution proposes a constitutional amendment which, if approved by the voters, would permit a county to use county equipment and personnel to perform work, without compensation, for another governmental entity. The resolution delineates certain requirements and procedures with which the county must comply in order to perform such work.

See also House Bill 1838 in the chapter on environment.

GOVERNMENT—GENERAL

This chapter summarizes legislation that affects more than one level of government. Legislation of note includes revisions in the Texas open meetings act (Senate Bill 168), the authorization for local research authorities to provide infrastructural support for the superconducting super collider (House Bill 2085), revisions in the regulation of nepotism in government (Senate Bill 933), and the proposed constitutional amendment establishing a local project fund in the state treasury (Senate Joint Resolution 55).

Finance

HOUSE BILL 1488 **HOUSE AUTHOR:** Hammond
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Harris

This enactment, known as the Public Funds Investment Act of 1987, specifies certain types of investments that may be made by cities, counties, public school districts, state supported institutes of higher education, and nonprofit corporations acting on their behalf. It permits investment in several different types of governmental obligations as well as certificates of deposit and mortgage-backed securities. The investment of bond proceeds in certain common trust funds is permitted only after bids are solicited as required by the act. The standard of care for the investments authorized by the act is prescribed. The act does not apply to the investment of retirement funds.

HOUSE BILL 2085 **HOUSE AUTHOR:** Stiles
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Edwards

House Bill 2085 authorizes cities, counties, and other political subdivisions to act in concert to create a research authority to provide public improvements in the area of a superconducting super collider facility. An authority would have its own governing body and be empowered to issue revenue bonds for improvement projects, make contracts and loans, exercise the power of eminent domain, and adopt rules the violation of which would be a Class C misdemeanor. If approved by the local voters, a participating political subdivision could levy taxes to support projects of the authority. An authority would have the power to set a uniform rate for taxes levied for projects of the authority.

SENATE BILL 336 **SENATE AUTHOR:** Farabee
EFFECTIVE: 6-20-87 **HOUSE SPONSOR:** Millsap

Under current law, an "impact fee" is a charge or assessment imposed by a political subdivision against new development in order to generate revenue for funding the costs of capital improvements that are required as a result of the development. Senate Bill 336 establishes guidelines to make local governments accountable for the assessment and use of impact fees.

The act provides that impact fees may be imposed only to fund certain costs and specifically prohibits their use in funding other items. The required content of a "capital improvements plan," which the local government uses to identify improvements that are subject to an impact fee, is set out, and a formula is established to create a limit on the amount that may be assessed. Specific provisions are made for impact fees adopted and land that is platted either before or after the effective date of the act. The political subdivision is authorized to negotiate a method of payment by one subject to an impact fee, and the fee may not be collected where the services are not currently available. Exceptions are provided. Payment of the fee entitles the subdivision to the permanent use of the services for which the fee was exacted, and political subdivisions are authorized to expend any other funds to reduce the amount of impact fees imposed. Provision is made for crediting the cost of certain roadway facilities against the amount of roadway facilities impact fees otherwise due.

Procedures for adoption of an impact fee are set out, including a public hearing with notice prior to consideration of the assumptions about how the land will be used in the future, the development of a capital improvements plan, and adoption of impact fees.

The use of the proceeds derived from impact fees is circumscribed, and provision is made for refunding fees collected under certain circumstances.

The governmental unit imposing an impact fee is required to periodically update the land use assumptions and capital improvements plan and it must subsequently provide a public hearing with notice to consider amending the plan. In addition, the governing body of the political subdivision is required to appoint an advisory committee, the membership and function of which are detailed.

General provisions are included that require the timely performance of duties by a political subdivision, the keeping of records of any public hearing conducted pursuant to the act, and the replacement of impact fees existing prior to the act with fees made pursuant to the act.

The act provides a method of appeal of final administrative decisions, and certain political subdivisions are authorized to impose fees for flood control that are exempt from certain requirements of the act.

Certain fees and charges are exempted from the provisions of the act, including some fees approved by the Texas Water Commission. Certain districts are authorized to petition the commission for approval of impact fees, and requirements are imposed on the commission when reviewing such petitions.

SENATE BILL 1382 **SENATE AUTHOR:** Jones
EFFECTIVE: 6-20-87 **HOUSE SPONSOR:** Gibson

Federal tax law limits the amount of tax-exempt bonds that bond issuers in a state may issue to finance certain private projects and allows each state to allocate the state's authority to issue those bonds among those issuers. Senate Bill 1382 establishes a system to accomplish that allocation in this state.

The act divides the state's authority to issue the bonds among three classes of bonds, and within those classes grants reservations of the state's authority to individual bond issuers according to the order in which the issuers make application. After October 1 of each year, the amount of the state's authority remaining for that year is available to any issuer regardless of the class of bonds. A priority system is established for allocating any of the state's authority that is to be carried forward into the following year.

The act limits the amount of the state's authority that may be allocated for a single project and places certain other limits on allocations to housing finance corporations.

The Texas Department of Commerce administers the allocation system.

SENATE BILL 56 (2nd C.S.) **SENATE AUTHOR:** Farabee
EFFECTIVE: see below **HOUSE SPONSOR:** Gibson

Senate Bill 56 includes changes in laws governing issuance of tax and revenue anticipation notes, use of money in the state treasury, and issuance of bonds by public entities.

The act defines "credit agreement" and authorizes use of the proceeds from a credit agreement to pay the principal and interest on tax and revenue anticipation notes. The amount of authorized outstanding tax and revenue notes is increased, and their issuance is exempt from the jurisdiction of the newly created bond review board. Amounts in the tax and revenue anticipation note fund are made available to pay required federal rebates.

The state treasurer is authorized under this act to invest gross proceeds from state obligations in obligations of a state or political subdivision and in mutual funds composed of obligations of a state or political subdivision.

The act also requires, with certain exceptions, bonds proposed to be issued by the state, an instrumentality or political subdivision of the state, or a nonprofit corporation acting for any of those entities to be submitted to the attorney general for legal review and thereafter to the comptroller of public accounts for registration.

The substance of the act took effect August 4, 1987, although a parallel amendment to the Government Code took effect on the effective date of the executive title of that code (September 1, 1987). The act's provisions for bond review and registration apply only to bonds issued on or after November 1, 1987.

SENATE JOINT RESOLUTION 55 **SENATE AUTHOR:** Parmer
FOR ELECTION: 11-3-87 **HOUSE SPONSOR:** Stiles

Senate Joint Resolution 55 proposes a constitutional amendment authorizing the issuance of up to $400 million in general obligation bonds to establish a local project fund in the state treasury. The purpose of the fund is to make loans to local governments for the financing of the cost of acquisition, construction, repair, renovation, and equipping of public facilities and to make grants for use in the planning and design of public facilities. House Bill 4 in the chapter on state government contains the enabling legislation for the amendment.

Corrections

HOUSE BILL 146 (2nd C.S.) **HOUSE AUTHOR:** Ceverha
EFFECTIVE: 8-4-87 **SENATE SPONSOR:** McFarland

House Bill 146 authorizes home-rule cities, counties, and nonprofit corporations acting on behalf of a home-rule city or county to finance, construct, acquire, and operate corrections facilities through the issuance of revenue bonds, certificates of obligation, or certificates of participation. The facilities could be used by the local entity or, if specifically approved by the legislature, leased to the state. Revenue bonds are authorized to be issued for this purpose without voter approval, but bonds to be issued for a project to be leased to the state are subject to the prior approval of the Bond Review Board. All proposed obligations are subject to legal review by the attorney general. Interest rates for the bonds may be determined by the issuer or by contract but are subject to the maximum rate set by law. Ad valorem taxes may not be levied by a local entity to finance such facilities, but lease payments may be pledged to repay obligations incurred under such projects.

Meetings, Notice, and Records

HOUSE BILL 74 **HOUSE AUTHOR:** Williamson
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Parmer

This act authorizes a transfer of all birth and death records maintained by a city with a population of 2,500 or more to the custodian of such county records, if the transfer is approved by the commissioners court, the county custodian, and either the municipal governing body or a petition signed by 20 percent of the number of municipal residents who voted in the most recent mayoral election.

HOUSE BILL 1354 **HOUSE AUTHOR:** Cain
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Lyon

House Bill 1354 authorizes local law enforcement agencies to provide conviction information obtained from the Department of Public Safety to any political subdivision that employs or licenses drivers of public transportation vehicles.

SENATE BILL 168 **SENATE AUTHOR:** Caperton
EFFECTIVE: 8-31-87 **HOUSE SPONSOR:** Hinojosa

Senate Bill 168 amends the Texas open meetings act to clarify some of its provisions and correct problems that frustrate the purposes of the act. A "meeting," for purposes of the act, is made to include deliberations between third parties and a quorum of members; a "meeting" does not include conferences between members and their employees. The act prohibits closed meetings unless a quorum of the governmental body has first convened in open meeting or session for which public notice has been given. The act requires that a certified agenda or tape recording of each closed meeting be kept for two years, or until the outcome of litigation over the meeting is resolved. The agenda must contain a statement of the subject of each deliberation and a record of any further action taken. District court judges are authorized to inspect the certified agendas or tape recordings in suits charging that a meeting was improperly closed. If the court finds the closed meeting was not authorized, it may grant appropriate relief, which may include an order making public any portion of the certified agenda or tape recording. Those members of a governmental body who knowingly participate in a closed meeting in which neither a certified agenda nor recording is being made commit a Class C misdemeanor. Unlawful disclosure of the certified agenda or tape recording of a properly held closed meeting is a Class B misdemeanor, unless that person had good reason to believe such disclosure was lawful or made a mistake of fact concerning the nature or content of the agenda or recording.

The act also specifically provides for the unobstructed visual recording of public meetings by anyone in attendance. Minutes or a tape recording of each open meeting shall be made available to the public. "Emergency" meetings for which two-hour advance notice is permissible are restricted to situations involving imminent threats to public health and safety or to reasonably unforeseeable situations requiring immediate action by the governmental body.

Any action taken in violation of the act is voidable by the court. In addition, the prevailing party in a suit alleging a violation of the act may be awarded attorney fees and court costs subject to the discretion of the court.

SENATE BILL 321 **SENATE AUTHOR:** Armbrister
EFFECTIVE: 6-20-87 **HOUSE SPONSOR:** Madla

Senate Bill 321 expands the list of exceptions to the requirement that information maintained by governmental bodies be open to public inspection. Confidentiality is extended to certain books, personal papers, and other communications that were not created in the conduct of official business and that are held by an archive for the purposes of historical research, and to certain curriculum and test objectives developed by state-supported institutions. In addition, confidentiality is extended to certain communications of members of the legislature or the lieutenant governor.

HOUSE BILL 163 (2nd C.S.) **HOUSE AUTHOR:** Geistweidt
EFFECTIVE: 10-20-87 **SENATE SPONSOR:** Zaffirini

House Bill 163 authorizes county clerks, clerks of county courts, and school districts to store records on optical disks. Requirements for maintenance and verification of, and access to, records stored by this process, and the legal status of records so stored, are the same as applicable provisions for records stored on microfilm.

Bidding Procedures and Purchases

HOUSE BILL 1100 **HOUSE AUTHOR:** Millsap
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Parmer

This act requires a city or district to give preference to residents over nonresidents in awarding a public contract if the bids of residents are as low and as good as the bids of nonresidents.

Animal Shelters

HOUSE BILL 309 **HOUSE AUTHOR:** C. Johnson
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Armbrister

This act amends existing law to prohibit the use of decompression chambers for euthanasia by animal shelters. A violation of this act is a Class C misdemeanor.

Miscellaneous

SENATE BILL 933 **SENATE AUTHOR:** Barrientos
EFFECTIVE: see below **HOUSE SPONSOR:** Richardson

Senate Bill 933 alters the amount of time an employee of a governmental entity must be employed before the election or appointment of a relative to an office within the same entity is exempt from the laws regulating nepotism. If the officer is (1) appointed, the period is 30 days; (2) elected at an election other than the November general election, the period is six months; (3) elected at the November general election, the period remains at one year. The act also requires certain election forms that a candidate files to contain a summary of the nepotism laws and a signed statement that the candidate understands the laws. Finally, the act provides for the rehiring, under limited circumstances, of former teachers who were displaced by the earlier law. Certain provisions of this act take effect on August 31, 1987; others take effect on September 1, 1987.

HOUSE BILL 877 **HOUSE AUTHOR:** Millsap
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Parmer

House Bill 877 authorizes local governments to adopt or enforce local ordinances that would regulate the type of smoke detectors and the manner of installation required in their jurisdictions. Certain guidelines are established for ordinances that would require installation of a smoke detector powered by alternating current.

HOUSE BILL 1837 **HOUSE AUTHOR:** T. Smith
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Brown

State law requires a vehicle owned by a city or county, other than vehicles used in certain law enforcement activities, to contain on each side following the name of the city or county, the name of the department or official having custody of the vehicle. House Bill 1837 replaces a requirement that the name of the department or official appear in letters at least two inches high with a requirement that the letters be plainly legible from a distance of 100 feet.

GOVERNMENT—SPECIAL DISTRICTS

The 70th Legislature authorized over 20 new special-law water districts and made numerous revisions and amendments to the Water Code. House Bill 2091 amended the Water Code pertaining to the investment of water districts' funds. Additionally, laws were passed requiring water districts to obtain written permission from the Texas Water Commission before filing for bankruptcy (House Bill 2621), and to require districts to adopt written policies regarding ethics, travel expenditures, and investments (House Bill 1582).

Among hospital district enactments, a major measure was the constitutional amendment proposed by Senate Joint Resolution 27. If approved by Texas voters, this amendment will authorize the legislature to provide for the creation of emergency medical services districts (enabling legislation, Senate Bill 669). A second proposed constitutional amendment, House Joint Resolution 18, will, if approved, permit the legislature to provide for the creation of jail districts (enabling legislation, House Bill 400).

Legislation passed in this area also affected road utility districts, rural fire prevention districts, emergency communication districts, and park districts. Bills relating to transit authorities are summarized in the chapter on transportation and highways.

Water Districts

Article III, Section 52, and Article XVI, Section 59, of the Texas Constitution provide for the creation of various types of water districts. Many of these districts may be created under general law, on petition to the Texas Water Commission or a county commissioners court, followed by voter approval in a confirmation election. As of 1985, Texas statutes authorized 13 types of general-law water districts: water control and improvement districts, underground water conservation districts, freshwater supply districts, municipal utility districts, water improvement districts, drainage districts, levee improvement districts, irrigation districts, navigation districts, water import districts, special utility districts, water power control districts, and water control and preservation districts.

Alternatively, the legislature may create water districts by special law, conferring on each district its own powers, sometimes including combinations of powers that are applicable to the different types of general-law districts. Creation by special law gives rise to additional varieties of water districts such as river authorities, flood control districts, utility and reclamation districts, and others. Collectively, special-law and general-law districts created under Article XVI, Section 59 (comprising the vast majority of newer districts), are often referred to as conservation and reclamation districts.

The following enactments amend general-law water district statutes:

SENATE BILL 1067 — **SENATE AUTHOR:** Krier
EFFECTIVE: 8-31-87 — **HOUSE SPONSOR:** Richardson

Some municipal utility districts refuse to connect utilities in the name of tenants and will only connect utilities in the name of the landlord or property owner. Senate Bill 1067 prohibits any municipal utility district from refusing to connect utilities in the name of tenants of an individually metered rental dwelling. A dwelling unit that is in a building containing two or more units and that is served by a master meter or demand meter for the building is not subject to this act.

HOUSE BILL 720 — **HOUSE AUTHOR:** Gibson
EFFECTIVE: 9-1-87 — **SENATE SPONSOR:** Glasgow

Provisions of the Water Code prohibit the creation of certain political subdivisions within a city's extraterritorial jurisdiction. Under current law, a city must consent to the creation of a Special Utility District (SUD) within its extraterritorial jurisdiction. A SUD has no authority to tax. HB 720 eliminates the requirement that a city must consent to the creation of a SUD that would operate within its extraterritorial jurisdiction. If a SUD is to be converted into a district with taxing authority, then the city's consent is required.

HOUSE BILL 994 — **HOUSE AUTHOR:** Dutton
EFFECTIVE: 8-31-87 — **SENATE SPONSOR:** Truan

House Bill 994 provides alternative methods for a navigation district's port commission to award contracts. The bill delineates procedures for competitive bidding requirements, proposal procedures, opening bids,

contract awards, pricing methods, changes in plans, bond requirements, and exemptions. Criminal penalties are provided.

HOUSE BILL 1134 **HOUSE AUTHOR:** T. Smith
EFFECTIVE: 6-17-87 **SENATE SPONSOR:** Barrientos

House Bill 1134 amends current law to include municipal utility districts among the conservation and reclamation districts affected by V.A.C.S. Article 1182c-5, which relates to the abolition of certain districts. Under this bill, districts are included if they provide either freshwater supply, sanitary sewer, or drainage services; prior law required a district to provide all three services.

HOUSE BILL 1221 **HOUSE AUTHOR:** J. Harris
EFFECTIVE: 5-19-87 **SENATE SPONSOR:** Armbrister

House Bill 1221 clarifies language regarding the necessary expenses incurred by a watermaster for which the holders of water rights must reimburse the Texas Water Commission.

HOUSE BILL 1328 **HOUSE AUTHOR:** C. Johnson
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Jones

This act repeals several statutory provisions, applicable to certain types of general-law water districts (municipal utility districts, stormwater control districts, special utility districts, multi-county irrigation districts, and multi-county water control and improvement districts), requiring the deposit of a refundable fee to accompany petitions for their creation. In place of such deposits, the act provides for a nonrefundable fee of not to exceed $700 plus the cost of the required public notice, payable to the Texas Water Commission, to accompany petitions to create or convert a water district or to give a water district sewage and drainage powers. Bond issue applications filed with the commission are subject to an application fee of up to $500 plus the cost of the notice. In addition, the bond issuer must pay a fee of up to 0.25 percent of the amount of the issue. In each case, the commission is authorized to establish the fee by rule.

HOUSE BILL 1514 **HOUSE AUTHOR:** Pennington
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Brown

House Bill 1514 provides that a newspaper publication of notice required by law for a conservation and reclamation district that furnishes residential water and sewer service is satisfied by publication in any newspaper of general circulation in the district.

HOUSE BILL 1582 **HOUSE AUTHOR:** Craddick
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Brown

House Bill 1582 amends the Water Code to require districts to adopt in writing certain policies, including a code of ethics and travel expenditure policies and investment policies. Each district shall file an annual audit with the state auditor; any comments by the state auditor regarding the audit shall be filed with the Legislative Audit Committee and the governing board of the district. The state auditor may audit financial transactions of any water district. This act deletes from the Water Code all language regarding the audit of river authorities and certain districts, including provisions that formerly directed the river authority or district to pay for the audit.

HOUSE BILL 1834 **HOUSE AUTHOR:** T. Smith
EFFECTIVE: 5-19-87 **SENATE SPONSOR:** McFarland

House Bill 1834 amends provisions of the Water Code to allow certain freshwater supply districts located in or adjacent to counties with a population of 900,000 or more to divide into two new districts. Under this act, such a district may also assume the authority of a road district subject to election by qualified voters of the district. A road district may not use bonded indebtedness for road construction purposes unless two-thirds of the district's qualified voters confirm by election the use of bonded indebtedness. The amount of this indebtedness may not exceed one-fourth of the assessed value of the real property within the district.

HOUSE BILL 2091 **HOUSE AUTHOR:** Criss
EFFECTIVE: 6-20-87 **SENATE SPONSOR:** Brooks

House Bill 2091 amends the Water Code to allow water control and improvement districts to invest or reinvest district funds in any direct or indirect obligations within the United States or its political subdivisions and in certificates of deposit within the state. Certain conditions and stipulations apply.

HOUSE BILL 2555 **HOUSE AUTHOR:** Hilbert
EFFECTIVE: 6-20-87 **SENATE SPONSOR:** Henderson

Prior law permitted municipal utility districts to call a hearing regarding the exclusion of land from a district before the first bond election. House Bill 2555 amends that law to provide for such a hearing before a district's issuing its first series of bonds. This act also requires a district to call a new bond election if the district has previously held an election at which approval was given for the issuance of bonds, but where, before the bonds were issued, land was excluded from the district after the election.

HOUSE BILL 2571 **HOUSE AUTHOR:** Schlueter
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Armbrister

House Bill 2571 authorizes certain municipal utility districts (MUDs) to designate property within the district for improvements limited to that particular area, without benefit to the district as a whole. This act authorizes districts to establish designated property by adopting a plan defining the area and improvements, and by requiring a public hearing with advance notice and an election by the voters in the designated area. Once a designated area is approved, bonds may be issued supported by a taxation procedure to pay for the improvements. A MUD may tax a designated area at rates different from those of the rest of the district.

House Bill 2571 also amends the boundaries of the Dallas County Flood Control District No. 1.

HOUSE BILL 2621 **HOUSE AUTHOR:** C. Evans
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Henderson

Under prior law, water districts were permitted to file for bankruptcy to avoid payment of obligations and bonds without first attempting to renegotiate the bonds or set higher taxes in order to meet their obligations. House Bill 2621 amends the Water Code to require water districts to obtain written permission from the Texas Water Commission before filing for bankruptcy under any federal bankruptcy law. The commission may grant a district permission to file for bankruptcy only if, after investigating a district's financial condition, the commission determines that the district cannot reasonably meet its debts. This act applies only to bankruptcy proceedings initiated or proposed to be initiated on or after January 1, 1987.

HOUSE BILL 121 (2nd C.S.) **HOUSE AUTHOR:** Polumbo
EFFECTIVE: 10-20-87 **SENATE SPONSOR:** Montford

House Bill 121 authorizes the creation of certain regional districts for water supply, sewer, and wastewater drainage. This act specifies procedures for the initial appointment of and election thereafter of district directors, and provides for the annexation of a district or a portion of a district by a city. After annexation, the city must assume a pro rata share of the district's debt, and the district is prohibited from levying a tax on the annexed area. If a city annexes the entire territory of a district, the district shall be dissolved.

The following enactments rename, reorganize, or modify the authority of individual existing districts:

SENATE BILL 46 **SENATE AUTHOR:** Parker
EFFECTIVE: 5-20-87 **HOUSE SPONSOR:** Stiles

Senate Bill 46 changes the name of the Port of Beaumont Navigation District of Jefferson County to the Jefferson County Navigation District.

SENATE BILL 11 (2nd C.S.) **SENATE AUTHOR:** Parker
EFFECTIVE: 10-20-87 **HOUSE SPONSOR:** Price

Senate Bill 11 changes the name of the Beaumont Navigation District to the Jefferson County Navigation District while repealing Senate Bill 46, passed in error during the regular session.

SENATE BILL 63 **SENATE AUTHOR:** Green
EFFECTIVE: 8-31-87 **HOUSE SPONSOR:** Barton

Senate Bill 63 changes the name of the Harris County Houston Ship Channel Navigation District to the Port of Houston Authority. It increases the number of members on the port commission board from five to seven, and provides a new method for the selection and appointment of commission members. This act does not affect the term of office of persons who are serving as port commissioners on the effective date of the act. Certain statutory references are altered to conform with the recodified Water Code.

SENATE BILL 513 **SENATE AUTHOR:** Farabee
EFFECTIVE: 4-30-87 **HOUSE SPONSOR:** Finnell

In 1983, legislation was passed that changed the terms of office for water district board members from two-year to four-year terms. Unaware of this new law, the Wichita Water Improvement District No. 2 continued to elect board members to staggered two-year terms instead of the required four-year terms. Senate Bill 513 validates actions of the directors who were erroneously elected to serve two-year terms and brings the district into conformity with general law.

SENATE BILL 746 **SENATE AUTHOR:** Jones
EFFECTIVE: 5-20-87 **HOUSE SPONSOR:** Cooper

Senate Bill 746 authorizes the Llano County Municipal Utility District No. 1 to construct and maintain roadways within the district. The district may levy taxes, issue bonds, and borrow money for the construction and maintenance of the roadways.

SENATE BILL 861 **SENATE AUTHOR:** Anderson
EFFECTIVE: 5-21-87 **HOUSE SPONSOR:** Yost

Senate Bill 861 authorizes and provides a method for the annexing of new territory into the Little Cypress Utility District.

SENATE BILL 909 **SENATE AUTHOR:** Brown
EFFECTIVE: 6-20-87 **HOUSE SPONSOR:** Wright

Senate Bill 909 prohibits the Harris-Galveston Coastal Subsidence District from ordering or requiring certain persons or cities to discontinue the use of groundwater unless a sufficient alternate supply of surface water is available. The act provides for an appeal process regarding rates charged by certain water providers to certain water purchasers. The board of directors for the Harris-Galveston Coastal Subsidence District is increased from 15 to 17 members, two of whom must be appointed by the mayors of certain specified cities.

SENATE BILL 1424 **SENATE AUTHOR:** Johnson
EFFECTIVE: 8-31-87 **HOUSE SPONSOR:** Arnold

Senate Bill 1424 provides that the Grand Prairie Metropolitan Utility and Reclamation District may not annex or exclude land from its boundaries or provide police or fire protection without the approval of the city of Grand Prairie. The district's power of eminent domain is restricted. Subject to certain restrictions, the district may provide for the construction, operation, and maintenance of certain roads and turnpikes. Bonds issued may be paid by a combination of revenues or ad valorem taxes. Certain bonds must be approved by two-thirds of the voters, and those bonds may not exceed one-fourth the total property valuation of the district. Contracting authority between the city and district is provided subject to certain limitations.

SENATE BILL 1437 **SENATE AUTHOR:** Krier
EFFECTIVE: 6-19-87 **HOUSE SPONSOR:** Madla

Senate Bill 1437 requires that four of the six directors of the San Antonio River Authority elected from Bexar County shall be elected from single-member districts. The remaining two directors from Bexar County shall be elected at large. The board is required to meet periodically with the Texas Water Commission. A provision requiring payment of the board's director from funds raised in the director's home county is deleted.

SENATE BILL 1452 **SENATE AUTHOR:** Barrientos
EFFECTIVE: see below **HOUSE SPONSOR:** Cooper

Senate Bill 1452 authorizes the relocation of the boundaries of the Edwards Underground Water District and the Barton Springs-Edwards Aquifer Conservation District. This act also provides that the two districts shall enter into an interlocal agreement to avoid double taxation. This act is contingent on voter confirmation of the creation of the Barton Springs-Edwards Aquifer Conservation District and takes effect on the date that results from that election are declared. Otherwise, this act has no effect.

SENATE BILL 1453 **SENATE AUTHOR:** Barrientos
EFFECTIVE: see below **HOUSE SPONSOR:** Cooper

This act redefines the boundaries of the Edwards Underground Water District to annex a specific area within Hays County. The board of directors of the Edwards Underground Water District shall call and order an

election on the annexation of this territory. The effective date of this act is September 1, 1987; however, the annexation of the territory does not take effect until after a successful confirmation election. If an election results in a vote against adding the territory to the district, Section 1 of this act has no effect.

HOUSE BILL 519 **HOUSE AUTHOR:** Whaley
EFFECTIVE: 4-14-87 **SENATE SPONSOR:** Sarpalius

This act validates all past actions, including the confirmation and directors' election, of the Collingsworth County Underground Water Conservation District. The act does not affect any pending litigation to which the district is a party.

HOUSE BILL 952 **HOUSE AUTHOR:** Polumbo
EFFECTIVE: 5-28-87 **SENATE SPONSOR:** Green

This act validates all actions of the Harris County Water Control and Improvement District No. 84 authorizing the levy and collection of taxes, without affecting pending litigation within the state to which the district is a party.

HOUSE BILL 1731 **HOUSE AUTHOR:** Stiles
EFFECTIVE: 5-19-87 **SENATE SPONSOR:** Parker

Prior law required the Jefferson County Drainage District No. 6 to obtain competitive bids for any job exceeding $3,000 and required performance and payment bonds from contractors for such jobs. House Bill 1731 increases the limit required for competitive bidding to $5,000, and allows the district to waive performance and payment bonds on jobs of less than $25,000. This act also clarifies language regarding easements acquired by the district and permits the district to sell district-owned property interests to any person or entity as provided by law.

HOUSE BILL 1737 **HOUSE AUTHOR:** Stiles
EFFECTIVE: 5-19-87 **SENATE SPONSOR:** Parker

This act changes the ending date for the Trinity Bay Conservation District fiscal year from the end of the calendar year to September 30 and raises the per diem for members of the district's board of directors from $25 to a maximum of $100.

HOUSE BILL 1942 **HOUSE AUTHOR:** Madla
EFFECTIVE: see below **SENATE SPONSOR:** Krier

House Bill 1942 assigns to the Edwards Underground Water District responsibility for the development, administration, and enforcement of a drought contingency plan. The act expands the board of elected directors from 15 to 18 members, with six members to be elected from Bexar County, and three members to be elected from each of Hays, Comal, Medina, and Uvalde counties. Procedures for these elections are provided. Members will serve staggered six-year terms and are entitled to $100 per diem and expenses for each day of official service to the district. This act also provides a method for excluding certain county areas from the district. This act takes effect June 18, 1987, except those provisions expanding the board of directors and providing for staggered terms of office, which take effect on January 1, 1989.

HOUSE BILL 1990 **HOUSE AUTHOR:** J. Harris
EFFECTIVE: 6-20-87 **SENATE SPONSOR:** Brown

House Bill 1990 changes the maximum per diem paid to the commissioners of the Brazoria County Conservation and Reclamation District No. 3 from $15 to $20.

HOUSE BILL 2131 **HOUSE AUTHOR:** Laney
EFFECTIVE: 5-28-87 **SENATE SPONSOR:** Sarpalius

House Bill 2131 amends the Canadian River Municipal Water Authority law to permit the authority to acquire and develop groundwater rights. The bill also changes certain bond requirements and permits the authority to perform its various functions within or without the boundaries of the district or the state. Additional powers and duties of the authority are provided.

HOUSE BILL 2337 **HOUSE AUTHOR:** Perez
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Santiesteban

House Bill 2337 clarifies the boundaries of the El Paso County Lower Valley Water District Authority with regard to land serviced by the Tornillo Water Supply Corporation. The authority's board of directors may

provide for the exclusion of land from the authority provided it does so before the first bond election. Hearing, notice, and petition requirements for the exclusionary process are provided. The board may designate any bank within El Paso County as a depository for its funds.

HOUSE BILL 2504 **HOUSE AUTHOR:** Lucio
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Uribe

House Bill 2504 increases the number of commissioners of the Brownsville Navigation District from three to five, and increases their terms of office from two to four years. The date of the commissioners' election is changed to the third Saturday in May of each even-numbered year.

HOUSE BILL 2507 **HOUSE AUTHOR:** Shea
EFFECTIVE: 6-18-87 **SENATE SPONSOR:** McFarland

House Bill 2507 authorizes the board of directors of the Dallas County Utility and Reclamation District to implement a funded risk management program. The board is also authorized to call a hearing regarding exclusion of land from the district. Requirements for the hearing and the exclusionary process are provided. The district may annex property as provided by the Water Code.

HOUSE BILL 2517 **HOUSE AUTHOR:** Gibson
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Glasgow

House Bill 2517 expands the powers of the Johnson County Fresh Water Supply District No. 1 to permit the acquisition or construction of a variety of facilities, including those designed for water treatment, water and air pollution control, and waste disposal. In addition, the district is granted a variety of other powers including the right to acquire facilities outside Johnson County, enter into contracts, establish parks and recreation areas, and provide for the use of groundwater, floodwater, and other water. The district is considered a river authority for the purposes of the Water Code, the Clean Air Financing Act, and the Solid Waste Resource Recovery Financing Act and is authorized to issue bonds.

HOUSE BILL 2537 **HOUSE AUTHOR:** Waterfield
EFFECTIVE: 6-19-87 **SENATE SPONSOR:** Sarpalius

This amendatory act authorizes the annexation of the city of Stinnett by the Palo Duro River Authority, and authorizes the appointment, by the Stinnett city council, of one director to represent the city until December 31, 1989, after which time the director shall be appointed as provided by Section 17 of this act.

HOUSE BILL 2539 **HOUSE AUTHOR:** Repp
EFFECTIVE: 6-19-87 **SENATE SPONSOR:** Lyon

House Bill 2539 establishes the official name of the Dallas County Bois D'Arc Island Levee District to be Bois D'Arc Island Levee Improvement District of Dallas and Kaufman Counties. The act authorizes the board of directors of the district to exclude land from the district under certain conditions, subject to provisions of the Water Code. It also provides for the establishment of a minimum benefit basis for taxation on taxable property within the district.

HOUSE BILL 2542 **HOUSE AUTHOR:** J. Harris
EFFECTIVE: 6-18-87 **SENATE SPONSOR:** Brown

House Bill 2542 authorizes the Brazoria County Drainage District No. 4 board of commissioners to levy a property tax subject to certain administrative provisions. The taxes shall be collected by the Brazoria County tax assessor-collector. The district is required to fulfill certain provisions regarding the budgeting, disbursing, and accounting of all funds collected.

HOUSE BILL 2544 **HOUSE AUTHOR:** Cooper
EFFECTIVE: see below **SENATE SPONSOR:** Barrientos

Currently, there is partial overlapping of the boundaries of the Barton Springs-Edwards Aquifer Conservation District and the Edwards Underground Water District, which could result in double taxation for those who own land within that area. House Bill 2544 authorizes and requires the relocation of the boundaries of the two districts where they overlap. This act also authorizes the two districts to enter into an interlocal agreement to avoid double taxation.

The effective date of House Bill 2544 is contingent on the successful confirmation election of the Barton Springs-Edwards Aquifer Conservation District.

HOUSE BILL 2556 **HOUSE AUTHOR:** Campbell
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** McFarland

House Bill 2556 changes the name of the Denton County Reclamation, Road, and Utility District to the Denton County Reclamation and Road District and removes all municipal utility authority from the district. Annexation powers are granted to the district. The act provides methods for conveying facilities constructed or acquired by the district to the state or to a city or county and requires that the entity to which the facility is to be conveyed approve all plans. The City Council of Carrollton shall appoint directors for the reclamation and road district, but current directors, who were elected to office under prior law, continue to serve until the first Saturday in April 1988.

HOUSE BILL 2563 **HOUSE AUTHOR:** Willy
EFFECTIVE: 6-18-87 **SENATE SPONSOR:** Brown

House Bill 2563 authorizes the Brazoria County Drainage District No. 5 to levy a property tax subject to certain administrative provisions. The taxes shall be collected by the Brazoria County tax assessor-collector. The district is required to fulfill certain provisions regarding the budgeting, disbursing, and accounting of all funds collected.

HOUSE BILL 2564 **HOUSE AUTHOR:** Willy
EFFECTIVE: 6-18-87 **SENATE SPONSOR:** Brown

House Bill 2564 authorizes the Brazoria County Drainage District No. 8 to levy a property tax subject to certain administrative provisions. The taxes shall be collected by the Brazoria County tax assessor-collector. The district is required to fulfill certain provisions regarding the budgeting, disbursing, and accounting of all funds collected.

HOUSE BILL 2568 **HOUSE AUTHOR:** Holzheauser
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Armbrister

House Bill 2568 reduces the terms of the commissioners of the Calhoun County Drainage District No. 11 from six to four years. The current commissioners shall continue to serve until the elections held in January 1988, with successors elected to staggered terms. The commissioners shall be elected at large, but the Board of Drainage Commissioners may change the method of representation to ensure proper representation, provided the plan meets state and federal laws. The board is authorized to set the salaries of the commissioners.

HOUSE BILL 2594 **HOUSE AUTHOR:** Hilbert
EFFECTIVE: 6-18-87 **SENATE SPONSOR:** Henderson

House Bill 2594 adjusts the boundaries of the Harris County Municipal Utility District No. 77 to provide for a more equitable distribution of benefits from proposed improvements.

HOUSE BILL 67 (2nd C.S.) **HOUSE AUTHOR:** R. Lewis
EFFECTIVE: 10-20-87 **SENATE SPONSOR:** Parker

House Bill 67 authorizes the Orange County Navigation and Port District to purchase a privately owned tract of land within the State of Louisiana. The district may provide facilities on the property and issue bonds secured by revenues from those facilities but is prohibited from collecting property taxes within the district to finance such projects.

HOUSE BILL 147 (2nd C.S.) **HOUSE AUTHOR:** Riley
EFFECTIVE: 10-20-87 **SENATE SPONSOR:** Armbrister

This act amends Senate Bill 1429 from the Regular Session, to delete certain territory from the St. Paul Water Improvement, Road, and Utility District No. 1 and to change the bill's effective date to October 20, 1987. Other provisions of the act are summarized in the section of this chapter on hospital districts.

The following enactments authorize new special-law water districts, grouped alphabetically. Creation of each district is contingent on approval by local voters.

SENATE BILL 1518 **SENATE AUTHOR:** Blake
EFFECTIVE: 6-19-87 **HOUSE SPONSOR:** C. Johnson

Senate Bill 1518 authorizes the creation of the Anderson County Underground Water Conservation District.

SENATE BILL 988 **SENATE AUTHOR:** Barrientos
EFFECTIVE: 6-17-87 **HOUSE SPONSOR:** T. Smith

Senate Bill 988 validates the creation of the Barton Springs-Edwards Aquifer Conservation District, providing the district with certain powers and duties. The conservation district may not be converted to any other type of conservation or reclamation district.

SENATE BILL 1373 **SENATE AUTHOR:** Glasgow
EFFECTIVE: 6-19-87 **HOUSE SPONSOR:** Perry

Senate Bill 1373 authorizes the creation of the Cliffs Municipal Utility District, comprising a portion of Palo Pinto County.

HOUSE BILL 2601 **HOUSE AUTHOR:** Perez
EFFECTIVE: 6-18-87 **SENATE SPONSOR:** Santiesteban

House Bill 2601 authorizes the creation of the El Paso County Tornillo Water Improvement District.

HOUSE BILL 2546 **HOUSE AUTHOR:** Campbell
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Harris

House Bill 2546 authorizes the creation of the Frisco Municipal Utility District No. 1, composed of land situated in Collin and Denton counties.

HOUSE BILL 2565 **HOUSE AUTHOR:** A. Smith
EFFECTIVE: 6-19-87 **SENATE SPONSOR:** Brown

House Bill 2565 authorizes the creation of the Harris County Improvement District No. 1.

HOUSE BILL 792 **HOUSE AUTHOR:** Geistweidt
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Sims

House Bill 792 authorizes the creation of the Hill Country Underground Water Conservation District, composed of all the territory within Gillespie County.

SENATE BILL 1502 **SENATE AUTHOR:** Glasgow
EFFECTIVE: 6-19-87 **HOUSE SPONSOR:** Horn

Senate Bill 1502 authorizes the creation of the Lakeside Utility and Reclamation District, composed of land within the city limits of Lewisville, in Denton County.

HOUSE BILL 2581 **HOUSE AUTHOR:** Campbell
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** McFarland

House Bill 2581 authorizes the creation of the Lake Turner Municipal Utility District No. 1 comprising portions of Tarrant and Denton counties.

HOUSE BILL 2580 **HOUSE AUTHOR:** Campbell
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** McFarland

House Bill 2580 authorizes the creation of the Lake Turner Municipal Utility District No. 2 comprising a portion of Tarrant County.

HOUSE BILL 2579 **HOUSE AUTHOR:** Campbell
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** McFarland

House Bill 2579 authorizes the creation of the Lake Turner Municipal Utility District No. 3, comprising portions of Tarrant and Denton counties.

SENATE BILL 1525 **SENATE AUTHOR:** Sims
EFFECTIVE: 6-17-87 **HOUSE SPONSOR:** Burnett

Senate Bill 1525 authorizes the creation of the Lipan-Kickapoo Water Conservation District, composed of portions of Tom Green and Concho counties.

SENATE BILL 1521 **SENATE AUTHOR:** Johnson
EFFECTIVE: 6-18-87 **HOUSE SPONSOR:** Arnold

Senate Bill 1521 authorizes the creation of the North Grand Prairie Flood Control District, composed of certain property within the city of Grand Prairie.

SENATE BILL 1326 **SENATE AUTHOR:** Blake
EFFECTIVE: 6-18-87 **HOUSE SPONSOR:** Clark

Senate Bill 1326 authorizes the creation of the Rayburn Country Municipal Utility District, comprising a portion of Jasper County.

HOUSE BILL 829 **HOUSE AUTHOR:** Telford
EFFECTIVE: 6-18-87 **SENATE SPONSOR:** Anderson

House Bill 829 authorizes the creation of the Red River County Water District, to include all of Red River County.

HOUSE BILL 2566 **HOUSE AUTHOR:** Waterfield
EFFECTIVE: 6-18-87 **SENATE SPONSOR:** Sarpalius

House Bill 2566 authorizes the creation of the Roberts County Water District.

SENATE BILL 1429 **SENATE AUTHOR:** Lyon
EFFECTIVE: see below **HOUSE SPONSOR:** Campbell

Senate Bill 1429 authorizes the creation of the St. Paul Water Improvement, Road, and Utility District No. 1, composed of land situated in Collin County. The district's boundaries and the effective date were amended by House Bill 147 from the 2nd Called Session. The original effective date was August 31, 1987. The amended effective date is October 20, 1987.

HOUSE BILL 2587 **HOUSE AUTHOR:** Burnett
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Sims

House Bill 2587 authorizes the creation of the Sterling County Underground Water Conservation District, composed of all of the land within Sterling County.

HOUSE BILL 1709 **HOUSE AUTHOR:** Riley
EFFECTIVE: 6-18-87 **SENATE SPONSOR:** Armbrister

House Bill 1709 authorizes the creation of the Williamson County Water, Sewer, Irrigation, and Drainage District No. 1.

HOUSE BILL 2528 **HOUSE AUTHOR:** Riley
EFFECTIVE: 6-18-87 **SENATE SPONSOR:** Armbrister

House Bill 2528 authorizes the creation of the Williamson County Water, Sewer, Irrigation, and Drainage District No. 3.

HOUSE BILL 2530 **HOUSE AUTHOR:** Repp
EFFECTIVE: 6-18-87 **SENATE SPONSOR:** Lyon

House Bill 2530 authorizes the creation of the Wilmer Utility District, composed of land within Dallas County.

Hospital Districts

Article IX, Sections 4 and 9, of the Texas Constitution provides for the creation of countywide and multicounty hospital districts, respectively. Other constitutional provisions provide for the creation of hospital districts in particular locales. The creation of individual districts must be authorized by special enactment of the legislature but may be affected by other laws of broader scope or general applicability.

HOUSE BILL 71 (2nd C.S.) **HOUSE AUTHOR:** Stiles
EFFECTIVE: 11-1-87 **SENATE SPONSOR:** Parker

House Bill 71 makes certain public hospital districts in counties of 75,000 or fewer subject to the procedures of the County Purchasing Act and deletes prior competitive-bidding requirements found in the statute governing those districts.

The following enactments modify, change, or reorganize the authority of specific hospital districts, grouped alphabetically:

SENATE JOINT RESOLUTION 5 (2nd C.S.) **SENATE AUTHOR:** Sarpalius
FOR ELECTION: 11-3-87 **HOUSE SPONSOR:** Smithee

Senate Joint Resolution 5, if approved by voters in the general election held November 3, 1987, will amend the constitution to authorize Randall County to provide financial assistance to the Amarillo Hospital District for services to certain Randall County residents (enabling legislation, House Bill 147, 2nd Called Session).

HOUSE BILL 147 (2nd C.S.) **HOUSE AUTHOR:** Riley
EFFECTIVE: see below **SENATE SPONSOR:** Armbrister

House Bill 147 authorizes the Amarillo Hospital District to provide services to Randall County residents not currently served by a hospital district. The expansion of service must be approved by a majority of voters in the county. These provisions take effect contingent on voter approval of the constitutional amendment proposed by Senate Joint Resolution 5, 2nd Called Session. Other provisions are summarized in the preceding section of this chapter (water districts).

HOUSE BILL 991 **HOUSE AUTHOR:** Martinez
EFFECTIVE: 1-1-88 **SENATE SPONSOR:** Whitmire

House Bill 991 changes the membership of the board of managers of the Harris County Hospital District to not fewer than seven nor more than nine members, appointed by the Harris County Commissioners Court.

HOUSE BILL 1950 **HOUSE AUTHOR:** Robnett
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Parmer

House Bill 1950 expands the authority of Lubbock County Hospital District to specifically permit the district to establish medical and other health facilities.

HOUSE BILL 2123 **HOUSE AUTHOR:** Craddick
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Sims

House Bill 2123 increases the number of members of the Midland County Hospital District board of directors from five to seven and provides a method by which the directors may be elected from single-member districts.

HOUSE BILL 2585 **HOUSE AUTHOR:** Shaw
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Sims

House Bill 2585 amends prior law to bring Reagan County Hospital District into conformity with the other hospital districts of Texas regarding election of directors, bond issues, contracts, and indigent health care.

SENATE BILL 1418 **SENATE AUTHOR:** Sarpalius
EFFECTIVE: 9-1-87 **HOUSE SPONSOR:** Waterfield

Senate Bill 1418 amends election procedures for the Stratford Hospital District's board of directors. The bill validates prior actions of the district and its board of directors.

SENATE BILL 1327 **SENATE AUTHOR:** Truan
EFFECTIVE: 9-1-87 **HOUSE SPONSOR:** Rangel

Senate Bill 1327 modifies the law relating to the financing, taxing, administration, powers, and duties of Willacy County Hospital District. The act authorizes the district to increase its tax rate, subject to voter approval, and requires the district to provide medical and hospital care for eligible residents. Changes are also made regarding the election and terms of office of the district's board of directors.

The 70th Legislature provided for the creation of 11 new hospital districts and the dissolution of five existing hospital districts, each contingent on voter approval. These districts are grouped alphabetically:

SENATE BILL 1378 **SENATE AUTHOR:** Jones
EFFECTIVE: 5-20-87 **HOUSE SPONSOR:** Parker

Senate Bill 1378 authorizes the creation of the Ballinger Memorial Hospital District, comprising all of Runnels County with the exception of the area contained in the North Runnels Hospital District.

HOUSE BILL 2598 **HOUSE AUTHOR:** Earley
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Zaffirini

House Bill 2598 authorizes the creation of the Bee County Hospital District, comprising all of Bee County.

HOUSE BILL 2515 **HOUSE AUTHOR:** Riley
EFFECTIVE: 6-19-87 **SENATE SPONSOR:** Jones

House Bill 2515 authorizes the creation of the Burnet County Hospital District, comprising all of Burnet County.

HOUSE BILL 1279 **HOUSE AUTHOR:** Hightower
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Blake

House Bill 1279 provides for the dissolution of the Corrigan Hospital District and for the transfer of the district's assets and obligations to Polk County.

SENATE BILL 88 **SENATE AUTHOR:** Sims
EFFECTIVE: 3-9-87 **HOUSE SPONSOR:** Geistweidt

Senate Bill 88 authorizes the creation of the Crockett County Hospital District, comprising all of Crockett County.

SENATE BILL 1486 **SENATE AUTHOR:** Glasgow
EFFECTIVE: 6-20-87 **HOUSE SPONSOR:** Horn

Senate Bill 1486 authorizes the creation of the Denton County Hospital District, comprising all of Denton County.

SENATE BILL 18 (2nd C.S.) **SENATE AUTHOR:** Edwards
EFFECTIVE: 8-3-87 **HOUSE SPONSOR:** C. Johnson

Senate Bill 18 authorizes the creation of the Fairfield Hospital District, comprising the portion of Freestone County included in the Fairfield Independent School District.

HOUSE BILL 2506 **HOUSE AUTHOR:** Patterson
EFFECTIVE: 6-19-87 **SENATE SPONSOR:** Lyon

House Bill 2506 authorizes the creation of the Fannin County Hospital District, comprising all of Fannin County.

HOUSE BILL 2554 **HOUSE AUTHOR:** McKinney
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Caperton

House Bill 2554 provides for the dissolution of the Grapeland Hospital District and for the transfer of the district's assets and liabilities to another governmental entity.

HOUSE BILL 2510 **HOUSE AUTHOR:** Whaley
EFFECTIVE: 6-19-87 **SENATE SPONSOR:** Sarpalius

House Bill 2510 authorizes the creation of the Hall County Hospital District, comprising all of Hall County.

HOUSE BILL 120 (2nd C.S.) **HOUSE AUTHOR:** Schlueter
EFFECTIVE: 8-3-87 **SENATE SPONSOR:** Glasgow

House Bill 120 authorizes the creation of the Hamilton County Hospital District, comprising all of Hamilton County with the exception of the area within the boundaries of the city of Hico.

SENATE BILL 130 **SENATE AUTHOR:** Farabee
EFFECTIVE: 4-14-87 **HOUSE SPONSOR:** Finnell

Senate Bill 130 authorizes the creation of the Jack County Hospital District, comprising all of Jack County.

HOUSE BILL 1280 **HOUSE AUTHOR:** Hightower
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Blake

House Bill 1280 provides for the dissolution of the Livingston Hospital District and for the transfer of its assets and obligations to Polk County.

HOUSE BILL 2549 **HOUSE AUTHOR:** Edge
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Zaffirini

House Bill 2549 provides for the dissolution of the Poteet Community Hospital District and for the transfer of the district's assets and liabilities to Atascosa County.

SENATE BILL 17 (2nd C.S.) **SENATE AUTHOR:** Sims
EFFECTIVE: 10-20-87 **HOUSE SPONSOR:** Shaw

Senate Bill 17 authorizes the creation of the Reeves County Hospital District, comprising all of Reeves County, and the Bowie Hospital District, comprising a portion of Bowie County.

HOUSE BILL 105 (2nd C.S.) **HOUSE AUTHOR:** Uher
EFFECTIVE: 11-1-87 **SENATE SPONSOR:** Armbrister

This act authorizes the dissolution of the West Columbia-Damon Hospital District of Brazoria County, and the transfer of the district's assets and obligations to Brazoria County.

Emergency Communication Districts

SENATE BILL 1331 **SENATE AUTHOR:** Brooks
EFFECTIVE: 6-18-87 **HOUSE SPONSOR:** Betts

This act provides that after a 9-1-1 district has been established in a county with a population of more than two million and in certain adjacent territory and has been in operation for one year after the confirmation and fee election, the rate of the 9-1-1 emergency service fee may not exceed three percent of the base rate of the principal service supplier per service user per month in the participating jurisdictions. The 9-1-1 service is not an optional service for individual telephone subscribers.

HOUSE BILL 758 **HOUSE AUTHOR:** Shea
EFFECTIVE: 5-27-87 **SENATE SPONSOR:** Leedom

House Bill 758 permits any public agency located wholly in an adjoining county to join a 9-1-1 emergency communication district in a neighboring county. Prior law applied only to agencies partially located in adjoining counties.

HOUSE BILL 1103 **HOUSE AUTHOR:** Waldrop
EFFECTIVE: 6-19-87 **SENATE SPONSOR:** Edwards

House Bill 1103 amends the Emergency Telephone Number Act, making the act applicable to counties with a population of more than 20,000 persons. It also raises the service fee charge to an amount not to exceed six percent of the base rate of the principal service supplier per service year per month in the participating jurisdictions.

HOUSE BILL 1424 **HOUSE AUTHOR:** Repp
EFFECTIVE: 6-19-87 **SENATE SPONSOR:** Edwards

Under this act, a county with a population of more than 1,500,000 may implement a 9-1-1 emergency telephone service in the unincorporated areas of the county and may impose a service fee on telephone service customers in the area served. The fee shall be set by the commissioners court of the county subject to certain provisions of the act.

Emergency Services Districts

The 70th Legislature passed a proposed constitutional amendment which, if approved by the voters of the state, would allow the legislature to provide for the creation of emergency services districts. Senate Bill 669 and House Bill 1226 provide enabling legislation for the proposed amendment.

SENATE JOINT RESOLUTION 27 **SENATE AUTHOR:** Blake
FOR ELECTION: 11-3-87 **HOUSE SPONSOR:** Connelly

Currently, Texas law does not provide any constitutional or statutory authorization for the creation of a separate district capable of levying taxes specifically for the purpose of providing emergency medical services. Senate Joint Resolution 27 proposes a constitutional amendment to add Section 48-e to Article III, Texas Constitution, which authorizes the legislature to provide for the creation of emergency medical services districts

(EMS) with voter-approved taxing authority of up to 10 cents per $100 valuation of property within the district. The districts may provide emergency medical services, emergency ambulance services, rural fire prevention and control services, or other emergency services authorized by the legislature. Senate Bill 669 is the enabling legislation for this proposed constitutional amendment.

SENATE BILL 669 **SENATE AUTHOR:** Blake
EFFECTIVE: see below **HOUSE SPONSOR:** Connelly

Senate Bill 669 provides for the creation of emergency services districts and includes provisions relating to the organization, powers, duties, operations, financing, dissolution, and taxing authority of such districts. Its effect is contingent on voter approval of Senate Joint Resolution 27, the proposed constitutional amendment that authorizes the legislature to create emergency medical services districts. If the amendment is adopted, Senate Bill 669 becomes effective January 1, 1988.

HOUSE BILL 1226 **HOUSE AUTHOR:** Williamson
EFFECTIVE: see below **SENATE SPONSOR:** Glasgow

House Bill 1226 provides for the creation and establishment of emergency services districts to provide emergency services in counties of 125,000 persons or fewer. This act takes effect only if the constitutional amendment proposed by Senate Joint Resolution 27 is approved by Texas voters.

Jail Districts

The 70th Legislature passed a proposed constitutional amendment that, if approved by the voters of the state, would allow the legislature to provide for the creation of jail districts. House Bill 400 is the enabling legislation for this proposed amendment.

HOUSE JOINT RESOLUTION 18 **HOUSE AUTHOR:** Williamson
FOR ELECTION: 11-3-87 **SENATE SPONSOR:** Farabee

House Joint Resolution 18 proposes a constitutional amendment to authorize the legislature to provide for the creation, operation, and financing of jail districts. The jail districts could be authorized by the legislature to issue bonds and levy property taxes to pay for operating costs of the district, contingent on the approval of the districts' voters. The enabling legislation is House Bill 400.

HOUSE BILL 400 **HOUSE AUTHOR:** Williamson
EFFECTIVE: see below **SENATE SPONSOR:** Farabee

House Bill 400 would allow a county or cooperating counties to create a jail district by a process of petition and referendum. The district may be created to finance and effect the construction, acquisition, or improvement of a jail facility to serve the county or counties comprising the district. The district is authorized to levy taxes, issue bonds, and exercise the power of eminent domain. House Bill 400 takes effect only if the constitutional amendment proposed by House Joint Resolution 18 is approved by the voters of Texas.

Park Districts

HOUSE BILL 2194 **HOUSE AUTHOR:** Kuempel
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Sims

House Bill 2194 authorizes the creation of a park district in Comal County that has river frontage on both the Guadalupe and Comal rivers. In addition to its other powers and duties, the park district has the authority to levy taxes, require the payment of fees for the use of the facilities, and issue bonds and notes, but bonds may not be issued unless authorized by a majority of the voters of the district.

Road Utility Districts

The 68th Legislature, in its 2nd Called Session of 1984, enacted legislation authorizing a new type of special district identified as a road utility district. Such a district, with powers to build new roads financed by issuance of bonds, can be created subject to confirmation election if it has the approval of the State Highway and Public Transportation Commission, surrounding cities and counties, and affected property owners. Road utility

districts are patterned after municipal utility districts, except that facilities once built are turned over to the state, a county, or a city after the district's debts are retired.

The 70th Legislature made several amendments to the legislation affecting road utility districts and to the County Road and Bridge Act, expanding and clarifying the authority of road districts and road utility districts.

SENATE BILL 1315 — **SENATE AUTHOR:** Caperton
EFFECTIVE: 6-19-87 — **HOUSE SPONSOR:** Berlanga

Senate Bill 1315 makes numerous amendments to the County Road and Bridge Act and the road utility district law. Among these amendments are ones authorizing taxes for road districts and road utility districts on a basis other than ad valorem taxation, authorizing a commissioners court to exclude land from a district, and authorizing a road district to construct road improvements outside the district. This act provides that the assessed value for road utility districts shall be calculated at the market value recorded by the chief appraiser of the central appraisal district and also amends the definition of "assessed value" in the Tax Code.

SENATE BILL 402 — **SENATE AUTHOR:** Glasgow
EFFECTIVE: 6-20-87 — **HOUSE SPONSOR:** Horn

Senate Bill 402 authorizes the creation of the Lakeview Road Utility District, comprising certain described portions of Denton County.

HOUSE BILL 1710 — **HOUSE AUTHOR:** Riley
EFFECTIVE: 6-18-87 — **SENATE SPONSOR:** Armbrister

House Bill 1710 authorizes the creation of the Williamson County Road Utility District No. 2, subject to a confirmation election. The district comprises certain described portions of Williamson County.

Rural Fire Prevention Districts

Article III, Section 48-d, of the Texas Constitution authorizes rural fire prevention districts. They may be created, under general law, contingent on a confirmation election.

HOUSE JOINT RESOLUTION 60 — **HOUSE AUTHOR:** Leonard
FOR ELECTION: 11-3-87 — **SENATE SPONSOR:** Glasgow

The current state constitution sets a maximum property tax rate of three cents per $100 valuation for rural fire prevention districts. The amendment proposed by House Joint Resolution 60 would allow voters of a rural fire prevention district located wholly or partly in a county of more than 400,000 population (Bexar, Dallas, El Paso, Harris, Tarrant, and Travis counties) to approve a rate of up to six cents per $100 valuation.

HOUSE BILL 53 (2nd C.S.) — **HOUSE AUTHOR:** Leonard
EFFECTIVE: see below — **SENATE SPONSOR:** Glasgow

This act is the enabling legislation for House Joint Resolution 60 from the regular session and takes effect if and when the constitutional amendment proposed by that joint resolution is approved. The act authorizes rural fire prevention districts located wholly or partly in a county of more than 400,000 to levy a tax rate of up to six cents per $100 valuation contingent on voter approval in the confirmation election creating the district. For a district that is already in existence, its board of fire commissioners may order a district election to authorize a rate increase up to six cents per $100 valuation. Should the district's voters reject the proposal, however, no subsequent election on a rate increase can be called for at least a year.

SENATE BILL 865 — **SENATE AUTHOR:** Blake
EFFECTIVE: 8-31-87 — **HOUSE SPONSOR:** R. Lewis

Senate Bill 865 provides a method by which the board of fire commissioners of a rural fire prevention district may exclude or de-annex certain territory from the district. The bill requires excluded or de-annexed territory to continue to pay its pro rata share of the district's debt that was outstanding at the time of exclusion or de-annexation and requires the district to continue to levy taxes on the territory to satisfy the territory's share of the district's debt.

HOUSE BILL 828 **HOUSE AUTHOR:** Toomey
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Henderson

House Bill 828 clarifies the existing law governing the territory and operations of rural fire prevention districts, including provisions relating to a district's annexation powers, the notice requirements for bids, and taxation procedures.

Waste Disposal Authorities

SENATE BILL 561 **SENATE AUTHOR:** Brown
EFFECTIVE: 5-28-87 **HOUSE SPONSOR:** Criss

This act places the Gulf Coast Waste Disposal Authority under the supervision of the Texas Water Commission, and provides that the authority may establish minimum standards for all aspects of solid waste handling. The authorized per diem for members of the board of directors of the authority is increased from $25 to $100, but the maximum number of days for which the per diem can be paid in any one calendar year is decreased from 120 to 48.

Miscellaneous

HOUSE BILL 526 **HOUSE AUTHOR:** Uher
EFFECTIVE: 5-18-87 **SENATE SPONSOR:** Armbrister

In Matagorda County, a special seawall commission exercises levee construction powers granted to coastal counties and cities. The prior law authorized the commission to levy property taxes at 10 cents per $100 valuation. This act, applicable for tax year 1988 and subsequent tax years, converts that figure to a maximum rate and gives the commission discretion to set the rate at any level up to such maximum.

GOVERNMENT—STATE

This chapter covers legislation dealing with state government administration and organization, except for that included in the chapters on sunset legislation, public officials and employees, state taxes and tax administration, appropriations, and general government. Several of the more important legislative measures in 1987 dealt with spending and finance. One, House Bill 7 from the 2nd Called Session, granted the governor budget execution authority subject to review by the Legislative Budget Board. In addition, the 70th Legislature proposed a number of constitutional amendments designed to promote economic growth, address future revenue availability, or meet pressing capital expenditure needs. Those amendments included the removal of restrictions on public loans and grants for economic development purposes (House Joint Resolution 5), the authorization of state bond issuances for development of Texas products and businesses (House Joint Resolution 4), the creation of a Texas growth fund (House Joint Resolution 5, 2nd Called Session), the creation of an economic stabilization fund (House Joint Resolution 2, 2nd Called Session), and the authorization of $500 million in general obligation bonds to finance the construction of corrections institutions and mental health and mental retardation facilities. To provide better oversight of new and previously authorized bond programs, legislators created a five-member bond review board composed of certain of the state's top elected officials (Senate Bill 1027).

The 70th Legislature established, reorganized, or abolished numerous state agencies, beyond those changes cited in the sunset legislation chapter. The major measure in this regard consolidated a number of agencies into the Texas Department of Commerce (House Bill 4). Appendix E itemizes the various agency changes. Another constitutional amendment submitted to Texas voters provided for statutory restrictions on an outgoing governor's appointive powers (Senate Joint Resolution 53). Finally, the third Monday in January was established as "Martin Luther King, Jr., Day" in honor of the late civil rights leader (Senate Bill 485). See the chapter on civil remedies and procedures for summaries of enactments relating to legal suits against the State of Texas (House Bill 440 and House Bill 815).

General Legislation

HOUSE BILL 176 (2nd C.S.) — **HOUSE AUTHOR:** Morales
EFFECTIVE: 7-21-87 — **SENATE SPONSOR:** Glasgow

Certain acts of the 70th Legislature, 2nd Called Session, failed to receive the votes required for them to take effect before the 91st day after the adjournment of the 2nd Called Session. House Bill 176 enables each of the acts in question to take effect on the earliest effective date as provided in the individual acts as enacted and as though each had, in fact, received the necessary number of votes. Affected acts of the 2nd Called Session are: Senate Bill 52, Senate Bill 68, House Bill 7, House Bill 21, House Bill 61, House Bill 62, House Bill 177.

SENATE BILL 485 — **SENATE AUTHOR:** Johnson
EFFECTIVE: 8-31-87 — **HOUSE SPONSOR:** Wilson

Senate Bill 485 designates the third Monday in January as Martin Luther King, Jr., Day. The act permits the administrative head of a state agency to allow employees to have a day off with pay in lieu of another state holiday but requires the agency to maintain minimal operations.

Budget Execution

HOUSE BILL 7 (2nd C.S.) — **HOUSE AUTHOR:** Hollowell
EFFECTIVE: 8-3-87 — **SENATE SPONSOR:** Jones

House Bill 7 amends the Government Code by granting the governor emergency power to propose that a state agency be prohibited from spending funds appropriated to it. A proposal may also provide for the transfer of such funds to another state agency for a specified purpose. A proposal is subject to a public hearing conducted by the Legislative Budget Board, which has the power to ratify, reject, or recommend changes in the proposal. The act provides guidelines for the issuance and review of proposals.

HOUSE JOINT RESOLUTION 5 **HOUSE AUTHOR:** A. Smith
FOR ELECTION: 11-3-87 **SENATE SPONSOR:** Glasgow

Since 1876 the Texas Constitution has prohibited grants and loans of public money to individuals, associations of individuals, and municipal and other corporations. The prohibition was added as a response to abuses of public funds. House Joint Resolution 5 proposes a constitutional amendment partially lifting the prohibition and authorizing the legislature to provide for programs and the making of loans and grants of public money to aid economic development in the state. Eligible public purposes would include diversification of the economy, the reduction of unemployment, the stimulation of agricultural innovation and fostering of agricultural enterprises, and the expansion of transportation and commerce.

HOUSE JOINT RESOLUTION 4 **HOUSE AUTHOR:** Colbert
FOR ELECTION: 11-3-87 **SENATE SPONSOR:** Glasgow

House Joint Resolution 4 proposes an amendment to the Texas Constitution authorizing the legislature to issue up to $125 million in general obligation bonds to finance programs for the development of Texas products and businesses. Of the total, $10 million would be available for the Texas small business incubator fund, $15 million for the product development fund, and $100 million for the Texas agricultural development fund.

HOUSE JOINT RESOLUTION 2 **HOUSE AUTHOR:** Schlueter
FOR ELECTION: 11-3-87 **SENATE SPONSOR:** Leedom

House Joint Resolution 2 proposes an amendment to the Texas Constitution that would create the economic stabilization fund as a special fund in the state treasury. The resolution provides guidelines for the transfer of certain revenue to the fund by the comptroller of public accounts.

HOUSE JOINT RESOLUTION 5 (2nd C.S.) **HOUSE AUTHOR:** Schlueter
FOR ELECTION: 11-3-87 **SENATE SPONSOR:** Edwards

House Joint Resolution 5 would amend Article XVI of the Texas Constitution by creating the Texas growth fund, which is to be managed by a board of trustees. The act describes the powers and duties of the board and provides guidelines for investment of the growth fund, including a specific requirement that a business in which the trustees may elect to invest must first disclose any direct financial investment in or with South Africa or Namibia. The act expires on September 1, 1998, unless the legislature authorizes the creation of Texas growth fund II during the regular legislative session preceding the 10th anniversary of the act's adoption by the voters, in which event the act expires on September 1, 2008. The act also amends Article VII of the constitution by reaffirming the right of both the Board of Regents of The University of Texas System and the State Board of Education to manage their respective funds. The proposed amendment will be submitted to the voters at an election to be held on November 8, 1988.

SENATE JOINT RESOLUTION 56 **SENATE AUTHOR:** McFarland
FOR ELECTION: 11-3-87 **HOUSE SPONSOR:** Aikin

Senate Joint Resolution 56 proposes an amendment to the Texas Constitution that would empower the legislature to authorize the issuance of up to $500 million in general obligation bonds and the use of the bond proceeds to provide facilities for corrections institutions and mental health and mental retardation facilities. The proposed amendment would appropriate, out of the first money coming into the state treasury each year, an amount sufficient to pay the debt service.

SENATE BILL 1407 **SENATE AUTHOR:** McFarland
EFFECTIVE: see below **HOUSE SPONSOR:** Aikin

Senate Bill 1407 subjects the issuance of bonds for the financing of certain state facilities to review and approval by the bond review board (see Senate Bill 1027) and requires legislative authorization of specific projects. General obligation and revenue bonds of up to $500 million may be issued and the proceeds distributed to appropriate state agencies, but proceeds may not be distributed to the Texas Department of Corrections unless the department has previously submitted a master plan for construction of corrections facilities. Unexpended bond proceeds are to be invested by the state treasurer in investments approved by law. The act authorizes state agencies to enter lease agreements on behalf of the state and requires that their biennial appropriation requests include amounts sufficient to pay the principal of and interest on their outstanding

bonds. The rights of agencies in property financed under the provisions of this act are those of a lessee. Bonds issued under this act are an authorized investment and may secure deposits of public funds of any political corporation or subdivision of the state. The act authorizes the governor to appoint a chairman from the members of the board of directors of the Texas Public Building Authority.

Senate Bill 1407 takes effect on August 31, 1987, except that the $500 million bond authorization is contingent on voter approval of the constitutional amendment proposed by Senate Joint Resolution 56.

SENATE BILL 1027 — **SENATE AUTHOR:** Farabee
EFFECTIVE: 9-1-87 — **HOUSE SPONSOR:** Gibson

Senate Bill 1027 creates the bond review board, composed of the governor, the lieutenant governor, the speaker of the house of representatives, the state treasurer, and the comptroller of public accounts. The act empowers the board to approve or disapprove applications for the issuance of state bonds, to appoint a director of the bond finance office, and to request a review of the disposition of the proceeds of state bonds from the state auditor. The director of the bond finance office is required to publish an annual report.

HOUSE BILL 3 — **HOUSE AUTHOR:** Hackney
EFFECTIVE: 8-31-87 — **SENATE SPONSOR:** Glasgow

House Bill 3 creates the Texas Strategic Economic Policy Commission, whose task it is to remedy the state's lack of a long-term economic development policy, and whose members are to be the governor, the lieutenant governor, the speaker of the house, their appointees, and the Texas Department of Commerce (see House Bill 4). The act describes the commission's specific functions, establishes January 1, 1989, as a deadline for the submission of a strategic economic plan to the legislature, and provides for automatic abolition of the commission on June 1, 1989, unless its existence is continued by the legislature.

SENATE BILL 85 — **SENATE AUTHOR:** Leedom
EFFECTIVE: 9-1-87 — **HOUSE SPONSOR:** Wolens

Senate Bill 85 amends prior law by requiring the comptroller of public accounts to prescribe uniform accounting and financial reporting procedures for all state agencies. The act requires annual submission of financial information to the comptroller by all state agencies other than university systems and institutions of higher education. The comptroller is required to make an annual report to the governor of financial information of all state agencies determined to be part of the statewide reporting entity. An earlier definition of "state agency" is expanded to include governmental organizations determined by the comptroller to be a unit of state government for purposes of financial reporting under the provisions of the act.

HOUSE BILL 1785 — **HOUSE AUTHOR:** Williamson
EFFECTIVE: 9-1-87 — **SENATE SPONSOR:** Jones

House Bill 1785 amends existing law by establishing the Uniform Statewide Accounting System Committee, whose task it is to develop a plan for an automated, uniform accounting system for all state agencies, including institutions of higher education. The act sets forth a schedule for successive phases of the committee's program, creates the State Government Accounting Division in the office of the comptroller of public accounts, and requires the state auditor to ensure that all state agencies comply with the provisions of the accounting system adopted.

SENATE BILL 617 — **SENATE AUTHOR:** Jones
EFFECTIVE: 8-31-87 — **HOUSE SPONSOR:** Colbert

Senate Bill 617 amends the Treasury Act by substituting the word "investments" for "time deposits" and by authorizing the legislature to use a portion of interest received from investments to reimburse the treasurer for costs incurred in handling certain funds and accounts. Money received by the treasurer is to be deposited to the credit of the fund established for the deposit of commissions reserved to the treasurer.

SENATE BILL 789 — **SENATE AUTHOR:** Farabee
EFFECTIVE: 9-1-87 — **HOUSE SPONSOR:** Gibson

Senate Bill 789 amends the Treasury Act by permitting only the speaker of the house to serve as a nonvoting member of the cash management committee if forbidden by the Texas Constitution to serve as a voting member. Prior law permitted the lieutenant governor to serve in this capacity as well. The act also substitutes a fiscal biennium for the fiscal year previously established as the maturation period for tax and revenue anticipation bonds issued by the treasurer.

SENATE BILL 806 **SENATE AUTHOR:** McFarland
EFFECTIVE: 5-20-87 **HOUSE SPONSOR:** Larry

Senate Bill 806 amends the Treasury Act by distinguishing between "direct security repurchase agreement" and "reverse security repurchase agreement" and expanding the list of types of obligations and participations in which eligible state funds may be invested. The act raises the limit on the amount of funds that may be invested and requires the state treasurer to give Texas banks first consideration, to the extent practicable, when investing in direct security repurchase agreements. The act repeals Chapter 71, Acts of the 69th Legislature, Regular Session, 1985.

Constitutional Amendments on State Officers

SENATE JOINT RESOLUTION 53 **SENATE AUTHOR:** Edwards
FOR ELECTION: 11-3-87 **HOUSE SPONSOR:** Glossbrenner

Senate Joint Resolution 53 proposes an amendment to the Texas Constitution that would allow the legislature to limit the terms served by persons appointed by the governor to fill vacancies in state and district offices in cases where the governor is not reelected.

SENATE JOINT RESOLUTION 9 **SENATE AUTHOR:** Brown
FOR ELECTION: 11-3-87 **HOUSE SPONSOR:** A. Smith

Senate Joint Resolution 9 proposes an amendment to the Texas Constitution that would make a former legislator entering a civil office ineligible to receive any emoluments that were increased by the legislature to which he or she was elected. The act would also delete a restriction of a legislator's right to vote for any other legislator for any office.

SENATE JOINT RESOLUTION 17 **SENATE AUTHOR:** Farabee
FOR ELECTION: 11-3-87 **HOUSE SPONSOR:** Gibson

Senate Joint Resolution 17 proposes an amendment to the Texas Constitution that would permit the legislature to include the speaker of the house of representatives in the membership of an agency or committee composed of officers of more than one department of state government.

Legislative Branch

SENATE BILL 431 **SENATE AUTHOR:** Farabee
EFFECTIVE: 9-1-87 **HOUSE SPONSOR:** Patronella

Senate Bill 431 amends existing law by making a member of the State Pension Review Board who is also a member of the legislature ineligible to receive compensation for functions performed as a board member.

HOUSE BILL 699 **HOUSE AUTHOR:** Rudd
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Grant

House Bill 699 amends the Government Code by deleting the requirement that the Legislative Audit Committee's appointment of the state auditor be made between February 1 and February 15 of each odd-numbered year. The act removes the requirement of five years prior residency for eligibility to appointment, clarifies the professional requirements for eligibility, and removes the previous fixed amount of the required security bond. The act also redefines the powers and duties of the state auditor, including types of audits to be conducted, and expands the list of improper practices that the state auditor is required to report. Under this act, electronic data is included in the list of records and other documents to which the state auditor is permitted access.

HOUSE BILL 1068 **HOUSE AUTHOR:** A. Hill
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Leedom

House Bill 1068 amends the Government Code by authorizing members of the legislature or legislative agencies to produce and sell publications considered of interest to the legislature or the general public.

HOUSE BILL 1636 **HOUSE AUTHOR:** Millsap
EFFECTIVE: 6-19-87 **SENATE SPONSOR:** Blake

House Bill 1636 exempts a member of the legislature who serves on a board and commission by virtue of his position as a legislator from receiving a per diem related to that service.

HOUSE BILL 1637 **HOUSE AUTHOR:** Millsap
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Blake

House Bill 1637 amends the Government Code by allowing either house of the legislature or a committee created by resolution to accept, under certain conditions, gifts, grants, and donations from organizations described in the Internal Revenue Code.

HOUSE BILL 1638 **HOUSE AUTHOR:** Millsap
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Blake

House Bill 1638 amends the Government Code by expanding the list of those eligible for exemption from jury service to include officers and employees of either house of the legislature and of agencies in the legislative branch of state government.

HOUSE BILL 44 (2nd C.S.) **HOUSE AUTHOR:** C. Evans
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** McFarland

House Bill 44 abolishes the Texas Commission on Economy and Efficiency in State Government and transfers property and records in its possession to the custody of the Select Committee on State Government Management Effectiveness.

Executive Branch Agencies

HOUSE BILL 4 **HOUSE AUTHOR:** A. Smith
EFFECTIVE: see below **SENATE SPONSOR:** Glasgow

House Bill 4 creates the Texas Department of Commerce and makes it subject to abolition under the Texas Sunset Act on September 1, 1999. Members of the department's governing board are to be appointed by the governor with advice and consent of the senate. The act outlines the rights, powers, duties, and obligations of the department, exempts it from certain taxes and exempts from personal liability persons acting on its behalf in the execution of contracts. The act also subjects the department's financial transactions to annual inspection by the state auditor, and establishes a review board composed of the governor, the lieutenant governor, the speaker of the house of representatives, the state treasurer, and the comptroller of public accounts. The act changes much old language, repeals a number of statutes, including the Small Business Assistance Act and the Texas World Trade Development Act, abolishes the Texas Economic Development Commission, the Texas World Trade Development Authority, the Texas World Trade Council, the Enterprise Zone Board, the Technology Training Board, the Texas Tourist Development Agency, and the Texas Music Commission, and transfers their powers, duties, rights, obligations, records, and property to the Department of Commerce. These provisions all take effect September 1, 1987. Effective July 1, 1988, House Bill 4 also transfers to the Texas Department of Commerce the administration of the Texas Job-Training Partnership Act and community development block grant program.

House Bill 4 is the enabling legislation for the constitutional amendment proposed by Senate Joint Resolution 55 and contains portions of the enabling legislation for the constitutional amendment proposed by House Joint Resolution 4. (See the chapter on general government and the preceding section of this chapter, respectively.) Those portions of House Bill 4 relate to the Texas Department of Commerce's administration of the local project fund and Texas product development fund, and take effect contingent on voter approval of the associated constitutional amendments.

SENATE BILL 95 **SENATE AUTHOR:** Blake
EFFECTIVE: 9-1-87 **HOUSE SPONSOR:** Wright

Senate Bill 95 amends existing law by changing the name of the State Board of Morticians to the Texas Funeral Services Commission. Under this act, a funeral director or embalmer is required to provide personal supervision in directing the removal or transfer of a dead human body. In addition to making appropriate changes of language throughout an earlier description of powers and duties, the act substitutes a requirement

that notice of a meeting of the commission be filed with the Texas Register for an earlier one that required notice to be published in daily newspapers. The commission is empowered to assess administrative penalties, which are to be deposited to the credit of the general revenue fund.

SENATE BILL 115 **SENATE AUTHOR:** Leedom
EFFECTIVE: 9-1-87 **HOUSE SPONSOR:** C. Evans

Senate Bill 115 amends the State Purchasing and General Services Act by requiring the executive director of the State Purchasing and General Services Commission to employ two associate deputy directors to administer its divisions. The commission is required to file a report on its interim activities with the legislature and to recommend amendments to current law that would result in enhanced efficiency, economy, or productivity in areas monitored by the commission. The act establishes the energy efficiency division and the travel division in the commission, transfers records of the former from the Public Utility Commission of Texas where it was previously lodged, and describes the two divisions' respective powers and duties. (See Senate Bill 33, 2nd Called Session, in the chapter on energy.) Certain sections of the State Purchasing and General Services Act and the Public Utility Regulatory Act are repealed, and the Economic Input/Output Model of the Texas Water Development Board is transferred to the office of the comptroller of public accounts. Additionally, the office of vehicle fleet maintenance is required to establish a vehicle-reporting system to assist state agencies in managing their vehicle fleets.

SENATE BILL 119 **SENATE AUTHOR:** Montford
EFFECTIVE: 9-1-87 **HOUSE SPONSOR:** Rudd

Senate Bill 119 amends prior law by authorizing the Texas Aeronautics Commission to sell advertising in the Texas Airport Directory and to advertise the sale of the directory in other publications. Revenue collected is to be deposited in the Texas Aeronautics Commission operating account, which is created as a special account in the general revenue fund.

SENATE BILL 258 **SENATE AUTHOR:** Montford
EFFECTIVE: 5-28-87 **HOUSE SPONSOR:** Leonard

Senate Bill 258 authorizes the Department of Public Safety to accept and use donations of money and other property for any donor-designated purpose that furthers exercise of the department's duties.

SENATE BILL 325 **SENATE AUTHOR:** Montford
EFFECTIVE: 9-1-87 **HOUSE SPONSOR:** Yost

This act ratifies statutorily several functions currently housed within the Texas Natural Resources Information System (TNRIS), operated by the Texas Water Development Board (TWDB). TNRIS is authorized as a centralized information system for the collection of natural resource data, related socioeconomic data, and applicable indexes. The act transfers from the General Land Office to the executive administrator of the TWDB the responsibility for coordination with the U.S. Department of the Interior in the naming of geographic features in Texas. The act creates a Texas Natural Resources Information System Task Force to assist the executive administrator in implementing TNRIS, identifying geographic name discrepancies, and making recommendations on such names to federal officials. The task force is composed of one representative each from state agencies that collect or use natural resource and related socioeconomic data.

HOUSE BILL 2056 **HOUSE AUTHOR:** Wallace
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Green

The function of the Antiquities Committee is to protect and preserve archeological and historical resources of the state and perform other functions related to those resources. This act provides that the committee's nine members select a chair annually at the first committee meeting. Also, the act sets a quorum at five members, prohibits proxy votes or substitute attendance toward a quorum by member designees, and establishes the chair of the Texas Historical Commission as that commission's ex officio member of the committee, removing the option to select another commission member. Political subdivisions of the state are authorized to cooperate with the Antiquities Committee in various ways. A structure or building in order to be designated as a state archeological landmark must first be listed on the National Register of Historic Places. The act allows the committee when it arranges for the curation of artifacts to assess associated costs.

A portion of the act also relates to the leasing of public land, primarily leasing for oil and gas. This part is summarized in the chapter on energy.

SENATE BILL 437 **SENATE AUTHOR:** Parker
EFFECTIVE: 8-31-87 **HOUSE SPONSOR:** Wilson

Senate Bill 437 amends the Texas Housing Agency Act by specifically including both certificated and registered uncertificated (book-entry) obligations among the forms of bonds that may be issued by the Texas Housing Agency. Under this act, the agency's bonds may be payable anywhere within or without the United States and in any currency.

SENATE BILL 646 **SENATE AUTHOR:** Brown
EFFECTIVE: 6-19-87 **HOUSE SPONSOR:** Heflin

Senate Bill 646 amends the Administrative Procedure and Texas Register Act by making Sections 12 through 20 inapplicable to the suspension, revocation, or termination of the certification of a breath analysis operator or technical supervisor under the rules of the Department of Public Safety.

SENATE BILL 744 **SENATE AUTHOR:** Parmer
EFFECTIVE: 9-1-87 **HOUSE SPONSOR:** Danburg

Senate Bill 744 creates the State Cogeneration Council to assist, inform, and advise state agencies concerning issues related to cogeneration and to review applications for a state agency cogeneration facility. The bill defines the powers and duties of the council and requires the cooperation of all political subdivisions, municipalities, and state agencies operating or controlling retail electric utility service facilities in the state with state agencies attempting to sell firm or nonfirm power. The Public Utility Commission is empowered to determine issues of rates, pricing policies, and other pertinent matters, but the act does not otherwise enlarge its jurisdiction over political subdivisions, municipalities, and state agencies.

SENATE BILL 953 **SENATE AUTHOR:** Harris
EFFECTIVE: 8-31-87 **HOUSE SPONSOR:** Laney

Senate Bill 953 amends the Public Utility Regulatory Act by making communications of members and employees of the Public Utility Commission with other parties subject to the Administrative Procedure and Texas Register Act. The act deletes a restriction on communication by the commission and parties appearing before the commission with an administrative law judge on matters concerning current contested cases.

SENATE BILL 1097 **SENATE AUTHOR:** Krier
EFFECTIVE: 5-28-87 **HOUSE SPONSOR:** P. Hill

Senate Bill 1097 amends the Texas Administrative Code Act to require that the secretary of state index, as well as publish, a Texas administrative code.

SENATE BILL 1154 **SENATE AUTHOR:** Anderson
EFFECTIVE: 6-19-87 **HOUSE SPONSOR:** Oakley

Senate Bill 1154 amends existing law by authorizing the Industrial Accident Board to bar any person determined to be guilty of unethical or fraudulent conduct from practicing before the board. An aggrieved party may appeal the board's decision and is entitled to judicial review of the decision by trial de novo. The board may require the party to pay the cost of a copy of board records required by the court.

SENATE BILL 1312 **SENATE AUTHOR:** Montford
EFFECTIVE: 5-28-87 **HOUSE SPONSOR:** Haley

Senate Bill 1312 amends existing law by deleting the requirement that the Texas Board of Health conduct meetings at least once per month.

HOUSE BILL 42 **HOUSE AUTHOR:** Burnett
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Sims

House Bill 42 amends the State Aircraft Pooling Act by adding a requirement that state-owned and state-leased aircraft be marked with the Texas state seal and the words "The State of Texas." The act specifically exempts aircraft used for law enforcement purposes.

HOUSE BILL 312 **HOUSE AUTHOR:** C. Johnson
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Blake

House Bill 312 amends prior law by requiring the attorney general, under certain conditions, to defend a state district attorney in a federal court in an action filed by a person presently or formerly confined in a Texas Department of Corrections facility.

HOUSE BILL 524 **HOUSE AUTHOR:** Stiles
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Brown

House Bill 524 abolishes the Texas Amusement Machine Commission and transfers its duties to the comptroller's office. The comptroller is authorized to collect taxes on coin-operated machines quarterly and is authorized to keep half of the license fees for administration and enforcement.

HOUSE BILL 557 **HOUSE AUTHOR:** Cain
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Montford

House Bill 557 authorizes the State Department of Highways and Public Transportation to lease unused parts of a right-of-way for a state highway, including the airspace above or the underground space below the right-of-way. The act permits the terms of such a lease to be determined by the department but prohibits conveyance of title to or severance from the real property of any permanent improvements on the leased area. Payments received under a lease are to be deposited in the state highway fund.

HOUSE BILL 911 **HOUSE AUTHOR:** Carter
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Blake

House Bill 911 amends existing law by raising to 17 the number of members serving on the Advisory Commission on State Emergency Communications and by empowering the commission to employ persons necessary to carry out its functions, using funds provided by the General Appropriations Act. The act establishes members' terms of office, makes the commission subject to the Texas Sunset Act, and redefines the commission's powers and duties. The act specifically amends the Civil Practice and Remedies Code as it pertains to claims filed against public agencies under certain circumstances, and amends the 9-1-1 Emergency Number Act and the Emergency Communication District Act as they pertain to the creation of emergency communication districts.

HOUSE BILL 921 **HOUSE AUTHOR:** Burnett
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Sims

House Bill 921 authorizes the comptroller of public accounts to contract with any person for the receipt of information about possible claims that the state may be entitled to pursue for the recovery of revenue or other property.

HOUSE BILL 1511 **HOUSE AUTHOR:** A. Smith
EFFECTIVE: 9-1-88 **SENATE SPONSOR:** Brown

House Bill 1511 creates the Texas Space Commission for the purpose of fostering the development of industries related to the commercialization of space. Commission members are to be appointed by the governor and confirmed by the senate. The act defines the commission's powers and duties and makes it subject to the Texas Sunset Act.

HOUSE BILL 2060 **HOUSE AUTHOR:** Wallace
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Blake

House Bill 2060 amends the State Purchasing and General Services Act by authorizing design, manufacture, and distribution of official state coins. The right to mint the coins is to be open to competitive bidding. The act exempts official state coins from certain provisions of the Tax Code.

HOUSE BILL 2241 **HOUSE AUTHOR:** P. Hill
EFFECTIVE: 6-19-87 **SENATE SPONSOR:** Leedom

House Bill 2241 provides for an increase in certain filing fees and fees for services rendered that are charged by the secretary of state.

Purchasing, Property, and Office Space

SENATE BILL 372 **SENATE AUTHOR:** Caperton
EFFECTIVE: 9-1-87 **HOUSE SPONSOR:** A. Luna

Senate Bill 372 amends the State Purchasing and General Services Act by requiring the State Purchasing and General Services Commission to delegate, on request, to an institution or other agency of higher education

the authority to purchase supplies and services for research projects from state funds appropriated for that purpose.

SENATE BILL 478 **SENATE AUTHOR:** Leedom
EFFECTIVE: 8-31-87 **HOUSE SPONSOR:** R. Lewis

Senate Bill 478 amends the State Purchasing and General Services Act by requiring that the State Purchasing and General Services Commission submit for comment by the General Land Office's asset management division any proposal for the lease of buildings to private tenants or for the grant of an easement or right-of-way that may extend beyond the period of construction. Proposals are to be submitted 30 days before their execution. The act also amends the Natural Resources Code by permitting the inclusion, in a lease granted by the School Land Board for 20 years or more, of a provision for the lessee to purchase the leased premises. Under this act, the land commissioner is empowered to accept donations of money or property, including bequests. Except as otherwise designated by the donor, real property acquired in this manner becomes public free school land, but land determined to be unsuitable for the designated purpose may be exchanged for property that is suitable. The act provides for the lease of permanent school fund land for a term deemed by the land commissioner to be in the best interest of the state, allows the General Land Office to establish a filing fee for field notes accompanying applications to purchase abandoned riverbeds, and prohibits and establishes civil penalties for the unauthorized removal of any mineral or other thing of value from permanent school fund land. The General Land Office is empowered to sell lands held in the name of the state as a result of tax foreclosure, and proceeds from such sales are to be deposited in the Texas capital trust fund. The act repeals certain earlier provisions, including the Natural Resources Code's prohibition of corporations buying real property from the School Land Board.

SENATE BILL 752 **SENATE AUTHOR:** Farabee
EFFECTIVE: 5-20-87 **HOUSE SPONSOR:** Stiles

Senate Bill 752 amends existing law by requiring the State Purchasing and General Services Commission to publish annually in the Texas Register a list of states that have laws regarding the award of certain contracts to nonresident bidders. A summary of each state's current laws pertaining to evaluation of bids from, and award of contracts to, those bidders must also be published.

SENATE BILL 826 **SENATE AUTHOR:** Farabee
EFFECTIVE: 9-1-87 **HOUSE SPONSOR:** Vowell

Senate Bill 826 amends the State Purchasing and General Services Act by exempting space leased to provide child day-care services for employees from the 15 percent limit on the amount of space that private tenants may lease in a state-owned building. The act requires that the State Purchasing and General Services Commission encourage the use of space most appropriate for day care and permits the selection of a child day-care service by means other than competitive bidding.

HOUSE BILL 452 **HOUSE AUTHOR:** A. Hill
EFFECTIVE: 5-6-87 **SENATE SPONSOR:** Barrientos

House Bill 452 amends the State Purchasing and General Services Act by adding "rural fire prevention district" to the definition of political subdivision.

HOUSE BILL 662 **HOUSE AUTHOR:** Glossbrenner
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Farabee

House Bill 662 amends the State Purchasing and General Services Act by adding a requirement that bid documents and contracts for certain construction projects include detailed plans for adequate safety systems. The bill also amends the Bond and Warrant Law and other prior law by authorizing the governing body of a city to take into consideration the safety record of competitive bidders for public contracts.

HOUSE BILL 1169 **HOUSE AUTHOR:** Gibson
EFFECTIVE: 6-19-87 **SENATE SPONSOR:** Jones

House Bill 1169 amends the State Purchasing and General Services Act by authorizing state purchases of land, including any existing buildings thereon, to meet office space needs. Under this act, acquisition of existing buildings may be substituted for construction previously authorized if the latter is deemed to be a more financially advantageous means of meeting office space needs.

The act also amends the Texas Public Finance Authority Act to provide a method for financing, acquisition, construction, and improvement of buildings for the use of state agencies and institutions in Travis County or in any other county in which more than 50,000 square feet of usable space is needed. The act grants authorization for the issuance of bonds, subject to the approval of the legislature, and sets a limit on the principal amount of any bond issue.

HOUSE BILL 1596 **HOUSE AUTHOR:** Leonard
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Armbrister

House Bill 1596 amends the State Purchasing and General Services Act by permitting the State Purchasing and General Services Commission to exercise, at the request of a state agency, its powers and duties on state-owned or state-leased property. The act exempts such services from The Interagency Cooperation Act but requires the commission to establish a cost-recovery system.

HOUSE BILL 1823 **HOUSE AUTHOR:** Laney
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Farabee

House Bill 1823 amends the State Purchasing and General Services Act by authorizing the collection of fees from the purchaser of surplus or salvage property sold by competitive bid. Fees collected are to be deposited to the credit of the general revenue fund.

HOUSE BILL 1874 **HOUSE AUTHOR:** Millsap
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Blake

House Bill 1874 authorizes the board of directors of the Texas Public Finance Authority to issue and sell bonds to finance the repair, renovation, or improvement of the State Capitol. Bond proceeds are to be deposited to the account of the State Preservation Board, and unexpended bond proceeds may be invested according to law. The act subjects the issuance of bonds to certain provisions of the Texas Public Finance Authority Act and establishes September 1, 1989, as the maturation date for bonds payable from money appropriated by the legislature. The rights of the State Preservation Board in property financed under this act are those of a lessee.

HOUSE BILL 2130 **HOUSE AUTHOR:** Laney
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Blake

House Bill 2130 amends the State Purchasing and General Services Act by raising to $500 the maximum value of nonconsumable personal property exempt from a definition of personal property used for agency accounting purposes.

SENATE BILL 64 (2nd C.S.) **SENATE AUTHOR:** Jones
EFFECTIVE: 8-6-87 **HOUSE SPONSOR:** Gibson

Senate Bill 64 amends the Texas Public Building Authority Act by renaming it the Texas Public Finance Authority Act, redefining the powers and duties of the authority, and revising the language of the original act. Senate Bill 64 expands the authority's power to issue and sell bonds for a specified project, subject to approval by the bond review board (see Senate Bill 1027, Regular Session). Bonds issued by the authority shall mature not more than 40 years from the date of issuance. Investment income needed for project costs and not required to be rebated to the federal government is to be credited to the account of the State Purchasing and General Services Commission. Income not needed for project costs is to be credited to the state lease fund in the state treasury. The State Purchasing and General Services Commission and other appropriate state agencies are required to establish schedules to charge state agencies using projects authorized by the act for expenses incurred in financing the projects. The act also provides a list of projects specifically approved for financing by the authority and validates projects approved by the legislature before the act's effective date.

State Telecommunications

HOUSE BILL 2224 **HOUSE AUTHOR:** R. Lewis
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Jones

House Bill 2224 amends prior law pertaining to the provision of telecommunications and automated information items for state governmental bodies by providing and expanding definitions for "basic certification" and "advanced certification." The act exempts from its own provisions certain services and facilities described in the State Purchasing and General Services Act, and changes the requirements for

appointive membership on the Automated Information and Telecommunications Council. The act contains provisions for emergency acquisitions by state governmental bodies and establishes guidelines for council review of performance in the use of telecommunications systems. Under this act, the council is required to maintain an inventory record of software developed or acquired by state governmental bodies. The State Purchasing and General Services Commission is authorized to acquire equipment and services by competitive sealed proposals if it is determined that competitive sealed bidding is impractical or disadvantageous. Litigation bonds are required of persons submitting bids or proposals.

HOUSE BILL 2511 **HOUSE AUTHOR:** C. Evans
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Blake

House Bill 2511 amends the Public Utility Regulatory Act to permit TEXAN, a telecommunications service providing dedicated line long distance service to the state, to continue to provide this service, on a month-to-month basis, until September 1, 1988. The act requires the State Purchasing and General Services Commission to ensure that contracts for telecommunications service are awarded by October 15, 1987, and that TEXAN II is operational by no later than August 31, 1988. Unexpended funds appropriated for extending the existing TEXAN contract are to be transferred to the commission for the sole purpose of offsetting the cost of administering the TEXAN II network. The act exempts the state from penalty charges for delinquent payment of a bill for telecommunications service.

Reports and Records

HOUSE BILL 2599 **HOUSE AUTHOR:** Williamson
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Leedom

House Bill 2599 requires each state agency to furnish quarterly reports of the number of its full-time employees to the state auditor. The state auditor is authorized to audit a state agency to ensure the accuracy of the reported information. Information reported under this act constitutes a public record.

HOUSE BILL 503 **HOUSE AUTHOR:** Shaw
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Sims

House Bill 503 seeks to prevent waste in the duplication and distribution of state agency reports and other publications by requiring that an agency determine beforehand whether a member of the legislature wishes to receive a particular publication. The act also requires state agencies that issue such reports and publications to use recycled paper to the greatest extent possible.

SENATE BILL 560 **SENATE AUTHOR:** Blake
EFFECTIVE: 8-31-87 **HOUSE SPONSOR:** Millsap

Senate Bill 560 amends existing law by requiring the cost to any person requesting photographic reproductions of public records, or access to records stored in computer banks or on microfilm, to include all reasonable costs relating to the reproduction. The act also limits the amount of time during which a person may examine public information and restricts the authority of the custodian of such information to make inquiry of any applicant for inspection or copying of public records. Under this act, a special meeting of the governing body of an institution of higher education is permitted to hold an open or executive meeting by telephone conference call, but such a meeting is subject to the same notice requirements that apply to other meetings and must be tape recorded. The tape recording must be made available to the public.

SENATE BILL 1081 **SENATE AUTHOR:** Henderson
EFFECTIVE: 1-1-88 **HOUSE SPONSOR:** P. Hill

Senate Bill 1081 amends the Government Code by stipulating that lobbyists file registrations and activity reports with the secretary of state on forms prescribed by the secretary. The act provides for expiration and renewal of registrations and imposes fees for each. Under this act, the secretary of state is authorized to establish a system to provide, for a fee, access to certain information stored in state computer banks and to develop or acquire computer software to facilitate the discharge of the duties of the office.

Superconducting Super Collider

HOUSE JOINT RESOLUTION 88 **HOUSE AUTHOR:** A. Luna
FOR ELECTION: 11-3-87 **SENATE SPONSOR:** Edwards

House Joint Resolution 88 proposes an amendment to the Texas Constitution that would allow the issuance of bonds for undertakings related to the superconducting super collider research facility.

HOUSE BILL 1909 **HOUSE AUTHOR:** A. Luna
EFFECTIVE: 5-14-87 **SENATE SPONSOR:** Edwards

House Bill 1909 amends existing law by expanding the authority of the Texas National Research Laboratory Commission to take such steps as are appropriate to effect the siting, development, and operation of the superconducting super collider research facility within the state. Among the powers granted are the right to acquire property or interests in property, the right to form a corporation under provisions of the Texas Non-Profit Corporation Act, and the right to issue bonds, including those authorized by House Joint Resolution 88.

SENATE BILL 1428 **SENATE AUTHOR:** Edwards
EFFECTIVE: 5-25-87 **HOUSE SPONSOR:** A. Luna

Senate Bill 1428 amends existing law by exempting the use of a private consultant by the Texas National Research Laboratory Commission from a statute requiring 30 days advance notice of intent to employ a private consultant.

See also House Bill 2448 in the public lands chapter.

GOVERNMENT—SUNSET LEGISLATION

The Texas Sunset Act provides for the recurring review of state agencies and advisory committees and for the termination of the entities unless reauthorizing legislation is enacted. Under provisions of the act, the legislature voted to continue one agency without revisions, to continue 11 agencies with modifications, and to abolish two entities: the Medical Care Advisory Committee and the Technology Training Board.

Agencies under sunset review in 1987 were primarily criminal and juvenile justice agencies, including the Texas Department of Corrections, and health and human services agencies, including the Texas Department of Human Services and the Texas Department of Mental Health and Mental Retardation.

In addition to program changes, the sunset evaluation process encourages the adoption of administrative and organizational reforms, many of which are standard and are applied to the legislation for most agencies. The general across-the-board provisions include: (1) requiring public membership on boards; (2) prohibiting conflicts of interest and limiting lobbying; (3) specifying grounds for removing board members and informing board members and employees of required standards of conduct; (4) requiring financial reports and audits; (5) requiring skill-oriented career ladders; (6) requiring equal employment opportunities; (7) requiring merit pay systems; (8) providing for public notification and information on board activities and for public testimony; (9) requiring all funds to be placed in the treasury; (10) establishing complaint procedures; and (11) requiring separate board and staff functions. Licensing provisions (a) require standard time frames for delinquent license renewals, (b) provide for notification of exam results within a reasonable time, (c) provide for exam analysis, (d) require license disqualifications to be easily determined and to be for currently existing conditions, (e) provide for endorsement or reciprocity, according to stated conditions, (f) authorize staggered renewal, (g) authorize a full range of penalties, (h) specify board hearing requirements, (i) allow advertising and competitive bidding, and (j) may include a system of voluntary continuing education.

Criminal and Juvenile Justice Agencies

HOUSE BILL 83 — **HOUSE AUTHOR:** P. Hill
EFFECTIVE: 9-1-87 — **SENATE SPONSOR:** Montford

House Bill 83 continues the Texas Adult Probation Commission and sets 1999 as the date of its next sunset review.

The act renames restitution centers as community rehabilitation centers and changes some provisions relating to restitution centers and their probationers: (1) persons serving probationary terms at the centers are no longer required to secure employment as a condition of probation (Sections 3, 6); (2) minimum time in the center is reduced from six to three months (Section 6); (3) defendants no longer have to request the courts to consider special issues before the courts may consider alternative probation in centers (Section 6); (4) center directors are required to submit evaluations to probation officers periodically, rather than only once (Section 6); (5) short-term furloughs are authorized and the 24-hour limitation on emergency furloughs is removed (Section 6); and (6) restrictions prohibiting probationers that had been placed under intensive supervision probation from serving a term in the centers are removed (Section 8). The prohibition against violent offenders being placed in the centers is not changed (Section 6).

The act includes a section relating to the imposition of electronic monitoring as a condition of probation (Section 7).

The act directs the commission to define noncompliance with standards for probation offices and expands allowable sanctions for noncompliance (Section 22). It creates the Advisory Committee on Probation Department Management to the Texas Adult Probation Commission (Section 23) to develop guidelines for the organization, management, and operation of local probation departments; if the committee presents guidelines for the commission's consideration, it is continued in existence until September 1989; if it fails to file the guidelines with the commission by September 1988, it is abolished as of that date (Section 27), and the commission is directed to prepare such guidelines (Section 15).

The act authorizes the commission to provide training for probation officers (Section 19) and directs the commission to establish an officer certification program (Section 21).

In other provisions, the act also: (1) encourages reading programs for probationers who are functionally illiterate (Sections 1, 15); (2) prohibits the courts from requiring probationers to make payments as a

condition of probation, except as expressly authorized by statute (Section 4); (3) requires monthly fees of a set amount, unless reduced or waived; previously, the law made such fees discretionary (Section 5); (4) authorizes courts to sentence probationers to limited county jail terms for violating administrative provisions of probation or for committing misdemeanors (Section 8); (5) directs the commission to adopt standards regarding the appointment of chief adult probation officers (Section 9); (6) directs the commission to monitor county support services (Section 9); (7) authorizes judicial districts to contract with the Board of Pardons and Paroles for supervision of persons on probation (Section 9); (8) directs the commission to promulgate rules relating to commission-funded programs and facilities (Section 15) and to study the effectiveness of such programs (Section 16); (9) provides for the continuation of the Interstate Parole Compact Administrator for Texas (Section 1); and (10) adds across-the-board sunset recommendations.

SENATE BILL 17 **SENATE AUTHOR:** Farabee
EFFECTIVE: 9-1-87 **HOUSE SPONSOR:** Granoff

Senate Bill 17 continues the Texas Juvenile Probation Commission and sets 1999 as the year of its next sunset review.

The act changes the membership of the commission by replacing one of the three district judges with a county judge or commissioner (Section 2).

It allows juveniles to be prosecuted for certain misdemeanor offenses in municipal or justice of the peace courts, rather than in juvenile courts (Sections 21, 26), but provides for sealing the files and records of such cases (Section 27), and it allows the courts to transfer three-time offenders to juvenile courts (Section 21).

It establishes disposition hearing fees and the juvenile probation diversion fund (Section 23); money from the fees is to be used by the commission for the purchase of services necessary to keep certain children from being committed to the Texas Youth Commission.

It requires a court fee of a maximum of $15 per month for children who are placed on probation and who, or whose guardians, are financially able to pay (Section 25). Under previous law, the fee was discretionary.

It provides that court-ordered support payments for children placed outside their homes be made to local juvenile probation departments or, for children committed to the Texas Youth Commission, to the youth commission (Section 24).

The act provides that children who run away from home twice, rather than only once, come under the supervision of a juvenile court, and it specifies that the voluntary, unexcused absence from school that results in juvenile court supervision must be without the consent of the child's parents (Section 20).

The commission is directed to monitor the effectiveness of probation services (Section 13) and to update estimates of juvenile population in each county for state aid purposes (Section 17).

The act also includes provisions relating to the following: (1) certification of juvenile probation officers (Sections 10, 11); (2) interagency cooperation (Section 12); (3) state aid and assistance to juvenile boards (Sections 16, 19); (4) complaints about juvenile boards (Section 18); (5) fees for informal adjustment services (Section 22); and (6) changes in the composition and responsibilities of the Texas Advisory Council on Juvenile Services (Section 5).

In addition, Senate Bill 17 requires juvenile boards to appoint advisory councils and authorizes juvenile boards to contract with the Texas Youth Commission for juvenile probation services (Section 28).

The act also implements across-the-board sunset recommendations.

SENATE BILL 33 **SENATE AUTHOR:** Farabee
EFFECTIVE: 9-1-87 **HOUSE SPONSOR:** Granoff

Senate Bill 33 continues the Texas Youth Commission (TYC) and sets 1999 as the date of its next sunset review. The act reduces institutionalization of children for minor offenses and emphasizes delinquency prevention and the use of service contracts.

The commission is authorized to apprehend children who escape while under the commission's authority or who break the conditions of their release (Section 46).

The violation of a disposition order prohibiting running away from home, truancy, and certain minor misdemeanors is excluded from the definition of delinquent conduct (Section 48).

Also, the commission is directed to allocate expenditures for contract residential care on a fixed monthly basis, when suitable (Section 20); is prohibited from developing and operating new halfway houses if programs

are contractually available (Section 21); and is required to establish performance standards for its programs (Section 22).

In other program areas, the act: (1) directs the commission to identify recidivists (Section 31); (2) directs the commission to develop programs to encourage family involvement in rehabilitation (Section 35); (3) requires the commission to evaluate home settings before releasing children in its custody to their homes (Section 39); (4) specifies sanctions against children released under supervision who violate their release orders, including restitution for damages or performance of community service (Section 41); (5) directs the commission to develop a management system for parole services (Section 42); (6) removes the statutory limit on contract rates for parole services (Section 44); and (7) specifies that the religious training of children in custody is to be based on the children's choices (Section 29).

In administrative areas, the act: (1) requires the commission to compute costs of operating facilities in a manner that is consistent with that used by other state agencies (Section 24); (2) extends liability protection to physicians under contract with TYC (Section 47); (3) includes across-the-board sunset provisions; (4) creates special accounts and funds, including a student trust fund (Section 27); and (5) updates obsolete language.

The act includes provisions affecting other agencies: (1) the administrator of the Texas Employment Commission is directed to appoint a person to coordinate Communities in Schools services; TEC and the Central Education Agency are to adopt a memorandum of understanding concerning their roles (Section 49); (2) TYC and TDMHMR are to cooperate regarding mentally ill and mentally retarded children committed to TYC (Section 37); and (3) the Texas Commission on Alcohol and Drug Abuse is directed to expand services for children when funds are available (Section 50).

The act repeals provisions relating to superintendents of TYC facilities, commitment by juvenile court, contracts with Big Brothers/Big Sisters, and the Corsicana State Home, the West Texas Children's Home at Pyote, and the Waco State Home (Section 52).

SENATE BILL 245 **SENATE AUTHOR:** McFarland
EFFECTIVE: 9-1-87 **HOUSE SPONSOR:** Granoff

Senate Bill 245 continues the Texas Department of Corrections (TDC) and sets its next sunset review for 1999. The act emphasizes reducing recidivism and preparing inmates for their return to the community. It provides special services for inmates with disabilities or other special needs and makes changes concerning good conduct time. It also authorizes shock probation and literacy programs.

Board Operations

The act authorizes the governor to designate the chairman of the board of corrections but does not change the board membership (Section 5). The board is authorized to hold open or executive emergency meetings by conference call; open meeting calls must be available to be heard by and be recorded for the public (Section 4). Board members are exempted from statutory limits on state liability (Section 59).

Correctional Facilities

The board is authorized to acquire property, subject to the General Appropriations Act or through gifts, for a prison site (Section 8) and to contract with counties, subject to authority and review, to secure corrections facilities (Section 9).

The act validates the lease-purchase arrangement for the Michael Unit in Anderson County and for trusty units in six counties, and it exempts the property from property tax (Section 21). It directs TDC, in evaluating locations for units, to consider proximity to: (1) a county with at least 100,000 people; (2) other department units; (3) inmates' homes; and (4) educational and medical services (Section 44). It also directs TDC to establish an overnight holding facility for inmate outpatients at the U.T. Medical Branch in Galveston (Section 23).

Overcrowding and Good Conduct Time

When it determines that overcrowding has decreased, the board is required to change its inmate classification system so that inmates are allowed no more than 20 days' good conduct time for each 30 days served; upward reclassification could only occur every 90 days (Section 13). For inmates sentenced for offenses

committed after September 1, 1987, the act reduces the maximum additional days that a "trusty" can accrue from 25 to 10 (Sections 14, 64). The act also authorizes up to 15 days' good conduct time for each 30 days served for diligent participation in an agricultural, work, or literacy program (Section 14) and provides that good conduct time may be awarded only to an inmate actively involved in an agricultural, vocational, educational, or work program, if the inmate is capable of participating (Section 15).

An annual review is required of rules and policies concerning classification (Section 13) and of restoration of forfeited good conduct time and retroactive good conduct time (Section 15). If overcrowding is no longer a factor, the rules are to change (Section 13) or the practices end (Section 15).

Reducing Recidivism

The Role of the Family in Reducing Recidivism Advisory Committee is created (Section 40) and family liaison officers are required for each unit (Section 39). The act includes provisions relating to a special program for probationers (shock probation) who are required to serve up to 90 days in the department (Sections 30, 54) and to an urban prerelease program that attempts to secure community employment for inmates who are within six months of parole (Section 43). The act directs TDC to establish reading programs for functionally illiterate inmates and to provide for a continuity of assistance following release (Section 22). TDC is also directed to monitor the effectiveness of the programs (Section 25).

In related areas, the act: (1) directs the board to encourage programs to reintegrate inmates into society (Section 7); (2) encourages furloughs (Section 17); (3) directs TDC to actively encourage volunteer programs in a variety of areas (Section 34); (4) requires the establishment of a uniform visitation policy program by September 1, 1989 (Section 35); and (5) encourages arts and crafts programs (Section 36).

Agricultural and Work Programs

The department is directed to expand inmate labor programs (Sections 2, 24) and is authorized to apportion the inmate's pay for restitution, for the inmate's family, for the department's costs, for the crime victims' fund, and for the inmate's trust fund (Section 24). It is also required to establish a permanent work record for inmates participating in on-the-job training programs (Section 37).

The act creates the Advisory Committee on Agriculture (Section 41) and requires annual review of TDC's agricultural operations (Section 42). It also authorizes the purchase of agricultural goods and industrial equipment at auctions (Section 33).

Programs for Disabled and Other Inmates with Special Needs

The act requires TDC and TDMHMR to work together to serve mentally ill and mentally retarded offenders and includes numerous provisions on mental health services (Sections 16, 28, 29, 32, 38, 48, 49, 50). The act also directs TDC to consider the feasibility of transferring inmates with special needs to other state facilities (Section 45).

TDC is directed to assist long-term inmates to prepare for release (Section 46) and to work with other agencies in providing continuity in services for mentally ill, mentally retarded, elderly, and physically handicapped inmates, for inmates with a history of drug abuse, and for inmates with a history of unemployment (Section 32).

Miscellaneous Provisions

On discharge on parole, mandatory supervision, or conditional pardon, a TDC inmate is entitled to $200. The act authorizes half of the money to be withheld until the convict reports to his parole officer (Section 12).

The act requires TDC to develop a federally certifiable inmate grievance system (Section 19) and authorizes the payment of up to $500 for inmate property that is lost or destroyed by the department (Section 18). It also allows court continuances for civil rights violations (Section 58), allows for unsworn declarations (Section 60), and eliminates the suspension of the statute of limitations on actions for a person who is imprisoned (Section 56).

Under the act, TDC is authorized to establish a claim and lien, for confinement costs, against estates of inmates without dependents who die while in prison (Section 20), and the department is placed on the list of priorities for the disposition of assets of inmates who die while in TDC (Section 51).

Other provisions relate to: (1) new duties for the Criminal Justice Policy Council (Section 47); (2) attorney's fees (Section 52); (3) information that counties are required to deliver to TDC (Sections 53, 63); (4) special purchasing procedures (Section 55); (5) psychiatrists (Section 26); (6) medical residencies (Section 27); (7) physician misconduct (Section 31); (8) across-the-board sunset recommendations; and (9) transfer of unexpended funds (Section 61).

SENATE BILL 341 **SENATE AUTHOR:** Farabee
EFFECTIVE: 9-1-87 **HOUSE SPONSOR:** Granoff

Senate Bill 341 continues the Board of Pardons and Paroles and sets its next sunset review for 1999. It reduces the period that must be served before an inmate is eligible for parole; prohibits release to mandatory supervision for certain offenses; directs the board to designate tentative parole months for prisoners within four months after they are admitted to the Texas Department of Corrections; and directs the board to develop guidelines for parole decisions.

Under previous law, prisoners had to serve a third of their maximum sentences or 20 years, whichever was less, before they would be eligible for parole, and prisoners serving sentences for capital murder, aggravated kidnapping, aggravated sexual assault, and aggravated robbery were not eligible for release to mandatory supervision. Under Senate Bill 341, the time required for parole eligibility is reduced to a fourth of a sentence or 15 years, but the list of offenses for which release to mandatory supervision is prohibited is expanded to include murder, sexual assault, aggravated assault, deadly assault on law enforcement and corrections officers and court participants, injury to a child or elderly individual, arson, robbery, and certain cases of burglary. Inmates are released to mandatory supervision when the time they have served plus their good conduct credits equals the length of their sentence; they remain under mandatory supervision for their good conduct time.

Information on prisoners must be secured by the board within 120 days after the prisoners are admitted to the Texas Department of Corrections, rather than within a year, and a tentative parole month and proposed program of measurable institutional progress for the prisoner are to be established. The board and the department are to cooperate to carry out the tentative parole program.

The act directs the board to develop and implement standard parole guidelines and includes provisions relating to parole considerations for prisoners serving consecutive sentences, specifically prohibiting consecutive sentences from being treated as a single sentence for purposes of parole. It also authorizes the board to require functionally illiterate parolees to attend basic education classes; provides that payment on damages committed as an inmate may be required; and allows the board to require community service.

The board, the Texas Rehabilitation Commission, the Texas Department of Health, the Texas Commission on Alcohol and Drug Abuse, and the Texas Adult Probation Commission are directed to reduce or eliminate duplication of functions in certifying, licensing, and inspecting halfway houses under their supervision. Participation in the halfway house program is authorized for inmates who have been previously denied release, and the specific statutory functions of halfway houses are expanded.

The board and the Texas Department of Mental Health and Mental Retardation are directed to work together to increase the availability of services to mentally ill and mentally retarded releasees. The board is authorized to contract for services to releasees who are mentally retarded or who have a history of mental illness, substance abuse, or sexual offenses, and it is directed to seek funding for such contracts as a priority item.

The board and the Central Education Agency are directed to implement a continuing education program to increase the literacy of persons released on parole or to mandatory supervision.

Parole supervision fees are extended to out-of-state prisoners paroled to Texas and the prohibition on parole officers collecting fees is removed. The $10 fee is to be paid for each month the prisoner is under parole supervision.

The board is directed to implement a system of sanctions, including electronic monitoring, that may be imposed on a person whose conditional pardon or release on parole or to mandatory supervision is continued or modified following a hearing on alleged violations of release requirements. Releasees with new convictions are allowed to request a board hearing to consider mitigating circumstances before revocation of parole, mandatory supervision, or conditional pardon. The board is directed to implement a training program for officers conducting revocation hearings.

The act directs the board to pursue contracts with district probation offices for parole supervision services. It provides a limitation on the cost of the services that may be contracted and includes additional requirements

for the contracts. The board is directed to specifically request the district probation offices serving Tarrant and Potter counties to enter into such contracts.

The board is directed to initially establish electronic monitoring programs only in counties of more than 400,000 people (Harris, Dallas, Bexar, Tarrant, El Paso, and Travis) and to seek funding for an electronic monitoring program on a priority basis.

Members and employees of the board are added to Penal Code sections defining aggravated assaults and deadly assaults on officers, making such assaults felonies.

Vehicles owned by the board are exempted from state law requiring state agencies' names to be printed on the vehicles.

The board is directed to collect information on recidivism and to use the information as an evaluation tool, practices already undertaken but not statutorily required of the board.

The act also includes provisions relating to across-the-board sunset recommendations.

Human Services Agencies

HOUSE BILL 550 **HOUSE AUTHOR:** Vowell
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Montford

House Bill 550 continues the Texas Commission for the Deaf and sets 1999 as the year for its next sunset review.

The act includes several changes relating to fees collected by the commission. It directs the commission to adopt a sliding fee scale for interpreter services that are provided in nongovernmental settings and are reimbursed by the commission, but includes a provision that prohibits the denial of services to anyone because of an inability to pay. It also requires equivalent fees for equivalent certificates, fees to cover publication costs, and fees for certification applications, examinations, and renewals to cover the costs of the certification program.

The act directs the commission to establish a system to approve courses and workshops for the instruction and continuing education of interpreters for the deaf and removes the authorization for the commission to conduct such workshops.

The board for evaluation of interpreters is required to conduct interpreter examinations in the commission's office in Austin or in other state-owned space if the space can be used without charge and to determine the frequency of the exams.

The commission is directed to adopt a memorandum of understanding with the Texas Rehabilitation Commission to develop a communication competency evaluation for vocational rehabilitation staff who work with deaf and hearing-impaired clients. The commission is also required to adopt memoranda of understanding with other state agencies to coordinate the delivery of services and to reduce duplication of effort.

The act refines the statutes relating to telecommunication devices for the deaf by prohibiting the commission from purchasing additional devices without specific appropriation and by authorizing it to reassign the devices within certain guidelines. Entities with the devices may be required to pay for parts and repairs to the devices.

The prohibition against awarding contracts to former commission employees is limited to two years, and the ceiling on administrative costs is changed from 25 percent of the agency's appropriations, including salaries, to 20 percent, excluding salaries.

The act also includes additional conflict of interest provisions concerning commission members, as recommended by the Texas Sunset Commission.

SENATE BILL 244 **SENATE AUTHOR:** McFarland
EFFECTIVE: 8-31-87 **HOUSE SPONSOR:** Vowell

Senate Bill 244 authorizes the continuing operation of the Texas Diabetes Council and sets the biennium preceding September 1, 1997, as the period of its next sunset review. The act changes requirements relating to the state plan for diabetes treatment, education, and training; provides for changes in the composition of the Texas Diabetes Council; and restructures the advisory committees.

Several modifications are made in the state plan for diabetes treatment, education, and training. The act removes the requirement that the plan include provisions on individual, family, and provider needs assessments

and adds the requirement that the council submit the plan to the state health planning and development agency biennially. Agencies affected by the plan are required to determine the resources needed for implementation and to report to the council, the Legislative Budget Board, and the Governor's Office of Budget and Planning about the needed resources and funds and any deviations from the plan.

Under previous law, the council was authorized to appoint an advisory committee of a designated composition and with designated duties. This act provides for the appointment of more than one advisory committee and authorizes the council to determine the membership and duties of the committees. It also removes requirements, but grants continuing authority (1) for the council to publish handbooks and directories of services and to study the feasibility of a hotline and of pilot programs for education and training, and (2) for the agencies with representatives on the council to implement public awareness and regional training programs. These agencies are required to pay for producing and disseminating information on diabetes to their own clients.

Two citizen, consumer members are added to the Texas Diabetes Council; the chairmen, rather than the commissioners, of participating agencies are authorized to designate the agencies' representatives on the council; and conflict of interest and removal provisions concerning council members and employees are added to the law.

Also under the act, the council is authorized to accept gifts and is required to inform the public about its functions and about procedures for filing complaints. The Texas Department of Health is required to file annual financial reports on council funds, and a biennial audit is required.

SENATE BILL 257 **SENATE AUTHOR:** Farabee
EFFECTIVE: 9-1-87 **HOUSE SPONSOR:** Gibson

Senate Bill 257 continues the Texas Department of Mental Health and Mental Retardation and sets 1999 as the date of the next sunset review.

The act modifies the purpose of the agency to emphasize services to individuals most in need and limits expenditure of funds to provide services only to priority populations identified in the department's long-range plan. The state's responsibility to serve mentally ill and mentally retarded people in state facilities is specified, and local responsibilities for mental health and mental retardation services are emphasized.

The commissioner is no longer required to be a physician, but the department is required to have a medical director, and other statutory positions are changed. Parents of clients and patients receiving department services are allowed to serve on the board.

The act removes the fee scale previously set by statute and requires the department to establish a sliding fee schedule for cost of support, maintenance, and treatment of mentally retarded and mentally ill residents of state facilities who are under the age of 18. No one is to be denied services because of an inability to pay. A fee advisory committee, at least a majority of the members of which are parents of residents, is to assist the department in developing the fee schedule.

The department is authorized to lease, transfer, or otherwise dispose of any surplus real property including any improvements under its control and management and to use the proceeds for its facilities. Surplus property is that designated by the board to have minimal value to the present and projected service delivery system.

The act encourages the designation of local mental health authorities as single portal authorities to coordinate admissions to facilities, requires the board to appoint a single portal review committee, and includes rules concerning commitments.

The act requires that mentally retarded clients, their parents, and their guardians have the opportunity to participate in planning the client's treatment and habilitation, including the decision concerning placement in alternative treatment settings. The right to administrative hearings and judicial review of proposed transfers and discharges is included. The department and community centers are required to seek consent before providing mental retardation services. Rules concerning transfers, furloughs to alternative placements, and discharges are included.

In addition, the act: (1) establishes the Interagency Council on Autism and Pervasive Developmental Disorders; (2) establishes the Alcohol and Substance Abuse Services Oversight Committee to coordinate services and assure financial accountability for all alcohol and substance abuse services funds expended by state agencies; (3) establishes the Interagency Council for Genetic Services; (4) specifies membership and responsibilities of the Citizens' Planning Advisory Committee; (5) requires a biennial review to determine if

department services could more efficiently be provided by the private sector; (6) directs the department to seek proposals for community residential programs and transitional care programs for mentally ill persons and for community residential programs for elderly residents of department facilities; defines the department's overview responsibilities; (7) encourages volunteer programs in community centers; (8) encourages employment of clients and patients by the department and community centers; (9) requires annual evaluations of elderly residents to ensure that they are placed in the least restrictive setting that meets their needs; (10) requires reports of physician misconduct; (11) authorizes liens to secure reimbursement for the cost of providing services; (12) directs the department to determine the degree to which the costs of operating facilities in compliance with standards are affected as populations of the facilities fluctuate; any cost savings are to be allocated to community programs; (13) includes provisions on a competitive review purchasing program; (14) requires the department to designate an employee to be responsible for coordinating services to children and youth; (15) directs TDMHMR and DHS to develop a joint long-range plan for services to persons with developmental disabilities; (16) directs TDMHMR and DHS to study treatment of abused children; (17) limits the establishment of new community centers to regions with a population of at least 200,000; (18) limits the department's control over and review of community center programs and requires cooperation among agencies that review services and programs of community centers; (19) extends requirements for community-based services to departmental facility outreach programs, requires such services to also provide medication-related services and psychosocial rehabilitation programs, and requires annual performance reviews; (20) provides for a local match requirement for departmental facility outreach programs; (21) directs the department to adopt rules relating to respite care and for reimbursing providers of in-home respite care; (22) sets out audit requirements for community providers; (23) requires biennial reviews of crisis residential and hospitalization services, and requires standards for community-based crisis stabilization and crisis residential services to be less restrictive than the standards for mental hospitals; (24) requires the development of facility budgets that are based on uniform costs, and the development of criteria for expanding, closing, and consolidating facilities; (25) requires certain records for people admitted to department facilities for substance abuse and requires treatment and rehabilitation programs that receive grants from the Texas Commission on Alcohol and Drug Abuse to reduce state facility hospitalization of substance abusers; (26) authorizes TDMHMR to evaluate emotionally disturbed children and youth, with fees from DHS for community-based residential placements; (27) requires a study on consolidating the El Paso, Rio Grande, Laredo, Beaumont, and Amarillo state centers; (28) includes provisions on requirements for licenses for facilities providing mental health services; (29) requires that local mental retardation authorities be involved in alternative or follow-up services; (30) establishes requirements for registering boarding homes that provide certain services to mentally ill or mentally retarded persons; (31) includes sections on the provision of educational services to mentally retarded students by the Central Education Agency; and (32) authorizes loan repayment assistance for physical therapists who work at TDMHMR residential care facilities for the mentally retarded.

SENATE BILL 298 **SENATE AUTHOR:** Edwards
EFFECTIVE: 9-1-87 **HOUSE SPONSOR:** Vowell

Senate Bill 298 continues the Texas Department of Human Services and sets 1999 as the date of its next sunset review.

The act increases the size of the board from three to six members, effective January 20, 1989, and after that date limits the interest that new members may have in businesses regulated by or contracting with the department. The act also eliminates the requirement for senate approval of the commissioner of human services.

The act calls for interagency coordination of hospital and long-term care services and limits the authority of DHS, TDMHMR, and the Texas Department of Health to make rules that would increase the costs of providing required services or that would increase the number of personnel in hospitals or long-term care facilities. To help coordinate services, memoranda of understanding are required of agencies providing services to disabled persons, family planning services, public information services, and services for multiproblem children and youth, and of agencies operating facilities for elderly or disabled persons.

The act includes a number of provisions on abuse of elderly and disabled persons, particularly residents of state-approved facilities. It creates an offense (a Class B misdemeanor) for failing to report abuse, exploitation, or neglect of elderly or disabled persons and includes provisions relating to investigations.

The act also includes provisions concerning child abuse and neglect. It specifies acts and omissions that constitute child abuse and neglect and allows investigations of child abuse and neglect reports to be made without home visits. It requires the department to make a preliminary investigation before conducting a thorough investigation of an anonymous child abuse report to determine if there is any corroborative evidence of abuse. Intentionally making a false report of child abuse or neglect is a Class B misdemeanor.

The act creates the Competitive Cost Review Program to determine the efficiency of commercial activities performed by TDMHMR (laundry and building, grounds, and vehicle maintenance services), DHS (printing and certain claims processing services), and TDC (food, building maintenance, and transportation services) and to determine if the services could be performed more efficiently by purchasing the services from the private sector. If the cost of the agency performing the service is greater than the cost of purchasing the service by at least 10 percent, the agency is required to reduce expenses to within 10 percent of purchased services, with savings to be dedicated to direct service programs.

The act amends the laws relating to child-care facilities and registered family homes.

The act also includes provisions: (1) limiting DHS services to legal residents of the United States, to the extent permitted by law; (2) encouraging DHS to expand services to truants and runaways to reduce juvenile delinquency; (3) authorizing fees for obtaining criminal history records and authorizing DHS to also obtain such records for persons providing in-home respite child care and for home health agency employees; (4) on community care programs; (5) requiring the department to ensure adequate communication with non-English-speaking people and people with communication disorders; (6) directing the Council on Disabilities to develop recommendations concerning DHS duties in serving disabled persons; (7) enabling DHS to recover Medicaid funds from workers' compensation claimants, to make claims against estates for reimbursement of other funds, to receive insurance payments directly, and to collect penalties for certain false claims; (8) directing DHS to collect and disburse statistical information on pregnancy of school-age girls; (9) concerning contract payments by the department; (10) equalizing the penalty for assault of a patient or resident in private and state facilities; (11) on services for clients with learning disabilities; (12) on placement of children in residential care, on child placement hearings; requiring placements to be in the child's best interest; (13) creating the Children and Youth Services State Coordinating Committee within the Health and Human Services Coordinating Council and requiring studies relating to the possibility of combining services to children and youth in a single, new agency; (14) on child-care administrators' licenses; (15) requiring courts to provide for a private social study in adoption cases in which the department is not a party; (16) authorizing county and district attorneys to conduct department suits relating to problems in child care facilities; and (17) establishing the Office of Youth Care Investigations in the attorney general's office to oversee investigations of abuse and neglect in state-approved facilities.

While the act takes effect on September 1, 1987, various reports and agreements are required to be made by later dates.

Other Agencies and General Provisions

HOUSE BILL 888 **HOUSE AUTHOR:** P. Hill
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Parker

House Bill 888 continues the existence of the Texas Board of Private Investigators and Private Security Agencies and sets 1999 as the date of the next review of that agency under the "sunset" process.

The bill: (1) requires the board to conduct criminal history background checks in conjunction with the Texas Department of Public Safety before awarding licenses, registrations, and security officer commissions (Section 21); (2) raises the liability insurance requirements of licensees (Section 22); (3) exempts persons who only sell burglar alarms from the general scope of the Private Investigators and Private Security Agencies Act and establishes alternative requirements for those persons (Section 3); (4) prohibits people who have been convicted of cruelty to animals from working with guard dogs (Section 11); (5) changes certain requirements for security officers employed by political subdivisions (Sections 13, 15); (6) extends the period of a security officer commission from one year to two years and makes other changes relating to temporary commissions and to terminations of commissions (Section 13); (7) changes provisions concerning training programs for security officers and includes security officers of political subdivisions in the training programs (Section 14); (8) requires security sales persons, alarm systems monitors, guard dog trainers, and owners, officers, partners,

and shareholders of a licensee to register with the board (Section 16); (9) raises the minimum age for alarm systems installers from 16 to 18, eliminating the only exception to the 18-year minimum age requirement for persons registered with the board (Section 16); (10) requires pre-employment checks of noncommissioned security officers (Section 16); (11) requires employers to verify personal information on registration applications and changes provisions relating to the issuance and cancellation of pocket cards held by registrants (Sections 17-20); (12) provides that offenses established under the Private Investigators and Private Security Agencies Act may be prosecuted in Travis County (Section 23); (13) repeals provisions relating to psychological testing of applicants for private security officer commissions (Section 26); and (14) expands certain definitions and exclusions (Sections 1, 2), changes the membership of the board, adds provisions relating to conflict of interest, employee policies, reports, consumer information (Sections 4-10), licenses and license renewals (Sections 12, 24), expands and raises certain fees (Section 12), and amends certain Penal Code provisions relating to carrying firearms (Section 25).

SENATE BILL 296 **SENATE AUTHOR:** Edwards
EFFECTIVE: 8-31-87 **HOUSE SPONSOR:** Granoff

Senate Bill 296 changes the date of the sunset review of the Texas Conservation Foundation from 1987 to 1991.

HOUSE BILL 2243 **HOUSE AUTHOR:** P. Hill
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Edwards

House Bill 2243 clarifies provisions relating to sunset administration and commission membership. It requires the state auditor, as part of the next audit of the agency, to examine sunset recommendations that do not require statutory changes and to report on their implementation. It requires sunset staff to report on legislation affecting agencies undergoing sunset review. It changes the date of sunset review of the Texas Board of Licensure for Nursing Home Administrators (from 1991 to 1997), the Council for Social Work Certification (from 1989 to 1999), and the State Department of Highways and Public Transportation (from 1989 to 1991).

HEALTH

The catastrophic illness of acquired immune deficiency syndrome (AIDS) captured the attention of the Texas Legislature as it did much of the country. Two major pieces of public health legislation were aimed at monitoring and controlling its spread. House Bill 1829 provides for the establishment of confidential registries of AIDS victims, plus similar registries for other reportable communicable diseases. It also prohibits mandatory testing for AIDS or human immunodeficiency virus (HIV) infection except in limited circumstances and provides that the results of any tests for AIDS or HIV infection are confidential. Senate Bill 1405 requires the screening of all donated blood and organs for the presence of HIV infection that can lead to the disease.

The 70th Legislature witnessed several amendments to the Indigent Health Care and Treatment Act passed two years before, most notably House Bill 344. The amendments serve to clarify and further define the roles of various parties in providing health care to indigent patients. Maternal issues were addressed by House Bill 1847, which eliminates the "high risk" requirement of the Maternal and Infant Health Improvement Act, thus expanding the category of patients who may qualify for assistance. House Bill 410, meanwhile, prohibits abortion of a viable fetus in the third trimester of pregnancy, barring abnormality in the fetus or substantial risk to the mother. Other significant health legislation was aimed at augmenting the supply of critically needed transplant organs (Senate Bill 16) and establishing accredited training programs for food service workers (House Bill 2092).

Bills relating to hospital districts are summarized in the chapter on government—special districts.

Communicable Diseases and Other Health Disorders

HOUSE BILL 1829 **HOUSE AUTHOR:** McDonald
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Farabee

House Bill 1829 repeals separate laws relating to tuberculosis and venereal disease and reincorporates their provisions within the state's Communicable Disease Prevention and Control Act. It adds AIDS (acquired immune deficiency syndrome) and HIV (human immunodeficiency virus) infection to the list of reportable diseases, provides for the establishment by the Texas Board of Health of registries of reportable and nonreportable communicable diseases and health conditions, and specifies that AIDS and HIV are to be placed on the reportable registry. For incidences or suspected incidences of reportable diseases, reports are required not only from physicians and school officials, as is the case under current law, but also from clinical and hospital laboratories, blood banks, mobile units, other facilities that receive bodily specimens, emergency medical personnel, and penal institutions. These reports go to local health authorities or regional health directors and from there to the board at such intervals as shall be established by rule. House Bill 1829 places restrictions on the public release of resultant data. It allows release of medical or epidemiological data for statistical purposes so long as specific disease victims are not identified without their consent. The legislation also allows data release to certain medical personnel, state and federal agencies, courts, or protective agents fostering an abused child with a venereal disease. Any other release of data is prohibited.

House Bill 1829 requires each physician or other individual who examines someone with a communicable disease to instruct the patient as to measures necessary to prevent its spread, to cure the infection, and to avoid reinfection. The legislation revamps provisions enabling the special management or custody of communicable disease victims who pose a threat to public health and who, despite written orders from health officials, do not take adequate steps to stop the spread of the disease to others. Judicial procedures governing such management or custody are spelled out in extensive detail. The patient retains certain itemized rights, however, and must be informed of those rights. The legislation specifies two types of court orders for management, a temporary order of up to 90 days and an extended order of up to 12 months. Protective custody may be directed by the court while a management order is under appeal if the disease victim cannot be trusted, in terms of a public health threat, to remain at liberty during the interval.

With certain exceptions, House Bill 1829 prohibits mandatory testing for AIDS, HIV infection, other probable causative agents for AIDS, or antibodies to HIV. Testing is allowed as a bona fide occupational qualification if no less discriminatory means exist by which to satisfy the occupational qualification. The burden of proof as to the necessity of testing, though, lies with the employer. Required testing is allowable also to screen blood or organ donations, to avoid accidental exposure to contaminated blood or fluids in accordance with

applicable protocols for infectious diseases, to avoid exposure to health care personnel performing nonemergency treatment procedures that pose a risk of disease transmission, to enable segregation by the Texas Department of Corrections of inmates infected with HIV, and to evaluate residents or clients of the Texas Department of Mental Health and Mental Retardation for whom alternative medical or social management might be needed should the test prove positive. Finally, required testing is allowed in relation to specific individuals in accordance with the Communicable Disease Prevention and Control Act. The Texas Board of Health is authorized to issue emergency orders relating to testing for HIV infections, and if the prevalence rate for such infection reaches a specified level (.83 percent), the board is obligated to require mandatory testing for HIV infection as a condition of obtaining a marriage license. House Bill 1829 also provides that results of tests for AIDS or HIV infection are confidential and allows the release of test results only in limited situations.

HOUSE BILL 1066 **HOUSE AUTHOR:** C. Evans
EFFECTIVE: 5-19-87 **SENATE SPONSOR:** Brooks

House Bill 1066 creates the Texas Council on Alzheimer's Disease and Related Disorders. Members of the council are to be appointed by the governor, the lieutenant governor, and the speaker of the house of representatives. The act defines the council's powers and duties and makes it subject to the Texas Sunset Act.

HOUSE BILL 852 **HOUSE AUTHOR:** Stiles
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Zaffirini

Under prior law, a local health authority was directed to quarantine for at least 10 days any animal that the authority had probable cause to believe was rabid or had exposed an individual to rabies. This amendatory act allows the local health authority either to quarantine or to merely test the animal in accordance with rules adopted by the Texas Board of Health.

See also sunset legislation regarding the Texas Diabetes Council (Senate Bill 244).

Blood and Organ Donations

SENATE BILL 1405 **SENATE AUTHOR:** Brooks
EFFECTIVE: 8-31-87 **HOUSE SPONSOR:** Wright

This act establishes the mandatory testing of all blood donated to blood banks. Such tests must indicate if the donor is a carrier of infectious diseases or viruses including hepatitis, contagious venereal disease, human immunodeficiency virus (HIV), or acquired immune deficiency syndrome (AIDS). Testing may be conducted without the informed consent of the donor and imposes no obligation for counseling if one of the diseases or viruses is detected. The act mandates disclosure of the test results to certain local, state, and federal entities for which disclosure is required by law or regulation and also to the attending physician, donor, or donor's guardian. It also permits disclosure of the donor's name to other blood banks but prohibits identification of the particular disease or virus found. The act requires transfusers of blood to follow the official "Operation Look-Back" procedure of the American Association of Blood Banks in notifying any past or future recipients of an infected person's blood.

Additionally, the act provides for the confidentiality of donor records, except in limited and specified instances. Liability for negligent or intentional disclosure prohibited by the act is limited to actual damages and does not give rise to any liability under the Deceptive Trade Practices-Consumer Protection Act. Civil penalties up to $1,000, court costs, and reasonable attorney's fees may also be imposed for illegal disclosure. Liability in the case of donations, transfusions, or organ transplants is limited similarly to negligence, gross negligence, or intentional tort. Again, the Deceptive Trade Practices-Consumer Protection Act does not apply; nor do implied warranties of merchantability and fitness.

SENATE BILL 16 **SENATE AUTHOR:** Farabee
EFFECTIVE: see below **HOUSE SPONSOR:** McDonald

Senate Bill 16 amends the Texas Anatomical Gift Act to require the establishment by each hospital of a protocol for identifying potential organ and tissue donors and recipients. The protocol must provide for a determination of the medical suitability for donorship of a decedent, an inquiry to a family member or

representative concerning the decedent's desires to be a donor, and the explanation of that option to the family member or representative for approval of donorship if the decedent has not previously given authorization. However, an inquiry is not required if an objection to donorship is already on file, the decedent is medically unsuitable, or there is no prospective current recipient for the organ or tissue. Senate Bill 16 also defines those organizations that are eligible to procure and distribute organs. The legislation takes effect January 1, 1988, except for provisions protecting from liability persons acting in good faith in accordance with the statutory requirements for donor identification. The latter provisions take effect April 22, 1987.

Indigent Health Care

HOUSE BILL 344 **HOUSE AUTHOR:** Leonard
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Farabee

House Bill 344, based in part on the interim report of the House Special Committee on Health Care Services for Low-Income Texans, amends the Indigent Health Care and Treatment Act passed by the 69th Legislature in 1985. It excludes assistance under that act for persons who are eligible for AFDC (Aid to Families with Dependent Children), Social Security, or Medicaid payments. Also, under the new law, a county or public hospital responsible for indigents within its jurisdiction may require other health care providers to seek advance approval from the county or public hospital before offering nonemergency indigent services. Additional amendments clarify the obligations of a county or a governmental entity operating a public hospital if the hospital is closed or sold.

The new law authorizes the commitment of local sales and use taxes to indigent health care purposes but simultaneously counts resultant sales and tax revenue together with property tax revenue in determining the threshold at which state assistance for indigent health care commences. House Bill 344 standardizes associated computations, basing them uniformly on the state fiscal year rather than a variety of local fiscal years. It directs the comptroller of public accounts to provide the Texas Department of Health with necessary data on local sales and use tax revenue. House Bill 344 enhances and extends for another two fiscal years the protection for local governments against the potential adverse effects of property tax rollback elections, enabling them sufficient revenue to cover indigent health care needs without regard to tax cuts voted locally. At the same time, in order to protect taxpayers, the legislation provides that if a local government exceeds the rollback tax rate and in so doing designates a portion of resultant revenue for indigent health care services, it may not later "raid" that revenue and use it for other purposes. (House Bill 1866 in the chapter on property taxation explains the nature of the rollback tax rate as redefined slightly by the 70th Legislature.)

HOUSE BILL 81 **HOUSE AUTHOR:** Kubiak
EFFECTIVE: see below **SENATE SPONSOR:** Farabee

House Bill 81 exempts hospital authorities from requirements under the Indigent Health Care and Treatment Act that apply to governmental entities that operate public hospitals. Additional provisions clarify the responsibilities of governmental entities that have sold, leased, or closed a public hospital. The legislation takes effect June 17, 1987; however, a hospital authority whose duties under the act are transferred to the county must continue to provide required services until September 1, 1987, unless the county agrees to assume those duties on an earlier date.

HOUSE BILL 147 **HOUSE AUTHOR:** Robinson
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Armbrister

House Bill 147, an amendment to the Indigent Health Care and Treatment Act, applies to cities with a population of fewer than 15,000 that own, operate, or lease a hospital. It allows for the negotiation of a partial transfer agreement between the city and county regarding indigent health care services provided to residents eligible under the act. Under such an agreement, the city hospital continues to provide health care services to eligible residents of the city at the city's expense, but the county assumes the hospital's responsibility to reimburse other providers of emergency services or of services unobtainable at the city facility.

Expenditures made by the county under this provision count toward eligibility for state assistance as if the patient resided in an area served solely, for purposes of the act, by the county. House Bill 147 requires coordinated procedures between the city and county to verify eligibility to aid in the timely referral of patients to the proper entity. All transfer agreements under the new legislation must be made no later than August 31,

1989; they subsequently take effect on a September 1 that occurs no later than two years after the date of the agreement. Such agreements may not be revoked or amended.

Maternity

HOUSE BILL 1847 **HOUSE AUTHOR:** Colbert
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Brooks

The Maternal and Infant Health Improvement Act (MIHIA), passed by the 69th Legislature, provides maternal and infant support to a greater number of indigent patients than are eligible under the federal Medicaid program. House Bill 1847 removes a provision limiting follow-up services to only "high risk" infants and, under changes enacted in the federal law governing Medicaid, expands eligibility for maternal and infant benefits paid for by federal funds. The new legislation requires the Texas Department of Human Services and Texas Department of Health to adopt a memorandum of understanding on the roles each will play in administering maternal and infant services under Medicaid and MIHIA, respectively, and requires the latter to structure its program (MIHIA) in a way so as to maximize the overall use of federal funds. House Bill 1847 moves the statewide advisory committee relating to maternal and infant health from the Texas Department of Health to the Texas Health and Human Services Coordinating Council.

HOUSE BILL 410 **HOUSE AUTHOR:** Millsap
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Lyon

House Bill 410 amends the Medical Practice Act to regulate the performance of abortions. The new law prohibits the intentional or knowing performance of an abortion on a viable fetus if the woman has reached the third trimester of pregnancy. An abortion is permitted if (1) the fetus is not viable or the woman is not in the third trimester of pregnancy; (2) the abortion is necessary to prevent death or substantial risk to the physical or mental health of the mother; or (3) the fetus has a severe and irreversible abnormality as identified through reliable diagnostic procedures. House Bill 410 provides for disciplinary action by the Texas State Board of Medical Examiners against doctors who violate provisions of the law, including the suspension of a license or the refusal to renew a license to practice medicine within the state. Finally, the legislation requires that an abortion performed in the third trimester be certified in writing to the Texas Department of Health within 30 days after it is performed.

Food Regulation

HOUSE BILL 2092 **HOUSE AUTHOR:** Criss
EFFECTIVE: 6-19-87 **SENATE SPONSOR:** Brown

This act requires the Texas Department of Health to establish minimum standards for the accreditation of food service education and training programs. Accredited programs must include a minimum of 15 hours devoted to specified topics such as foodborne disease, sanitization, personal hygiene, handling of food and nonfood items, and self-inspection techniques. The legislation requires the department to maintain a registry of programs and authorizes it to charge fees to cover associated administrative costs.

HOUSE BILL 235 **HOUSE AUTHOR:** Wilson
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Armbrister

House Bill 235 increases the permissible alcohol level in confectionaries to five percent by volume. However, a product within this limit but containing more than one-half percent alcohol by volume may not be sold to persons under the legal drinking age. Moreover, it must be labeled to indicate its alcohol content, and that its sale to minors is prohibited, and may not be sold (1) in vending machines; (2) in a form capable of use as an alcohol beverage; or (3) in a store that derives less than 50 percent of its gross sales from confectionaries.

HOUSE BILL 1179 **HOUSE AUTHOR:** Clark
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Anderson

House Bill 1179 amends existing law by removing the requirement that certain fees imposed by the Texas Department of Health on the movement, processing, and distribution of milk and milk products be collected

on a monthly basis. The act also establishes one cent per 100 pounds as the fee imposed on milk and milk products processed or bottled in another state for sale in Texas.

HOUSE BILL 1805 **HOUSE AUTHOR:** L. Evans
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Washington

This act requires that a sign prescribed by the Texas Department of Health depicting the Heimlich maneuver for dislodging food from a choking person be displayed prominently in every food service establishment in the state. The sign must be in both English and Spanish.

HOUSE BILL 2122 **HOUSE AUTHOR:** Saunders
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Sims

House Bill 2122 amends the Texas Meat and Poultry Inspection Act and the Agriculture Code to bring the production and sale of exotic game under the same inspection and storage standards and the same transportation and recordkeeping requirements, as are applicable to more traditional meats. Exotic game includes any species of game not indigenous to Texas. Prescribed regulations and prohibitions apply equally to exotic meat sold in interstate commerce as well as that sold in intrastate commerce. House Bill 2122 authorizes the Texas Department of Health to set and collect fees for certain inspection services performed under the act.

HOUSE BILL 2125 **HOUSE AUTHOR:** J. Harris
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Brooks

House Bill 2125 authorizes counties and public health districts to enforce state law and rules adopted under state law concerning food service establishments, retail food stores, mobile food units, and roadside food vendors. Previously, only municipalities had this authority, so establishments outside incorporated areas operated without regulation. The bill also provides for on-site inspections, the issuance of permits, fees, and penalties.

Chest Hospitals

HOUSE BILL 987 **HOUSE AUTHOR:** Madla
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Uribe

This act authorizes the South Texas Hospital in Harlingen, a state chest (tuberculosis) hospital, to provide general in-patient health services for residents of the Lower Rio Grande Valley. It further allows the state to be reimbursed by a county or public hospital for the treatment in a state hospital of patients eligible for assistance under the Indigent Health Care and Treatment Act.

SENATE BILL 648 **SENATE AUTHOR:** Uribe
EFFECTIVE: 5-28-87 **HOUSE SPONSOR:** A. Moreno

Senate Bill 648 authorizes the Texas Department of Health, rather than the Texas Board of Health, to employ hospital administrators for the San Antonio State Chest Hospital and for the South Texas Hospital. The act also removes the experience requirement for these administrators.

Vital Statistics and Health Data

HOUSE BILL 692 **HOUSE AUTHOR:** Barton
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Brooks

This act authorizes the Texas Board of Health to limit cancer-reporting activities to specified geographical areas of the state to ensure optimal utilization of available funds for obtaining the data. Under prior law, each hospital within the state having at least 100 beds was required to furnish the board with certain cancer data. Under the new law, hospitals of this size need furnish the data only at the specific request of the Texas Board of Health or its authorized representative.

HOUSE BILL 768 **HOUSE AUTHOR:** Patrick
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Glasgow

House Bill 768 provides that birth and death records, in the custody of local registration officials (county clerks, city secretaries or registrars, justices of the peace, or others) are subject to the same confidentiality restrictions as are applicable to birth and death records held by the Bureau of Vital Statistics of the Texas Department of Health.

HOUSE BILL 2031 **HOUSE AUTHOR:** Schoolcraft
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Henderson

This act allows licensed hospitals, municipally established hospital authorities, certain general-law hospital districts in larger counties, and private mental hospitals to dispose of or destroy medical records 10 years from the last date of treatment. In the case of minors, record retention is required until the patient's 20th birthday, or until 10 years after the date of last treatment, whichever is later. A hospital may not destroy, however, records that relate to any matter that is in litigation if hospital officials know that the litigation has not been finally resolved.

HOUSE BILL 1994 **HOUSE AUTHOR:** Eckels
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Brooks

House Bill 1994 directs the Texas Department of Health to adopt rules, regulations, and procedures to ensure that birth records maintained at state and local levels and that are accessible to the public do not contain information through which the confidentiality of adoption placement can be disturbed. The department in implementing those measures, however, may not interfere with the operation of mutual consent voluntary adoption registries or certain court orders.

SENATE BILL 385 **SENATE AUTHOR:** Barrientos
EFFECTIVE: 5-28-87 **HOUSE SPONSOR:** Carter

State law previously required that when the Texas Department of Health received a death certificate for anyone less than 18 years of age whose birth has been registered in Texas, a notation be made on the birth record indicating the person's death and copies of the death certificate be forwarded to certain local officials in the county of the person's birth. Senate Bill 385 changes the age threshold to apply the requirement to decedents less than 55 years old.

HUMAN SERVICES/MENTAL HEALTH AND MENTAL RETARDATION

Several important pieces of legislation in the human services area were enacted this session. Runaways were included in the legal definition of missing children, a significant change that should have an immediate impact on how reports of runaway children are handled by investigatory agencies. Legislation dealing with abuse of elderly persons allows emergency orders for protective services to be issued for any life-threatening situation so that action can be taken quickly in abusive episodes. The Texas Department of Human Services was given authority in House Bill 500, if funding is made available, to establish day-care centers for certain eligible children. This significant legislation will enable welfare program participants with small children to enroll in job training or educational programs without the expense of private day care, an expense most cannot afford to pay.

In the mental health and mental retardation field, important legislation dealing with prisoners who are mentally ill or mentally retarded was enacted. The Interagency Council on Mentally Retarded, Developmentally Disabled, and Mentally Ill Offenders was created to identify needs and provide services to these population groups in the criminal justice system. The council is charged with the development of an innovative pilot program for these offenders using community-based alternatives to incarceration. Under the provisions of House Bill 1503, many mentally ill inmates of the Texas Department of Corrections will be housed in the future in the Skyview unit of Rusk State Hospital, where psychiatric treatment and counseling will be provided by the Texas Department of Mental Health and Mental Retardation.

House Bill 1154 requires the Texas Department of Mental Health and Mental Retardation to establish programs to provide support services for mentally disabled persons and their families, if funding is made available. The expense of private support services has often meant that mentally disabled persons could not afford to use them.

See also sunset legislation on various human services agencies, especially House Bill 257 and House Bill 298.

Abuse of the Elderly

SENATE BILL 1150 — **SENATE AUTHOR:** Barrientos
EFFECTIVE: 9-1-87 — **HOUSE SPONSOR:** D. Hudson

Senate Bill 1150 amends the Human Resources Code to clarify existing language and clear up ambiguities relating to the abuse of elderly or disabled persons. The definition of a disabled person is expanded to include persons over 65 years of age and emancipated minors. The court that would issue emergency orders for protective services or an order to obtain entrance to an institution for the elderly or disabled is changed from district court to probate or county court. The word "immediate" is deleted so that emergency orders can be issued for any threat to life.

SENATE BILL 1151 — **SENATE AUTHOR:** Barrientos
EFFECTIVE: 6-18-87 — **HOUSE SPONSOR:** D. Hudson

Senate Bill 1151 amends the Human Resources Code to expand the number of times an emergency order for protective services for an elderly or disabled person may be renewed. It also gives the issuing court authority to modify or terminate the order on petition.

Children's Services

SENATE BILL 1163 — **SENATE AUTHOR:** Brooks
EFFECTIVE: 9-1-87 — **HOUSE SPONSOR:** Wright

Senate Bill 1163 amends the Disabled Children's Services Act to clarify ambiguities and make the administration of the program more flexible to improve its efficiency and effectiveness. It changes the name of the act to the Chronically Ill and Disabled Children's Services Act, and it expands some definitions and adds several others. The bill authorizes the provision of case management services to eligible children and allows the program to pay transportation and subsistence for a child's caretaker. The requirement that the Texas Commission for the Blind be responsible for services to children whose primary handicap is visual in nature is deleted. Eligibility criteria are clarified, and the Texas Department of Health is authorized to collect the cost of services directly from third parties obligated to pay other benefits. The bill requires the Texas Board of Health

to adopt rules regarding the payment of insurance premiums for eligible children and regarding the establishment of a system to verify eligibility information. Rules must also be adopted to establish a system of priorities relating to eligible persons and service provision in the event of budgetary limitations. The department is authorized to enter into interagency agreements for service provision, to develop methods for improving program efficiency and effectiveness, and to conduct pilot studies. The bill also repeals conflicting language in two sections of the act.

HOUSE BILL 500 **HOUSE AUTHOR:** S. Hudson
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Johnson

House Bill 500 amends the Human Resources Code to authorize the Texas Department of Human Services to establish day-care centers for children eligible under the aid to families with dependent children program or eligible for federally funded welfare programs, if the child's caretaker meets certain specified requirements. Eligible children would not be charged a fee; other children admitted to the program would be charged according to family income. The department could contract for these services, but the fees paid under such a contract could not exceed the amount it would cost the state to provide the same services. The department would be required to evaluate the performance of the centers on an annual basis and report their findings to the governor and the Legislative Budget Board. If funding is not appropriated for this purpose, the department is not required to establish the centers.

SENATE BILL 827 **SENATE AUTHOR:** Farabee
EFFECTIVE: 9-1-87 **HOUSE SPONSOR:** Vowell

Senate Bill 827 authorizes the Texas Employment Commission to provide technical assistance to state agencies and other employers regarding the provision of child day care as an employee benefit. The commission is further authorized to establish a Child Day Care Advisory Committee and a State Child Care Resource Clearinghouse to provide child care information.

Commitment Procedures

HOUSE BILL 967 **HOUSE AUTHOR:** Millsap
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Parmer

House Bill 967 amends existing law by making several changes in the commitment procedures for drug-dependent persons. It allows the court to accept a motion for commitment without an accompanying physician's certificate on its own motion if good cause is shown; previously, such a motion had to be made by the district or county attorney. Commitments of less than six months are allowed under certain specified circumstances, and the county is required to pay for expenses of pre-commitment detention in a county or state-owned facility. The bill also amends the Family Code to permit a minor to consent to counseling for chemical dependency.

Mentally Disabled Offenders

SENATE BILL 719 **SENATE AUTHOR:** Caperton
EFFECTIVE: 8-31-87 **HOUSE SPONSOR:** C. Evans

Senate Bill 719 amends current law to create the Interagency Council on Mentally Retarded, Developmentally Disabled, and Mentally Ill Offenders. It lists definitions and specifies the membership, powers, and duties of the council. The 27-member council will be composed of nine at-large members appointed by the governor and the executive head or designated representative of certain specified agencies and associations. The council is required to determine the status of mentally retarded, developmentally disabled, and mentally ill offenders within the criminal justice system, identify needed services, and develop a plan to meet treatment, rehabilitation, and educational needs of these offenders, including case management and community-based alternatives to incarceration. Another important duty of the council is to develop and implement a pilot program that will be a collaborative community-based alternative to divert nonviolent mentally or emotionally impaired offenders from the criminal justice system and rehabilitate them.

HOUSE BILL 1503 **HOUSE AUTHOR:** C. Johnson
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Blake

House Bill 1503 requires the Texas Department of Corrections to lease the Skyview unit of Rusk State Hospital from the Texas Department of Mental Health and Mental Retardation to house mentally ill inmates. The Texas Department of Corrections is also required to build new facilities at the Skyview unit so that capacity can be increased to 500 inmates. Maintenance and support services will be provided by the Texas Department of Mental Health and Mental Retardation.

The Texas Department of Mental Health and Mental Retardation will transfer the current Skyview patients to a maximum security unit to be established at Vernon State Hospital. Facilities at Wichita Falls State Hospital will be renovated to house patients displaced by the relocation of the maximum security unit.

The bill also requires the Texas Department of Corrections and the Texas Department of Mental Health and Mental Retardation to adopt a memorandum of understanding specifying construction schedules, patient and inmate transfer schedules, and the administrative and supervisory roles of each agency.

Services for Indigents

SENATE BILL 483 **SENATE AUTHOR:** Johnson
EFFECTIVE: 5-12-87 **HOUSE SPONSOR:** P. Hill

Senate Bill 483 amends existing law to authorize home-rule cities to provide publicly owned facilities for use by organizations that provide human services, including housing, food and clothing, and day care, to indigents.

SENATE BILL 1207 **SENATE AUTHOR:** Johnson
EFFECTIVE: 6-20-87 **HOUSE SPONSOR:** P. Hill

Senate Bill 1207 amends existing law to allow home-rule cities to provide human services to the indigent. If these services are provided by contract, the fees may not exceed 50 percent of the annual budget of the organization providing the services.

Support Services for the Mentally Disabled

HOUSE BILL 1154 **HOUSE AUTHOR:** Madla
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Brooks

House Bill 1154 amends the Texas Mental Health and Mental Retardation Act to include a new section requiring the Texas Department of Mental Health and Mental Retardation to establish programs to provide support services for mentally disabled persons and their families. It requires the department to adopt rules for implementing and administering the program, including establishing guidelines for eligibility standards, periodic reviews, payment rates, and copayment systems. The bill allows the department to utilize local mental health and mental retardation authorities to implement the program, but the department may not designate a local authority as sole service provider if other providers are available. The services to be provided include purchase or lease of special equipment or architectural modifications of a home, various health services, counseling or training programs, home health care, and respite services. The bill sets a limit of $3,600 a year per client, but additional amounts may be authorized on a case-by-case basis. There is also a provision for a onetime additional grant of $3,600 to be used for architectural renovation or other allowable capital expenditures. The client may select the service provider as long as the provider is in compliance with department standards. The bill specifies that the duty of the department to provide these services is limited by the funds specifically appropriated for this program.

Another section of the bill defines developmental disability and requires the Texas Department of Human Services to establish a pilot program for support services to be provided to developmentally disabled persons who are not mentally retarded or mentally ill.

Departmental and Other Program Administration

SENATE BILL 200 **SENATE AUTHOR:** Edwards
EFFECTIVE: 9-1-87 **HOUSE SPONSOR:** A. Hill

Senate Bill 200 amends existing law to require a nursing home or custodial care facility to notify the Texas Department of Human Services when making an offer of employment. The Department of Public Safety is required to investigate the criminal conviction record of the prospective employee and report the results to the Texas Department of Health, the Texas Department of Human Services, and the institution making the offer of employment. If the investigation finds the potential employee has been convicted of certain specified offenses, the institution may not hire that person. A provision allowing the licensing agency to charge a reasonable fee to cover the costs of the investigation has been deleted.

SENATE BILL 496 **SENATE AUTHOR:** Parmer
EFFECTIVE: 8-31-87 **HOUSE SPONSOR:** Vowell

Senate Bill 496 amends the Texas Mental Health and Mental Retardation Act to authorize the Texas Department of Mental Health and Mental Retardation to receive conviction data from law enforcement agencies relating to employees of private contractors who provide residential services to mentally ill or mentally retarded clients.

SENATE BILL 637 **SENATE AUTHOR:** Farabee
EFFECTIVE: 6-18-87 **HOUSE SPONSOR:** Granoff

Senate Bill 637 gives the state protection and advocacy system, required by federal law, access to the confidential records of mentally ill persons when investigating reports of abuse, neglect, or rights violation concerning clients of facilities or programs of the Texas Department of Mental Health and Mental Retardation. It also requires the protection and advocacy system to notify the department of an investigation if the client consents.

SENATE BILL 1058 **SENATE AUTHOR:** Krier
EFFECTIVE: 6-19-87 **HOUSE SPONSOR:** Carter

Senate Bill 1058 amends the Texas Mental Health and Mental Retardation Act to allow the Texas Department of Mental Health and Mental Retardation to accept gifts, grants, and donations on behalf of specific facilities for use in expanding and improving available services. The department is required to keep records of the gifts in its central office in Austin. If the gift is made for a specific purpose and it is determined to be uneconomical to use the gift for that purpose, the department may decline the gift.

SENATE BILL 1162 **SENATE AUTHOR:** Brooks
EFFECTIVE: 9-1-87 **HOUSE SPONSOR:** Grusendorf

Senate Bill 1162 amends the Human Resources Code by changing the time frame in which a child-care license is valid. Before this change, biennial licenses were issued; now, the license will be valid until revoked or surrendered. The bill also provides for evaluation of a licensed facility that is repeatedly in noncompliance with certain standards that do not endanger the health and safety of children and sets forth procedures for doing so. Before, the Texas Department of Human Services had only two options: place the facility on probation or suspend the facility's license.

HOUSE BILL 272 **HOUSE AUTHOR:** Collazo
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Parker

House Bill 272 enacts a new law to require a state facility to report the disappearance of a person receiving in-patient mental health or mental retardation services to the appropriate law enforcement agency.

HOUSE BILL 806 **HOUSE AUTHOR:** Schlueter
EFFECTIVE: 6-19-87 **SENATE SPONSOR:** Brooks

House Bill 806 amends the Human Resources Code to change the length of time members serve on the Council on Child Abuse and Neglect Prevention. It also changes provisions dealing with transfers of money from the children's trust fund to the operating fund of the council. The bill limits the council's administrative costs to 10 percent of the maximum amount the council may transfer from the trust fund in a fiscal year.

Legislation relating to missing children is summarized in the family law chapter.

INSURANCE

Discussion of insurance legislation by the 70th Legislature focused largely on tort reform. Senate Bill 2 (1st Called Session) imposes additional regulations on liability insurance carriers, creates a division of consumer protection in the State Board of Insurance, and makes numerous other provisions to address the liability insurance crisis.

In areas other than tort reform, the 70th Legislature amended Texas law with respect to companies and agents, health maintenance organizations, self-insurance and risk retention groups, workers' compensation, and policies and rates.

With respect to insurance companies, Senate Bill 873 revises the procedure pertaining to the supervision, conservation, and liquidation of carriers, and Senate Bill 293 creates the Texas Insurance Exchange as a facility for underwriting certain insurance and reinsurance. House Bill 841 revises various laws relating to agent licensing, and Senate Bill 80 requires mandatory continuing education programs for insurance agents.

Senate Bill 1132 makes wide-ranging changes in the regulation of health maintenance organizations in Texas, and Senate Bill 1273 authorizes governmental units to issue obligations to fund self-insurance and to form or become members of risk retention groups. House Bill 170 (2nd Called Session) brings third party administrators under licensing and regulation by the State Board of Insurance. Purchasing groups and risk retention groups are made subject to additional regulation by Senate Bill 1148.

In the area of workers' compensation insurance, House Bill 1021 imposes additional requirements on companies that write such policies with respect to their provision of safety and accident prevention services to job sites, and Senate Bill 1355 requires the Industrial Accident Board to establish guidelines as to charges and utilization of medical services under workers' compensation laws.

Finally, House Bill 2022 authorizes the State Board of Insurance to impose fees and maintenance taxes on policies and contracts issued by life, accident, health, annuity, and endowment contracts, and health maintenance organizations.

Bills relating to motor vehicle insurance requirements are summarized in the chapter on transportation and highways.

Tort Reform

SENATE BILL 2 (1st C.S.) **SENATE AUTHOR:** Jones
EFFECTIVE: 9-2-87 **HOUSE SPONSOR:** Gavin

Senate Bill 2 requires certain liability insurance carriers to make an annual report to the State Board of Insurance of direct writings of liability insurance in the state. The content of the report is specified, and the board is authorized to adopt rules and forms to implement the act. All information required to be filed under the act will be made available to the public.

Similar provisions are made for the filing of reports on all claims closed by liability insurance carriers. Different reporting procedures are prescribed for claims of varying amounts. The contents of various reports are specified, and the board is authorized to promulgate rules to implement the act. The board is required to compile the data reported and prepare an annual report to the presiding officers of each house of the legislature. The board's report will be made available to the public, but information pertaining to individual claims will remain confidential.

Senate Bill 2 creates the division of consumer protection in the State Board of Insurance to represent the interests of insurance consumers. Provision is made for the appointment of a public counsel, and the qualifications, powers, and duties of the counsel are set out. An assessment is imposed on each property and casualty insurer to defray the costs of creating, administering, and operating the division. Other provisions of the Insurance Code are amended and brought into conformity with these provisions of the act.

With respect to certain liability rates and policies, the State Board of Insurance is required to use data from within the state to the fullest extent possible in developing rates applicable to Texas policyholders. With certain exceptions, all data relating to liability insurance rates provided by an insurer to the board must be disclosed to the public.

With regard to liability rates that are filed and approved by the board, the time within which the board may disapprove a filed rate is extended, and the length of time the board may postpone its decision is lengthened.

Where the board disapproves a filing, it is authorized to amend the filing to conform to the requirements of the Insurance Code. With certain exceptions, those rates are made effective for two years.

The board is required to conduct annual hearings to review the reports of premiums earned and losses incurred for carriers of automobile insurance, and the board is authorized to amend those rates to bring them into compliance with standards set by the Insurance Code. An annual hearing is also required to review multiperil rates.

On request by 25 or more persons affected by board action, the board is required to hold a public hearing before taking action on policy or endorsement forms for automobile, commercial multiperil, or general liability insurance. Other provisions of the Insurance Code are amended and brought into conformity with this provision.

With respect to liability insurance policyholders, a carrier is prohibited from canceling an insurance policy after it has been in effect for 60 days, but certain exceptions are allowed to this prohibition. Notice requirements are imposed before cancellation or nonrenewal.

Liability insurance carriers are required to provide information to a policyholder relating to the disposition of a claim filed under the policy, and the information that must be disclosed is specified. A time limit is set within which the carrier must respond, and the board is authorized to require additional disclosures and to provide forms to implement these provisions.

Liability insurance carriers are no longer required to provide services to insureds that will analyze hospital risk control management. The acceptable qualifications for field safety engineers are broadened to include specialists in health related fields, industrial hygiene, and occupational safety. The State Board of Insurance is accorded greater flexibility in administering sanctions imposed on carriers that do not provide loss control services to hospitals as required by the Insurance Code. Certain carriers are exempt from provisions governing the delivery of liability insurance to hospitals, liability of a carrier for causes of action arising from the nature or effectiveness of its loss prevention services is limited, and discovery of loss control information is prohibited in civil proceedings.

With respect to commercial automobile liability insurance, the provision of loss control information by the carrier is made a prerequisite for a license to write this line of insurance. The requisite information is to be based on the risks and experience of the insured, and various methods of purveying the information are allowed. Provision is made for board imposed sanctions in the event of noncompliance, and the board is authorized to promulgate rules to implement the act. Liability of carriers for causes of action arising from the nature or effectiveness of loss control services is limited, and loss control information is exempted from discovery in civil proceedings. Similar requirements are imposed on carriers desiring to write professional liability insurance other than for hospitals.

The act requires the licensing of risk managers and provides certain exemptions from the licensing requirement. Qualifications for a license are set out, and provision is made for an examination. A schedule of fees and requirements is supplied for the examination, license, and renewal of a license. Provision is made for denial, suspension, revocation, and reinstatement of a license. A penalty is provided for violation of the act.

The State Board of Insurance is authorized to establish a market assistance program to assist those who have difficulty in securing liability coverage. Each program is to be administered under a plan of operation developed by the board, and the board is authorized to require participation by a carrier. Each program is to be administered by an executive committee, and the functions and duties of program agents are defined.

The board is authorized to promulgate rules and monitor the activities of surplus lines agents, and the form of notice required on surplus lines policies is improved. Surplus lines agents are prohibited from placing coverage with an unauthorized insurer unless the insurer meets minimum standards of capital and surplus; certain exemptions are allowed. Additional requirements are imposed on alien insurers. Provision is made for imposition of a penalty by the board on surplus lines agents found to be in violation of the Insurance Code or administrative rules or regulations.

If the board determines that the market assistance program is not sufficient to make liability insurance available to nonprofit organizations, the Texas Nonprofit Organization Liability Insurance Underwriting Association is created. The composition of the association is outlined, and provision is made for a yearly review of the program. Guidelines for participation by members are set out. The general responsibility and authority of the association are detailed, and provision is made for the terms and selection of a board of directors. Adoption of an operating plan is required, and necessary provisions of the plan are delineated. Guidelines are

established for rates and policy forms. Procedures are provided for recoupment of deficits sustained by the association and for assessment of association members and policyholders. The association is required to file annual statements with the State Board of Insurance concerning its transactions of the previous year, and the board is required to examine the affairs of the association at least annually.

The act authorizes the creation of risk management pools for school districts and junior college districts by resolution of their boards of trustees, and the pools may offer basic coverage against liability for the acts and omissions of the entity. Guidelines for membership, meetings, and selection of a temporary board are set out. A plan of operation is required, and the requisite elements of the plan are detailed. Provision is made for a board of trustees to be elected according to the plan. The board is required to set rates for premiums and is authorized to purchase reinsurance, enter into contracts, and exercise any powers necessary to implement the act. The act establishes the parameters for initial coverage, allows a pool to pay commissions, and authorizes the board to adopt rules to carry out these provisions. Pools authorized under these provisions are exempt from regulation by the State Board of Insurance and are subject only to named sections of the Insurance Code.

The act authorizes the creation of separate excess liability pools for counties, school districts, and junior college districts by resolution for the purpose of providing excess liability coverage to those entities. The scope of coverage is delineated, and the pool is authorized to participate in the evaluation, settlement, or defense of any claim. Conditions for participation in the pool are set out, and participating entities are authorized to expend their funds in payment of contributions or premiums. A plan of operation is required, and minimum plan requirements are established. Each pool is required to be governed by a board of trustees, and the powers and duties of the board are established. The board is required to determine and periodically review the premium rates and limits of coverage. The coverage period, terms of coverage, and conditions for nonrenewal of coverage are specified. The pool is exempt from regulation by the State Board of Insurance and is subject only to certain named provisions of the Insurance Code.

On agreement of the presiding officers of at least 25 cities or groups of cities that have formed an insurance pool under the provisions of The Interlocal Cooperation Act, the Texas public entity excess insurance pool is created to provide excess liability and workers' compensation insurance coverage to a participating entity. Requirements for participation are enumerated, and entities are authorized to use their funds to pay contributions and premiums. The existing board of the cities' self-insurance pool is required to administer the pool, and the powers and duties of the board are enumerated. A plan of operation is required and the content of the plan is specified. The coverage period, terms of coverage, and conditions for nonrenewal of coverage are specified. The pool is exempt from regulation by the State Board of Insurance and is subject only to certain named provisions of the Insurance Code. The board is authorized to issue and sell bonds to fund initial expenses according to guidelines provided by the act.

Life insurance companies authorized to do business in Texas are brought within provisions authorizing them to write reinsurance for property and casualty risks. Other provisions of the Insurance Code are amended and brought into conformity with the act.

Under current law, carriers are prohibited from insuring against punitive damages for a health care provider or physician. The act provides an exception and authorizes the State Board of Insurance to approve coverage of a hospital on a policy of medical professional liability insurance. The amount of medical liability insurance coverage that the joint underwriting association for medical malpractice insurance may provide to a policyholder is increased.

SENATE BILL 9 (1st C.S.) **SENATE AUTHOR:** Farabee
EFFECTIVE: 9-1-87 **HOUSE SPONSOR:** Colbert

Senate Bill 9 creates the Texas Nonprofit Organizations Liability Pool to provide primary and excess liability insurance coverage. Creation of the pool is contingent on participation by not fewer than 15 nonprofit organizations.

The allowable scope of primary and excess coverage is delimited, and conditions for participation in the pool are set out.

Provision is made for a temporary board to draft a detailed plan of operation for the pool, and certain required features of the plan are prescribed. The temporary board is required to submit the plan to the State Board of Insurance for approval and amendments.

The terms and qualifications of the board of trustees are set out, together with a description of the board's duties and authority.

Provision is made for a pool manager to be appointed, and the manager's duties are outlined. The board is also authorized to adopt rules to implement the act and to employ or contract with persons necessary to assist the board and manager in carrying out their powers and duties.

The powers and duties of the pool are outlined, and provision is made for the creation of the Texas nonprofit organizations liability fund.

Companies and Agents

HOUSE BILL 316 **HOUSE AUTHOR:** Gavin
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Barrientos

House Bill 316 amends the Insurance Code to require that if an agent is terminated by a fire and casualty insurance carrier, and the carrier renews insurance contracts procured by the terminated agent, the commission schedules for that agent must be the same as those in effect before the agent was terminated. Sums due the company by the terminated agent must be the same as those in effect for agents who have not been terminated.

HOUSE BILL 687 **HOUSE AUTHOR:** Hury
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Brown

House Bill 687 authorizes building inspectors or other officials designated by a city or county to serve as homeowners insurance inspectors for purposes of obtaining certification for homeowners insurance discounts.

HOUSE BILL 841 **HOUSE AUTHOR:** Price
EFFECTIVE: 6-19-87 **SENATE SPONSOR:** Blake

House Bill 841 revises various Insurance Code provisions relating to agent licensing, including additional requirements for information submitted in an application for a license.

Partnerships may be licensed as agents for various types of insurance carriers authorized to do business in Texas. Each partner must qualify individually as an agent, and the name of each partner must be listed on the partnership's license.

Errors-and-omissions policy requirements and deductible features for certain agents are increased.

The spouse and children of a deceased partner in an insurance agency or a deceased shareholder in a corporate agency may inherit a share in the agency's profits without qualifying as agents themselves. A partner or shareholder would also be allowed to set up a trust for his or her children, and, with the approval of other partners or shareholders, transfer an interest in the agency to the trust.

A licensed agent who is a sole proprietor may set up a trust for the use and benefit of his spouse and children either during his lifetime or after his death.

Other provisions of the Insurance Code are revised and brought into conformity with the act.

HOUSE BILL 923 **HOUSE AUTHOR:** C. Evans
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Harris

House Bill 923 authorizes stipulated premium insurance companies that meet and maintain the capital and surplus requirements imposed on life, health, and accident insurance carriers under Chapter 3 of the Insurance Code to issue policies that are authorized by Chapter 3. Also, the stipulated premium companies are authorized to issue life insurance policies in excess of $10,000 on one life if the policies do not have cash surrender values or nonforfeiture values. Certain policy forms and provisions are specified.

Provision is made for the license required of stipulated premium insurance agents who write coverage under this new law.

Requirements are imposed regarding the issuance of annual reports, payment of premium taxes, and readjustment of premium provisions by stipulated premium companies.

The State Board of Insurance is authorized to adopt rules to implement the provisions of House Bill 923, and other provisions of the Insurance Code are amended to bring them into conformity with this act.

HOUSE BILL 1303 **HOUSE AUTHOR:** Gavin
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Jones

With certain exceptions, current law requires the form used in every type of life, health, and accident insurance policy and annuity contracts to be filed with and approved by the State Board of Insurance. House Bill 1303 authorizes carriers to use such forms before insurance board approval, specifies the content of

accompanying documents, and allows for an extension of the approval period. The penalty is eliminated, and methods are specified for correcting forms that are found to be in noncompliance. Where policyholders have been damaged by issuance of a form before board approval, complete restitution is required. The board is authorized to grant exemptions from this act where appropriate.

Modified guaranteed contracts are defined by the act, and requirements are imposed on such contracts with respect to the applicability of laws governing life insurance companies, the inclusion of modified guaranteed contract accounts in the annual statement filed by the company, required information to be supplied in such contracts, and authorization of the State Board of Insurance to promulgate pertinent rules.

The act requires that where a beneficiary has wilfully brought about the death of the insured, a contingent beneficiary who was not implicated in the death of the insured shall receive the insurance.

HOUSE BILL 1911 — **HOUSE AUTHOR:** Shea
EFFECTIVE: 6-19-87 — **SENATE SPONSOR:** McFarland

House Bill 1911 prohibits any person from acquiring a controlling interest in a domestic insurer without filing a statement with the commissioner of insurance and receiving the commissioner's approval. The content of the required statement is described, the burden of providing sufficient evidence for the commissioner to make a determination is placed on the acquiring party, and the commissioner is authorized to hire expert assistance at the expense of the acquiring party. Certain exemptions are allowed.

HOUSE BILL 2012 — **HOUSE AUTHOR:** Berlanga
EFFECTIVE: 9-1-87 — **SENATE SPONSOR:** Brooks

House Bill 2012 amends the Texas Catastrophe Property Insurance Pool Act by prescribing inspection procedures to be followed for windstorm and hail insurance, fees to be charged, qualifications for inspectors, promulgation of pertinent rules by the State Board of Insurance, appointment of an advisory committee, and penalties to be imposed for violation of board rules.

The act eliminates the power of the State Board of Insurance to certify and adopt an operating plan for the Texas Catastrophe Property Insurance Association in the event the association fails to produce an acceptable plan of its own, and it allows interested persons to petition the board to modify the plan.

HOUSE BILL 2095 — **HOUSE AUTHOR:** Criss
EFFECTIVE: 9-1-87 — **SENATE SPONSOR:** Armbrister

Current law requires insurance agents for legal reserve life insurance companies to be appointed by each company the agent represents. House Bill 2095 authorizes such agents to request an appointment from a company simultaneously with the submission of an application for insurance that the agent has solicited. However, notice of appointment must be given to the insurance commissioner before a commission is paid on the policy.

Insurers may not furnish forms and materials unless the agent is licensed with the insurer. Where such materials are provided, the insurer or its agents are liable to any insured who is damaged by an unlicensed agent using its forms as if the unlicensed agent were appointed and licensed by the insurer.

SENATE BILL 80 — **SENATE AUTHOR:** Green
EFFECTIVE: 8-31-87 — **HOUSE SPONSOR:** Eckels

Senate Bill 80 requires the State Board of Insurance to adopt appropriate procedures to certify mandatory continuing education programs for certain insurance agents. The act also requires the State Board of Insurance to appoint an advisory council to assist in the conduct of the continuing education program.

SENATE BILL 189 — **SENATE AUTHOR:** Glasgow
EFFECTIVE: 3-24-87 — **HOUSE SPONSOR:** S. Hudson

Insurance companies that issue shares of stock without a par value are required to file certain documents with the State Board of Insurance. Heretofore, the documents were submitted to the attorney general's office for preliminary review. Senate Bill 189 requires that such documents be submitted directly to the board for review and filing, and the attorney general's function is eliminated.

SENATE BILL 190 **SENATE AUTHOR:** Glasgow
EFFECTIVE: 8-31-87 **HOUSE SPONSOR:** Patrick

Senate Bill 190 authorizes the State Board of Insurance to promulgate rules defining insurance exchanges and syndicates and includes those exchanges and syndicates in the definition of doing an insurance business in Texas.

SENATE BILL 292 **SENATE AUTHOR:** Jones
EFFECTIVE: 6-17-87 **HOUSE SPONSOR:** Gavin

Senate Bill 292 authorizes various applicants for obtaining state permits, licenses, or other authorizations who must, by law, have liability insurance but who cannot obtain it from authorized carriers, as required for occupational licensing or renewal of a license, to obtain coverage from unauthorized or surplus lines insurance carriers.

SENATE BILL 293 **SENATE AUTHOR:** Jones
EFFECTIVE: 9-1-87 **HOUSE SPONSOR:** Gavin

Senate Bill 293 creates the Texas Insurance Exchange. The exchange is to provide a facility for underwriting reinsurance of any kind of insurance and direct insurance of certain types of foreign and domestic risks. The State Board of Insurance is required to promulgate rules governing the management of the exchange and to approve a constitution and bylaws for its operation. Provision is made for premium and maintenance taxes to be paid to the State Board of Insurance, and the governing board is authorized to establish limitations on the investment transactions between members of the exchange and agents transacting business on the exchange. Obligations of the exchange or its members are excluded from coverage by any guaranty funds provided under state law.

The State Board of Insurance is authorized to specify by regulation the method to be used to select a board of interim directors for the exchange; these directors shall serve for no longer than one year or until a constitution and bylaws are adopted by the exchange.

SENATE BILL 318 **SENATE AUTHOR:** Parker
EFFECTIVE: 3-24-87 **HOUSE SPONSOR:** Gavin

Senate Bill 318 increases the allowable percentage of net assets that a life, health, and accident insurance company claims to possess in the form of furniture and equipment.

SENATE BILL 357 **SENATE AUTHOR:** Sims
EFFECTIVE: 9-1-87 **HOUSE SPONSOR:** Taylor

Senate Bill 357 clarifies and consolidates the procedure for effecting service of process on insurance companies doing business in Texas. Separate provisions are made for domestic companies, foreign and alien companies, risk retention groups, and others. The attorney general, on request of the State Board of Insurance, is authorized to enforce orders or decisions resulting from board and court proceedings.

SENATE BILL 370 **SENATE AUTHOR:** Harris
EFFECTIVE: 5-29-87 **HOUSE SPONSOR:** Gavin

Senate Bill 370 raises the amount of capital stock and surplus required for newly incorporated insurance companies other than life, health, and accident companies. Certain exceptions are allowed, and companies already chartered with lower requirements may continue to operate without raising their capital or surplus except on a change of control.

SENATE BILL 403 **SENATE AUTHOR:** Glasgow
EFFECTIVE: 6-17-87 **HOUSE SPONSOR:** Price

The Insurance Code authorizes the State Board of Insurance to impose sanctions against companies and agents for violations of the code. Senate Bill 403 adds restitution to aggrieved policyholders to the list of sanctions that may be imposed and authorizes the board to informally dispose of such matters through agreed settlements and stipulations.

SENATE BILL 494 **SENATE AUTHOR:** Green
EFFECTIVE: 5-20-87 **HOUSE SPONSOR:** Patrick

The Insurance Code requires members of the Texas Catastrophe Property Insurance Association to share the profits and losses of the association according to their proportionate share of the policies written. Senate

Bill 494 requires that the premiums of all affiliated companies that are under common management and control shall be included when determining the proportionate share of policies written.

SENATE BILL 526 **SENATE AUTHOR:** Glasgow
EFFECTIVE: 5-26-87 **HOUSE SPONSOR:** Gavin

When Texas businesses are unable to buy insurance coverage from companies licensed to operate in Texas, state law permits surplus lines agents to place business with unlicensed companies outside the state that are not regulated by the State Board of Insurance. Senate Bill 526 prohibits surplus lines agents from placing business with surplus lines carriers that have not demonstrated to the board that they meet the minimum capital and surplus requirements established by law. Certain exceptions are allowed.

Surplus lines agents are required to determine the eligibility of surplus lines companies to sell insurance in Texas, and restrictions are imposed on referrals of business to such agents. The act includes surplus lines agents under the same penalties the board may invoke against other agents and companies for violation of the Insurance Code.

SENATE BILL 873 **SENATE AUTHOR:** Glasgow
EFFECTIVE: 9-1-87 **HOUSE SPONSOR:** Gavin

Senate Bill 873 revises the procedure pertaining to the supervision, conservation, and liquidation of (1) title insurance companies; (2) property and casualty insurance companies; (3) other insurers covered by Articles 21.28 and 21.28-A of the Insurance Code; (4) property and casualty insurance companies (separate section); and (5) life, accident, health, and hospital services insurance companies. The bill also amends certain provisions pertaining to stipulated premium companies.

SENATE BILL 989 **SENATE AUTHOR:** Jones
EFFECTIVE: 9-1-87 **HOUSE SPONSOR:** Gavin

Senate Bill 989 creates a nonprofit association known as the Surplus Lines Stamping Office of Texas to review and compile data on surplus lines insurance contracts that are being written in the surplus lines insurance market. Surplus lines insurance contracts are to be filed with the office in lieu of other statutory filings. The office is to formulate a plan of operation subject to the approval and modification of the State Board of Insurance. The Commissioner of Insurance is authorized to examine the workings of the office as necessary. The office and its personnel are immune from liability arising from the performance of their duties.

SENATE BILL 1054 **SENATE AUTHOR:** Green
EFFECTIVE: 9-1-87 **HOUSE SPONSOR:** Cavazos

Senate Bill 1054 requires that reinsurance agreements be filed by a domestic life, health, and accident insurer with the State Board of Insurance when reinsuring a risk. The board is authorized to adopt rules specifying the information required.

Health Maintenance Organizations

HOUSE BILL 935 **HOUSE AUTHOR:** Eckels
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Johnson

Under current law, the records and proceedings of medical peer review committees are confidential, and those offering testimony are immune from liability when acting without malice. House Bill 935 extends confidentiality to peer review committees of health maintenance organizations and immunity to those offering information to such committees.

SENATE BILL 976 **SENATE AUTHOR:** Parmer
EFFECTIVE: 9-1-87 **HOUSE SPONSOR:** A. Smith

Senate Bill 976 adds a definition of emergency care to the Texas Health Maintenance Organization Act and to the law generally applicable to accident and health insurers for purposes of determining emergency care benefits under certificates and policies.

SENATE BILL 1132 **SENATE AUTHOR:** Green
EFFECTIVE: 9-1-87 **HOUSE SPONSOR:** Patrick

Senate Bill 1132 amends the definitions section of the Texas Health Maintenance Organization Act, and the requirements to be met in an application for a certificate of authority to establish such an organization are

revised. The State Board of Insurance is authorized to promulgate rules requiring health maintenance organizations (HMOs) to disclose modifications to documents or operations during site visits or examinations.

Conditions limiting the insurance commissioner's power to grant a delay on final action on an application are eliminated, and a provision allowing enrollee participation in matters of policy and operation is deleted.

HMOs are authorized to provide services through physicians or providers who have contracted for health care services with other physicians or providers under contract with the HMO. Each organization is required to file notice with the insurance commissioner before purchasing or leasing facilities involving an affiliate, and the commissioner is required to disapprove such action if it would impair the interests of the public, enrollees, or creditors.

The requirement to allow enrollee participation in matters of policy and operation is eliminated.

The act eliminates certain requirements for evidence of coverage, lists the requirements for an acceptable method of calculating enrollee coverage, and requires that the method be filed with the insurance commissioner before it is used. The insurance commissioner is authorized to withdraw his approval of any form of evidence of coverage if it is shown to be in violation of the Insurance Code or administrative rule.

Additional information is to be furnished in the annual report of HMOs that are in operation for less than one year.

The requirement that the insurance commissioner approve a complaint system established by the HMO is eliminated.

The amounts of deposits and other guarantees required of an HMO are modified, and provision is made for the withdrawal of deposited funds in excess of the amount required. The State Board of Insurance is authorized to waive some or all of the amounts of deposit required where certain conditions are met, and provision is made for return of deposited funds.

Schedules for minimum amounts of surplus funds for HMOs are set out.

HMOs offering both basic and single health care coverages are brought within the provisions of the code governing unfair competition and practices, misrepresentation of policy terms, unfair claim settlement practices, and discrimination against handicapped individuals. Exceptions are allowed at the discretion of the insurance commissioner.

The definition of "health maintenance organization agent" is amended to exclude certain persons who provide services to an HMO by contract.

The regulation of agents of an HMO is amended by adding the following provisions: the State Board of Insurance is required to issue a license to a corporation meeting certain conditions; the act clarifies the requirement of licensing every employee who performs the actions of an agent, and requires the board to revoke the license of any corporation not maintaining the qualifications necessary to obtain a license; it requires anyone without a license who inherits shares in a corporation to either obtain a license or dispose of the shares within 90 days. The act authorizes such a corporation to redeem the shares of a shareholder under certain circumstances. Each corporation is required to list its officers, directors, and shareholders when applying for or renewing a license, and notice is required of any change in these groups. Another corporation is prohibited from owning an interest in a corporation licensed under the act.

The insurance commissioner is required to disapprove any contract entered into between an HMO and a management agency if the agency is not covered by a fidelity bond meeting specifications provided in the act.

Supervision of failing HMOs is added to the measures that may be taken by the insurance commissioner. The requirement of notice and hearing before promulgation of rules governing delinquency proceedings by the State Board of Insurance is eliminated, and the board is authorized to promulgate rules prescribing permissible investments by HMOs.

Each HMO is required to maintain a fidelity bond or a deposit of cash in its own name according to specifications required in the act.

The insurance commissioner is authorized to bring suit against any person appearing to violate the terms of the act.

The Health Maintenance Organization Solvency Surveillance Committee is created. The committee is under the direction of the insurance commissioner and is to perform its functions under a plan of operation approved by the State Board of Insurance. The composition, powers, and duties of the committee are detailed. The board is authorized to adopt rules to implement the act if the committee does not submit a plan or make required amendments to a plan once submitted. The insurance commissioner is authorized to examine and

regulate the committee, and the committee is required to submit annual financial reports to the insurance commissioner. Immunity from civil liability is extended to certain parties acting in good faith under the act. A limit is imposed on the use of funds derived from assessments for the expenses of administering the affairs of a failing HMO.

SENATE BILL 1371 **SENATE AUTHOR:** Brooks
EFFECTIVE: 9-1-87 **HOUSE SPONSOR:** C. Evans

Senate Bill 1371 requires the State Board of Insurance to establish minimum benefit standards for long-term care coverage in accident and sickness policies and in policies delivered by health maintenance organizations. HMOs offering only a single health care service plan are exempt.

Additional information is required of home health agencies when applying for a license, and separate requirements are imposed for agencies that are corporations. License fees are revised. The Texas Department of Health is authorized to adopt rules, and information received by the department is accorded confidentiality.

With the exception of specified disease and other limited coverage, accident and sickness insurance policies must include coverage for mammography.

Minimum standards for benefits under medicare supplement policies are expanded to require coverage for mammography.

SENATE BILL 1431 **SENATE AUTHOR:** Brooks
EFFECTIVE: 8-31-87 **HOUSE SPONSOR:** McDonald

Senate Bill 1431 prohibits health maintenance organizations from denying participation by duly licensed health care providers solely on the basis of the type of license or authorization that is held by the provider.

Self-Insurance and Risk Retention Groups

HOUSE BILL 170 (2nd C.S.) **HOUSE AUTHOR:** Gavin
EFFECTIVE: see below **SENATE SPONSOR:** Jones

Many businesses currently self-fund their employee accident and health insurance benefits rather than purchase conventional insurance. Of those businesses that self-fund these benefits, many have turned to third party administrators for claims processing and other functions usually performed by insurance companies. House Bill 170 brings third party administrators under licensing and regulation by the State Board of Insurance effective September 1, 1987.

The act authorizes certain local government entities to create and operate a nonprofit subscription program to fund emergency medical services vehicle services, and such programs are exempt from the provisions of the Insurance Code for the sole purpose of providing these services effective August 6, 1987.

HOUSE BILL 1360 **HOUSE AUTHOR:** Cain
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Caperton

House Bill 1360 authorizes members of the board of trustees of a local government workers' compensation self-insurance fund to provide coverage for persons with whom it has contracted to perform staff functions.

HOUSE BILL 1421 **HOUSE AUTHOR:** Rudd
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Montford

House Bill 1421 enlarges the group eligible for coverage under the public school retired employees group insurance pool to include certain surviving dependents of active and retired members. Surviving dependent children are made eligible for programs offered through the pool. Those who have defrauded or attempted to defraud the program may be expelled from and may not obtain coverage subject to certain conditions. An employing district that fails to timely remit member deposits is required to pay interest on unpaid amounts, and the district is prohibited from using contributions for purposes other than holding them in trust for the fund.

HOUSE BILL 1835 **HOUSE AUTHOR:** T. Smith
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Leedom

Motor bus companies are required to have insurance for liability and property damage in order to obtain a license. House Bill 1835 authorizes those companies to satisfy that requirement either by means of insurance coverage, a deposit of cash, certificate of deposit, or letter of credit in the amount fixed by the Railroad Commission of Texas, or by means of self-insurance.

HOUSE BILL 2135 **HOUSE AUTHOR:** Patrick
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Harris

The Insurance Code allows individuals, partnerships, and corporations to form reciprocals and interinsurance exchanges. House Bill 2135 makes these reciprocals and interinsurance exchanges subject to the Texas Business Corporation Act as it relates to the indemnification of officers and directors.

SENATE BILL 661 **SENATE AUTHOR:** Jones
EFFECTIVE: 5-25-87 **HOUSE SPONSOR:** Gavin

The Insurance Code allows a group or association of banks or bankers to create a trust to self-insure its members. Senate Bill 661 extends the list of risks against which these groups may self-insure.

SENATE BILL 786 **SENATE AUTHOR:** Glasgow
EFFECTIVE: 8-31-87 **HOUSE SPONSOR:** Gibson

Senate Bill 786 amends the Electric Cooperative Corporation Act to specifically allow electric cooperatives to indemnify and provide indemnity insurance in the same manner as other nonprofit corporations.

SENATE BILL 954 **SENATE AUTHOR:** Harris
EFFECTIVE: 9-1-87 **HOUSE SPONSOR:** Gavin

Senate Bill 954 supplements the definition of a fraternal benefit society and of a lodge system for the purposes of regulation under the Insurance Code, and requires such organizations to comply with many of the laws applicable to ordinary legal reserve companies and with State Board of Insurance rules.

Standards are established for life insurance and accident and health insurance.

Fraternal benefit societies are required to maintain a certain amount of reserve funds for accident and health benefits.

Restrictions are imposed on the merger of fraternal benefit societies with other entities, and actuarial tables and assumptions to be used in the annual report are specified.

The requirement of notice before commencement of disciplinary action by the attorney general is eliminated, and fraternal benefit societies are exempt from protection against adverse publicity pending an examination. Fraternal benefit societies are made subject to all sanctions that may be imposed by the State Board of Insurance under the Insurance Code, and they are brought within the scope of the Insurance Code relating to certain uniform standards for accident and sickness insurance. Various provisions of the code are repealed to bring it into conformity with the act.

SENATE BILL 1148 **SENATE AUTHOR:** Harris
EFFECTIVE: 5-19-87 **HOUSE SPONSOR:** Shea

Senate Bill 1148 regulates risk retention groups and purchasing groups within the framework of the Federal Risk Retention Act of 1986; definitions are provided. Licensing and related requirements are set out for risk retention groups seeking to be chartered in Texas. With certain exceptions, each group is required to submit a plan of operation, and the requisite information is listed. The insurance commissioner, in turn, is required to provide certain information to the National Association of Insurance Commissioners on receipt of an application for charter. Provision is made for a filing fee.

Purchasing groups are made subject to laws applicable to risk retention groups, with certain exceptions.

The duties of agents of risk retention groups with respect to licensing, residency, verification of insurer authority to write relevant lines of insurance, reports to the insurance commissioner, and notice to insureds are outlined.

Risk retention groups are prohibited from contributing to or benefiting from guaranty funds; membership in other associations is made mandatory.

The powers delegated to the insurance commissioner in enforcing the act are delineated, and the scope of sanctions and penalties is set out.

SENATE BILL 1273 **SENATE AUTHOR:** Brown
EFFECTIVE: 6-20-87 **HOUSE SPONSOR:** Criss

Senate Bill 1273 authorizes governmental units to issue obligations to fund self-insurance and to form or become members of risk retention groups.

The act provides that the establishment of a self-insurance program by a governmental unit does not constitute a waiver of immunity or defense.

Workers' Compensation Insurance

HOUSE BILL 667
EFFECTIVE: 9-1-87

HOUSE AUTHOR: Glossbrenner
SENATE SPONSOR: Farabee

House Bill 667 requires the State Board of Insurance to conduct an inspection at least once every two years to determine the adequacy of the accident prevention services provided by each company that writes workers' compensation insurance in Texas.

HOUSE BILL 669
EFFECTIVE: 1-1-88

HOUSE AUTHOR: Glossbrenner
SENATE SPONSOR: Parmer

House Bill 669 requires the Industrial Accident Board to prepare information relating to employee injuries and deaths occurring on the job each year. The information is to be prepared from claim files maintained by the board and is to be made available to the general public and appropriate state agencies.

HOUSE BILL 999
EFFECTIVE: 9-1-87

HOUSE AUTHOR: Rudd
SENATE SPONSOR: Montford

House Bill 999 authorizes the parties to a workers' compensation hearing to agree on a mutually acceptable location for the hearing. Neither party is required to appear before the board at any location other than those specified in the act.

HOUSE BILL 1018
EFFECTIVE: 9-1-87

HOUSE AUTHOR: R. Smith
SENATE SPONSOR: Sims

House Bill 1018 requires companies writing workers' compensation insurance to provide 30 days' notice of cancellation or nonrenewal of a policy; however, where certain enumerated conditions are met, the company may cancel a policy after providing 10 days' notice.

HOUSE BILL 1021
EFFECTIVE: 9-1-87

HOUSE AUTHOR: Criss
SENATE SPONSOR: Farabee

House Bill 1021 imposes additional requirements on companies that write workers' compensation policies with respect to their provision of safety and accident prevention services at job sites. Such companies are required to give notice of such services on each policy written and make a yearly report that details the services offered. In addition, the act provides for the reduction of certain premiums on the basis of accident history.

HOUSE BILL 1363
EFFECTIVE: 9-1-87

HOUSE AUTHOR: Cain
SENATE SPONSOR: Caperton

Under current law, any two or more political subdivisions may establish a joint fund for the purpose of making compensation payments to injured workers. House Bill 1363 allows joint funds to supply loss data to the State Board of Insurance and requires the board to use such data in promulgating rates and classifications of rates as provided by the Insurance Code.

HOUSE BILL 1960
EFFECTIVE: 9-1-87

HOUSE AUTHOR: Wolens
SENATE SPONSOR: Caperton

Under current law, when a dispute arises between two workers' compensation carriers as to the liability of each carrier, each is required to pay a share of the total compensation benefit to the Industrial Accident Board or to the court having jurisdiction in the case. House Bill 1960 requires such carriers to pay their shares of benefits directly to the injured worker. The act clarifies that no award or evidence of award may affect a claimant's rights or be used in other suits brought by the claimant.

HOUSE BILL 2036
EFFECTIVE: 9-1-87

HOUSE AUTHOR: Hinojosa
SENATE SPONSOR: Krier

House Bill 2036 provides that if the association has admitted liability for lifetime benefits under the workers' compensation laws and is making weekly payments, and a dispute arises over medical benefits, and the claimant appeals an Industrial Accident Board decision regarding the disputed medical benefits, the scope of the appeal is limited to the benefits in question. Provision is made for recovery of penalties and attorney's fees.

SENATE BILL 498 **SENATE AUTHOR:** Sims
EFFECTIVE: 9-1-87 **HOUSE SPONSOR:** Harrison

Senate Bill 498 allows a subscriber to a workers' compensation insurance policy covering agricultural workers to exempt from coverage an employee who is a member of his family.

The act allows a further exemption for employees acting as independent contractors and provides a definition of that type of employment.

SENATE BILL 1043 **SENATE AUTHOR:** Krier
EFFECTIVE: 9-1-87 **HOUSE SPONSOR:** Hinojosa

Senate Bill 1043 provides for the Industrial Accident Board to authorize an independent medical examination when the association has attempted and failed to receive permission to have the examination made. The association is entitled to no more than one examination in a 180-day period. If the examining physician reports that the claimant can return to work, the board is required to schedule a prehearing conference, and the association is prohibited from suspending payment until after the hearing.

SENATE BILL 1355 **SENATE AUTHOR:** Caperton
EFFECTIVE: 9-1-87 **HOUSE SPONSOR:** Uher

Senate Bill 1355 requires the Industrial Accident Board to establish guidelines as to charges and utilization of medical services under workers' compensation laws. The board is required to adopt the guidelines as rules and is authorized to contract with professional organizations for review of the guidelines and of medical charges made in conformity with guidelines. An annual report indicating the degree of compliance with the guidelines is to be made to the legislature.

The board is required to create special advisory committees for assistance in establishing and maintaining the guidelines; the composition of the committees and the qualifications of members are detailed.

The board is authorized to adopt rules for the implementation of the act, and conformity with board guidelines is evidence that charges are reasonable and may be used in proceedings before the board or in the courts.

Review of charges under the board's guidelines is allowed only after the charge is incurred and the carrier has admitted liability.

Policies and Rules

HOUSE BILL 177 **HOUSE AUTHOR:** Guerrero
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Barrientos

House Bill 177 prohibits a health insurer from denying payment or reimbursement for services of a certified social worker—advanced clinical practitioner that fall within the scope of the license of such practitioners and are scheduled in the policy.

HOUSE BILL 523 **HOUSE AUTHOR:** Patrick
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Glasgow

House Bill 523 amends the definition of "health care provider" for purposes of professional liability insurance coverage to include pharmacists, veterinarians, and not-for-profit kidney dialysis centers.

HOUSE BILL 620 **HOUSE AUTHOR:** Dutton
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Washington

House Bill 620 prohibits insurance companies from discriminating between holders of property damage policies solely on the basis of geographic location. Exceptions are allowed for business purposes that are not a mere pretext for discrimination or for decisions required by law or statutory mandate.

HOUSE BILL 802 **HOUSE AUTHOR:** Hackney
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Lyon

House Bill 802 prevents insurance companies from refusing to pay disability benefits solely because a disability was certified by a podiatrist, provided that the disability was caused by sickness or injury that a podiatrist could treat under the scope of his state license.

HOUSE BILL 843 **HOUSE AUTHOR:** C. Evans
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Farabee

House Bill 843 requires companies that write health insurance policies that include pregnancy benefits to offer similar coverage for outpatient expenses that may arise from in vitro fertilization procedures. This offer is required only if certain named conditions are met. An exception is allowed for companies that are affiliated with a bona fide religious organization that holds that in vitro fertilization is inconsistent with its beliefs and practices.

HOUSE BILL 925 **HOUSE AUTHOR:** Wright
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Brooks

House Bill 925 prohibits a health insurer from denying payment or reimbursement for services of a licensed dietitian that fall within the scope of a dietitian's license, are related to a condition covered by the policy if the services are scheduled in the policy, and are recommended by a physician whose services would be covered under the policy.

HOUSE BILL 1032 **HOUSE AUTHOR:** Richardson
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Harris

House Bill 1032 distinguishes between amusement rides designed primarily for use by children and those used by adults. It requires operators of different types of rides to carry different amounts of liability insurance. The act authorizes local law enforcement officials to determine compliance with the provisions of the act and to bring an action to enforce compliance.

HOUSE BILL 2022 **HOUSE AUTHOR:** Cavazos
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Anderson

House Bill 2022 authorizes the State Board of Insurance to impose fees and maintenance taxes on policies and contracts issued by life, accident, health, annuity, and endowment contracts, and health maintenance organizations. The board is authorized to determine the annual rate of the tax within prescribed limits and to adopt rules to implement the act.

In addition, the act eliminates fixed dollar amounts in various fees paid to the board; these amounts will be set by statute or determined by the board within statutory limits.

The board is authorized to collect several additional filing fees, and a new fee schedule is provided for existing fees. An exception is allowed for small companies, which must pay only half the amount imposed.

HOUSE BILL 39 (2nd C.S.) **HOUSE AUTHOR:** Ceverha
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Harris

House Bill 39 authorizes insurance carriers to grant discounts on premiums paid for motor vehicle insurance where the vehicle is equipped with antitheft devices. Qualifying antitheft devices are listed, and various categories of discounts are specified.

SENATE BILL 172 **SENATE AUTHOR:** Henderson
EFFECTIVE: 3-24-87 **HOUSE SPONSOR:** Heflin

The Insurance Code prohibits attachment or garnishment of benefits payable under certain policies and insurance plans. Senate Bill 172 deletes all reference to the time schedule under which such payments are made to the beneficiary.

SENATE BILL 878 **SENATE AUTHOR:** Harris
EFFECTIVE: 9-1-87 **HOUSE SPONSOR:** Gavin

The Insurance Code includes a number of legal requirements relating to fees for, required provisions of, conversion and continuation provisions for, and payment of benefits under group and blanket health and accident insurance. Senate Bill 878 amends the definition of group accident and health insurance to redefine one of the groups covered.

SENATE BILL 879 **SENATE AUTHOR:** Harris
EFFECTIVE: 8-31-87 **HOUSE SPONSOR:** Gavin

The Insurance Code limits the delivery of group life insurance policies to enumerated groups described by statute. Senate Bill 879 amends the description of all other allowable groups not specifically enumerated in the code.

The act establishes requirements that must be met by policyholders in this state or in the state where the policy is issued, and it specifies who will pay the required premium.

SENATE BILL 1049 **SENATE AUTHOR:** Green
EFFECTIVE: 9-1-87 **HOUSE SPONSOR:** Shea

Senate Bill 1049 requires anyone in the business of renting motor vehicles to give a person renting a vehicle written notice regarding the purchase of a nonmandatory collision damage waiver and the person's possible liability. Requirements are set out for proper notice, and a penalty is provided for failure to disclose the required information.

SENATE BILL 1439 **SENATE AUTHOR:** Brooks
EFFECTIVE: see below **HOUSE SPONSOR:** Madla

Senate Bill 1439 requires certain group insurance policies that provide coverage for treatment of mental or emotional illness or disorder in a hospital to also include coverage for treatment in a residential treatment center or crisis stabilization unit. Conditions for coverage under the act are set out.

Guidelines are established for determining policy benefits and benefit maximums provided in alternate care facilities. The State Board of Insurance is authorized to adjust the guidelines if necessary and is required to review them periodically.

Subject to certain conditions, the provisions of the act are made applicable to health maintenance organizations.

The act also provides minimum standards for the certification of medical radiologic technologists and penalties for failure to obtain certification, effective January 1, 1989. Provisions of the act relating to application procedures, rules, and fees take effect on January 1, 1988. All other provisions of the act take effect on September 1, 1987.

Miscellaneous Legislation

HOUSE BILL 81 (2nd C.S.) **HOUSE AUTHOR:** Gavin
EFFECTIVE: see below **SENATE SPONSOR:** Henderson

House Bill 81 clarifies or alters various provisions of Chapter 1 of the Insurance Code relating to the powers and duties of the State Board of Insurance and the commissioner of insurance.

Stockholders, officers, and employees of insurance companies are prohibited from serving on the board, from serving as insurance commissioner, or serving as an employee of the board or of the insurance commissioner. Certain exceptions are allowed.

Requirements relating to the posting of job opportunities at the board are clarified.

Certain ex parte communications between the board or insurance commissioner and hearing officers, administrative law judges, or attorneys in contested cases are authorized.

The board is required to send a copy of its annual report to insurance companies only on request.

Carriers doing business in Texas are required to file a copy of their annual statements with the National Association of Insurance Commissioners. Requisite information is specified, and certain exceptions are allowed.

The number of examinations of newly organized insurers is reduced.

The insurance commissioner is authorized to pay examiners at specified rates when making out-of-state examinations.

Both the commissioner of insurance and the board are empowered to issue subpoenas in order to enforce the code.

Except for cases involving actual malice, employees of the board or the National Association of Insurance Commissioners are immunized from civil liability arising from their handling of data required under the act.

Provisions of the Insurance Code authorizing the board to make changes in the forms of annual statements filed by insurance companies are extended to include the statements filed by health maintenance organizations.

Certain provisions of the act take effect on September 1, 1987; others take effect on August 4, 1987.

SENATE BILL 199 **SENATE AUTHOR:** Glasgow
EFFECTIVE: 6-5-87 **HOUSE SPONSOR:** Taylor

Senate Bill 199 requires the State Board of Insurance to license and regulate those who plan, service, install, or certify fire extinguisher systems and fire alarm devices. Maximum fees for licensing and renewal are revised.

A certificate of registration is required to engage in certain business activities related to fire extinguisher systems and fire alarm devices, and minimum limits of liability coverage are set out as a condition of certification. Specific exceptions to the licensing provision are allowed.

The powers and duties of the board are detailed, including authorization to increase or decrease the limits of insurance coverage required for certification.

An offense is created for violating the terms of the act, and a penalty is provided.

Firms engaged in certain business activities related to fire alarms are required to retain as an employee at least one fire alarm technician or planning superintendent, as defined by the act.

SENATE BILL 1387 **SENATE AUTHOR:** Jones
EFFECTIVE: 9-1-87 **HOUSE SPONSOR:** Schlueter

Current law allows payments of premium tax made under protest to be deposited in the general revenue fund. Senate Bill 1387 extends this provision through the end of the current biennium.

LABOR

Labor legislation in the 70th Legislature focused primarily on unemployment compensation, taxes, and benefits. Notably, House Bill 2090 freezes the maximum amount of weekly benefits through 1989 and creates the advance interest trust fund to help reduce or avoid federal advances to the unemployment compensation fund. House Bill 1896, which requires that agricultural workers be notified of possible exposure to hazardous chemicals during their employment, is summarized in the chapter on agriculture.

Unemployment Compensation

HOUSE BILL 2090 **HOUSE AUTHOR:** Criss
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Blake

House Bill 2090 freezes until October 1, 1989, the maximum amount of weekly unemployment compensation benefits payable to a recipient. The Texas Employment Commission is required to calculate benefit amounts for claims filed after that date as if there had been no increase in the annual average weekly wage during 1986 and 1987.

The act authorizes the governor to use amounts deposited in the advance interest trust fund to pay interest incurred on bonds issued to reduce or avoid federal advances to the unemployment compensation fund. Interest on these bonds is to be paid before any surplus is used for the payment of benefits.

A maximum tax rate is established in the event that the commission levies an additional tax on employers to pay the interest on federal advances to the unemployment fund or on bonds issued to reduce or avoid federal advances.

To avoid borrowing from the federal unemployment trust fund, the commission is authorized to issue, sell, and deliver bonds, the proceeds of which are used to replenish the state unemployment compensation fund. The bonds must be authorized by resolution of the commission after an affirmative finding that the issuance would save money for the state and its employers.

The commission is authorized to pledge money received from the levy of special unemployment taxes to pay the principal, interest, costs, and redemption premiums on the bonds. The bill creates procedures to establish the tax rate, wage base, amount of tax levied, and disposition of surplus proceeds. Money from these taxes will be placed in a special fund for the benefit of the bond owners and is not the property of the state.

The status of the bonds is clarified: they do not constitute debts of the state and are not backed by the faith, credit, or taxing power of any political entity except as provided by the act. The bonds must contain statements to this effect.

House Bill 2090 sets out provisions that may be included in the commission resolutions authorizing the issuance of bonds. The commission is authorized to issue bonds to refund all or part of the outstanding bonds issued under the act. The bonds are designated as tax-free bonds.

Issuance of the bonds is made subject to review by the attorney general and to the approval of a bond review board created under the bill. The membership of that board is specified.

The act may be enforced through mandamus and other appropriate proceedings in the state supreme court.

The definition of "wages" for the purposes of the Texas Unemployment Compensation Act is amended.

SENATE BILL 977 **SENATE AUTHOR:** Armbrister
EFFECTIVE: 9-1-87 **HOUSE SPONSOR:** Criss

Senate Bill 977 provides that employers are not required to pay for the unemployment compensation benefits of a former employee whose health caused the employee's separation from employment.

The length of time within which an employer is allowed to appeal a charge to the employer's account based on the claim of a former employee is extended.

The definition of "benefit period" is revised for the purposes of the Texas Unemployment Compensation Act.

SENATE BILL 1313 **SENATE AUTHOR:** Jones
EFFECTIVE: 8-31-87 **HOUSE SPONSOR:** Geistweidt

If certain conditions are met, Senate Bill 1313 excludes the services performed by a full-time student in the employ of an organized camp from the provisions of the Texas Unemployment Compensation Act.

HOUSE BILL 250 **HOUSE AUTHOR:** Rudd
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Sims

House Bill 250 allows cotton ginners to make contributions to the unemployment compensation fund at a total fixed rate of 5-4/10 percent. Payment at this rate is in lieu of any other liability to pay contributions based on other tax rates otherwise applicable to the employer under the Texas Unemployment Compensation Act.

HOUSE BILL 604 **HOUSE AUTHOR:** Gavin
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Blake

To be eligible for unemployment compensation, a recipient must show earnings above a specified minimum amount in the period preceding the claim, and must also show earnings above a specified minimum amount after collecting benefits before that recipient can be considered eligible for unemployment benefits again. House Bill 604 changes the amount of minimum earnings required for unemployment compensation eligibility and the amount of earnings required for reeligibility.

HOUSE BILL 979 **HOUSE AUTHOR:** Criss
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Blake

Texas employers pay a state tax to fund unemployment benefits. When the unemployment fund falls below a minimum amount, a deficit tax is imposed on employers to return the fund to acceptable levels. House Bill 979 changes the formula used to determine the amount of deficit tax that an employer must pay.

HOUSE BILL 1038 **HOUSE AUTHOR:** Finnell
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Farabee

The rules of the Texas Employment Commission allow contested claims for unemployment compensation benefits to be appealed from the initial determination of an examiner to an appeal tribunal, from the appeal tribunal to the commission, and from the commission to the courts. In each instance the appeal must be made within a set time limit. House Bill 1038 increases that time limit to 14 days.

Miscellaneous

HOUSE BILL 2197 **HOUSE AUTHOR:** Martinez
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Jones

House Bill 2197 repeals the Labor Agency Law, which provided guidelines and penalties for certain labor agents who procured employment for seasonal agricultural workers and day laborers. This law has been superseded by federal regulations.

HOUSE BILL 669 **HOUSE AUTHOR:** Glossbrenner
EFFECTIVE: 1-1-88 **SENATE SPONSOR:** Parmer

House Bill 669 requires the Industrial Accident Board to prepare information relating to employee injuries and deaths occurring on the job each year. The information is to be prepared from claim files maintained by the board and is to be made available to the general public and appropriate state agencies.

Two measures relating to construction safety, House Bill 662 and House Bill 665, are included in the chapters on business and occupational regulation and state government. Additional legislation on agricultural workers is in the chapter on agriculture. Workers' compensation legislation is in the chapter on insurance.

PARKS AND WILDLIFE

Hunting and fishing legislation in 1987 included Senate Bill 504, authorizing a hunter education program for educational and safety purposes, and Senate Bill 13, automatically exempting Texas residents who are under 17 or at least 65 years of age from having to purchase fishing licenses. Commercial offshore fisheries were affected by stricter controls on out-of-state boats (Senate Bill 912 and House Bill 1746) and stricter controls relating to redfish, speckled trout, snook, tarpon, and striped bass (House Bill 1811 and House Bill 1812). The 70th Legislature witnessed only one enactment on the subject of state parks, House Bill 1839, relating to Franklin Mountains State Park, which was authorized in 1979 but has yet to be established. House Bill 2409 provides for expedited issuance of boat and motor titles though at a premium fee.

Commercial Fisheries

SENATE BILL 912 **SENATE AUTHOR:** Harris
EFFECTIVE: 9-1-87 **HOUSE SPONSOR:** Schlueter

Senate Bill 912 authorizes the Parks and Wildlife Department to regulate vessels operating in the exclusive economic zone of the United States, extending to 200 nautical miles offshore, if they land fish, shrimp, crabs, or any other aquatic organisms in this state. Regulation applies even if a vessel is registered elsewhere. The act also repeals certain provisions relating to the closed season for shrimping in federal offshore waters.

HOUSE BILL 1746 **HOUSE AUTHOR:** Holzheauser
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Brown

House Bill 1746, in an attempt to establish parity between fees charged in Texas and Louisiana, authorizes nonresident license fees for certain fishing boats, shrimp boats, and oyster dredges operating in Texas waters. The fee for a freshwater or saltwater commercial fishing boat license is $60. The fee for a commercial gulf shrimp boat license is $200 and $320 for a commercial bay shrimp or bait-shrimp boat license. The fee for a nonresident sports oyster dredge license is $40 and $200 for a nonresident commercial oyster dredge license. In addition, for a boat having the latter, the captain and each paid crew member must obtain a general commercial fisherman's license, the nonresident fee for which under current law is $100. House Bill 1746 repeals provisions waiving the requirement of an oyster dredge license for boats already having a commercial bay shrimp or bait-shrimp boat license. Finally, the bill requires that persons harvesting aquatic products from Texas waters and transporting them out of state obtain a wholesale fish dealer's license, the fee for which under current law is $400. For each of the listed licenses, the Parks and Wildlife Commission reserves the power to set the fee at a higher rate.

HOUSE BILL 1811 **HOUSE AUTHOR:** Saunders
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Armbrister

The Parks and Wildlife Code prohibits the possession or transport, for sale, of redfish and speckled sea trout, except for those originating outside the state or raised by a licensed Texas fish farmer. For redfish or speckled sea trout not destined for sale, it sets statutory limits on the numbers and sizes that may be caught in one day or retained at any one time. In the latter case, the Parks and Wildlife Commission by proclamation may prescribe additional restrictions relating to the catching, possession, transport, sale, or purchase of the two species, and in so doing may prescribe restrictions that supersede the statutory ones. The code authorizes confiscation of fishing equipment for violations of the statutory catch and size limits on redfish and speckled sea trout not destined for sale, including confiscation of a fishing vessel for three or more violations within a five-year period. House Bill 1811 makes a single change to this regulatory scheme, extending confiscation provisions to apply not only to violation of statutory limits but also to violations of commission proclamations.

HOUSE BILL 1812 **HOUSE AUTHOR:** Saunders
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Armbrister

House Bill 1812 prohibits the purchase, sale, barter, or exchange of snook, tarpon, or striped bass taken from the coastal waters of this state.

SENATE BILL 111 **SENATE AUTHOR:** Glasgow
EFFECTIVE: 4-22-87 **HOUSE SPONSOR:** Kuempel

Senate Bill 111 limits regulatory inspections of wholesale and retail fish dealers to normal business hours. It precludes inspections or searches of their residences without a search warrant.

SENATE BILL 1309 **SENATE AUTHOR:** Parker
EFFECTIVE: 6-19-87 **HOUSE SPONSOR:** Stiles

Senate Bill 1309 authorizes a shellfish plant operator to employ off-duty peace officers to monitor the taking of shellfish from polluted areas.

HOUSE BILL 1315 **HOUSE AUTHOR:** Saunders
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Santiesteban

Enforcement officers of the Parks and Wildlife Department are empowered to confiscate marine life that has been illegally taken or possessed. Existing law provides that the confiscated marine life be sold to the highest of three bidders. This act applies the law to aquatic life generally (freshwater and saltwater), not just marine life (saltwater only). It authorizes Texas game wardens to direct, when practical, that illegally taken or possessed oysters be returned to a public reef rather than sold. The act precludes any civil actions against the warden or department for having seized and sold aquatic life or having directed a return to a public reef.

HOUSE BILL 1865 **HOUSE AUTHOR:** Schlueter
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Harris

This act requires a dealer who purchases, receives, or handles fish, shrimp, or any other edible aquatic products, except oysters, to maintain cash sale tickets. The requirement does not apply, however, to products from another dealer. The cash sale tickets must be available for inspection by authorized employees of the department during reasonable business hours of the dealer and must be maintained at the place of business for at least one year from the date of the sale. Noncompliance with the act is a Class C misdemeanor.

Other Wildlife Management

SENATE BILL 504 **SENATE AUTHOR:** Lyon
EFFECTIVE: 8-31-87 **HOUSE SPONSOR:** Robinson

Senate Bill 504 authorizes the Parks and Wildlife Department to establish a hunter education program, incorporating specific topics relating to safety practices and wildlife management, to reduce hunting accidents and educate sportsmen. Persons completing the hunter education program receive a departmental certificate. If funds are available, the department may make education programs mandatory and require hunters to complete departmental or equivalent training courses prior to securing a hunting certificate. The education program would cover both firearms and archery. Hunters 17 years of age or older as of September 1988, or as of the date mandatory education courses were implemented, would be exempt from the requirement of course completion.

SENATE BILL 13 **SENATE AUTHOR:** Brown
EFFECTIVE: 4-22-87 **HOUSE SPONSOR:** J. Harris

Senate Bill 13 grants an automatic exemption to the state fishing license requirement for Texas residents aged at least 65 or less than 17. The previous exemption was discretionary on the part of the Parks and Wildlife Department. Nonresidents within these age ranges are also exempt if their respective states of residence grant a similar exemption to Texas residents.

SENATE BILL 180 **SENATE AUTHOR:** Sarpalius
EFFECTIVE: 9-1-87 **HOUSE SPONSOR:** Waterfield

This act amends the definition of game animals to encompass mule deer, white-tailed deer, and pronghorn antelope, but not other nonnative species of deer or antelope. The legislation deletes black bears from the list of game animals. (See House Bill 1210.) The act repeals local laws relating to axis deer in Bexar and Kendall counties and adds six new Panhandle counties (Dallam, Deaf Smith, Hartley, Moore, Oldham, and Potter) where elk are to be considered as game animals.

SENATE BILL 998 **SENATE AUTHOR:** Santiesteban
EFFECTIVE: 9-1-87 **HOUSE SPONSOR:** Berlanga

Justice courts are required to submit to the Parks and Wildlife Department, on request, affidavits certifying parks and wildlife convictions for which enhanced penalties apply to multiple convictions. Senate Bill 998 deletes a requirement that accompanying records include the defendant's signature and fingerprints.

SENATE BILL 999 **SENATE AUTHOR:** Santiesteban
EFFECTIVE: 9-1-87 **HOUSE SPONSOR:** Berlanga

Senate Bill 999 changes language relating to the recovery by the state from an offender of the value of illegally taken, possessed, killed, or injured wildlife. For legal purposes, the change clarifies that the offender's payment to the state is restitution rather than a penalty and the violation therefore subject judicially to lesser standards of proof than would be the case with a penal violation.

HOUSE BILL 1195 **HOUSE AUTHOR:** Saunders
EFFECTIVE: 5-28-87 **SENATE SPONSOR:** Santiesteban

In 1981 the legislature authorized the creation of the Operation Game Thief Program to assist in protecting fish and game resources from poachers. The program fund offers monetary rewards, which are determined by an Operation Game Thief Committee, for the reporting of flagrant poaching violations that result in convictions. House Bill 1195 expands associated rulemaking authority of the Parks and Wildlife Department and removes a previous restriction that limited rewards only to convictions occurring in the most recent six-month period.

HOUSE BILL 1210 **HOUSE AUTHOR:** Saunders
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Santiesteban

This act requires anyone wishing to take, transport, or keep in captivity an endangered species to first acquire a state permit granting permission to do so. The new requirement, unlike before, applies even if the person already has a federal endangered species permit. Advertisement, sale, or distribution of endangered species, which is currently prohibited unless an animal has been born and raised in captivity for commercial purposes, is likewise made conditional on obtaining a state permit, whether or not one also has a federal permit. The act removes black bears, which recently have been added to the endangered species list, from the list of game animals that can be held captive under a game breeder's license. Black bears for captivity purposes now require a state endangered species permit as well as a federal one.

HOUSE BILL 1231 **HOUSE AUTHOR:** Saunders
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Santiesteban

House Bill 1231 makes technical corrections to the Parks and Wildlife Code concerning lakes, rivers, and other fresh water areas for which the taking and selling of fish is prohibited or restricted in certain counties. The change affects 28 counties.

HOUSE BILL 1239 **HOUSE AUTHOR:** Saunders
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Santiesteban

House Bill 1239 increases the maximum fine for Class C Parks and Wildlife Code misdemeanors from $200 to $500. It also grants jurisdiction over such misdemeanors to justice courts.

HOUSE BILL 1262 **HOUSE AUTHOR:** Saunders
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Sims

Currently, out-of-state hunters may purchase two types of hunting licenses to hunt birds and animals in Texas: the general nonresident hunting license and a nonresident small game hunting license. House Bill 1262 redesignates the latter as the nonresident special hunting license and establishes two new licenses: the nonresident five-day special hunting license and the nonresident bonded bird hunting license for shooting resort, private bird shooting area, or field trial area. The legislation incorporates the same changes in the list of game animals made in Senate Bill 180, except that wild collared peccaries and javelinas, as well as black bears, are removed from the list for purposes of nonresident hunters.

HOUSE BILL 1263
EFFECTIVE: 9-1-87

HOUSE AUTHOR: Saunders
SENATE SPONSOR: Santiesteban

Current law provides a mechanism by which a person, without regard to season or bag limit restrictions, may eradicate certain protected wildlife causing damage to crops or domestic animals. The procedure entails notice to the county judge, implementation of control measures recommended by the Parks and Wildlife Department, and application for an eradication permit if the control measures do not work. House Bill 1263 modifies the scope of that law slightly, applying it to agricultural, aquicultural, or horticultural interests suffering serious damage. Threats to public safety also qualify under the new legislation. House Bill 1263 requires that the game warden be notified in all cases of the whereabouts of the carcass of a destroyed animal and gives the warden or county court greater discretion as to the beneficial disposition of the carcass.

HOUSE BILL 1330
EFFECTIVE: 8-31-87

HOUSE AUTHOR: Hightower
SENATE SPONSOR: Armbrister

House Bill 1330 makes it illegal, except as regulated by the Parks and Wildlife Department, for persons other than departmental employees to propagate, purchase, sell, transport, or release turkeys for the purpose of establishing a free-ranging wild turkey population. The department itself is authorized to release turkeys for this purpose, however. The legislation does not apply to turkeys maintained for agricultural purposes.

HOUSE BILL 2050
EFFECTIVE: 6-19-87

HOUSE AUTHOR: Oakley
SENATE SPONSOR: Santiesteban

House Bill 2050 makes it illegal to hunt, trap, or kill a golden eagle or Mexican brown eagle without first having obtained a permit from the Parks and Wildlife Department.

HOUSE BILL 2101
EFFECTIVE: 6-19-87

HOUSE AUTHOR: Roberts
SENATE SPONSOR: Armbrister

This act, applicable in effect only to Aransas County, prohibits fishing with nets, except hand-cast nets or minnow seines, along any canal or artificial waterway within a platted subdivision where two or more residences abut the canal or waterway. The setting of a net in the mouth of such a canal or waterway so as to impede the free entrance or exit of fish is likewise prohibited. Violation of the act is a Class B Parks and Wildlife Code misdemeanor.

Parks

HOUSE BILL 1839
EFFECTIVE: 8-31-87

HOUSE AUTHOR: Agnich
SENATE SPONSOR: Santiesteban

House Bill 1839 removes five sections of land from the proposed Franklin Mountains State Park in El Paso in order to settle legal conflicts with the city and expedite acquisition of the park site by the state.

Miscellaneous

HOUSE BILL 2409
EFFECTIVE: 6-19-87

HOUSE AUTHOR: Saunders
SENATE SPONSOR: Armbrister

House Bill 2409 authorizes the Parks and Wildlife Department to charge an additional fee to give special treatment to the title certificate and thereby accelerate its issuance for persons purchasing a boat or motor and unwilling to wait the usual interval for issuance of a certificate of title.

HOUSE BILL 737
EFFECTIVE: 8-31-87

HOUSE AUTHOR: Leonard
SENATE SPONSOR: Armbrister

House Bill 737 allows an honorably retired peace officer from the Parks and Wildlife Department to purchase a badge issued to the officer by the department, if the officer purchases it before the second anniversary of retirement. If a peace officer commissioned by the department dies while commissioned, the spouse, children, or parents—in descending order of precedence—may purchase a badge. In either event, the total purchase for the officer is limited to one badge.

PROBATE

This chapter describes legislation concerning probate and includes such topics as the appointment of temporary administrators and guardians, reimbursement for expenses incurred defending a will, and the apportionment of state and federal estate taxes on the assets of an estate. Also included in this chapter is Senate Joint Resolution 35, which proposes a constitutional amendment permitting spouses to hold community property with the right of survivorship.

Community Property

SENATE JOINT RESOLUTION 35 — **SENATE AUTHOR:** Caperton
FOR ELECTION: 11-3-87 — **HOUSE SPONSOR:** Perez

This resolution proposes a constitutional amendment that, if adopted, would permit spouses to agree in writing that all or part of their community property becomes the property of the surviving spouse on the death of a spouse.

SENATE BILL 893 — **SENATE AUTHOR:** Caperton
EFFECTIVE: see below — **HOUSE SPONSOR:** Perez

Senate Bill 893 adopts the Uniform Premarital Agreement Act that details the types of agreements persons may enter into prior to marriage. It also grants spouses the right to engage in partition or exchange agreements. Partition or exchange agreements provide that spouses may, at any time in their marriage, partition or exchange between themselves any part of their community property to become the separate property of one of the spouses. They may also agree that any income or property arising from the separate property owned by one of them will be the separate property of the owner. Provisions of partition or exchange agreements that were entered into with the intention of defrauding a creditor are void. The agreements can be recorded in the deed records of the county where the party resides and in the county where the real property is located. Recording the agreement in the county where the real property is located serves as constructive notice to a good-faith purchaser or a creditor. The provisions of the act take effect on September 1, 1987.

In addition, Senate Bill 893 amends the Probate Code to provide that spouses may agree in writing that all or part of their community property which is titled or held indicia of title becomes the property of the surviving spouse on the death of the other spouse. Prior law required a more convoluted procedure whereby a written agreement was required between the spouses and a financial institution so that funds on deposit would be partitioned into separate property to be held in joint tenancies. In order for these amendments to take effect, voters must approve a proposed constitutional amendment (Senate Joint Resolution 35) authorizing automatic inheritance by a surviving spouse of a deceased spouse's community property interest.

Other Legislation

SENATE BILL 206 — **SENATE AUTHOR:** Lyon
EFFECTIVE: 4-29-87 — **HOUSE SPONSOR:** Oakley

This amendatory act provides that the death of one holder of a jointly held safety deposit box does not affect the right of any other holder of the box to have access to and remove contents from the box after an inventory of the box contents is made and maintained by the bank.

SENATE BILL 373 — **SENATE AUTHOR:** Farabee
EFFECTIVE: 5-25-87 — **HOUSE SPONSOR:** Seidlits

This bill amends existing law to permit service of process on the nonresident administrator, executor, guardian, heir, or personal representative of a deceased nonresident who, before his death, could have been served with process through the secretary of state. The bill designates the secretary of state as the agent for service of process in this case.

SENATE BILL 1038 — **SENATE AUTHOR:** Krier
EFFECTIVE: 9-1-87 — **HOUSE SPONSOR:** Schoolcraft

This amendatory act requires that, unless the governing instrument provides otherwise, a person authorized under a will or trust to satisfy a pecuniary bequest, devise, or transfer in trust in kind in satisfaction of a gift

intended to qualify for a United States estate tax marital deduction, shall distribute assets in a manner fairly representative of appreciation or depreciation in the value of all property available for distribution in satisfaction of the bequest.

SENATE BILL 1068 **SENATE AUTHOR:** Krier
EFFECTIVE: 6-18-87 **HOUSE SPONSOR:** Schoolcraft

This amendatory act requires a probate court that receives an accounting from an independent executor to order distribution of the estate or any portion of the estate that does not require further administration by the executor. In addition, this act requires the court to order partition and distribution, or sale, of any portion of the estate that is ordered to be distributed and that cannot be distributed in any other manner. Under prior law, the court had the discretion to undertake these actions but was not required to do so.

HOUSE BILL 360 **HOUSE AUTHOR:** Wright
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Brown

This amendatory act grants statutory probate judges a broad authority to perform acts necessary to improve the management of the statutory probate court and the administration of justice. It also adds inter vivos trusts to the matters in which statutory probate courts have concurrent jurisdiction with district courts.

Motions for recusal are added to the list of reasons for which a judge may be assigned to hold court in a constitutional county court, statutory probate court, county court at law exercising probate jurisdiction, or any statutory court exercising probate jurisdiction. County judges in counties without a statutory probate court, county courts at law, or any other court exercising probate court jurisdiction are required, on the motion of a party, to request an assigned judge to handle a contested probate matter or to transfer the contested portion of the matter to district court, as specified by the motion. If a county court transfers a contested portion of a probate matter in this way, the act requires the county court to continue to exercise jurisdiction over the management of the portion that the court retains.

HOUSE BILL 361 **HOUSE AUTHOR:** Wright
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Green

This amendatory act requires a county judge to appoint a temporary administrator of a decedent's estate if the judge determines that the interest of the estate requires it. The act delineates the procedure for the appointment of a temporary administrator of a decendent's estate. In addition, this act amends prior law concerning the appointment of a temporary guardian so that the social security numbers of the applicant and respondent must now be included in an application for a temporary guardianship.

HOUSE BILL 362 **HOUSE AUTHOR:** Wright
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Green

Under prior law, notice stating an original grant of letter was required to be mailed to the record holder by registered letter, return receipt requested; this act amends the law to permit mailing the notice by certified mail. Also under prior law, executors and administrators having funds belonging to an estate were required to pay funeral expenses and expenses of last sickness in an amount not to exceed $2,000; this act raises that figure to an amount not to exceed $5,000.

HOUSE BILL 363 **HOUSE AUTHOR:** Wright
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Green

Texas law provides that any person designated as executor or administrator of a will or an alleged will is entitled to reimbursement from the estate for any necessary expenses incurred in defending or prosecuting the will in good faith. This act expands that provision to permit the same rights to any person designated as a devisee, legatee, or beneficiary in a will or an alleged will who incurs expenses defending or prosecuting the will in good faith.

HOUSE BILL 364 **HOUSE AUTHOR:** Wright
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Green

This act amends prior law to require that the social security numbers of the applicant and decedent be included in an application for probate of a written will or for letters of administration when no will is alleged to exist. The act also requires that the social security numbers of the applicant and the person for whom appointment of a guardian is sought be included in an application for appointment of a permanent guardian.

HOUSE BILL 365 **HOUSE AUTHOR:** Wright
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Green

This amendatory act provides that a person claiming to be an illegitimate child, or claiming inheritance through an illegitimate child, may petition the probate court for a determination of right of inheritance from the purported father. Inheritance under this act is not permitted if the parental rights of the purported father have been terminated.

HOUSE BILL 366 **HOUSE AUTHOR:** Wright
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Green

Under prior law, if a debtor owed an amount of money not exceeding $15,000 to a former ward of terminated guardianship, such as a minor, a person of unsound mind, or an alcoholic, the debtor could pay that amount to the county clerk of the county where the former ward resides, for the account of the former ward. This amendatory act raises the maximum amount of the payment to $30,000.

HOUSE BILL 367 **HOUSE AUTHOR:** Wright
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Green

This amendatory act grants the statutory probate courts of Harris County general jurisdiction over the collection and management of estates of minors, mentally disturbed persons, and deceased persons and concurrent jurisdiction with the district court in matters involving an inter vivos trust. Harris County statutory probate courts are also authorized to exercise the pendent and ancillary jurisdiction necessary to promote judicial efficiency and economy. On the motion of an interested party, a judge of a statutory probate court in Harris County may transfer to his court from a district, county, or statutory court a cause of action pertaining to an estate, or a cause of action involving a personal representative of an estate, pending in the statutory probate court. The act also delineates a system of court assignments for Harris County probate courts based on case numbers and subject matter.

HOUSE BILL 368 **HOUSE AUTHOR:** Wright
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Brown

This amendatory act permits the judge of a probate court to appoint a guardian ad litem or attorney ad litem to represent the interests of an unborn or unascertained person. An unborn or unascertained person is also added to the list of persons who, through a personal representative, may disclaim property as a beneficiary. The term "beneficiary" is defined for purposes of this section, and it is substituted throughout the section for the words "heir, legatee, devisee, or beneficiary."

Under prior law, a "testator" could provide for the making of disclaimers and the disposition of disclaimed property in a will. This act amends the law to allow a "person" to make these provisions in an insurance policy, employee benefit agreement, or other instrument. A beneficiary who accepts an interest in a trust does not have an interest in trust property that relates to a licensed or permitted business and over which the beneficiary exercises no control. In addition, this act provides that ownership of not more than five percent of certain registered equity securities is not an ownership interest of the business of the issuer.

Persons who may accept or disclaim an interest in a trust on behalf of a beneficiary are listed.

HOUSE BILL 506 **HOUSE AUTHOR:** Gibson
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Montford

This act amends the probate code to include employees' trusts, retirement accounts, deferred compensation arrangements, and custodial agreements among the types of contracts or arrangements that may contain certain nontestamentary provisions. The terms "employees' trust," "individual retirement account," "retirement account," "retirement-annuity contract," and "simplified employee pension" are defined.

HOUSE BILL 508 **HOUSE AUTHOR:** Gibson
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Montford

This amendatory act provides for the allocation and apportionment of state and federal estate taxes among persons interested in the estate. It requires the representative or other person charged with paying estate taxes to recover from each beneficiary of the estate a proportionate amount of the total estate taxes owed and certain other amounts attributable to interest, penalties, and expenses of the representative. In determining an apportionment, the act requires the representative to make allowance for exemptions, deductions, and credits

available to any beneficiary. The act excludes from apportionment property consisting of an income interest, a life estate, or other temporary interests in property or a fund from apportionment and provides procedures for a representative to collect apportioned amounts.

Additionally, the act provides that certain liabilities are chargeable to a decedent's estate and lists an order of abatement of bequests.

HOUSE BILL 575 — **HOUSE AUTHOR:** Wright
EFFECTIVE: 8-31-87 — **SENATE SPONSOR:** Green

House Bill 575, amending the Probate Code, permits a court to transfer certain probate proceedings at any time before the estate is closed. Previously, the court could transfer the proceedings only before a "final decree" was rendered.

HOUSE BILL 576 — **HOUSE AUTHOR:** Wright
EFFECTIVE: 8-31-87 — **SENATE SPONSOR:** Green

Under prior law, a parent of a minor who was not a ward could apply to the court for an order to sell the minor's real or personal property in an estate without being appointed guardian, if the value of the minor's interest in the property did not exceed $10,000. House Bill 576 raises the allowable amount of the minor's interest to $15,000.

HOUSE BILL 577 — **HOUSE AUTHOR:** Wright
EFFECTIVE: 8-31-87 — **SENATE SPONSOR:** Green

Prior law permitted a person interested in an estate to petition the court for an accounting and distribution at any time after the expiration of three years from the date that an independent administration was created and the order appointing an independent executor was entered. House Bill 577 reduces that time period to two years.

HOUSE BILL 578 — **HOUSE AUTHOR:** Wright
EFFECTIVE: 8-31-87 — **SENATE SPONSOR:** Green

This amendatory act provides that costs and expenses incurred by a party seeking the removal of an independent executor appointed without bond may be paid out of the estate.

HOUSE BILL 579 — **HOUSE AUTHOR:** Wright
EFFECTIVE: 9-1-87 — **SENATE SPONSOR:** Green

This act adds temporary administrators and temporary guardians to those persons entitled to receive a five percent commission on money received and on money paid out during the handling of an estate if the court finds that the estate has been managed in compliance with the standards of the Texas Probate Code. The act also provides that the court may deny the commission if the property has not been managed prudently or if the executor, administrator, or guardian has been removed under certain sections of the code.

HOUSE BILL 715 — **HOUSE AUTHOR:** Grusendorf
EFFECTIVE: 8-31-87 — **SENATE SPONSOR:** Brown

House Bill 715 amends prior law to provide that a written agreement in a form specified by the bill is sufficient to confer absolute survivorship rights to the surviving party of a jointly held bank account. The bill also provides that a financial institution that pays a sum from a jointly held account to a surviving party pursuant to this agreement is not liable to an heir, devisee, or beneficiary of the decedent's estate.

HOUSE BILL 813 — **HOUSE AUTHOR:** Wright
EFFECTIVE: 8-31-87 — **SENATE SPONSOR:** Green

House Bill 813 amends the Texas Probate Code to allow a court to authorize the guardian of an estate to borrow money, through the mortgage or pledge of any real or personal property of the estate, for the purchase of a residence for the ward or the ward's dependents.

PROPERTY INTERESTS

Legislation of the 70th Legislature affected property interests in real, rental, and personal property. House Bill 710 allows a part of a larger parcel of real property to be designated a homestead, and House Bill 2024 places limitations on the sale and subsequent lease of a homestead. The eviction of tenants from rental property is addressed by House Bill 1125, which allows tenants to post a bond in exchange for property seized by a landlord, and Senate Bill 473 governs the storage of a tenant's property that has been seized and stored with a warehouseman. Unclaimed and abandoned personal property is addressed by Senate Bill 581, and the trustee relationship between a contractor and subcontractor is newly defined in House Bill 1160. House Bill 1401 and House Bill 1402, relating to intellectual property policies of higher education institutions, are summarized in the chapter on higher education.

Real Property Interests

HOUSE BILL 356 **HOUSE AUTHOR:** Eckels
EFFECTIVE: 6-18-87 **SENATE SPONSOR:** Farabee

House Bill 356 amends and supplements various provisions of the Property Code relating to restrictive covenants affecting real property. Definitions of "dedicatory instrument," "property owners' association," "petition," and "restrictive covenant" are provided. Provisions of the act apply to all restrictive covenants but do not affect the requirements of the Community Homes for Disabled Persons Location Act.

Provision is made for liberal construction of restrictive covenants, but they may not be construed to prevent the use of property as a family home.

An exercise of authority by a property owners' association is presumed reasonable unless proven otherwise; an association is authorized to intervene in litigation affecting the enforcement of a restrictive covenant, and the courts are authorized to assess civil damages when a restrictive covenant is violated.

Provision is made for the withdrawal of a signature from a petition authorized to be filed in connection with terminating restrictive covenants.

County attorneys in counties with populations of more than two million are authorized to enforce certain property restrictions through litigation in the courts. Provision is made for deposit of a fee to cover costs of administration, and the courts are authorized to award court costs and attorney's fees to a county that prevails in a suit. Any amount awarded that exceeds the county's expenses is to be refunded to the complainant.

A subdivision that allows addition to or modification of restrictions by agreement of less than 75 percent of affected owners is exempted from provisions of the Property Code governing the use of restrictive covenants in subdivisions.

The date after which only one committee in a subdivision may operate under the provisions of the Property Code to amend or modify property restrictions is extended. The date after which a committee may file a petition to amend property restrictions after a court holds them to be invalid is extended.

Property that is exempted from restrictions created by a petition is nonetheless subject to whatever restrictions existed prior to the effective date of the petition, and whatever restrictions are imposed may be subsequently modified by a specified percentage of property owners. This provision is made subject to certain exemptions allowed in the act.

HOUSE BILL 710 **HOUSE AUTHOR:** A. Moreno
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Uribe

House Bill 710 amends the Property Code to authorize the head of a family and that person's spouse, if any, to designate a part of a larger parcel of real property as either a rural or urban homestead. The required contents of the designating documents are specified. Provision is made for changing the boundaries of a homestead, and any designation of a homestead already on file is brought within the scope of the act. Other sections of the Property Code are updated and brought into conformity with these provisions.

HOUSE BILL 747 **HOUSE AUTHOR:** Roberts
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Whitmire

House Bill 747 requires a seller of property located seaward of the Gulf Intracoastal Waterway to disclose to a prospective buyer that the public retains a right of use or easement to certain beach areas.

HOUSE BILL 1227 **HOUSE AUTHOR:** C. Johnson
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Tejeda

House Bill 1227 authorizes a court that hears and grants a motion to dismiss a condemnation proceeding to make an allowance to the owner of the property in question for certain expenses incurred to the date of the hearing or judgment.

HOUSE BILL 1504 **HOUSE AUTHOR:** Wolens
EFFECTIVE: 1-1-88 **SENATE SPONSOR:** Zaffirini

House Bill 1504 requires county commissioners courts to designate the area at the courthouse where a sale of foreclosed real estate is to occur, and it requires that notice of the sale shall include a statement of the earliest time at which the sale will occur. In addition, the act requires that 20 days' notice be given to a debtor before notice of sale is given on the debtor's residence.

HOUSE BILL 2024 **HOUSE AUTHOR:** Gibson
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Edwards

House Bill 2024 provides that where a seller sells all or part of his homestead property at a price that is less than the fair market value at the time of the sale and, in the same transaction, the buyer leases the property back to the seller at payments exceeding the fair rental value of the property, the transaction constitutes a loan and all payments in excess of the sales price are subject to state usury laws. Taking a deed in such a contract is a deceptive trade practice, the deed is void, and no lien attaches to the homestead property as a result of the sale.

SENATE BILL 816 **SENATE AUTHOR:** Armbrister
EFFECTIVE: 4-29-87 **HOUSE SPONSOR:** Marchant

Senate Bill 816 repeals Article 342-502, Vernon's Texas Civil Statutes, which regulated the acquisition and depreciation of real estate by state banks.

SENATE BILL 1075 **SENATE AUTHOR:** Tejeda
EFFECTIVE: 9-1-87 **HOUSE SPONSOR:** Hury

Senate Bill 1075 prohibits a person, other than an attorney, from receiving compensation for preparation of a legal instrument affecting title to real property. Certain exceptions are allowed. The act provides for injunctive relief, a cause of action, and damages in satisfaction of a violation of these provisions.

Rental Property: Landlord and Tenant

HOUSE BILL 1125 **HOUSE AUTHOR:** Hammond
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Caperton

House Bill 1125 allows a tenant, at any time before judgment in a suit for unpaid rent, to post a bond and recover unclaimed or unsold personal property after seizure of the tenant's property by a landlord for unpaid rent. This provision applies only to a suit that is initiated on or after the effective date of the act.

HOUSE BILL 2481 **HOUSE AUTHOR:** P. Hill
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Farabee

House Bill 2481 creates a presumption of abandonment when a commercial tenant removes items outside the normal course of the tenant's business in an amount substantial enough to indicate a probable intent to abandon. Provision is made for the removal, disposition, and notice of disposition of a commercial tenant's property by a landlord.

Separate measures are prescribed for the posting of notice to the tenant after a landlord changes the door locks on residential and commercial property.

A provision in a commercial lease contrary to the act prevails, but a provision in a residential lease that conflicts is void.

SENATE BILL 473 **SENATE AUTHOR:** Glasgow
EFFECTIVE: 9-1-87 **HOUSE SPONSOR:** Eckels

The Property Code allows the courts to authorize an officer to remove the personal property of tenants from a landlord's premises and engage the services of a warehouseman to store the property; the warehouseman then

has a lien on the property to cover the expense of moving and storage. Senate Bill 473 extends the definition of "premises" subject to this action, and directs that the warehouseman's lien does not attach until the property is actually stored.

If the property is to be stored in a public warehouse, the act requires that certain items of information be included in written notification to the tenant.

Conditions for payment and redemption of personal property by the tenant are specified in the act, and recourse is provided for a tenant who alleges that the landlord did not return the redeemed property in a timely manner or that the moving and storage charges of the warehouseman are unreasonable. The act awards attorney's fees and costs of court to the prevailing party, and applies only to property removed after the effective date of the act.

SENATE BILL 1341 **SENATE AUTHOR:** Santiesteban
EFFECTIVE: 8-31-87 **HOUSE SPONSOR:** Eckels

In the course of eviction proceedings, a landlord may have an officer remove a tenant's possessions for nonpayment of rent. Senate Bill 1341 provides a definition of "premises" that includes both the rental unit and areas common to all tenants. The act specifies that property may be removed from the rental unit rather than the premises as defined by the act. In addition, a writ of possession may not be issued until the possession bond that the landlord must file has been approved under the Texas Rules of Civil Procedure.

Miscellaneous

HOUSE BILL 507 **HOUSE AUTHOR:** Gibson
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Montford

House Bill 507 amends provisions of the Property Code to supply definitions of individual retirement accounts, simplified employee pensions, and other death benefits. The act amends the rules governing payment of death benefits to trustees and unclaimed benefits to include reference to the defined trusts.

HOUSE BILL 736 **HOUSE AUTHOR:** T. Smith
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Parker

The Property Code exempts certain personal property from seizure for the satisfaction of debts. House Bill 736 includes the assets held in a pension or retirement plan among the property exempt from seizure.

HOUSE BILL 834 **HOUSE AUTHOR:** Granoff
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Farabee

House Bill 834 amends the Property Code to establish a property right by an individual in the use of the individual's name, voice, signature, photograph, or likeness after the death of the individual.

The scope and application of the act is clarified, and provision is made for transfer and devise of the established right.

A person who claims to own a property right is authorized to register the claim with the secretary of state, and the content of the required registration is outlined. Provision is made for preservation and disposal of documents by the secretary of state, a filing fee is imposed, and such documents are designated to be public records.

The legal effect of registration is clarified, and the exercise of the right in the first and subsequent years is regulated. Provision is made for termination of the right.

Authorized and unauthorized uses of the property right are outlined, and the extent of liability for unauthorized use and certain defenses to liability are established.

HOUSE BILL 1160 **HOUSE AUTHOR:** Parker
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Parker

House Bill 1160 requires building contractors and sellers of real property to provide an affidavit upon request and prior to payment for their services or property stating that all subcontractors, laborers, and materialmen have been paid in full. In the event that payment for labor or materials has not been made, pertinent information must be provided in the affidavit. A penalty is provided for violation of the act.

Under current law, all funds borrowed by an owner or paid to a contractor are "trust funds" for payment of persons who provide labor or materials to the construction project. The act eliminates the requirement that

intent to defraud must be proved in order to constitute misapplication of funds; it is sufficient that a trustee knowingly diverts trust funds without first paying all current or past due obligations to the beneficiaries of the fund. Certain affirmative defenses are allowed, and a trustee's authorization to use trust funds to cover overhead expenses is eliminated. A penalty is provided for violations committed after the effective date of the act.

SENATE BILL 581 **SENATE AUTHOR:** Jones
EFFECTIVE: 9-1-87 **HOUSE SPONSOR:** Schlueter

Senate Bill 581 amends existing law to upgrade the collection and administration of unclaimed property. The act specifies the circumstances under which tangible or intangible personal property is subject to the state's unclaimed property law and provides priority rules regarding competing claims among states.

Securities that are enrolled in an automatic reinvestment plan are made subject to unclaimed property statutes.

The act eliminates the reporting requirement for nine categories of information relating to mineral interests.

The state treasurer is authorized to select the most effective method of giving notice of abandoned property, certain defenses to the unclaimed property statutes are eliminated, and the act prohibits the circumvention of these laws by private agreements. The limitation on fees charged by persons who inform a claimant of abandoned property are further limited.

The act specifies conditions under which another state can recover property after the property has been paid or delivered to the state treasurer.

The treasurer is authorized to collect interest on the value of property not turned over to the treasurer in a timely manner and may charge attorney's fees in the event the treasurer must file suit to recover abandoned property. Criminal penalties for violating the act are extended to all persons.

SENATE BILL 610 **SENATE AUTHOR:** Santiesteban
EFFECTIVE: 8-31-87 **HOUSE SPONSOR:** Perez

Senate Bill 610 requires the governor to transfer to the secretary of the interior all assets of the Alabama-Coushatta and Tigua Indian tribes held in trust by the state and to transfer all items on their reservations to the respective tribes if the congress restores the trust relationship between the U.S. and the tribes. The governor would be further required to issue an executive order declaring that this transfer has been effected.

The Texas Indian Commission is required to assist the governor in the transfer, and the state retains the power to enact legislation relating to the tribes consistent with their federally recognized status.

SENATE BILL 952 **SENATE AUTHOR:** Harris
EFFECTIVE: 9-1-87 **HOUSE SPONSOR:** Wallace

Senate Bill 952 gives museums a legal right to retain or dispose of certain loaned property. Requirements for adequate notice to a lender by a museum are set out in the act.

Property that is loaned to a museum for 15 years or more, is not claimed by any person, and for which there is no loan agreement is considered abandoned. On meeting certain notice requirements, the abandoned property may be claimed by the museum, and the museum is immune from suit to recover the property.

A museum may give the lender notice of the museum's intent to terminate certain loans, and the museum may then claim the property as abandoned if the lender does not take action in a timely manner.

Museums are authorized to apply conservation measures to loaned property, or to dispose of it, without the owner's permission if immediate action is required to protect it or other property, and if the owner cannot be reached or does not himself take alternate measures. If a museum does take conservation measures, then it has a lien on the property to cover its costs in handling the property and is accorded certain defenses to liability for damage or loss of the property.

Certain limitations are imposed on actions brought to recover property from a museum, and museums are required to provide prospective lenders with notice of the provisions of this act.

PROPERTY TAXATION

Property taxation in Texas is restricted to local government; a constitutional amendment approved in 1982 eliminated the last vestiges of state property taxation. That same year, the state implemented a new appraisal system approved by the 66th Legislature in 1979. Under that legislation, popularly known as the "Peveto Bill," property tax appraisal was consolidated on a countywide basis within a single appraisal district, ending separate appraisals by the various local governments within a county. (Taxing units that overlap county lines may choose which appraisal district to join.) A taxpayer receives from the district a notice of a property's appraised value, has the right to protest the appraisal to a local appraisal review board (or to the State Property Tax Board, which appraises certain specialized properties on a statewide basis), and may appeal the determination on the protest to the courts. Once protests are substantially completed and a sufficient portion of the district's total taxable value is finally settled, tax rolls for the various taxing units are certified, the units adopt their respective tax rates, and collection of taxes commences.

Property tax enactments in the 70th Legislature were highlighted by House Bill 1866, revising "truth in taxation" laws that were enacted originally as part of the Peveto Bill to enable better taxpayer oversight of local tax increases. Other important legislation included Senate Joint Resolution 12, proposing a constitutional amendment to authorize exemption of most non-income-producing tangible personal property; House Bill 354, providing for financial and performance audits of appraisal districts; Senate Bill 618, enacting certain changes to the tax year schedule; and Senate Bill 1225, revising the law on local-government approval of tax abatement agreements to stimulate economic development.

Tax Rates

HOUSE BILL 1866 — **HOUSE AUTHOR:** Schlueter
EFFECTIVE: 1-1-88 — **SENATE SPONSOR:** Jones

House Bill 1866 is a major revision of the Tax Code's "truth in taxation" requirements. Current law provides for the calculation for each taxing unit of an "effective tax rate." The amount of taxes imposed by the taxing unit in the preceding year (minus those applied to servicing the unit's debt and minus those for which collection would be eliminated for the current year due to new exemptions, special appraisal, disannexed territory, and other factors) is divided by the total value for the current year of the taxing unit's property that was taxed in the preceding year. This calculation yields a base rate for the current year, representing a zero tax increase for purposes of the taxing unit's basic maintenance and operating expenditures. Rate increments sufficient to cover current debt service obligations and certain minor matters are added to it. The result, the effective tax rate, is officially publicized along with certain related information. A taxing unit whose proposed tax rate for the current year exceeds the effective tax rate by more than three percent must hold a public hearing to approve the increase, and should the proposed rate exceed the effective rate by more than eight percent, voters can petition for a "rollback" election to limit the increase to just eight percent.

House Bill 1866 revises the calculation of the effective tax rate to make both formal and substantive changes. The bill restates the basic calculations as formulas and defines each of the variables used in those formulas. Under the new law, many of the terms used informally in the past, such as "effective tax rate," "rollback rate," and "debt service," are now specifically defined and adopted as official terms.

Probably the most important substantive change made by House Bill 1866 is to limit the rollback rate to allow only an eight percent increase in maintenance and operation revenues. The old law allowed an eight percent increase in total taxes, including debt service. This change closes the loophole that had allowed taxing units with significant debt service to increase maintenance and operation revenues by more than eight percent without triggering a rollback.

The bill makes several other important changes as well. It makes two changes substantially the same as those made by Senate Bill 1420 to place controls on the amount of excess taxes imposed because of anticipated delinquency rates and to prohibit the use of taxes imposed for debt service for other purposes. The bill also clarifies that "new property" on which taxes may be imposed above the previous year's levy includes personal property, such as an inventory, located on newly taxed real property, but does not include new personal property on real property that was in the taxing unit in the preceding year.

In some instances, due to the many variables that go into the formulas, the rollback tax rate may be lower than 103 percent of the effective tax rate. If so, a proposed tax rate exceeding the rollback tax rate triggers the

public hearing requirement even if the proposed tax rate does not exceed 103 percent of the effective tax rate. Whatever the rollback tax rate, it, too, must be published officially in a local newspaper.

The bill also makes certain relatively minor substantive changes in the method for computing the effective tax rates of cities and counties that have adopted sales and use taxes to offset property taxes. House Bill 177 (2nd Called Session), in the chapter on public education, affects school districts' rollback tax rates.

SENATE BILL 1420 **SENATE AUTHOR:** Jones
EFFECTIVE: 6-19-87 **HOUSE SPONSOR:** Schlueter

This act provides specific procedures by which a taxing unit may account for an anticipated collection percentage below 100 percent when calculating its effective tax rate. By August 1 or as soon thereafter as possible, the collector for the unit is to certify the anticipated collection rate of the unit for that year. The taxing unit may thereupon increase its debt tax rate so as to enable payment of its debts via a calculation that divides the estimated debt service to be paid from property taxes in the coming year by the anticipated collection percentage. The result is the amount of taxes that may be levied for debt purposes to obtain, given the anticipated collection percentage, sufficient revenue for the debt service. If the eventual collection percentage is actually higher than anticipated, the debt rate calculation for the following year is adjusted accordingly to negate any windfall to the taxing unit. A further specification is that revenues from tax levies imposed for debt service must be used solely to pay such debts, unless the law under which the debt arises requires use of the revenue for other purposes.

The changes made by Senate Bill 1420 are also included, in substance, in House Bill 1866.

HOUSE BILL 328 **HOUSE AUTHOR:** Guerrero
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Barrientos

A taxing unit proposing a tax rate that exceeds the effective tax rate by more than three percent must conduct a public hearing on the increase and advertise the hearing in advance by a statutorily specified notice mailed to each property owner or published in a local newspaper. House Bill 328 adds to the information that must be provided to the public in that notice. The notice must contain the previous year's and the newly proposed tax rate, expressed as an amount per $100, and state the dollar and percentage difference between the two. The notice also must give the average appraised and taxable value (minus the standard homestead exemption) of a residence homestead within the taxing unit, again for both the preceding year and the current one, show the amount of property taxes that would have been imposed on that typical residence under the old tax rate and the newly proposed one, and state the dollar difference between the two. House Bill 328 directs the State Property Tax Board to prescribe by rule a model format and language for the notice.

Appraisal District Governance and Administration

HOUSE BILL 354 **HOUSE AUTHOR:** Rodriguez
EFFECTIVE: see below **SENATE SPONSOR:** Krier

House Bill 354 provides for audits of appraisal districts. The new law requires an annual independent financial audit of each appraisal district and requires a full or partial performance audit whenever initiated by a specified number of taxing units or property owners. A performance audit may be initiated by a majority of the taxing units that participate in the district or by a majority of those eligible to vote on its board of directors. Alternatively, a performance audit may be initiated by property owners whose properties comprise (or comprised in the preceding year) at least 10 percent of the accounts or appraised value in a particular category of property, if that category represents at least five percent of the taxable value in the district. Performance audits are conducted by the State Property Tax Board, which is reimbursed by the appraisal district for audits initiated by taxing units or by the requesting property owners if those owners initiate the audit. However, if an audit initiated by property owners confirms that the median level of appraisal for their property category exceeds 110 percent of value or deviates at least 10 percent from the median level of appraisal for all other property in the appraisal district, then the appraisal district ultimately must bear the costs of the audit. Provisions relating to financial audits take effect September 1, 1987. Provisions relating to performance audits take effect on January 1 of the first fiscal year for which the legislature appropriates administrative funds to the State Property Tax Board.

SENATE BILL 312 **SENATE AUTHOR:** Jones
EFFECTIVE: 1-1-88 **HOUSE SPONSOR:** Craddick

This act requires that an appraisal district's main office be located in the county for which the district is established, though with provision for branch offices outside that county in the case of districts that cross county lines. The remainder of the act establishes new law governing an appraisal district's ownership of real property. It authorizes a district to buy, sell, or lease real property, and to undertake construction on requisite offices, contingent on approval by three-fourths of the taxing units eligible to vote on selection of the district's board of directors. Inaction by a taxing unit on a proposed property transaction constitutes disapproval by that unit. The act also specifies a procedure for proportionally crediting to the various participating taxing units, according to their respective shares of the district's budget, the proceeds from a sale of real property owned by the district.

The act also provides procedures for an appraisal district to validate an existing acquisition of real property by acting before March 1, 1988.

SENATE BILL 469 **SENATE AUTHOR:** Jones
EFFECTIVE: 9-1-87 **HOUSE SPONSOR:** Shaw

Senate Bill 469 transfers from the county clerk to the chief appraiser certain responsibilities relating to appraisal district administration. Those responsibilities pertain to the calculation and allocation of taxing units' votes for the selection of the district board of directors, and to procedures for the nomination of board candidates by the taxing units, the voting for those candidates, the filing of petitions by taxing units to seek a change in the board selection procedure, the recall of an individual director, a change to staggered terms for directors, and a change in how the district allocates costs among participating taxing units. The new law does not affect or invalidate actions or filings occurring prior to its effective date. In the case of vote allocation among participating taxing units, Senate Bill 469 provides that the chief appraiser send notice of the allocation to the county judge and county commissioners; to each applicable city presiding officer, city manager, clerk, or secretary; and to each applicable school district board chair and school superintendent.

HOUSE BILL 268 **HOUSE AUTHOR:** Patterson
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Jones

House Bill 268 requires that an employee of a taxing unit, in order to serve on an appraisal district board of directors, must also be an elected official of a taxing unit or a member of the governing body of a taxing unit that participates in the appraisal district. The legislation deletes a provision that prohibited simultaneous service by two or more employees of a taxing unit.

Appraisal, Protests, and Appeals

SENATE BILL 618 **SENATE AUTHOR:** Jones
EFFECTIVE: 1-1-88 **HOUSE SPONSOR:** Russell

Testimony before a special interim committee of the 69th Legislature (the House Select Committee on Appraisal Districts) revealed certain deadline requirements during the tax year that, in combination, have limited the amount of time available for the preparation of appraisals and for appraisal review board hearings of property owner protests, in turn impeding the issuance to taxing units of their certified tax rolls. Senate Bill 618 makes two deadline changes. One, applicable to the deadline by which an appraisal district must deliver to the property owner notice of a property's appraised value, sets that date as May 15, or as soon thereafter as practicable, and eliminates a former requirement that the notice also precede by 20 days the commencement of appraisal review board hearings. The second change, applicable to the property owner's deadline for filing a protest, requires that the protest be filed by May 31, or not later than the 30th day after delivery of the appraisal notice, whichever is later. Therefore, if an appraisal district meets exactly the May 15 deadline for the delivery of appraisal notices, the taxpayer has until 30 days later, or June 14, to file a protest. However, Senate Bill 618 does not amend other provisions of current law that allow the late filing of a protest, for good cause, up to the time that the appraisal review board adjourns. A final minor change under the legislation deletes a requirement that the appraisal district, in approving a request for a one-month extension of the March 31 deadline by which certain taxpayers must file renditions, approve such request in writing.

HOUSE BILL 190 **HOUSE AUTHOR:** Connelly
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Henderson

Under the state's Tax Code, taxes on a property for a particular year are the obligation of the person who owned the property on January 1. That owner may protest the value determined for the property by the appraisal district. House Bill 190 allows a new owner who acquires the property after January 1, even though not liable for taxes until the next year, to continue a pending protest of the previous owner or to file, before the statutory deadline, his own protest.

HOUSE BILL 1614 **HOUSE AUTHOR:** Schlueter
EFFECTIVE: 6-18-87 **SENATE SPONSOR:** Krier

House Bill 1614 affects property owners who share interest in a mineral property and who have filed timely appraisal protests. It directs the appraisal review board to schedule the common owners together in one protest hearing. If the board's determination results in a valuation adjustment for one interest, that change applies to all other interests in the property in proportion to ownership. An exception is made in the latter case, however, for adjustments involving an interest owned by a public utility or utility cooperative, which is treated individually regardless of protests by other common owners of the same property.

HOUSE BILL 1714 **HOUSE AUTHOR:** S. Johnson
EFFECTIVE: 1-1-88 **SENATE SPONSOR:** Harris

House Bill 1714 provides that a property owner appealing a ruling of the appraisal review board notify the chief appraiser rather than the appraisal review board. The act also requires the chief appraiser, rather than the appraisal review board, to notify the property owner if an appeal of an appraisal review board ruling originates with the chief appraiser or a taxing unit. Finally, the act clarifies that the notice of appeal of a ruling of the State Property Tax Board is filed with that board.

HOUSE BILL 2445 **HOUSE AUTHOR:** Berlanga
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Harris

House Bill 2445 allows unsold homes and lots that have never been occupied to qualify as business inventory and hence be appraised using the wholesale valuation standard. The legislation also authorizes the holder of a business inventory to bring action against a chief appraiser to enforce that property's equitable and uniform appraisal by enjoining the chief appraiser from certifying a tax roll containing an improperly appraised inventory.

SENATE BILL 308 **SENATE AUTHOR:** Jones
EFFECTIVE: 4-29-87 **HOUSE SPONSOR:** Craddick

Senate Bill 308 clarifies that a property owner's right to inspect appraisal records, supporting data, and schedules applies just to his own property.

SENATE BILL 751 **SENATE AUTHOR:** Zaffirini
EFFECTIVE: 1-1-88 **HOUSE SPONSOR:** H. Cuellar

Senate Bill 751 requires that the written order mailed to a property owner following an appraisal review board hearing must contain a prominently printed statement, in upper-case bold lettering, informing the property owner of his right to appeal the appraisal review board's decision to district court. The statement also must notify the property owner of applicable appeal deadlines.

Special Appraisal

HOUSE BILL 1867 **HOUSE AUTHOR:** Schlueter
EFFECTIVE: 1-1-88 **SENATE SPONSOR:** Sims

Agricultural land meeting specified conditions is eligible for special "agricultural-use" or "open-space" appraisal based on its productivity for agricultural purposes rather than its market value as affected by other factors. Timberland meeting specified conditions is eligible for similar special "timber-use" appraisal based on productivity. House Bill 1867 changes the calculation procedures for open-space appraisal, deleting the use of owner-operator budget considerations and basing the calculation instead solely on the hypothetical net income that would be derived from the land under a lease arrangement. The measure also makes the qualifications for special productivity appraisal somewhat more interchangeable. Land is now eligible for open-space appraisal if

it has been devoted for five of the last seven years principally to agricultural use or to the production of timber or forest products. Land is now eligible for timber-use appraisal if it is devoted principally to the production of timber or forest products or to uses that would qualify it for agricultural-use or open-space appraisal.

HOUSE BILL 1440 **HOUSE AUTHOR:** Perry
EFFECTIVE: 1-1-88 **SENATE SPONSOR:** Sims

This act extends the definition of agricultural use, for purposes of open-space special appraisal, to encompass the commercial raising or keeping of exotic animals. Exotic animals include any species of game not indigenous to Texas. The act also reiterates the notice provisions of Senate Bill 751, summarized elsewhere in this chapter.

Exemptions

SENATE JOINT RESOLUTION 12 **SENATE AUTHOR:** McFarland
FOR ELECTION: see below **HOUSE SPONSOR:** Berlanga

Senate Joint Resolution 12 proposes a constitutional amendment to be placed on the November 3, 1987, general election ballot, but in two parts. The first part would expand the current property tax exemption for non-income-producing household goods and personal effects by allowing the legislature to exempt all other non-income-producing tangible personal property, except for items used as residences, such as mobile homes. The amendment, however, would authorize a political subdivision by local option to approve the continued taxation of the personal property to which the new exemption would otherwise apply. The legislature did not enact enabling legislation to implement the exemption.

The second part of the amendment, responding to a court decision that overturned part of the Tax Code, would exempt from ad valorem taxes certain goods, merchandise, and ores, exclusive of oil, gas, and petroleum products, temporarily located in the state. The exemption would apply to property passing through Texas and detained in the state for up to 175 days for assembly, storage, manufacturing, processing, or fabrication purposes. Again, a city, county, or school district by local option could choose instead to tax such items either at their full value or at some percentage of that value. If a political subdivision did so opt, however, its percentage would serve as a ceiling for future taxation of the property. Regardless, action to tax the property would have to be taken prior to April 1, 1988. Taxation approved before January 1, 1988, would be effective beginning with the 1988 tax year, whereas action taken on or after that date but before the April 1, 1988, deadline would be effective beginning with the 1989 tax year. A political subdivision opting to tax the property would reserve the right to rescind its decision and instead exempt the property. Also, should this portion of the constitutional amendment be approved, a political subdivision could choose to apply the exemption to the 1987 tax year.

HOUSE JOINT RESOLUTION 48 **HOUSE AUTHOR:** Schlueter
FOR ELECTION: 11-3-87 **SENATE SPONSOR:** Jones

The Texas Constitution authorizes for purposes of school district taxation, beyond certain other homestead exemptions, an exemption of $10,000 from the assessed value of a residence of an elderly person, defined as one age 65 or older. Moreover, school district taxes for the elderly person's homestead are frozen at no more than the amount applicable the first year the $10,000 exemption takes effect—discounting later property improvements which, by enhancing the property's value, can trigger a tax increase. The current constitutional provision continues this tax freeze if ownership of the homestead passes to a surviving spouse who is of requisite age to receive the exemption. House Joint Resolution 48 proposes a constitutional amendment to provide that the surviving spouse need be only 55 or older, not 65 or older, for the freeze to continue in effect. The amendment would authorize the legislature, however, to make exceptions by general law.

HOUSE JOINT RESOLUTION 96 **HOUSE AUTHOR:** Stiles
FOR ELECTION: 11-3-87 **SENATE SPONSOR:** Parker

House Joint Resolution 96 proposes a constitutional amendment authorizing the legislature to exempt from property taxation idled offshore oil and gas drilling equipment that is stored along the Gulf of Mexico or adjacent waters.

The exemption would be implemented by House Bill 2082, contingent on voter approval of House Joint Resolution 96.

HOUSE BILL 2082
EFFECTIVE: see below

HOUSE AUTHOR: Stiles
SENATE SPONSOR: Parker

House Bill 2082 exempts from property taxation idled offshore oil and gas drilling equipment that is stored along the Gulf of Mexico or adjacent waters for purposes other than repair or maintenance. The exemption takes effect January 1, 1988, contingent on voter approval of the state constitutional amendment proposed by House Joint Resolution 96.

HOUSE BILL 485
EFFECTIVE: 5-28-87

HOUSE AUTHOR: Collazo
SENATE SPONSOR: Jones

Current law provides for the property taxation of the intangible value of certain transportation businesses. House Bill 485 exempts from property taxes the intangible value of motor bus and other common or contract motor carriers. It also exempts those carriers from gross receipts taxes, to which they would otherwise be subject once property taxation on their intangible value was removed. The change does not affect appraisal adjustments or property taxes for 1986 or previous years.

HOUSE BILL 954
EFFECTIVE: 1-1-88

HOUSE AUTHOR: Shea
SENATE SPONSOR: Leedom

House Bill 954 deletes a requirement that the owner of property used exclusively for purposes of a noncommercial cemetery reapply annually for a tax exemption on the property. The owner still must reapply if required by the chief appraiser to confirm qualification for the exemption. Also, a new owner of such property must reapply. Otherwise, affected owners who apply in 1987 need not do so in 1988 or subsequent years.

HOUSE BILL 1745
EFFECTIVE: 1-1-88

HOUSE AUTHOR: Earley
SENATE SPONSOR: Jones

House Bill 1745 repeals a requirement that an appraisal district maintain a listing of state-owned property within the district that is exempt from property taxation.

HOUSE BILL 2213
EFFECTIVE: see below

HOUSE AUTHOR: Schlueter
SENATE SPONSOR: Jones

House Bill 2213 allows the late qualification for a property tax exemption as a religious organization of an applicant organization that by January 1 has met all other qualifications except the adoption of certain specified charter or bylaw provisions. The organization may reapply and receive the exemption if it satisfies those requirements and reapplies by June 1 or by the 30th day after its original application was denied, whichever is later. Similarly, a religious organization whose previous exemption has been canceled solely for want of the proper charter or bylaws can reapply for and renew the exemption if it satisfies the requirements and reapplies by the 30th day after the cancellation. Whenever a religious organization is due a refund because a denied exemption is later granted on appeal, it is entitled to 10 percent interest on the refund payable by the taxing unit.

The above portions of House Bill 2213 take effect January 1, 1988, as do provisions extending an exemption to nonprofit scientific research corporations serving one or more colleges and universities. Other provisions, which take effect August 31, 1987, extend the exemption for religious organizations to cover a partially built church and the property on which it is located. Such church and property must be completed within two tax years, however, or further exemption for future tax years is forfeited until such time as construction is finished.

SENATE BILL 21
EFFECTIVE: 1-1-88

SENATE AUTHOR: Sarpalius
HOUSE SPONSOR: Smithee

Senate Bill 21 entitles stockholders in cooperative housing to the same tax exemptions as other residential homestead owners, provided certain conditions are met. The cooperative corporation, having decided in accordance with its bylaws to seek exemption, must request separate appraisal of its stockholders' interests—a request that must be made of the appraisal district before March 1. A stockholder, to receive the exemption, is required further to occupy a dwelling place within the cooperative housing as a principal residence. The value subject to exemption extends also to a portion of the property's common area, based on the percentage of the corporation's stock held by the homestead claimant, but the combined area to which the exemption applies is limited to a maximum 20 acres. The cooperative corporation may not rescind its request for separate appraisal

once made, and that request is binding on future owners and stockholders. The request need not be renewed in subsequent years, although the corporation may be required by the chief appraiser to furnish a list of stockholders at least annually. The cooperative housing corporation remains liable for payment of all taxes, penalties, and interest imposed on its property, and any tax lien attaches to the entirety of its property.

SENATE BILL 367 **SENATE AUTHOR:** Parker
EFFECTIVE: 5-26-87 **HOUSE SPONSOR:** Berlanga

Senate Bill 367 modifies the statutory definition of personal effects, for property tax purposes, to confer a conditional exemption from property taxation for pleasure boats not held or used for the production of income. A taxing unit of local government may lift the exemption, however, making it inapplicable for that particular unit. In that event, the legislation directs the appraisal district to determine appraisal costs for all boats taxed within the district and to allocate costs to the taxing unit or units that have chosen to tax boats.

SENATE BILL 982 **SENATE AUTHOR:** Montford
EFFECTIVE: 1-1-88 **HOUSE SPONSOR:** Stiles

Senate Bill 982 exempts from property taxation land that has been dedicated by a recorded easement as a disposal site for dredge material from the Gulf Intracoastal Waterway. The exemption, once allowed, need not be renewed in subsequent years. It terminates, however, if the land ceases to be dedicated and used for that purpose.

SENATE BILL 1066 **SENATE AUTHOR:** Krier
EFFECTIVE: 1-1-88 **HOUSE SPONSOR:** Morales

Senate Bill 1066 recategorizes the exempt status of property owned by a nonprofit biomedical or scientific corporation engaged in research or educational activities. Instead of a miscellaneous exemption, a nonprofit corporation of that type now receives exemption as a charitable organization.

Property Redevelopment and Tax Abatement Act

SENATE BILL 1225 **SENATE AUTHOR:** Henderson
EFFECTIVE: 9-1-87 **HOUSE SPONSOR:** A. Luna

The Property Redevelopment and Tax Abatement Act, as amended since its 1981 enactment, authorizes a city to designate a reinvestment zone within its city limits or extraterritorial jurisdiction (ETJ), within which it may contract with certain property owners to grant a partial or total abatement of taxes for up to 15 years. In return, the property owner agrees to make specified improvements. A county likewise can establish a reinvestment zone and grant tax abatements for areas of the county outside city taxing jurisdictions.

Taxing units other than the one granting the abatement may or may not be affected by the terms of that abatement agreement. Generally, each other taxing unit has two options: (1) to likewise grant an abatement, in which case it must be identical; or (2) to not grant an abatement, in which case the taxing unit's taxation of the property is nevertheless restricted, for a period equal to twice that of the abatement agreement, to the property's value for the year preceding the agreement. An exception to those two options applies to taxing units having territory within a city-designated reinvestment zone, outside city limits but within the city's ETJ. In such case, the other taxing unit has four options: (1) to grant an abatement identical to that, if any, granted by the city; (2) to grant an abatement with terms different than those of the city; (3) to grant an abatement independently, even if the city has not; or (4) to not grant an abatement at all, in which case the property is taxed at its full value.

Senate Bill 1225 changes this scheme, though without affecting any previous reinvestment zone designations or tax abatement agreements.

First, abatements in the future may apply only to increases in the property's value over the value the year the agreement was reached.

Second, city or county abatement terms apply automatically to special districts sharing jurisdiction over the property, without option to forego an abatement and without the necessity to reach an identical agreement, unless the property lies in a city-designated reinvestment zone within the city's ETJ, in which case the city's abatement has no effect on the special district.

Third, a county exercises original abatement powers, outside the taxing jurisdictions of cities, as before.

Fourth, a county or school district sharing jurisdiction over property in a city-designated reinvestment zone inside city limits has two options: (1) to grant an identical abatement; or (2) to not grant an abatement, in which case the property is taxed at its full value. Similarly, a school district sharing jurisdiction over property in a county-designated zone has the same option.

Fifth, a county or school district sharing jurisdiction over property in a city-designated reinvestment zone within the city's ETJ has the same four options as before: (1) to grant an identical abatement; (2) to grant a different abatement; (3) to grant an abatement independently, even if the city has not; or (4) to not grant an abatement at all, in which case the property is taxed at its full value. If a county or school district does grant an abatement within the ETJ, the terms of that abatement (rather than the terms of the city's abatement, as before) apply automatically to all special districts sharing property affected by the abatement; and if the county and school district both grant abatements, but different abatements, within the ETJ, the abatement agreement adopted first chronologically has precedence, and its terms apply automatically to the special district until the agreement expires, after which the terms of any subsequent unexpired agreement then take effect.

Sixth, a city or county before designating a reinvestment zone, and a city, county, or school district before granting an abatement, must first adopt a resolution deciding to participate in tax abatement, plus guidelines and criteria governing abatement agreements generally. Guidelines and criteria, if and when adopted, are effective for two years and may not be repealed or amended without a three-fourths vote of the city's, county's, or school district's governing body.

SENATE BILL 61 **SENATE AUTHOR:** Krier
EFFECTIVE: 9-1-87 **HOUSE SPONSOR:** Madla

This act requires a city or county contemplating creation of a reinvestment zone, or the granting of a tax abatement agreement on a property within a reinvestment zone, to give written mailed notice, at least seven days in advance, to other taxing units in which the property is located. Failure to give notice of an abatement agreement invalidates the agreement for a taxing unit otherwise subject to it, unless that taxing unit by official action waives the right to receive notice.

School Value Studies

The State Property Tax Board, examining a sample of properties within each school district, conducts annual independent studies to estimate school districts' respective taxable values. Those studies are then used to equalize state educational funding among the districts. School districts may protest or appeal the board's findings in a manner similar to a taxpayer protest or appeal of the appraised value of his property.

HOUSE BILL 1650 **HOUSE AUTHOR:** Polumbo
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Brooks

House Bill 1650 provides that if a court appeal of a tax protest reduces the school district's total taxable value by more than five percent, the state commissioner of education shall request the State Property Tax Board to adjust the board's value estimate for the school district accordingly. If, given that adjustment, the school district would have received a greater amount of monetary aid from the state's foundation school fund, then the difference is to be paid the school district in the next disbursement the district receives from that fund. The adjustment does not affect other school districts, nor does it affect the next year's calculation of the school district's effective tax rate.

SENATE BILL 311 **SENATE AUTHOR:** Jones
EFFECTIVE: 5-12-87 **HOUSE SPONSOR:** Schlueter

Beginning with the effective date of this act, judicial appeals by a school district of the State Property Tax Board's value estimates for the school district are to be filed with a district court in Travis County rather than a local district court. Appeals filed with local courts through the remainder of 1987 are still valid, although either party within 60 days of that filing may request to have the appeal transferred to Travis County, in which case the court shall honor the request. Appeals pending as of the effective date may also be transferred on a motion of either party, although in this case the decision as to a transfer is left to the discretion of the local court.

Collections and Delinquencies

HOUSE BILL 1051 **HOUSE AUTHOR:** C. Evans
EFFECTIVE: 6-19-87 **SENATE SPONSOR:** Farabee

Current state law gives taxing units the option to refrain from sending out a property tax bill until the total amount of taxes owed the unit on a property is at least $5. House Bill 1051 increases that threshold, allowing taxing units the option to refrain from sending out the bill until the total amount owed is at least $25.

HOUSE BILL 1716 **HOUSE AUTHOR:** Eckels
EFFECTIVE: 1-1-88 **SENATE SPONSOR:** Brown

Some taxing units may have their taxes collected by their appraisal district or by another taxing unit by virtue of their individual enabling statutes or elections to transfer collecting responsibilities. House Bill 1716 requires in such circumstances that the collecting entity deposit taxes in the taxing unit's account on a daily basis unless the taxing unit, by official action of its governing body, authorizes deposits to be made less frequently.

HOUSE BILL 2151 **HOUSE AUTHOR:** Earley
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Jones

The Tax Code requires property owners who are protesting or appealing a valuation to pay taxes by the February 1 delinquency date, even if the protest or appeal has not been decided at that time. The taxpayer, in such case, pays the tax due on the portion of the property value that is not in dispute, or alternatively the amount of taxes paid on the property in the preceding year, whichever is greater; otherwise, he forfeits the right to protest or appeal. House Bill 2151 requires the tax collector, rather than waiting until a final determination or the delinquency date, to accept a conditional tax payment, issue a receipt, and make appropriate refunds, if any, at such time as the protest or appeal is ended or decided.

SENATE BILL 83 **SENATE AUTHOR:** Jones
EFFECTIVE: 5-6-87 **HOUSE SPONSOR:** Hilbert

This act requires a taxing unit, on request of a property owner or a property owner's agent, to issue a receipt showing the amount of property taxes imposed on a property for one or more tax years and the amount of taxes paid on the property. A receipt issued under the act and showing that a tax has been paid constitutes prima facie evidence of payment in any delinquent tax suit or other judicial proceeding.

SENATE BILL 266 **SENATE AUTHOR:** Jones
EFFECTIVE: 5-6-87 **HOUSE SPONSOR:** Craddick

In Texas, the statutes did not permit a taxpayer defending against a suit for collection of delinquent property taxes to raise any issue that the taxpayer failed to raise as part of a protest before the local appraisal review board. Senate Bill 266 changes that policy, specifically allowing two affirmative defenses: (1) that the taxpayer did not own the property on January 1, if the suit seeks a personal judgment; or (2) for real property, that the property was not within the boundaries of the taxing unit on January 1, if the suit seeks foreclosure of a tax lien on the property.

SENATE BILL 267 **SENATE AUTHOR:** Jones
EFFECTIVE: 9-1-87 **HOUSE SPONSOR:** Hilbert

Current law makes available from the collector for a taxing unit, for a fee of up to $4, a certificate showing the amount of delinquent taxes, penalties, and interest due on a property. This act increases the fee to a maximum of $10 and requires that taxes, penalties, and interest due to different taxing units having a single collector be itemized separately on the same certificate.

SENATE BILL 379 **SENATE AUTHOR:** Jones
EFFECTIVE: 5-20-87 **HOUSE SPONSOR:** Schlueter

A tax collector for one taxing unit who collects taxes for another taxing unit may be required by the latter to execute a performance bond. Senate Bill 379 permits the taxing unit receiving outside collection services to extend that requirement to anyone else who might be designated to collect its taxes, including an appraisal district.

SENATE BILL 506 **SENATE AUTHOR:** Jones
EFFECTIVE: 9-1-87 **HOUSE SPONSOR:** Russell

A property tax refund may arise from an erroneous or excessive payment, a tax roll correction, a successful appeal by the property tax owner of a property's appraised value, a deduction resulting from late application for a homestead exemption, or a successful tax rollback election in which voters overturn a proposed property tax rate increase for their local governmental unit. In these instances, Senate Bill 506 provides that no interest on the refunded amount is due to the taxpayer if the refund is made within 60 days. For a refund delayed beyond 60 days, however, interest accrues at a rate of one percent per month or partial month, except for refunds of less than $5. The new interest provisions apply only to refunds the liability for which arises on or after the legislation's effective date.

Miscellaneous

HOUSE BILL 2083 **HOUSE AUTHOR:** Stiles
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Parker

This act requires that quarterly reports on manufactured home installations issued by county by the Texas Department of Labor and Standards be furnished to the chief appraiser for the county in addition to the county tax assessor-collector. It further provides that a tax lien imposed on a manufactured home does not attach to the land on which the manufactured home is located if the mobile home is subject to a recorded purchase money lien or other security interest. The act makes minor amendments to House Bill 855 (chapter on business and occupational regulation), also dealing with manufactured homes, the net effects of which are described in that bill summary.

SENATE BILL 309 **SENATE AUTHOR:** Jones
EFFECTIVE: 1-1-88 **HOUSE SPONSOR:** Craddick

This act prohibits a city, school district, or other taxing unit created after June 30 of a particular calendar year from imposing property taxes until the following year. For units created before that deadline but too late to enable the chief appraiser to submit to the unit a timely estimate of its taxable property value or a timely certified tax roll for the unit, the act provides that the value estimate and certified roll should be completed as soon as practicable.

SENATE BILL 1352 **SENATE AUTHOR:** Jones
EFFECTIVE: 1-1-88 **HOUSE SPONSOR:** Craddick

This act authorizes an owner of property to designate in writing someone who is leasing or otherwise holding the property to act as his agent for property tax purposes. The designation continues in effect until revoked by the property owner.

PUBLIC LANDS

In addition to authorizing specific exchanges of state-owned land, the 70th Legislature authorized the General Land Office to trade state-owned land for other land suitable as a site for the proposed superconducting super collider (House Bill 2448) and granted the state general authority to obtain, by power of eminent domain, access to state-owned land (Senate Bill 611).

Superconducting Super Collider

HOUSE BILL 2448 — **HOUSE AUTHOR:** Colbert
EFFECTIVE: 6-20-87 — **SENATE SPONSOR:** Sarpalius

House Bill 2448 amends the Natural Resources Code by authorizing the commissioner of the General Land Office to trade state land for other land for the purpose of creating a site suitable for a superconducting super collider. The act requires that a proposed exchange of land dedicated to the permanent school fund or the permanent university fund be approved by the appropriate governing board, that appraisal of the property be made by land office appraisers, and that the land commissioner subsequently report to the legislature the facts that warranted the trade. Under this act, the State of Texas may reserve oil, gas, and mineral rights.

Land Transfers, Leases, and Sales

HOUSE BILL 1020 — **HOUSE AUTHOR:** Laney
EFFECTIVE: 6-17-87 — **SENATE SPONSOR:** Armbrister

House Bill 1020 requires the State Purchasing and General Services Commission to exchange certain state-owned property located in Travis County for certain property owned by the city of Austin. The act specifies the manner in which expenses that may be incurred in the execution of the transaction are to be paid.

SENATE BILL 765 — **SENATE AUTHOR:** Montford
EFFECTIVE: 6-20-87 — **HOUSE SPONSOR:** Saunders

Senate Bill 765 amends the Parks and Wildlife Code by expanding the authority for certain exchanges of land under the jurisdiction of the Parks and Wildlife Department. Receipts from the sale of any of this land are to be used for improvement or acquisition of other land dedicated to the same purpose for which the land sold was dedicated.

SENATE BILL 950 — **SENATE AUTHOR:** Blake
EFFECTIVE: 8-31-87 — **HOUSE SPONSOR:** C. Johnson

Senate Bill 950 authorizes the Texas Board of Mental Health and Mental Retardation to sell certain state-owned property in Cherokee County to that county. The proceeds from the sale are to be deposited to the credit of the Texas capital trust fund.

SENATE BILL 1425 — **SENATE AUTHOR:** Leedom
EFFECTIVE: 6-11-87 — **HOUSE SPONSOR:** D. Hudson

Senate Bill 1425 authorizes the General Land Office to sell or exchange a certain tract of land owned by the Department of Public Safety in Smith County or to lease the property in the event that an appropriate buyer cannot be found. Proceeds from the sale or lease of the property are to be deposited into the Texas capital trust fund.

SENATE BILL 1426 — **SENATE AUTHOR:** Leedom
EFFECTIVE: 6-18-87 — **HOUSE SPONSOR:** S. Johnson

Senate Bill 1426 authorizes the Public Safety Commission to exchange a tract of land owned by the Department of Public Safety for a tract of land owned by John A. Jackson, both tracts lying inside Collin County.

SENATE BILL 52 (2nd C.S.) — **SENATE AUTHOR:** Montford
EFFECTIVE: 7-21-87 — **HOUSE SPONSOR:** Toomey

Senate Bill 52 requires the Texas Board of Mental Health and Mental Retardation and the Texas Department of Corrections to sell certain state-owned land in Travis, Williamson, and Fort Bend counties to

the State Department of Highways and Public Transportation for a total amount of $120.6 million. Proceeds from the sale are to be deposited in the general revenue fund, less $200,000 which is to be set aside in a special account that may be used only by the State Employee Incentive Commission. The act allows land considered essential to the operation of either the Texas Department of Mental Health and Mental Retardation or the Texas Department of Corrections to be leased, for $1 a year, for terms expiring not later than August 31, 1991. The act also transfers 50 acres to the Parks and Wildlife Department for use as parkland and maintained by Williamson County; the land reverts to the State Department of Highways and Public Transportation if it is no longer used as a park.

See also Senate Bill 62, 2nd Called Session, in the chapter on environment/water.

Miscellaneous Legislation

SENATE BILL 10 **SENATE AUTHOR:** Uribe
EFFECTIVE: 6-11-87 **HOUSE SPONSOR:** Hackney

Senate Bill 10 amends the Natural Resources Code by redefining "qualified subdivision" to include a tract of land of not more than 640 acres (up from 160 acres) that may be located on a barrier island. The act adds a requirement that a qualified subdivision contain an operations site for each separate 80 acres within the 640-acre tract under this act. The Railroad Commission of Texas is required to rule on applications for qualified subdivision status. The act permits subsurface drilling outside an operations site if such action does not "unreasonably" interfere with surface use. The act also prohibits an amendment or replat of a qualified subdivision from impairing the usefulness of an operations site, appurtenant road, and pipeline easement.

SENATE BILL 611 **SENATE AUTHOR:** Lyon
EFFECTIVE: 8-31-87 **HOUSE SPONSOR:** Saunders

Senate Bill 611 amends the Natural Resources Code by authorizing the state, a permittee of the state, or a lessee or assignee of state land or minerals dedicated to the permanent school fund to exercise the power of eminent domain to obtain access to certain state-owned land that is dedicated to the permanent school fund. Access obtained to benefit a tract of land in which the permanent school fund has only a mineral interest is limited to the term of a valid prospect permit or lease. The act holds the state liable for damages to persons and property incurred in use of an access easement and instructs the General Land Office to promulgate and enforce rules governing construction, maintenance, and use of roads created by such access. The act also revises the list of state-owned land that is subject to prospect and the schedules for lessees' payments of bonuses, rentals, and royalties on agreements made both before and after September 1, 1987.

HOUSE BILL 1613 **HOUSE AUTHOR:** Schlueter
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Jones

House Bill 1613 amends the Natural Resources Code by adopting the Texas Coordinate System of 1983 while retaining the Texas Coordinate System of 1927. These are systems of plane coordinates, established by the National Oceanic/National Geodetic Survey (formerly the Oceanic and Atmospheric Administration), for defining and stating the geographic position of points on the surface of the earth. The act allows either system to be used but requires that each be used separately and that the system being used be identified. The act contains technical definitions and updates certain old language.

Additional legislation relating to mineral leases on state-owned land is included in the chapter on energy.

PUBLIC OFFICIALS AND EMPLOYEES

The chapter describes legislation concerning public officials and employees. These laws may affect persons employed in all levels of public service and include topics such as retirement and fire and police personnel. Legislation of particularly wide interest includes House Bill 1948 and Senate Bill 1131, described under "Miscellaneous Legislation" and relating to conflicts of interest by local public officials, and House Bill 1370 and Senate Bill 339, described in the same section and authorizing tax-sheltered benefits for state, university, county, and school district employees. Bills dealing exclusively with the Teacher Retirement System are included in the public education chapter. Three proposed constitutional amendments relating to state officials are found in the chapter on state government.

Retirement

HOUSE BILL 678 — **HOUSE AUTHOR:** Clark
EFFECTIVE: 9-1-87 — **SENATE SPONSOR:** Parker

House Bill 678 allows people who are 65 years old or older and are hired as temporary state employees to join the Employees Retirement System of Texas on employment. Previously, such employees were required to wait six months, although younger temporary employees became members immediately.

HOUSE BILL 1141 — **HOUSE AUTHOR:** Russell
EFFECTIVE: 8-31-87 — **SENATE SPONSOR:** Brooks

House Bill 1141 removes the prohibition on reemployment of state employees who retired under a temporary retirement incentive adopted by the 69th Legislature. Those retirees are subject to general provisions that limit the duration of reemployment of retired state employees.

HOUSE BILL 2252 — **HOUSE AUTHOR:** Cooper
EFFECTIVE: 6-19-87 — **SENATE SPONSOR:** Caperton

The Internal Revenue Service allows employee contributions to retirement systems to be considered as employer contributions for purposes of federal income tax and social security contributions. House Bill 2252 provides that employee contributions to the Teacher Retirement System of Texas and the Employees Retirement System of Texas are to be "picked-up" by employers after December 31, 1987, allowing employees to take advantage of this tax shelter and the state to pay lower employer contributions for social security. The amount of contributions to the retirement systems is not changed.

SENATE BILL 108 — **SENATE AUTHOR:** Farabee
EFFECTIVE: 3-12-87 — **HOUSE SPONSOR:** Kuempel

Senate Bill 108 changes internal accounting procedures of the Employees Retirement System of Texas to authorize a transfer of money from the account in which investment income is accumulated to the account used to pay annuities in any amount recommended by the system's actuary as necessary to finance the annuities. Previous law limited the amount of annual transfers to five percent of the mean amount in the annuity account.

SENATE BILL 430 — **SENATE AUTHOR:** Farabee
EFFECTIVE: 5-20-87 — **HOUSE SPONSOR:** Patronella

Senate Bill 430 amends existing law by extending the deadline for the filing of a public retirement system's annual financial report with the State Pension Review Board to the 210th day after the last day of the fiscal year under which the system operates.

SENATE BILL 505 — **SENATE AUTHOR:** Blake
EFFECTIVE: 8-31-87 — **HOUSE SPONSOR:** Kuempel

Senate Bill 505 relates to the Texas Municipal Retirement System. It allows employees to retire at any age after 25, rather than 28, years of service, provides for survivors' benefits, abolishes the supplemental disability retirement program, and establishes a new occupational disability benefits program. These changes will apply to cities that join the system after August 31, 1987, and to member cities that adopt the changes and are granted actuarial approval.

The act also allows municipalities to set member contribution rates at six percent of the member's compensation, in addition to the previously allowed three, five, and seven percent, removes certain age restrictions to comply with federal law, and makes other changes in the system administration.

SENATE BILL 739 — **SENATE AUTHOR:** Farabee
EFFECTIVE: 5-6-87 — **HOUSE SPONSOR:** Patronella

Senate Bill 739 relates to the Texas County and District Retirement System. It includes several provisions designed to assist member subdivisions that are unable to amortize their pension obligations within 30 or 40 years, depending on the level of benefits offered. It authorizes the subdivisions to make supplemental contributions or to reduce the ratio of employer matching credits to member credits for future service. It also changes age requirements to conform to federal law, includes provisions concerning subdivisions that have sharp decreases in membership, and makes other administrative changes.

HOUSE BILL 21 (2nd C.S.) — **HOUSE AUTHOR:** Kuempel
EFFECTIVE: 9-1-87 — **SENATE SPONSOR:** Farabee

House Bill 21 reduces the amount of the state's contribution to the Employees Retirement System of Texas for the biennium ending August 31, 1989. The reduction is from 7.4 to seven percent of the total compensation of all members of the retirement system for each year of the biennium. The act also provides for a five percent increase in annuities for employee class service that are based on retirements or deaths occurring before September 1, 1985.

The ERS board is directed to increase the value of employees' first 10 years' service credit, subject to certain restrictions.

SENATE BILL 27 (2nd C.S.) — **SENATE AUTHOR:** Farabee
EFFECTIVE: 10-20-87 — **HOUSE SPONSOR:** Kuempel

Senate Bill 27 authorizes the Employees Retirement System of Texas to select temporary custodians of investment securities of the system, contract with certain banks for temporary custody of system cash, and generally keep assets in book-entry form, for the purpose of facilitating transfers and reducing transaction costs. The auditor's office estimates that savings and revenue from this change should be about $550,000 a year.

See also House Bill 187 in the chapter on courts and Senate Bill 1301 in the chapter on higher education.

Department of Public Safety

HOUSE BILL 1622 — **HOUSE AUTHOR:** C. Johnson
EFFECTIVE: 9-1-87 — **SENATE SPONSOR:** Lyon

House Bill 1622 prohibits officers commissioned by the Department of Public Safety from being suspended or terminated because of a refusal to take a polygraph examination.

HOUSE BILL 1938 — **HOUSE AUTHOR:** Tallas
EFFECTIVE: 8-31-87 — **SENATE SPONSOR:** Armbrister

House Bill 1938 prohibits the Department of Public Safety from discharging, suspending, or demoting commissioned officers except for violations of specific Public Safety Commission rules. If such action is taken, the department must give the officer a written statement of reasons.

SENATE BILL 261 — **SENATE AUTHOR:** Barrientos
EFFECTIVE: 8-31-87 — **HOUSE SPONSOR:** Uher

Senate Bill 261 removes the prohibition against employees of the Department of Public Safety from participating in political activities while the employees are off duty.

Fire Fighters and Police Officers

HOUSE BILL 278 — **HOUSE AUTHOR:** Guerrero
EFFECTIVE: 9-1-87 — **SENATE SPONSOR:** Green

House Bill 278 relates to the regulation of fire protection personnel. It includes sections on certification and on protective clothing and self-contained breathing apparatus. It also requires the Commission on Fire Protection Personnel Standards and Education to set certain fees.

HOUSE BILL 355 **HOUSE AUTHOR:** Barton
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Green

House Bill 355 authorizes the Texas Commission on Law Enforcement Officer Standards and Education to conduct exams at local jurisdictions, at the request of local law enforcement agencies, if the requesting agency pays extra costs incurred and if the commission's resources will cover the request.

HOUSE BILL 426 **HOUSE AUTHOR:** Granoff
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Edwards

House Bill 426 prohibits employees of certain fire and police departments from engaging in political activity relating to a campaign for an elective office while in uniform or on active duty and prohibits off-duty employees from soliciting campaign contributions from members of their employee organizations. The act defines political activity, specifically providing that off-duty personnel may engage in such activity, and prohibits municipalities from restricting the rights authorized under the act.

The act applies only to cities with a population of 10,000 or more that are not covered by the fire fighters' and police officers' civil service statute (Article 1269m, Vernon's Texas Civil Statutes).

HOUSE BILL 474 **HOUSE AUTHOR:** Beauchamp
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Krier

House Bill 474 exempts photographs depicting peace officers and security officers from the open records law if the release would endanger the life or physical safety of the officer. Certain exceptions are provided.

HOUSE BILL 708 **HOUSE AUTHOR:** Wolens
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Parmer

Previous law entitled fire fighters and their families to vaccinations or reimbursements for vaccinations for contagious diseases to which the fire fighters were exposed while responding to emergency medical calls. House Bill 708 brings other governmental employees who respond to the calls under the statute; it also entitles all such employees to preventive immunization.

HOUSE BILL 750 **HOUSE AUTHOR:** Patronella
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Caperton

House Bill 750 relates to telecommunicators serving law enforcement agencies who receive, process, and transmit public safety information and criminal justice data. It directs the Commission on Law Enforcement Officer Standards and Education to accredit telecommunicator training programs and requires telecommunicators to meet minimum standards.

HOUSE BILL 1368 **HOUSE AUTHOR:** Valigura
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Zaffirini

House Bill 1368 relates to police officers and fire fighters in certain cities with a population of 10,000 or more. It requires the directors of fire fighters' and police officers' civil service commissions to maintain permanent personnel files for each fire fighter and police officer. It also designates material required to be placed in the file and includes provisions concerning release of the information.

HOUSE BILL 1560 **HOUSE AUTHOR:** Delco
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Barrientos

House Bill 1560 relates to the Austin Fire Fighter's Relief and Retirement Fund. It reduces the period of service for retirement at any age from 35 to 30 years and provides for an offset in disability benefits in the amount of any workers' compensation benefits received. Also, the age at which survivors' benefits for children are terminated is extended from the current age of 18 to the age of 22.

HOUSE BILL 1957 **HOUSE AUTHOR:** Marchant
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Brown

House Bill 1957 clarifies provisions concerning promotion of fire and police personnel. It authorizes mental examinations for beginning positions and requires that suspensions and dismissals for criminal activity take place within 180 days of discovery of the action.

HOUSE BILL 2164 **HOUSE AUTHOR:** G. Luna
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Tejeda

House Bill 2164 relates to the retirement system for San Antonio fire fighters and police officers. It increases survivor benefits and removes the minimum three percent change in the cost of living index necessary to trigger a cost of living adjustment for retirees. It also allows members who are also beneficiaries of other members to receive a beneficiary pension in addition to any pension earned in their own right, and clarifies that survivors' benefits are available to widowers.

HOUSE BILL 2165 **HOUSE AUTHOR:** G. Luna
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Tejeda

House Bill 2165 relates to the retirement system for San Antonio fire fighters and police officers. It allows former members who return to service after age 36 to rejoin the system under certain conditions and allows members to purchase credit for military service performed between 1958 and 1964.

HOUSE BILL 2250 **HOUSE AUTHOR:** C. Evans
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Sims

House Bill 2250 concerns overtime for fire fighters, police officers, and emergency medical personnel in cities with a population of more than 10,000. It includes emergency medical personnel in statutes designating work cycles and overtime for fire fighters, and changes other provisions relating to calculation of time. It also includes specific provisions for Houston fire fighters and police officers.

SENATE BILL 359 **SENATE AUTHOR:** Armbrister
EFFECTIVE: 9-1-87 **HOUSE SPONSOR:** A. Luna

Senate Bill 359 requires municipalities and special purpose districts to provide legal counsel for fire fighters and emergency medical personnel, as well as peace officers, in suits for damages if the claim involves official acts.

SENATE BILL 382 **SENATE AUTHOR:** Edwards
EFFECTIVE: 9-1-87 **HOUSE SPONSOR:** Eckels

Senate Bill 382 requires persons soliciting contributions in the name of law enforcement organizations to file certain public disclosure information with the attorney general and to inform those solicited that the information is on file. Offenses under this act are Class B misdemeanors for first-time offenders and Class A misdemeanors for persons previously convicted under the act.

SENATE BILL 439 **SENATE AUTHOR:** Santiesteban
EFFECTIVE: 9-1-87 **HOUSE SPONSOR:** R. Smith

The Texas Constitution requires counties to pay the salaries of law enforcement officials who are hospitalized or incapacitated because of injuries incurred in the course of official duty, and a state statute provides workers' compensation for these officials. In a 1985 court case, a state court of appeals found these law enforcement officials to be entitled to full workers' compensation benefits as well as to the benefits authorized by the constitution.

Senate Bill 439 eliminates this double payment by providing that any sums paid under the constitutional authority are offset against workers' compensation benefits.

SENATE BILL 619 **SENATE AUTHOR:** Jones
EFFECTIVE: 9-1-87 **HOUSE SPONSOR:** Hunter

Senate Bill 619 requires that entities employing three or more peace officers, rather than two officers, designate a firearms proficiency control officer and keep regular records showing that the officers have demonstrated firearms proficiency. The Commission on Law Enforcement Officer Standards and Education is to adopt rules defining weapons proficiency by December 31, 1987.

SENATE BILL 800 **SENATE AUTHOR:** Parmer
EFFECTIVE: 9-1-87 **HOUSE SPONSOR:** Blackwood

Senate Bill 800 creates the Law Enforcement Management Institute for training police management personnel. The board of directors is to be appointed by the Texas Commission on Law Enforcement Officer Standards and Education. An additional 50 cent court cost is established to fund the institute.

SENATE BILL 929 **SENATE AUTHOR:** McFarland
EFFECTIVE: 8-31-87 **HOUSE SPONSOR:** Arnold

Senate Bill 929 authorizes the Texas Commission on Law Enforcement Officer Standards and Education to establish minimum requirements for training, testing, and certification of peace officers who utilize investigative hypnosis. It requires that after January 1, 1988, any officer using hypnosis must be certified.

HOUSE BILL 54 (2nd C.S.) **HOUSE AUTHOR:** Whaley
EFFECTIVE: 8-4-87 **SENATE SPONSOR:** Sarpalius

During the 70th Regular Session, the legislature passed House Bill 2250, which institutes a 53-hour work week for fire fighters in cities throughout the state. Certain exceptions are allowed. House Bill 54 provides that the computation of hours worked by fire fighters in a fluctuating work week under Texas law shall also count for the purposes of the federal Fair Labor Standards Act.

Houston Retirement and Civil Service Legislation

SENATE BILL 273 **SENATE AUTHOR:** Green
EFFECTIVE: 8-31-87 **HOUSE SPONSOR:** Criss

A 1985 state law established a grievance procedure for fire fighters and police officers in Houston. Senate Bill 273 refines the statute to provide for the participation of a supervisor other than the employee's immediate supervisor in a grievance procedure and to clarify or provide specific time limits for certain steps in the grievance process.

SENATE BILL 274 **SENATE AUTHOR:** Green
EFFECTIVE: 4-14-87 **HOUSE SPONSOR:** Polumbo

Senate Bill 274 clarifies language relating to interrogation and rights of Houston fire fighters and police officers subject to investigation.

SENATE BILL 276 **SENATE AUTHOR:** Green
EFFECTIVE: 8-31-87 **HOUSE SPONSOR:** Martinez

Senate Bill 276 relates to fire fighters and police officers in Houston. It changes hearing, notice, and subpoena requirements regarding an appeal of a department decision to the Houston Fire Fighters' and Police Officers' Civil Service Commission, provides that the fire fighters and police officers may be advised by counsel during proceedings, and allows proceedings to be recorded.

SENATE BILL 277 **SENATE AUTHOR:** Green
EFFECTIVE: 6-11-87 **HOUSE SPONSOR:** Dutton

Senate Bill 277 provides that Houston fire fighters and police officers who are the subject of internal investigations are not required to submit to polygraph examinations until, if they so request, they receive the results of the complainant's polygraph examination.

SENATE BILL 279 **SENATE AUTHOR:** Green
EFFECTIVE: 6-11-87 **HOUSE SPONSOR:** Patronella

Senate Bill 279 relates to fire and police departments in Houston. It includes provisions concerning suspension; grievance hearings; investigations of misconduct, including penalties; and permanent personnel files.

SENATE BILL 326 **SENATE AUTHOR:** Brooks
EFFECTIVE: 8-31-87 **HOUSE SPONSOR:** Patronella

Senate Bill 326 authorizes Houston to establish an alternative retirement program for city employees not subject to civil service classification. The program must be a defined contribution plan. The act also increases the membership of the pension board for Houston general municipal employees and updates certain benefits.

SENATE BILL 389 **SENATE AUTHOR:** Washington
EFFECTIVE: 5-14-87 **HOUSE SPONSOR:** L. Evans

Senate Bill 389 requires the Houston fire chief to provide a written statement giving the reasons for a transfer of a fire fighter in the department.

SENATE BILL 429 **SENATE AUTHOR:** Henderson
EFFECTIVE: 5-14-87 **HOUSE SPONSOR:** Connelly

Senate Bill 429 provides that qualifying criteria used to select an assistant chief of the Houston fire department must include criteria relating to management experience, educational and training background, special experience, and a performance evaluation.

SENATE BILL 565 **SENATE AUTHOR:** Whitmire
EFFECTIVE: 8-31-87 **HOUSE SPONSOR:** Barton

Senate Bill 565 relates to the retirement system for Houston fire fighters. It provides that benefits for new members are to be based on years of service, authorizes the pension board to allow members who retire with less than 20 years of service to collect refunds for their contributions, allows for beneficiaries when a member has no eligible survivors, and includes other administrative provisions.

SENATE BILL 638 **SENATE AUTHOR:** Whitmire
EFFECTIVE: 9-1-87 **HOUSE SPONSOR:** Colbert

State law allows the chiefs of the police and fire departments of the city of Houston to suspend employees for the violation of civil service rules and provides a procedure for appeal. Senate Bill 638 requires the city to reimburse reinstated employees for lost wages not later than the end of the second pay period after the date of the reinstatement. It also provides for interest if timely repayment is not made.

SENATE BILL 742 **SENATE AUTHOR:** Whitmire
EFFECTIVE: 5-21-87 **HOUSE SPONSOR:** Patronella

Senate Bill 742 directs the board of trustees of the retirement system for Houston fire fighters to establish minimum physical requirements, within certain limits, for membership in the fund and sets up a reexamination procedure for persons whose applications are rejected.

SENATE BILL 22 (2nd C.S.) **SENATE AUTHOR:** Henderson
EFFECTIVE: 8-3-87 **HOUSE SPONSOR:** Patronella

Senate Bill 22 does for contributing members of the Houston general municipal retirement system what House Bill 2252 from the regular session does for members of the state employees and teacher retirement systems. Under this act, beginning January 1, 1988, the city will pay the contributions previously required of members of the retirement system and will reduce members' gross salaries by the amount of contributions assumed by the city. The lower gross salary will be used to compute deductions for federal income tax and social security, resulting in increased take-home pay for employees and a reduction in social security contributions for the city. Implementation is dependent on federal approval of the retirement system as a tax-qualified plan.

HOUSE BILL 351 **HOUSE AUTHOR:** Patronella
EFFECTIVE: 5-6-87 **SENATE SPONSOR:** Green

In 1985 the legislature passed a law including municipal law enforcement officers such as park and airport police in the coverage of state civil service laws applicable to police departments. As a result, the city of Houston transferred jurisdiction of its park and airport police to the police department. Under then-existing state laws governing the separate retirement systems for the Houston police department and municipal employees generally, the transferred officers were required to terminate participation in the general municipal system and begin participation, without credit for prior service, in the retirement system for the police department. House Bill 351 redresses that inequity by permitting members of the retirement system for Houston municipal employees generally who are transferred to positions covered by the retirement system for the police department to opt to remain in the general municipal system. The act provides this option to persons previously transferred and provides administrative details for the transfer of service records and contributions and the making of refunds.

HOUSE BILL 570 **HOUSE AUTHOR:** Polumbo
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Whitmire

House Bill 570 makes several changes, primarily relating to benefits, in the retirement system covering Houston police officers. The most significant changes alter the computation of benefits for members of two of the system's membership tiers to a formula based on two percent of salary for each year of service, rather than the previous rate of 30 percent for all qualifying retirees, reduce the normal retirement age for one tier of members from 55 to 50, broaden eligibility for survivor benefits, and provide minimum and maximum annual cost-of-living adjustments in annuities.

HOUSE BILL 2109 **HOUSE AUTHOR:** Colbert
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Washington

House Bill 2109 relates to legislative leave for fire fighters and police officers in certain cities with a population of 1,500,000 or more (Houston). It extends the authorization for such leave to cover governmental bodies, in addition to the Texas Legislature, and reduces the amount of notification that fire fighters and police officers must give before taking such leave. It also limits the amount of leave permitted for attending sessions of congress to no more than 30 percent of the employee's annual working days.

Miscellaneous Legislation

HOUSE BILL 288 **HOUSE AUTHOR:** Smithee
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Tejeda

House Bill 288 provides that public servants commit an offense if they intentionally reveal the result or content of a proposed or actual appellate judicial decision or opinion prior to its release as a public record or its announcement to all parties. The act also provides that persons, who act with the intent to obtain benefit or with the intent to harm another, commit an offense for intentionally soliciting or receiving such information from a public servant when they know that the information has not been disclosed. In addition to public officials and employees, the definition of "public servants" includes jurors. An offense under this act is a third degree felony.

HOUSE BILL 1370 **HOUSE AUTHOR:** Valigura
EFFECTIVE: 6-20-87 **SENATE SPONSOR:** Farabee

House Bill 1370 authorizes counties to establish cafeteria plans to provide such benefits as insurance, day-care services, and prepaid legal services financed by voluntary reductions in an employee's salary. It also requires state agencies, including institutions of higher education, to develop programs under which employees may request salary reductions to pay child-care expenses, and authorizes school districts to establish programs providing the same option as the state program.

The amounts of the contributions in each program are exempt from federal income taxes and from employer and employee contributions to social security.

HOUSE BILL 1948 **HOUSE AUTHOR:** Robnett
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Tejeda

House Bill 1948 relates to conflicts of interest of local public officials. It defines substantial interest in a business entity to be 10 percent of the fair market value, in addition to 10 percent of the voting stock or shares, or at least $5,000, rather than $2,500, of the business. It clarifies requirements relating to affidavits stating the nature and extent of the interest and to abstentions from participating in consideration of the matter. It provides that if a majority of the membership of a governmental body is required to file affidavits, then the officials may act on the matter. It extends conflict of interest provisions to cover real property and specifically provides that the conflict of interest statute preempts common law.

HOUSE BILL 2316 **HOUSE AUTHOR:** Betts
EFFECTIVE: 6-20-87 **SENATE SPONSOR:** Whitmire

House Bill 2316 establishes standardized grievance procedures for employees of Harris County.

HOUSE BILL 2535 **HOUSE AUTHOR:** R. Smith
EFFECTIVE: 6-19-87 **SENATE SPONSOR:** Montford

House Bill 2535 authorizes members of the Texas Legislature to administer oaths of office.

SENATE BILL 149 **SENATE AUTHOR:** Farabee
EFFECTIVE: 4-1-87 **HOUSE SPONSOR:** Laney

Senate Bill 149 conforms state statutes to a new federal law that requires all social security contributions to be collected and reconciled by each political subdivision and individual state agency.

SENATE BILL 339 **SENATE AUTHOR:** Leedom
EFFECTIVE: 8-31-87 **HOUSE SPONSOR:** Rudd

Senate Bill 339 authorizes cafeteria plans of benefits to be established by the Employees Retirement System of Texas for state employees and by governing bodies of institutions of higher education for their employees. Under the act, employees may request that their salaries be reduced to pay dependent care expenses or premiums for medical or dental expense coverage or prepaid legal services. The amount of the reduction would be exempt from federal income and social security taxes.

SENATE BILL 1131 **SENATE AUTHOR:** Green
EFFECTIVE: 9-1-87 **HOUSE SPONSOR:** Shelley

Senate Bill 1131 relates to conflicts of interest for local public officials with substantial business interests. It prohibits officials from voting on matters involving real property in which the officials have a substantial interest. It also provides that if a majority of a local governing body has a similar conflict of interest on an official action, the body will not be prohibited from action on the matter if those with the conflict file affidavits stating that they have interests that would be pecuniarily affected by official action taken by the governing body.

HOUSE BILL 33 (2nd C.S.) **HOUSE AUTHOR:** T. Smith
EFFECTIVE: 10-20-87 **SENATE SPONSOR:** Montford

House Bill 33 provides for indemnification of state employees for reasonable attorney's fees incurred in defense of criminal prosecutions; it sets certain limitations and provides for appeal of decisions concerning indemnification.

HOUSE BILL 59 (2nd C.S.) **HOUSE AUTHOR:** Beauchamp
EFFECTIVE: 11-1-87 **SENATE SPONSOR:** Johnson

House Bill 59 allows employees of housing authorities to be employed by or provide contract services to other housing authorities if the employee receives written consent for the employment from the original housing authority employer.

SENATE BILL 84 (2nd C.S.) **SENATE AUTHOR:** Jones
EFFECTIVE: 8-4-87 **HOUSE SPONSOR:** A. Moreno

Senate Bill 84 expands and clarifies the provisions for hazardous duty pay for state employees to include all certified law enforcement officers and custodial officers of designated agencies and allows employees who transfer to or from hazardous duty positions to receive longevity pay for eligible nonhazardous duty employment.

STATE TAXES AND TAX ADMINISTRATION

Tax legislation of the 70th Legislature was overshadowed by House Bill 61, the Omnibus Tax Bill, passed during the 2nd Called Session. The act raises the sales tax rate, broadens the tax base, and revises numerous exemptions. House Bill 61 also raised several other tax rates and imposed some new taxes. In addition, House Bill 62 maintains the motor fuels tax rate as part of the same tax package.

The general administration of the tax system was addressed by Senate Bill 28 (2nd Called Session), which enhances the tax enforcement and collection measures of the state. Other measures affecting the sales and use tax include Senate Bill 58 (2nd Called Session), which prohibits local taxing authorities from imposing a combined local tax rate in excess of two percent. With respect to state taxes other than the sales and use tax, House Bill 1587 establishes the cigarette tax recovery trust fund to secure payment of cigarette taxes by distributors, and Senate Bill 938 changes the local allocation of franchise taxes paid by banks.

Revenue Legislation

HOUSE BILL 61 (2nd C.S.) **HOUSE AUTHOR:** Morales
EFFECTIVE: see below **SENATE SPONSOR:** Glasgow

ARTICLE 1. SALES TAX

House Bill 61 prevents the scheduled reduction in the state sales and use tax rate from taking effect September 1, 1987. Effective October 1, 1987, the sales and use tax rate is increased from its current 5.25 percent to six percent. Various provisions of the Tax Code are amended and brought into conformity with the new tax rate.

Certain items that are sold under a bid or contract made on or before the effective date of the act are exempted from the sales tax rate increase. The exemption expires July 1, 1990.

A number of changes are made to the sales and use tax provisions of the Tax Code that affect the kinds of items subject to the tax and how the tax is administered. The following services are made taxable: (1) membership in a private club that provides recreational, dining, entertainment, or certain other facilities to its members; (2) credit reporting; (3) data processing; (4) debt collection; (5) selling news and current information; (6) insurance adjustment, appraisal, and related insurance support services; (7) remodeling and repair of improvements to real property, other than owner-occupied residences; (8) landscaping and lawn and ornamental plant care; (9) garbage collection; (10) exterminating; (11) janitorial and cleaning services; (12) land surveying; and (13) security services.

Specific exemptions are provided for oil well repair services taxed under other law, certain minors performing yard work, services performed by corporations for affiliated corporations, and items provided by certain joint research and development ventures to participating entities.

Certain changes are made in the definitions of "use," "sale," and "sales price," primarily to clarify how those terms apply to taxable services. These changes also provide that a sales price may not include a deduction for transportation charges. The changes also remove the provisions excluding from the sales price of a taxable item the amount of any federal excise taxes paid on the item. Certain technical changes are also made to the statutory provisions governing exemption certificates, resale certificates, and the taxation of materials used or consumed in performing taxable repair services.

The act expands the circumstances in which a retailer is considered to be engaged in business in this state. This change is intended to require certain retailers located out of the state but having substantial contacts in this state to collect and remit Texas sales taxes on sales made to Texas purchasers.

Changes are made in the rules governing interstate transactions, eliminating certain sales and use tax exemptions for common carriers and providing rules governing services used in whole or part out of the state.

The language excluding custom computer software from taxation is eliminated. The exemptions for most interstate long-distance telephone service and for local telephone service are eliminated. The exemption for amusement services provided by a public or nonprofit entity is restricted to cover only amusement services provided exclusively by an exempt entity. Exemptions for food and drinks sold by common carriers and for certain food and drinks sold by restaurants are eliminated, as is the exemption for electricity sold to restaurants for food preparation. An exemption for ice used on commercial fishing boats is added. A provision is added to

apply the sales tax to 50 percent of the gross receipts from food, other than soft drinks and candy, sold through vending machines.

A provision granting sales tax credits to manufacturing, repair, and related businesses for purchases of certain capital equipment is added, to take effect beginning in 1991. The amount of the credit begins at 20 percent of the taxes paid for capital equipment in 1991, and increases each year by 20 percent, reaching 100 percent in 1995 and afterwards.

The amount that a retailer may deduct from a timely payment of sales taxes to the comptroller is reduced from one percent of the taxes paid to one-half of one percent of those taxes.

The act provides that city, county, and transit authority sales taxes do not apply to interstate long-distance telephone service.

Sales tax exemptions for the following items are repealed: (1) sales of tangible personal property and telephone service through coin-operated machines; (2) solar energy devices; (3) film and related material used by radio and television stations; (4) original master tapes of audio or audiovisual works; (5) motion picture lease or rental to a theater or television station; (6) Lone Star Medallions; and (7) sales of coins and precious metals over $10,000.

The provisions governing sales and use taxes take effect October 1, 1987, except that data processing service and repair and remodeling of real property become taxable services beginning January 1, 1988. Newly taxed services and other items are exempt until January 1, 1990, if sold under a contract or bid made on or before July 21, 1987.

Effective September 1, 1987, a $25 annual fee is imposed for the sales permit that a retail seller who must collect the state sales and use tax is required to hold. The fee is to be paid on or before each anniversary of the date the original permit was issued.

ARTICLE 2. FRANCHISE TAX

The rate of the franchise tax is increased from $5.25 to $6.70 for each $1,000 of taxable capital, and the minimum franchise tax is increased from $68 to $150.

The act also provides that the additional tax revenue collected from banking corporations goes to the general revenue fund, rather than to local governments as does the tax revenue generated from the existing tax rate. The amount distributed to local governments under current law is not changed.

These provisions take effect January 1, 1988. However, the act lowers the franchise tax rate and minimum tax back to their 1987 levels, effective January 1, 1990.

ARTICLE 3. TELEPHONE COMPANY TAX

Since local phone service is made subject to sales tax under the act, the gross receipts tax on certain local telephone companies is repealed. The repeal is effective October 1, 1988, a year after the sales tax on local phone service begins.

Certain restrictions against local franchise taxes on telephone companies are retained.

ARTICLE 4. CIGARETTES AND TOBACCO

The cigarette tax is increased from 20.5 cents to 26 cents per pack, and the tax on other tobacco products, except cigars, is increased from 25 percent to 28.125 percent of the list price, effective October 1, 1987.

ARTICLE 5. HOTEL TAX

The state hotel occupancy tax is increased from four percent to six percent of the price paid for a room. The act also dedicates the revenue generated from the hotel tax at a rate of one-half of one percent to advertising and marketing activity conducted by the Texas Department of Commerce.

Provisions regarding hotel tax are effective September 1, 1987.

ARTICLE 6. MOTOR VEHICLE SALES TAXES

The sales, use, and rental taxes on motor vehicles are increased from five percent of the price to six percent of the price, and a proportional increase in the tax is imposed on interstate motor vehicles, trailers, and semitrailers.

The increase in the motor vehicle sales and use taxes takes effect September 1, 1987. The increase in the motor vehicle rental and the interstate motor carrier taxes takes effect October 1, 1987, since these taxes are reported quarterly.

ARTICLE 7. TEMPORARY INSURANCE SURTAXES

Temporary surtaxes are imposed on various regulated and unregulated insurers in an amount equal to 20 percent of the rate already imposed on the gross premiums of those insurers. The surtaxes are imposed on certain transactions of unauthorized insurers, independently procured and surplus lines insurance, and most property and casualty insurers, life, health, and accident insurers, and title insurance companies.

The surtaxes on independently procured and surplus lines insurance take effect September 1, 1987, and expire September 1, 1989. The other surtaxes on insurance carriers take effect December 31, 1987, and expire January 1, 1989, so that carriers subject to those surtaxes will pay an additional 20 percent tax for 1987, with the payment due by March 1, 1988, and will pay an additional 20 percent tax for 1988, payable in quarterly installments during 1988 in the same manner as the permanent gross premiums taxes.

ARTICLE 8. TAX ON INSURANCE ADMINISTRATIVE SERVICES

A tax is imposed on the gross amount of fees received by an insurance carrier or other person from services performed for other entities to administer certain self-insurance plans. These services are not currently subject to the gross premiums taxes. In providing these administrative services, a carrier does not act as an insurer but rather provides management and other expertise to an entity that is insuring itself.

The tax applies only to life, health and accident, health maintenance, and workers' compensation plans for which administrative services are provided. The State Board of Insurance will administer and collect the tax. Local mutual aid associations and fraternal benefit societies are exempt from the tax.

The tax is imposed on administrative service fees received after the effective date of the tax, September 1, 1987. The administrative provisions of Article 8 are effective immediately.

ARTICLE 9. TEMPORARY OCCUPATION TAX ON CERTAIN PROFESSIONS

An occupation tax of $110 a year is imposed on the following professions and occupations: (1) physicians; (2) dentists; (3) optometrists; (4) chiropractors; (5) psychologists; (6) certified public accountants; (7) architects; (8) registered engineers; (9) real estate brokers; (10) securities dealers, agents, officers, and salesmen; (11) veterinarians; and (12) attorneys.

For each of the listed groups other than attorneys, the tax is added to the annual fee for the issuance or renewal of a license or, in some cases, to the applicable examination fee, and is collected by the state agency that issues the license or administers the examination when the license is issued or renewed or when the examination is given. For attorneys, the tax is to be collected by the comptroller before June 1 of 1988 and 1989.

The occupation taxes are all two-year temporary taxes. They take effect September 1, 1987, except that the tax on attorneys takes effect January 1, 1988.

ARTICLE 10. PROTEST PAYMENTS

The act provides that all protest payments of the taxes increased or imposed by House Bill 61 made during the 1988-1989 biennium are to be deposited in the general revenue fund, making the tax revenue available for other use while protests and appeals of the tax payments are pending. Without this provision, those tax payments would be deposited in a suspense account pending the resolution of any challenges. This provision is effective immediately.

ARTICLE 11

The act provides that if the voters approve the creation of the economic stabilization fund ("rainy day fund") proposed by House Joint Resolution 2, Acts of the 70th Legislature, Regular Session, 1987, and if the total revenues from House Bill 61 exceed expenditures during the 1988-1989 biennium, the excess amount remaining from House Bill 61 on September 1, 1989, is to be placed in the economic stabilization fund. This provision will be effective only if the constitutional amendment to create the economic stabilization fund is approved by the voters at the November 1988 general election.

House Bill 61 appropriates $11,606,451 to the comptroller to administer the act.

HOUSE BILL 62 (2nd C.S.) **HOUSE AUTHOR:** Stiles
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Glasgow

House Bill 62 repeals legislation that would have lowered the motor fuels tax rates to 10 cents per gallon effective September 1, 1987, and maintains those tax rates at the current 15 cents per gallon. The tax rate on

fuel sold to transit companies for exclusive use in transit carrier vehicles remains at 14 cents per gallon for gasoline and 14.5 cents per gallon for diesel fuel.

The schedule of taxes imposed on propane powered vehicles is revised in accordance with the tax rate extension.

The comptroller is authorized to refund bonds and other security for taxes paid by motor fuel distributors where certain conditions are met and the revenues of the state would not be jeopardized by the refund. An irrevocable letter of credit is approved as security for tax payment in lieu of filing a surety bond. The comptroller is required to notify the issuer of a letter of credit in the event that the distributor for whom the letter is given as surety becomes delinquent and a judgment is rendered as to the distributor's liability. The letter of credit is required to contain a statement that the issuer agrees to respond with amounts sufficient to satisfy the comptroller's claim against the distributor.

The act also provides that if a first purchaser of natural gas takes delivery of the gas off the premises of the producer, the producer is required to pay the severance tax on the gas and to supply any additional information required by the comptroller. Unless the first purchaser purchases the gas for resale, he is not liable for the tax imposed on the producer.

HOUSE BILL 63 (2nd C.S.) **HOUSE AUTHOR:** Schlueter
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Jones

House Bill 63 eliminates certain statutory transfers of motor vehicle sales taxes to the highway fund and certain priority allocations from the general revenue fund for farm-to-market roads. The act also eliminates certain obsolete references to other general revenue fund priority allocations.

General Administration

SENATE BILL 28 (2nd C.S.) **SENATE AUTHOR:** Glasgow
EFFECTIVE: 7-21-87 **HOUSE SPONSOR:** Berlanga

Senate Bill 28 facilitates the enforcement and collection of state taxes. The act provides that a person holding tax revenue collected from another holds the money in trust for the state.

The comptroller is authorized to seize and sell at auction the real and personal property of taxpayers whose taxes have been delinquent not more than three years. Notice to the taxpayer is required and the content of the notice is specified. Provision is made for the disposition of proceeds in excess of the amount owed.

If a delinquent taxpayer sells a business, the purchaser of the business is required to withhold the amount of delinquent tax from the purchase price until the seller can document that the taxes have been paid. If the purchaser fails to withhold the required amount, the purchaser becomes liable for the amount up to the value of the price of purchase. The purchaser may request clarification by the comptroller of the amount, if any, that is due on a business and is relieved from liability if the comptroller does not reply within 60 days.

The comptroller is authorized to freeze the assets of a delinquent taxpayer that are held by third parties and to place a levy on them up to the value of the assets held. Provision is made for notice to third parties, and a procedure is outlined for transfer of the delinquent's assets to the comptroller.

The comptroller is authorized to require a tax to be paid immediately on a determination that any delay might jeopardize the collection of the tax, regardless of the regular due date for the tax. Provision is made for redetermination of the amount in question on petition by the taxpayer and for a penalty in the event of nonpayment.

The state tax lien is extended to include personal and real property owned on the date the lien is filed as well as property acquired after the filing.

The automatic extension of a deadline for the payment of a state inheritance tax is eliminated, even if the Internal Revenue Service extends the deadline for the comparable federal tax payment. The state tax deadline may be extended upon a showing of good cause.

The comptroller is authorized to order that gas or oil production from a lease be halted if the owner or operator has failed to pay the required taxes.

HOUSE BILL 2 **HOUSE AUTHOR:** Schlueter
EFFECTIVE: 3-30-87 **SENATE SPONSOR:** Jones

House Bill 2 creates the Select Committee on Tax Equity. The committee is charged to conduct studies and make findings regarding: (1) the relative portion of the total tax burden carried by various economic sectors

and categories of taxpayers; (2) the impact of taxation on economic development; and (3) the relation between revenue needs and benefits provided by state government. The committee is required to issue reports of its findings when necessary and appropriate. The act expires September 1, 1991.

SENATE BILL 468 — **SENATE AUTHOR:** Jones
EFFECTIVE: 9-1-87 — **HOUSE SPONSOR:** Schlueter

The Tax Code requires that certain claims and motions be filed by taxpayers who request a rehearing on a tax refund claim, file suit after making a payment under protest, or bring suit for a tax refund. Senate Bill 468 requires that the amount in question and other information and documents be included when filing such claims and motions.

SENATE BILL 1170 — **SENATE AUTHOR:** Krier
EFFECTIVE: 8-31-87 — **HOUSE SPONSOR:** Schlueter

Senate Bill 1170 requires corporations to report surplus, assets, liabilities, and gross receipts for franchise tax purposes according to generally accepted accounting principles. Where such principles are unsettled, the comptroller is authorized to specify an applicable accounting practice. Exceptions are allowed for certain corporations, restrictions are imposed on the frequency of change in accounting methods, and consolidated reporting of related corporations is prohibited. Methods are specified for reporting corporate dividends and oil and gas exploration and production activities.

The act also provides an exemption from franchise taxes for certain nonprofit corporations that are exempt from federal income tax and are organized to hold property for other exempt nonprofit corporations.

Sales and Use Taxes

HOUSE BILL 133 — **HOUSE AUTHOR:** Melton
EFFECTIVE: 9-1-87 — **SENATE SPONSOR:** Glasgow

For the purpose of determining the proper local sales and use tax, House Bill 133 defines the point of sale of cable television services as the point of delivery to the consumer rather than where the cable signal originates. Numerous statutes are amended and brought into conformity with this provision, including the Local Sales and Use Tax Act, the County Sales and Use Tax Act, and statutes governing metropolitan rapid transit authorities, regional transit authorities, and city mass transit departments.

HOUSE BILL 1606 — **HOUSE AUTHOR:** Schlueter
EFFECTIVE: 10-1-87 — **SENATE SPONSOR:** Blake

House Bill 1606 exempts newspapers and magazine subscriptions from sales and use taxes.

HOUSE BILL 2329 — **HOUSE AUTHOR:** C. Harris
EFFECTIVE: 10-1-87 — **SENATE SPONSOR:** Jones

House Bill 2329 exempts certain electricity used, consumed, or lost by electric utilities from sales and use tax if the utility company is engaged in the purchase of electricity for resale.

SENATE BILL 299 — **SENATE AUTHOR:** Farabee
EFFECTIVE: 4-2-87 — **HOUSE SPONSOR:** Stiles

Senate Bill 299 amends the local and county sales and use tax acts. The bill states how the ballot proposition must be worded if an election to impose an additional local sales tax is held in a city that does not impose a property tax. Senate Bill 299 also deletes a requirement that the governing body of a city call an election on the question of the abolition of the additional tax within 10 years of the preceding election on the adoption or abolition of the tax. Another new section provides that the receipts from the sale or use of taxable items in the state are exempt from the additional tax imposed by a city or county if the items are used for the performance of a written contract entered into prior to the date the additional tax takes effect or if the contract is not subject to modification by reason of the tax; a three-year deadline is set on such exemptions. Under Senate Bill 299, an excise tax is imposed in cities where the local sales and use tax has been adopted. During each of the first three years in which the additional tax is imposed, revenue collected in excess of the amount of taxes calculated for a city is to be deposited in the excess sales tax revenue fund, which may be spent only if other revenues are collected in smaller amounts than anticipated; thereafter, excess revenue is to be deposited in a city sales tax debt service fund, which may be spent for the reduction of the city's lawful debts. A similar

formula is provided for counties, and guidelines are provided by which both city and county officials are to calculate the anticipated revenues mentioned above. The act adds a requirement that interest earned on all deposits made to the state treasurer be credited to the general revenue fund. Provision is made for setting and adjusting the rate of a local sales tax, and the taxing entity is required to indicate on the tax bill the amount of ad valorem taxes that would have been imposed in lieu of the sales tax.

SENATE BILL 1292 **SENATE AUTHOR:** Barrientos
EFFECTIVE: see below **HOUSE SPONSOR:** L. Evans

Senate Bill 1292 exempts all items that can be lawfully purchased with food stamps from state sales tax. The act makes conforming amendments to reporting provisions under which grocers calculate their tax payments. The act also provides that the exemption expires if the comptroller determines that the exemption is not required for the state to participate in the federal food stamp program. The act takes effect October 1, 1987, unless the comptroller finds during the month of September that the exemption is not required for the state to participate in the federal food stamp program.

SENATE BILL 1460 **SENATE AUTHOR:** Brooks
EFFECTIVE: 6-19-87 **HOUSE SPONSOR:** Barton

Certain food items sold to a patient by a retirement facility licensed by the state are not taxed under the sales tax. Senate Bill 1460 extends the exemption to foods sold to a permanent resident of a retirement facility not licensed by the state.

SENATE BILL 58 (2nd C.S.) **SENATE AUTHOR:** Jones
EFFECTIVE: 10-20-87 **HOUSE SPONSOR:** Schlueter

Senate Bill 58 prohibits a municipality, county, transit authority, or transit department from adopting a sales and use tax or an additional sales and use tax that would result in a combined local tax rate in excess of two percent.

Priorities are established in the event that more than one local tax is approved by voters at the same time and the combined total is greater than two percent. A municipal sales tax takes precedence over a county sales tax, and municipal and county taxes take precedence over sales taxes adopted by a transit authority or transit department.

Other State Taxes

HOUSE BILL 1043 **HOUSE AUTHOR:** Criss
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Harris

House Bill 1043 amends the Bingo Enabling Act to allow a National Historical District Association that meets certain conditions to be considered a "fraternal organization" that may conduct bingo games under the act.

A state gross receipts tax of two percent is imposed on bingo games, and the revenues are to be paid quarterly and deposited in the general revenue fund. A maximum prize amount awarded on any one occasion for games of instant bingo is established. Restrictions are imposed on the advertising of bingo occasions, and other prizes, such as door prizes, awarded in addition to amounts won in individual games are prohibited.

HOUSE BILL 1587 **HOUSE AUTHOR:** A. Luna
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Montford

Under current law, cigarette distributors must affix a tax stamp to each cigarette package in order to demonstrate that a tax has been paid. The distributor can obtain the stamps either by paying for them in advance or by filing a security deposit, and a discount is allowed to the distributor for collecting the tax.

House Bill 1587 establishes the cigarette tax recovery trust fund as a fund outside the state treasury to secure the payment of cigarette taxes by distributors. Payment is made by distributors from the amount of the discount allowed on purchases until a certain percentage of the total monthly amount of stamps purchased by the distributor is accrued in the fund. Provision is made for the refund of contributions in excess of the required percentage. The distributor must post a letter of credit to secure the required amount until the amount has actually accrued.

The state treasurer is authorized to take various measures to protect the treasury from loss due to nonpayment of the tax. If a distributor fails to pay the tax when due, the treasurer may transfer the amount due

from the trust fund to the general revenue fund, whether or not the delinquent distributor has contributed enough to the trust fund to cover the tax liability. If it is necessary to withdraw funds paid in by other distributors, then they have a claim against the delinquent distributor. All distributors involved may be required to pay in additional amounts to return the fund to its required minimum.

Further provision is made for indemnification of the fund by the distributors, return of deposited funds, and adoption of rules by the treasurer to implement the act.

HOUSE BILL 1718 — **HOUSE AUTHOR:** Wolens
EFFECTIVE: 5-1-88 — **SENATE SPONSOR:** Harris

House Bill 1718 exempts certain corporations from the franchise tax if they conduct business in Texas on a temporary basis only, and for the sole purpose of soliciting orders at certain trade shows. Limits are imposed on the number and duration of these events in order to qualify for the exemption.

SENATE BILL 522 — **SENATE AUTHOR:** Sarpalius
EFFECTIVE: 9-1-87 — **HOUSE SPONSOR:** Harrison

Senate Bill 522 increases the amount per gallon of gasoline tax credits for gasoline and alcohol mixtures. The limit on the total amount of gasohol credits allowed per quarter is gradually reduced from its current level, and the priority given to gasohol containing alcohol produced in Texas is clarified to limit that priority to gasohol containing alcohol both fermented and distilled in Texas.

SENATE BILL 616 — **SENATE AUTHOR:** Jones
EFFECTIVE: 6-17-87 — **HOUSE SPONSOR:** Colbert

Senate Bill 616 authorizes the legislature to appropriate money from the cigarette tax to the treasurer to defray the costs of administering the tax. This allocation of funds for administrative purposes would be made prior to other allocations.

SENATE BILL 938 — **SENATE AUTHOR:** Krier
EFFECTIVE: 1-1-88 — **HOUSE SPONSOR:** Gibson

Senate Bill 938 revises the allocation of franchise tax paid by a bank among the local taxing units in which the bank is located to include both the principal office and qualified branch offices of the bank. The act specifies that the allocation shall be made among the various offices in proportion to the preceding year's tax allocation to each office, and allows taxing units to petition for a review of the comptroller's report that identifies the bank offices located within the taxing unit and the amount of franchise tax that has been allocated. A "qualified branch facility" is defined to include only branches that once were independent banks receiving a tax allocation. As a result, a newly established branch office will not be allocated a portion of the bank's tax.

Additional information pertaining to a banking corporation's branch facilities must be submitted when filing its annual report or its initial report.

STATUTORY REVISION

In 1963 the 58th Legislature authorized a permanent statutory program for the systematic and continual study and revision of state statutes. The 70th Legislature enacted nine bills related to statutory revision.

SENATE BILL 280 **SENATE AUTHOR:** Edwards
EFFECTIVE: 9-1-87 **HOUSE SPONSOR:** Hackney

Senate Bill 280 conforms the Election Code, enacted by the 69th Legislature, to other acts of that legislature and to constitutional amendments approved by the voters since the enactment of the code. The bill also makes corrective amendments, clarifies provisions, and codifies omitted material.

SENATE BILL 888 **SENATE AUTHOR:** McFarland
EFFECTIVE: 9-1-87 **HOUSE SPONSOR:** Saunders

Senate Bill 888 adopts Title 3 of the Tax Code, a nonsubstantive revision of the statutes relating to local taxation. The general organization of Title 3 is:

TITLE 3. LOCAL TAXATION
SUBTITLE A. GENERAL TAXING AUTHORITY AND PROVISIONS
SUBTITLE B. SPECIAL PROPERTY TAX PROVISIONS
SUBTITLE C. LOCAL SALES AND USE TAXES
SUBTITLE D. LOCAL HOTEL OCCUPANCY TAXES

SENATE BILL 892 **SENATE AUTHOR:** Henderson
EFFECTIVE: 9-1-87 **HOUSE SPONSOR:** Wilson

Senate Bill 892 is an omnibus act relating to nonsubstantive revision of the statutes. The bill codifies various laws omitted from previously enacted codes, including the Government Code, the Civil Practice and Remedies Code, the Code of Criminal Procedure, the Education Code, and the Property Code; conforms codifications enacted by the 69th Legislature to other acts of that legislature; and conforms various statutes to acts of the 69th Legislature. The bill also corrects citations; corrects language in previously enacted codes to conform to the source law; and renumbers, reletters, or redesignates various code provisions and changes cross-references to eliminate duplicate citations or to conform to code numbering systems; and makes corrections in the organization of the Natural Resources Code.

SENATE BILL 894 **SENATE AUTHOR:** McFarland
EFFECTIVE: 9-1-87 **HOUSE SPONSOR:** Laney

Senate Bill 894 adopts Title 4 of the Government Code, a nonsubstantive revision of the statutes relating to the executive branch of government. The general organization of Title 4 is:

TITLE 4. EXECUTIVE BRANCH
CHAPTER 401. GOVERNOR AND LIEUTENANT GOVERNOR
CHAPTER 402. ATTORNEY GENERAL
CHAPTER 403. COMPTROLLER OF PUBLIC ACCOUNTS
CHAPTER 404. STATE TREASURER
CHAPTER 405. SECRETARY OF STATE
CHAPTER 406. NOTARY PUBLIC; COMMISSIONER OF DEEDS
[Chapters 407-410 reserved for expansion]
CHAPTER 411. DEPARTMENT OF PUBLIC SAFETY OF THE STATE OF TEXAS
[Chapter 412 reserved for Texas Department of Corrections]
CHAPTER 413. CRIMINAL JUSTICE POLICY AND COORDINATING COUNCILS
CHAPTER 414. CRIME STOPPERS ADVISORY COUNCIL
CHAPTER 415. COMMISSION ON LAW ENFORCEMENT OFFICER STANDARDS AND EDUCATION
CHAPTER 416. COMMISSION ON FIRE PROTECTION PERSONNEL STANDARDS AND EDUCATION
CHAPTER 417. STATE FIRE MARSHALL
CHAPTER 418. EMERGENCY MANAGEMENT
[Chapters 419-430 reserved for expansion]

CHAPTER 431. STATE MILITIA
CHAPTER 432. TEXAS CODE OF MILITARY JUSTICE
CHAPTER 433. STATE OF EMERGENCY
CHAPTER 434. VETERAN ASSISTANCE AGENCIES
CHAPTER 435. TEXAS NATIONAL GUARD ARMORY BOARD
[Chapters 436-440 reserved for expansion]
CHAPTER 441. LIBRARIES AND ARCHIVES
CHAPTER 442. TEXAS HISTORICAL COMMISSION
CHAPTER 443. STATE PRESERVATION BOARD
CHAPTER 444. TEXAS COMMISSION ON THE ARTS
CHAPTER 445. TEXAS MUSIC COMMISSION
CHAPTER 446. GOVERNOR'S COMMISSION ON PHYSICAL FITNESS
[Chapters 447-460 reserved for expansion]
CHAPTER 461. TEXAS INDIAN COMMISSION
CHAPTER 462. TEXAS TOURIST DEVELOPMENT AGENCY
CHAPTER 463. AUTOMATED INFORMATION AND TELECOMMUNICATIONS COUNCIL
CHAPTER 464. BUILDING MATERIALS AND SYSTEMS TESTING LABORATORY
CHAPTER 465. TEXAS NATIONAL RESEARCH LABORATORY COMMISSION

SENATE BILL 895 **SENATE AUTHOR:** Henderson
EFFECTIVE: 9-1-87 **HOUSE SPONSOR:** C. Evans

The 69th Legislature adopted the Judicial Title of the Government Code, reserving chapters for the statutes relating to the state bar, the board of law examiners, the licensing of attorneys, and statutory county courts. Senate Bill 895 includes a nonsubstantive codification of these statutes. The bill also conforms the Judicial Title to other acts of the 69th Legislature and to constitutional amendments adopted by the voters since the enactment of that title and makes corrections to the title.

SENATE BILL 896 **SENATE AUTHOR:** McFarland
EFFECTIVE: 9-1-87 **HOUSE SPONSOR:** Saunders

Senate Bill 896 adopts the Local Government Code, a nonsubstantive revision of the statutes relating to local government. The general organization of the Local Government Code is:
TITLE 1. GENERAL PROVISIONS
TITLE 2. ORGANIZATION OF MUNICIPAL GOVERNMENTS
SUBTITLE A. TYPES OF MUNICIPALITIES
SUBTITLE B. MUNICIPAL FORM OF GOVERNMENT
SUBTITLE C. MUNICIPAL BOUNDARIES AND ANNEXATION
SUBTITLE D. GENERAL POWERS OF MUNICIPALITIES
SUBTITLE E. CONSOLIDATION AND ABOLITION OF MUNICIPALITIES
TITLE 3. ORGANIZATION OF COUNTY GOVERNMENT
SUBTITLE A. ORGANIZATION OF COUNTIES
SUBTITLE B. COMMISSIONERS COURT AND COUNTY OFFICERS
TITLE 4. FINANCES
SUBTITLE A. MUNICIPAL FINANCES
SUBTITLE B. COUNTY FINANCES
SUBTITLE C. FINANCIAL PROVISIONS APPLYING TO MORE THAN ONE TYPE OF LOCAL GOVERNMENT
TITLE 5. MATTERS AFFECTING PUBLIC OFFICERS AND EMPLOYEES
SUBTITLE A. MUNICIPAL OFFICERS AND EMPLOYEES
SUBTITLE B. COUNTY OFFICERS AND EMPLOYEES
SUBTITLE C. MATTERS AFFECTING PUBLIC OFFICERS AND EMPLOYEES OF MORE THAN ONE TYPE OF LOCAL GOVERNMENT
TITLE 6. RECORDS
SUBTITLE A. MUNICIPAL RECORDS

SUBTITLE B. COUNTY RECORDS
SUBTITLE C. RECORDS PROVISIONS APPLYING TO MORE THAN ONE TYPE OF LOCAL GOVERNMENT
TITLE 7. REGULATION OF LAND USE, STRUCTURES, BUSINESSES, AND RELATED ACTIVITIES
SUBTITLE A. MUNICIPAL REGULATORY AUTHORITY
SUBTITLE B. COUNTY REGULATORY AUTHORITY
SUBTITLE C. REGULATORY AUTHORITY APPLYING TO MORE THAN ONE TYPE OF LOCAL GOVERNMENT
TITLE 8. ACQUISITION, SALE, OR LEASE OF PROPERTY
SUBTITLE A. MUNICIPAL ACQUISITION, SALE, OR LEASE OF PROPERTY
SUBTITLE B. COUNTY ACQUISITION, SALE, OR LEASE OF PROPERTY
SUBTITLE C. ACQUISITION, SALE, OR LEASE PROVISIONS APPLYING TO MORE THAN ONE TYPE OF LOCAL GOVERNMENT
TITLE 9. PUBLIC BUILDINGS
SUBTITLE A. MUNICIPAL PUBLIC BUILDINGS
SUBTITLE B. COUNTY PUBLIC BUILDINGS
SUBTITLE C. PUBLIC BUILDING PROVISIONS APPLYING TO MORE THAN ONE TYPE OF LOCAL GOVERNMENT
TITLE 10. PARKS AND OTHER RECREATIONAL AND CULTURAL RESOURCES
SUBTITLE A. MUNICIPAL PARKS AND OTHER RECREATIONAL AND CULTURAL RESOURCES
SUBTITLE B. COUNTY PARKS AND OTHER RECREATIONAL AND CULTURAL RESOURCES
SUBTITLE C. PARKS AND OTHER RECREATIONAL AND CULTURAL RESOURCES PROVISIONS APPLYING TO MORE THAN ONE TYPE OF LOCAL GOVERNMENT
TITLE 11. PUBLIC SAFETY
SUBTITLE A. MUNICIPAL PUBLIC SAFETY
SUBTITLE B. COUNTY PUBLIC SAFETY
SUBTITLE C. PUBLIC SAFETY PROVISIONS APPLYING TO MORE THAN ONE TYPE OF LOCAL GOVERNMENT
TITLE 12. PLANNING AND DEVELOPMENT
SUBTITLE A. MUNICIPAL PLANNING AND DEVELOPMENT
SUBTITLE B. COUNTY PLANNING AND DEVELOPMENT
SUBTITLE C. PLANNING AND DEVELOPMENT PROVISIONS APPLYING TO MORE THAN ONE TYPE OF LOCAL GOVERNMENT
TITLE 13. WATER AND UTILITIES
SUBTITLE A. MUNICIPAL WATER AND UTILITIES
SUBTITLE B. COUNTY WATER
SUBTITLE C. WATER PROVISIONS APPLYING TO MORE THAN ONE TYPE OF LOCAL GOVERNMENT
TITLE 14. PARKING AND TRANSPORTATION
SUBTITLE A. MUNICIPAL PARKING PROVISIONS
SUBTITLE B. COUNTY PARKING AND TRANSPORTATION PROVISIONS

SENATE BILL 947 **SENATE AUTHOR:** Montford
EFFECTIVE: 6-20-87 **HOUSE SPONSOR:** J. Harris

The 69th Legislature abolished the Texas Department of Water Resources and created the Texas Water Development Board and the Texas Water Commission. Senate Bill 947 amends the Water Code to conform to the reorganization of the state water agencies.

SENATE BILL 1037 **SENATE AUTHOR:** Krier
EFFECTIVE: 8-31-87 **HOUSE SPONSOR:** P. Hill

Senate Bill 1037 makes technical changes to the Property Code intended to clarify the original legislative intent of the source law for the code.

HOUSE BILL 2584 **HOUSE AUTHOR:** Willy
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Brown

House Bill 2584 clarifies the intent of Senate Bill 895. It states that the repeal by that act of the law relating to a court, agency, or any other entity does not affect the existence of the court, agency, or entity. It is continued in existence as added to the Government Code by Senate Bill 895.

TRANSPORTATION AND HIGHWAYS

The transportation measures passed during the Regular Session and the 2nd Called Session of the 70th Legislature affect many areas of state law. Three important bills concern the Texas Turnpike Authority. House Bill 1364 and House Joint Resolution 65 provide for joint turnpike projects to improve the state's highway system, while House Bill 1678 relates to a study of the feasibility of creating high-speed rail facilities between several major Texas cities. Additional measures affecting public transportation include: (1) House Bill 943, which provides for many changes to state law pertaining to specific transit authorities; (2) House Bill 2400, which relates to a study of the creation of light rail rapid transit systems; and (3) House Bill 2008, which addresses the need for the development of regional economic development facilities and coordinated mass public transportation.

With regard to the many bills passed concerning the operation of motor vehicles, several changes were enacted concerning the offenses of driving while intoxicated and failure to maintain mandatory insurance coverage. The open container law, Senate Bill 521, is also summarized in this chapter.

Texas Turnpike Authority

HOUSE JOINT RESOLUTION 65 — **HOUSE AUTHOR:** Cain
FOR ELECTION: 11-3-87 — **SENATE SPONSOR:** Montford

House Joint Resolution 65 relates to House Bill 1364 with respect to joint highway projects between the Texas Turnpike Authority, the State Department of Highways and Public Transportation, and local governments. The resolution proposes an amendment to the Texas Constitution to allow the department and authority, after entering into such agreements, to use any source of money made available from the state or department as a contribution to the costs of turnpikes, toll roads, or toll bridges.

House Joint Resolution 65 further authorizes special elections in certain counties, their adjacent counties, or political subdivisions within those counties for the purpose of approving an ad valorem property tax to pay all or part of the principal of and interest on bonds issued by the Texas Turnpike Authority for joint highway projects in these areas, if the authority is not able to make the payments when due.

HOUSE BILL 1364 — **HOUSE AUTHOR:** Cain
EFFECTIVE: 8-31-87 — **SENATE SPONSOR:** Montford

To encourage the Texas Turnpike Authority to improve, construct, and maintain needed state highway facilities, House Bill 1364 provides for joint agreements between the authority, the State Department of Highways and Public Transportation, and local governments. Such agreements would allow these entities to share the costs of turnpike projects, which would be funded primarily through the issuance of bonds.

The bill states that turnpike projects would be owned and operated by the Texas Turnpike Authority, and that when turnpikes, toll roads, and toll bridges are no longer toll facilities they will become part of the state highway system.

Under provisions of House Bill 1364, funding for turnpike projects may be derived from bonds issued by the Texas Turnpike Authority, from money made available to the State Department of Highways and Public Transportation, and from federal funds. Also, following provisions of the Texas Constitution, the act authorizes counties, cities, and towns that enter into agreements with the authority to hold bond elections for this purpose.

HOUSE BILL 1678 — **HOUSE AUTHOR:** C. Evans
EFFECTIVE: 8-31-87 — **SENATE SPONSOR:** Whitmire

House Bill 1678 directs the Texas Turnpike Authority to study the feasibility of establishing high-speed rail facilities among and between the cities of Houston, Dallas, Fort Worth, Austin, and San Antonio and report its findings to the governor, the lieutenant governor, and the speaker of the house before the 71st Legislature meets. The act provides for the funding of the study and authorizes the authority to take options on right-of-way, so long as no funds of the authority are used for this purpose.

Public Transportation

HOUSE BILL 791 **HOUSE AUTHOR:** Eckels
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Green

House Bill 791 grants to the governing bodies of certain metropolitan rapid transit authorities and regional transportation authorities the right to commission peace officers. Such peace officers shall enforce all state and local laws. The act removes the authority of governing boards to set criminal penalties.

HOUSE BILL 943 **HOUSE AUTHOR:** Wilson
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Green

House Bill 943 amends current statutes and adds several new sections to state law pertaining to certain local transit authorities in which the rate of sales and use tax is one percent. At present only Houston's and Austin's authorities meet this specification.

For both Austin and Houston, the act amends the method of removal of transportation authority board members. For Austin only, it: (1) enacts a new law concerning audit requirements; (2) directs the board to establish transportation services for handicapped individuals; (3) directs the board to establish programs to encourage participation in contracts with minority or disadvantaged individuals; and (4) provides for accountability reviews and the application of sunset provisions.

The bill further adds a new section relating to the withdrawal of certain cities and areas from the Austin area's transit authority. The new provisions outline election requirements and provide for the repayment of all financial obligations owed to authorities by those areas withdrawing from contracts.

House Bill 943 provides procedures for special elections to decrease sales and use taxes in the Houston area's authority.

Certain provisions of House Bill 943 are revised by Senate Bill 79, 70th Legislature, 2nd Called Session.

HOUSE BILL 2008 **HOUSE AUTHOR:** Berlanga
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Armbrister

House Bill 2008 was enacted in response to the need for regional economic development facilities and coordinated mass public transportation to enhance the economic development of regional areas. To facilitate the establishment of such facilities, the act increases the powers granted to certain metropolitan rapid transit authorities and provides for funding to finance projects that create jobs and stimulate local economies.

The bill's provisions apply to transit authorities created before January 1, 1980, whose principal city has a population of less than 1,200,000. At present only San Antonio's transit authority meets these specifications.

If approved by the governing bodies of a transit authority and its principal city, the authority may establish regional economic development facilities as part of a station or terminal complex. As defined by this act, such facilities include those used for conventions, entertainment, and sporting events.

Under provisions for special elections, funding for the facilities may be derived from sales and use tax increases approved and adopted by voters. House Bill 2008 establishes a time period in which the tax increase must be used solely for regional economic development facilities; after five years, another election shall be held to determine whether the increased tax rate shall continue in effect to be used for other transit projects, or be decreased to its previous level.

After receiving required approval, a transit authority may construct, maintain, operate, and regulate public parking areas within its boundaries, as well as collect fees for their use.

House Bill 2008 further authorizes certain municipalities and unincorporated areas to withdraw from transit authorities covered under this act following voter initiation for an election and voter approval at that election.

HOUSE BILL 2014 **HOUSE AUTHOR:** Edwards
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Caperton

House Bill 2014 expands the authorized use of funds from the discretionary program of the public transportation fund. Its provisions allow local governments in rural areas that directly or by contract operate public transportation systems to receive funding from this source for ridesharing and van pooling activities.

HOUSE BILL 2400 **HOUSE AUTHOR:** Cain
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Johnson

House Bill 2400 adds several new statutes pertaining to the creation, organization, and operation of regional transportation authorities. The legislation applies only to metropolitan transit authorities in the Dallas/Fort Worth area.

"Light rail mass transit system" is defined and exempted from existing laws governing the design, construction, and operation of other railway systems. Other new provisions subject certain authority officials and board members to more specific conflict of interest statutes than those previously established for authority officials and board members.

The act allows certain authorities to adopt programs to increase participation in public contract awards by minority and women-owned enterprises. If the programs are adopted, authorities must also provide programs to assist such businesses wishing to participate in the bidding process.

House Bill 2400 declares regional transportation authorities covered under its provisions to be local units of government under the Texas Tort Claims Act, and authorizes such authorities to develop commercial insurance and self-insurance programs.

For the purpose of financing transportation services, bond elections to authorize pledges for sales and use tax revenues are provided for. The act further clarifies the investment powers of authorities and specifies the types of investment programs in which they may participate.

SENATE BILL 212 **SENATE AUTHOR:** Leedom
EFFECTIVE: 8-31-87 **HOUSE SPONSOR:** A. Hill

Senate Bill 212 relates to confirmation elections for subregional transportation authorities in contiguous cities and changes provisions concerning population requirements.

SENATE BILL 647 **SENATE AUTHOR:** Leedom
EFFECTIVE: 6-19-87 **HOUSE SPONSOR:** A. Hill

Senate Bill 647 requires voter approval before certain transportation authorities may issue obligations payable from sales tax revenues and having a maturity longer than five years. Certain exceptions are provided.

SENATE BILL 1478 **SENATE AUTHOR:** Santiesteban
EFFECTIVE: 6-11-87 **HOUSE SPONSOR:** Jones

State law requires that, unless a governing board of a metropolitan rapid transit authority calls a confirmation and tax election within three years of the effective date of the ordinance creating the authority, the authority ceases to exist at the end of the three-year period. Senate Bill 1478 provides that, with the consent of the board, a rapid transit authority may be abolished by the principal city that created it prior to the expiration date or the confirmation and tax election.

SENATE BILL 79 (2nd C.S.) **SENATE AUTHOR:** Henderson
EFFECTIVE: 9-1-87 **HOUSE SPONSOR:** Eckels

Current law permits a change in the local sales and use tax rate through action of a transit authority's board or by an election forced by the petition of qualified voters. Senate Bill 79 delineates the requirements for such petitions and elections. The act also provides for the review of certain metropolitan transit authorities confirmed by tax election.

Driver's Licenses, Vehicle Titles, Registration, and Inspection

HOUSE BILL 1190 **HOUSE AUTHOR:** Denton
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Sarpalius

House Bill 1190 establishes a new designation to be printed on driver's licenses and personal identification certificates to indicate clearly that the licensee or certificate holder is under the age of 21. The special designation identifies persons between the ages of 18 and 21 years old, and makes the illegal reproduction of licenses more difficult.

HOUSE BILL 1610 **HOUSE AUTHOR:** Schlueter
EFFECTIVE: 6-18-87 **SENATE SPONSOR:** Barrientos

For the purpose of defraying certain administrative costs, state law requires that a specified portion of the fees charged to motor vehicle owners for safety inspections must be paid by inspection stations to the Department of Public Safety for each inspection certificate furnished to the department. Current department regulations require that advance payment for certificates be made by inspection stations.

House Bill 1610 provides that if such prepayment has been made, inspection stations may waive the safety inspection fee that would otherwise be charged to motor vehicle owners, thus allowing stations to provide free inspections for elderly and disabled customers.

SENATE BILL 161 **SENATE AUTHOR:** Caperton
EFFECTIVE: 8-31-87 **HOUSE SPONSOR:** T. Smith

Senate Bill 161 prohibits the State Department of Highways and Public Transportation from releasing information contained in vehicle registration records in response to telephone inquiries by license number, except if the request is from certain officials and is for official purposes. The department is authorized to sell magnetic tapes of information contained in the basic driver's license record file. The information is limited to name, address, and date of birth, and purchasers are required to delete names of persons so requesting. The department is specifically prohibited from providing class-type listings, except for official governmental purposes.

SENATE BILL 939 **SENATE AUTHOR:** Edwards
EFFECTIVE: 1-1-88 **HOUSE SPONSOR:** McWilliams

Senate Bill 939 provides for the registration and regulation of all-terrain vehicles. It directs the governor to designate a division of his staff or a state agency to establish an all-terrain vehicle operator education and certification program, with the program to be financed through safety fees paid at the time of off-highway registration. Persons operating the vehicles on public property must be taking a safety course, under the direct supervision of an adult who has a safety certificate, or hold a safety certificate. The act includes rules for crossing highways, for operating the vehicles, and requiring specific equipment. An offense for violating the registration and operating provisions of the act is a Class C misdemeanor.

SENATE BILL 1184 **SENATE AUTHOR:** Harris
EFFECTIVE: 8-31-87 **HOUSE SPONSOR:** Marchant

Senate Bill 1184 creates an alternative method of registering motor vehicles by allowing counties to contract with private entities to provide electronic off-premises locations for this purpose. The act sets fees to be charged to applicants for the service, and authorizes the State Department of Highways and Public Transportation to establish rules governing registration through electronic off-premises locations.

SENATE BILL 45 (2nd C.S.) **SENATE AUTHOR:** Armbrister
EFFECTIVE: 9-1-87 **HOUSE SPONSOR:** Cain

Senate Bill 45 allows the Railroad Commission of Texas to define commercial motor vehicles for purposes of registration and regulation and gives the commission authority to revoke or suspend registration certificates if commission rules are violated.

See also the second paragraph of House Bill 135 (2nd Called Session) summary in this chapter.

Special Licenses, Designations, and Exemptions

HOUSE BILL 58 **HOUSE AUTHOR:** Taylor
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Edwards

House Bill 58 exempts power sweepers from motor vehicle registration requirements.

HOUSE BILL 156 **HOUSE AUTHOR:** Madla
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Tejeda

House Bill 156 amends current law pertaining to the issuance of parking permits for disabled persons by not requiring a written physician's statement from certain applicants, including persons who are amputees or confined to wheelchairs.

HOUSE BILL 285 **HOUSE AUTHOR:** Hollowell
EFFECTIVE: 6-11-87 **SENATE SPONSOR:** Krier

House Bill 285 extends to surviving spouses of deceased prisoners of war, until they remarry, the privilege of registering one motor vehicle without charge and of retaining specially designed license plates.

HOUSE BILL 425 **HOUSE AUTHOR:** Willis
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Glasgow

House Bill 425 extends to surviving spouses of deceased disabled veterans, until they remarry, the privilege of registering one motor vehicle without charge and of retaining specially designed license plates.

HOUSE BILL 556 **HOUSE AUTHOR:** Holzheauser
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Lyon

House Bill 556 grants certain exemptions relating to the use of emergency warning devices to operators of emergency vehicles acting in accordance with policies adopted by local government or the Department of Public Safety.

HOUSE BILL 863 **HOUSE AUTHOR:** Hollowell
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Green

House Bill 863 provides for the issuance of special license plates to retired members of the Texas Army National Guard, Texas Air National Guard, or Texas State Guard who have completed 20 years of satisfactory federal service.

HOUSE BILL 1069 **HOUSE AUTHOR:** Hollowell
EFFECTIVE: 6-17-87 **SENATE SPONSOR:** Green

House Bill 1069 exempts state military personnel from driver's license requirements, when operating official motor vehicles in military service.

HOUSE BILL 1138 **HOUSE AUTHOR:** McWilliams
EFFECTIVE: 6-20-87 **SENATE SPONSOR:** Blake

House Bill 1138 allows tow trucks to display alternately flashing lights if the vehicles are assisting at the scene of an accident or removing disabled vehicles from roadways.

SENATE BILL 213 **SENATE AUTHOR:** Jones
EFFECTIVE: 8-31-87 **HOUSE SPONSOR:** Cooper

Senate Bill 213 exempts golf carts from several motor vehicle regulations, including motor vehicle registration and liability insurance requirements, and amends regulations concerning golf carts and slow-moving-vehicle emblems.

SENATE BILL 763 **SENATE AUTHOR:** Montford
EFFECTIVE: 8-31-87 **HOUSE SPONSOR:** Leonard

Senate Bill 763 authorizes the State Department of Highways and Public Transportation to issue exempt license plates and certificates of title under an alias to law enforcement agencies for use in conducting covert criminal investigations.

SENATE BILL 851 **SENATE AUTHOR:** Truan
EFFECTIVE: 5-20-87 **HOUSE SPONSOR:** Garcia

Senate Bill 851 authorizes municipalities to adopt ordinances exempting vehicles operated by elevator constructors from certain traffic and parking regulations when these vehicles are responding to elevator emergencies.

SENATE BILL 1249 **SENATE AUTHOR:** Sarpalius
EFFECTIVE: 9-1-87 **HOUSE SPONSOR:** Guerrero

Senate Bill 1249 adds new provisions to the Human Resources Code directing the Texas Commission for the Deaf to develop and issue a symbol or device that can be displayed on motor vehicles of hearing impaired persons. Acceptable medical proof of disability may be required to be allowed to use the device on a vehicle, and a maximum fee to be paid for each device is established.

Insurance Requirements

HOUSE BILL 390 **HOUSE AUTHOR:** Parker
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Uribe

Current law provides an exemption from the automobile liability insurance requirement for persons who deposit $55,000 with the state treasurer. House Bill 390 establishes regulations that permit the deposit to be made locally.

The bill also deletes language exempting certain nonresidents who operate vehicles in Texas from liability insurance requirements.

HOUSE BILL 1294 **HOUSE AUTHOR:** Gavin
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Green

House Bill 1294 enacts numerous changes to state law regarding mandatory proof of financial responsibility for a motor vehicle. The bill establishes new court fees to be paid by defendants who have not shown adequate liability coverage and provides for the disposition of fees.

The act requires the suspension of driver's licenses and motor vehicle registrations following a second or subsequent conviction for failure to have mandatory coverage, rather than the first; lowers the period of time for which proof of financial responsibility must be maintained; and increases the fees for reinstatement of licenses and registrations.

House Bill 1294 further increases the amount of property damage that must be sustained in certain accidents before accident reports are required to be submitted to the Department of Public Safety. Another new provision relates to the authority granted to the department to release accident reports for insurance purposes.

The act also raises the monetary level used to determine security for certain motor vehicle operators, as well as raising the amount of security that must be filed with the department to avoid suspension of driving privileges.

HOUSE BILL 1410 **HOUSE AUTHOR:** Danburg
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Henderson

The Texas Motor Vehicle Safety-Responsibility Act prohibits persons from operating motor vehicles without adequate liability insurance. House Bill 1410 amends a section of this law regarding penalties by requiring the Department of Public Safety to notify a person that his driver's license and motor vehicle registration has been suspended as the result of a conviction of failure to maintain financial responsibility.

The notice provision is slightly altered by House Bill 135, 70th Legislature, 2nd Called Session.

HOUSE BILL 135 (2nd C.S.) **HOUSE AUTHOR:** D. Hudson
EFFECTIVE: see below **SENATE SPONSOR:** Lyon

House Bill 135 provides specific language to be included on a citation issued by a law enforcement officer to a person for failure to maintain financial responsibility in the operation of a motor vehicle. Such notification shall clearly state that a second or subsequent conviction for noncompliance with state liability insurance requirements will result in the suspension of a driver's license and motor vehicle registration. This provision becomes effective on January 1, 1988.

Another provision of House Bill 135, which goes into effect on October 20, 1987, eliminates the 30-day deadline established for the Department of Public Safety to notify a person that his driver's license and motor vehicle registration are suspended. The original provision is a part of House Bill 1410, 70th Legislature, Regular Session, and is effective September 1, 1987.

Vehicle Loads, Dimensions, and Equipment

HOUSE BILL 9 **HOUSE AUTHOR:** Watkins
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Sims

House Bill 9 repeals state law specifying the length of oil well servicing units that may be operated on public roads.

HOUSE BILL 568 **HOUSE AUTHOR:** Hammond
EFFECTIVE: 5-19-87 **SENATE SPONSOR:** Montford

House Bill 568 amends state law regarding the allowable weight of certain vehicles used for the transportation of concrete by adding to the law a vehicle designed exclusively to manufacture the product, or one designed to transport and manufacture concrete.

HOUSE BILL 647 **HOUSE AUTHOR:** R. Cuellar
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Uribe

House Bill 647 allows courts to assess lesser fines than those currently established for overweight vehicle violations in cases involving certain vehicle operators convicted of exceeding allowable axle weight, but still within the registered permissible gross weight.

HOUSE BILL 865 **HOUSE AUTHOR:** Repp
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Lyon

House Bill 865 adds a new section to state law relating to prohibited devices on motor vehicles that obstruct a driver's clear vision of the road. Unless exempted by the act, an offense is committed if a vehicle is operated while its windshield or window is obstructed by objects or covered by certain transparent materials not meeting the required standards set for sunscreening and light-altering devices.

House Bill 865 provides regulations for manufacturers of such products and establishes punishment for violations of this new law. Authority for carrying out the bill's provisions is granted to the Department of Public Safety.

HOUSE BILL 1232 **HOUSE AUTHOR:** Millsap
EFFECTIVE: 6-19-87 **SENATE SPONSOR:** McFarland

House Bill 1232 amends state law regarding height restrictions of vehicles allowed to operate on public highways by extending the height limitations for combination vehicles used solely as automobile transporters to 14 feet. Vertical clearance of road structures is the responsibility of the operator, and any resulting damage is the responsibility of the owner of the vehicle.

HOUSE BILL 1293 **HOUSE AUTHOR:** McWilliams
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Anderson

House Bill 1293 exempts fire department vehicles from certain width, length, and weight requirements set for vehicles being operated on a public highway.

Vehicle and Traffic Offenses

SENATE BILL 521 **SENATE AUTHOR:** Sarpalius
EFFECTIVE: 8-31-87 **HOUSE SPONSOR:** Wilson

Senate Bill 521, the "open container" law, amends the Uniform Act Regulating Traffic on Highways to provide that it is a Class C misdemeanor offense for a person to consume an alcoholic beverage while operating a motor vehicle in a public place and be observed doing so by a police officer.

HOUSE BILL 273 **HOUSE AUTHOR:** Collazo
EFFECTIVE: see below **SENATE SPONSOR:** Parker

House Bill 273 states that alcohol or controlled substance addiction as the basis for revocation of a driver's license must be determined by a court. This provision becomes effective on September 1, 1987.

The act also adds several new requirements relating to the dismissal of certain misdemeanor charges upon completion of a driving safety course. These provisions go into effect on August 31, 1987.

A plea of guilty or no contest must be entered to take the course, and defendants wishing to participate must submit an oral or written request to the court. Persons not eligible are specified.

Courts may dismiss only one charge for each course completed and are authorized to require fees not exceeding $10 from defendants for administrative purposes.

The act also prohibits insurers from charging fees or increasing premiums as a result of charges dismissed upon the completion of a defensive driving course.

HOUSE BILL 119 **HOUSE AUTHOR:** Clemons
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Blake

House Bill 119 declares that it is a Class B misdemeanor offense for the driver of a vehicle to flee or attempt to elude a police officer. The Department of Public Safety has the authority to suspend the driver's license of any driver found guilty of this offense.

HOUSE BILL 280 **HOUSE AUTHOR:** Barton
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Barrientos

The Penal Code is amended to increase the penalty for evading arrest to a Class A misdemeanor offense if, while attempting to evade arrest, the driver engaged in reckless conduct that placed another in imminent danger of serious bodily injury.

HOUSE BILL 581 **HOUSE AUTHOR:** Clemons
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Blake

State law requires certain municipal courts to remit a specified portion of each fine collected from speeding offenses committed on interstate highways to the state treasurer for deposit in the general revenue fund. House Bill 581 extends this provision to apply also to fines that have been paid for speeding violations on all state highways.

HOUSE BILL 655 **HOUSE AUTHOR:** Denton
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Sarpalius

House Bill 655 establishes new requirements relating to the operation of motor vehicles by certain probationers and persons who have been convicted of driving while intoxicated or involuntary manslaughter committed while driving under the influence and who hold restricted licenses. Judges may require such defendants, on a second conviction, to operate vehicles that have been equipped with approved devices which make driving impractical if the driver is intoxicated.

The act directs the Department of Public Safety to establish standards for ignition interlock devices, and exempts from their required use certain persons with license restrictions who operate motor vehicles as part of their employment and who carry proof that the employer knows of the driving privilege restriction. House Bill 655 further creates the offense of tampering with such devices, and establishes penalties for conviction of the offense.

HOUSE BILL 766 **HOUSE AUTHOR:** H. Cuellar
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Tejeda

House Bill 766 enacts new law designating the duties of railroad corporations following accidents. In cases of accidents causing injury or death to a person or damage to a vehicle, persons operating trains for such corporations must stop and render aid. A Class C misdemeanor is established for violations of this act.

HOUSE BILL 914 **HOUSE AUTHOR:** Barton
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Armbrister

House Bill 914 amends existing state law by adding new provisions relating to persons who have had their driver's license or vehicle registration privileges invalidated. In such cases, which include those in which licenses have expired during periods of suspension, the bill amends the definition of an offense and raises the minimum penalty for the operation of a motor vehicle, with even harsher penalties established for second violations. The act further prohibits judges from deferring adjudication in such cases.

HOUSE BILL 915 **HOUSE AUTHOR:** Barton
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Armbrister

House Bill 915, which amends several areas of state law relating to the loss of driving privileges, clarifies existing law and adds new grounds for the revocation and suspension of driver's licenses.

The act provides for an indefinite period for revocation of licenses, which may not be probated, and exempts automatic suspensions for cases such as driving while intoxicated from the time limit requirement established for other suspensions.

With regard to occupational licenses granted for essential need, House Bill 915 allows the use of the court order as a restricted license for a certain period and deletes language relating to the number of hours per day such licenses may be used. Convictions for offenses resulting in automatic license suspensions shall be final convictions even if probated or suspended.

The bill provides for appeals hearings to the courts, after cancellation, suspension, or revocation of a license in an administrative hearing. The filing of a petition of appeal abates the administrative order until final judgment. The act also allows the Department of Public Safety to appeal an administrative hearing decision to county court.

A provision unrelated to license revocation and suspension allows certain nonresidents to operate motorcycles and mopeds in the state.

HOUSE BILL 973 **HOUSE AUTHOR:** Wolens
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Lyon

House Bill 973 amends several provisions of state law regarding unlawfully leaving the scene of motor vehicle accidents. With respect to accidents involving damage to attended vehicles, a person failing to stop and comply with other state requirements shall be charged with a Class C misdemeanor when damage is less than $200, or a Class B misdemeanor if damage exceeds this amount.

In addition to upgrading the punishment for such violations, the act creates new offenses applicable to motor vehicle operators causing damage to unattended vehicles or to certain fixtures or landscaping on the highway.

HOUSE BILL 1071 **HOUSE AUTHOR:** Repp
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Edwards

House Bill 1071 extends the authority of municipal and justice courts with regard to cases involving traffic violations committed by certain minors. The act allows such courts to hear cases concerning violations of law dealing with vehicle registration, license plates, driver's licenses, motorcycle helmets, financial responsibility requirements, and parking spaces designated for the handicapped.

HOUSE BILL 1300 **HOUSE AUTHOR:** T. Smith
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Caperton

House Bill 1300 amends existing state law relating to the suspension of driver's licenses and to educational programs for persons convicted of driving while intoxicated. Among its provisions, the bill directs the Texas Commission on Alcohol and Drug Abuse to provide training to providers and to administer the certification of approved educational programs.

A person may be ordered to attend an educational program on a second or subsequent offense. Courts who require program attendance a second time must automatically suspend the licenses of defendants who have previously been convicted and required to attend such courses as a condition of their probation. In certain cases and on notice that an educational program has been required of a person, the Department of Public Safety is authorized to suspend driving privileges, even if the courts have not done so.

HOUSE BILL 1646 **HOUSE AUTHOR:** Cooper
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Uribe

House Bill 1646 establishes penalties for persons, corporations, or receivers who do not comply with the restrictions placed on permits for overweight, overlong, or oversized trucks operated on state highways. Criminal penalties of fines or imprisonment are provided for first, second, and third convictions. In cases involving corporations that do not comply, provisions with regard to imprisonment do not apply, but double fines are imposed.

House Bill 1646 also grants to port-of-entry supervisors or inspectors employed by the Texas Alcoholic Beverage Commission the authority to weigh motor vehicles that may be overloaded and to prohibit the entry of such trucks into the state, if found to be in excess of the allowable maximum gross weight.

HOUSE BILL 1989 **HOUSE AUTHOR:** J. Harris
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Brown

House Bill 1989 creates a new offense regarding the regulation of motor vehicle license plates by making the intentional alteration of numbers, letters, or other identifiable marks on license plates a Class B misdemeanor.

HOUSE BILL 2608 **HOUSE AUTHOR:** Craddick
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Sims

In counties in which court-approved teen court programs are operated, House Bill 2608 authorizes courts to dismiss charges against minors who have violated laws prohibiting driving while intoxicated if written evidence is presented showing the successful completion of a teen court program by defendants. Once dismissed, the charges may not be included on a person's driving record.

Minors must meet certain requirements to qualify for participation in this dismissal of charges program, and a 90-day time period is established for teen court program completion and the submission of evidence to the courts. The act also provides for fees for the administration of this dismissal of charges program.

SENATE BILL 440 **SENATE AUTHOR:** Uribe
EFFECTIVE: 9-1-87 **HOUSE SPONSOR:** Heflin

Senate Bill 440 creates offenses for falsely swearing to or affirming information in a driver's license or certificate application, and for intentionally or knowingly using a driver's license or certificate containing false information. Offenses are classified as Class C, Class B, and Class A misdemeanors.

SENATE BILL 515 **SENATE AUTHOR:** Lyon
EFFECTIVE: 9-1-87 **HOUSE SPONSOR:** Waldrop

Senate Bill 515 adds provisions concerning the dismissal of certain misdemeanor traffic charges on completion of a driving safety course. It requires that defendants are to be advised of their right to complete such a course in order to have charges dismissed; it also requires defendants to plead no contest or guilty and to present specific information to the court concerning taking a driving safety course; and it provides for court administration fees.

Offenses for driving 25 miles per hour or more over the posted speed limit may not be dismissed by completion of a driving safety course.

The court may only dismiss one charge for completion of each course.

Insurers are forbidden from canceling or increasing premiums because of offenses that are dismissed after driving safety courses are completed.

The Department of Public Safety is directed to administer rules relating to driving safety courses, and advertising about the availability of courses is restricted near the courts with jurisdiction in such matters.

SENATE BILL 764 **SENATE AUTHOR:** Montford
EFFECTIVE: 9-1-87 **HOUSE SPONSOR:** Polumbo

Under state law, an offense is committed by persons who operate aircraft equipped with illegal fuel tanks in violation of federal requirements. Senate Bill 764 expands the definition of "operate," making it a third-degree felony to use, intend to use, or authorize the use of such illegally equipped aircraft.

Miscellaneous

HOUSE BILL 423 **HOUSE AUTHOR:** Cooper
EFFECTIVE: 8-31-87 **SENATE SPONSOR:** Sims

House Bill 423 grants authority to peace officers to remove parked vehicles from highways under certain specified circumstances.

HOUSE BILL 497 **HOUSE AUTHOR:** S. Hudson
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Johnson

House Bill 497 amends state law that currently allows the Department of Public Safety to issue personal identification certificates by requiring the department now to issue personal identification cards. The act provides the same penalty for the felony of illegally reproducing and selling a personal identification card as for illegally reproducing and selling a driver's license.

Unless used as proof of ability to operate a motor vehicle, the new cards must be accepted by individuals or businesses in the same manner as a driver's license.

HOUSE BILL 1939 **HOUSE AUTHOR:** Tallas
EFFECTIVE: 9-1-87 **SENATE SPONSOR:** Brown

Under prior law, it was illegal for a person, firm, association, or corporation to remove or alter a serial number or other distinguishing identification mark from a tractor or farm implement and to offer such an item for sale.

House Bill 1939 amends prior law to add "special mobile equipment" to the list of equipment required to have distinguishing identification marks or serial numbers. The act also makes it a Class A misdemeanor offense to possess with intent to deliver to another an item valued at less than $750 and a felony of the third degree if the value of the property is $750 or more. Items found to be in violation of this act are now subject to seizure by peace officers. If the rightful owner of the item is located, he is required to place a serial number on the item within 30 days after reclaiming the property. If the owner is unknown, the item shall be forfeited to the state where it can be used for official purposes or sold at public auction after being affixed with a property inventory control number.

HOUSE BILL 117 (2nd C.S.) **HOUSE AUTHOR:** Colbert
EFFECTIVE: 10-20-87 **SENATE SPONSOR:** Brooks

House Bill 117 clarifies language in existing law and adds new provisions relating to the authority of peace officers and members of the Department of Public Safety to remove or require the removal of illegally stopped vehicles from a highway, street, or road. The act requires that owners be liable for towing and storage fees, and provides for county licensing of towing and storage companies in certain unincorporated areas.

House Bill 117 also prohibits probation of the suspension or revocation of a motor vehicle license in appeal cases involving the refusal to submit to chemical tests for intoxication.

APPENDIXES

A. List of Vetoed Legislation and
Text of Item Veto Proclamation, General Appropriations Act

B. Proposed Constitutional Amendments and Referenda

C. Resolutions Authorizing Legislative Interim Studies
and Legislation Authorizing Interim Studies
by Executive Agencies or Statutory Committees

D. Legislative Policy Resolutions

E. State Agencies and Advisory Boards, Abolished and Created

F. Members of the Senate

G. Members of the House of Representatives

H. Enactments by Author and Sponsor

APPENDIX A

I. LIST OF VETOED LEGISLATION

Of the legislation passed during the regular session, the governor vetoed 18 senate bills, one senate concurrent resolution, and 33 house bills. No legislation passed during the 1st called session was vetoed. The governor vetoed various line-item appropriations in Senate Bill 1, the General Appropriations Act, passed during the 2nd called session.

Regular Session

Senate Bill 217, relating to the availability of deferred adjudication for certain defendants (by Uribe; Hinojosa).

Senate Bill 323, relating to the creation of the On-site Wastewater Treatment Research Council and fund and the imposition of certain fees (by Montford; T. Smith).

Senate Bill 484, relating to appointment and removal of commissioners of a housing authority (by Johnson; Blair).

Senate Bill 512, relating to eligibility for late absentee voting by a disabled voter (by Lyon; Aikin).

Senate Bill 545, relating to the use of certain tools for agricultural laborers in commercial farming operations (by Uribe, et al.; Guerrero).

Senate Bill 698, relating to the assignment pay for certain members of the fire or police department of certain cities (by Washington; A. Luna).

Senate Bill 868, relating to actions and meetings of the Texas Employment Commission and participation by member by telephonic communication and requirements for that participation (by Blake; Shine).

Senate Bill 884, relating to furnishing a voter with a written communication for use at the polling place (by Edwards; Danburg).

Senate Bill 1011, relating to the payment of certain laborers, workers, and mechanics under public works contracts (by Barrientos; Stiles).

Senate Bill 1080, relating to deadlines for filing certain financial statements and to forms provided by the secretary of state (by Henderson; P. Hill).

Senate Bill 1210, relating to election dates and runoff elections (by Lyon; Hackney).

Senate Bill 1239, relating to the supplemental compensation of the district judges in Harris County (by Green; Toomey).

Senate Bill 1265, relating to voting by and the cancellation of the voter registrations of persons whose names appear on the lists of returned registration certificates (by Barrientos; Guerrero).

Senate Bill 1266, relating to the delivery of voter registration applications by certain volunteer deputy registrars (by Barrientos; Glossbrenner).

Senate Bill 1279, relating to the purchasing practices of the state and other political subdivisions and governmental agencies; providing penalties (by Edwards; Berlanga).

Senate Bill 1345, relating to the authority of a commissioners court of a county to engage in community and economic development projects (by Washington; A. Luna).

Senate Bill 1444, relating to the tuition rate applicable to certain scholarship students (by Jones; Delco).

Senate Bill 1448, relating to the qualifications of central counting station personnel in elections using electronic voting systems (by Brown; Horn).

Senate Concurrent Resolution 114, requesting the State Board of Education to amend the Texas Administrative Code to permit certain teachers and administrators to be employed in the public schools on an emergency basis (by Brooks; Delco).

APPENDIX A

House Bill 8, relating to the creation and operation of a sick leave pool to benefit certain state employees (by Leonard; Brooks).

House Bill 141, relating to the review by the district court of certain actions of the State Commission on Judicial Conduct (by Hury; Caperton).

House Bill 151, relating to the offense of cruelty to animals (by Finnell; Glasgow).

House Bill 384, relating to the regulation of certain crane operators; providing penalties (by Cain; Brooks).

House Bill 396, relating to the preparation for trial by an appointed counsel in a criminal case (by Danburg; Harris).

House Bill 484, relating to the creation of a treatment program for inmates in the Texas Department of Corrections who have committed sexual offenses (by Melton, et al.; Edwards).

House Bill 543, relating to eligibility requirements for election clerks (by Garcia; Tejeda).

House Bill 651, relating to regulation of dispensing opticians; providing a penalty (by Berlanga; Jones).

House Bill 707, relating to the preference for disadvantaged, Texas, and American products under certain purchasing contracts (by R. Lewis, et al.; Green).

House Bill 746, relating to the regulation of the care and treatment of animals in riding stables; providing a penalty (by Patronella; Parmer).

House Bill 782, relating to the jurisdiction of the county civil courts at law of Harris County (by Polumbo, et al.; Whitmire).

House Bill 942, relating to an extension of the temporary increase in the state motor fuels tax rates (by Schlueter; Glasgow).

House Bill 959, relating to salaries of appellate and district court justices and judges (by Hinojosa, et al.; Glasgow).

House Bill 982, relating to common and public nuisances; providing a penalty (by Patronella; Green).

House Bill 1041, relating to sick leave for public school employees (by Edwards; Uribe).

House Bill 1078, relating to representation of the state in a forfeiture case under the Texas Controlled Substances Act by an attorney for the seizing agency and to the disposition of proceeds of property seized under the Texas Controlled Substances Act (by Berlanga; Green).

House Bill 1084, relating to the commitment procedures and services for chemically dependent persons; providing penalties (by Madla; Barrientos).

House Bill 1178, relating to the definition of group accident and health insurance (by Gavin; Harris).

House Bill 1183, relating to the creation, duties, and powers of the Texas Agricultural Finance Authority and the development of and issuance of bonds for an agricultural financing program (by Gibson; Edwards).

House Bill 1191, relating to the sale or distribution of drivers' licenses or personal identification certificates; providing criminal penalties (by Denton; Sarpalius).

House Bill 1237, relating to certain allocations and transfers of state revenue (by Schlueter; Jones).

House Bill 1318, relating to municipal liability for certain traffic offenses committed by certain municipal employees in the course and scope of their employment (by Wilson, et al.; Washington).

House Bill 1616, relating to eligibility of certain persons for coverage under certain accident and sickness insurance coverage (by Price; Johnson).

House Bill 1694, relating to the appraisal of agricultural land contiguous to other open-space agricultural land (by Stiles, et al.; Jones).

House Bill 1814, relating to initiating an appeal of a property tax determination (by Hilbert; Henderson).

House Bill 1848, relating to the removal of vehicles that are stopped in violation of state law (by Colbert; Brooks).

House Bill 1849, relating to the amount and terms of, and fees payable in connection with, student loans from the Texas Opportunity Plan Fund (by Cavazos, et al.; Barrientos).

House Bill 1933, relating to the exclusion of certain territory from a rural fire prevention district (by Richardson; Barrientos).

House Bill 1984, relating to notice to be provided to a person on failure to provide proof of financial responsibility (by D. Hudson; Lyon).

House Bill 2119, relating to the authority of a municipality to contract for jail facilities and the operation of those facilities (by Lucio; Farabee).

House Bill 2216, relating to the administration and distribution of money appropriated from the public transportation fund (by Hackney; Caperton).

House Bill 2235, relating to the creation of a job-start loan program to provide employment opportunities for certain displaced farmers and other persons (by Hinojosa; Anderson).

House Bill 2514, relating to the authorization, issuance, examination, approval, registration, and recording of certain bonds, long-term installment sales, or long-term lease-purchase obligations (by Gibson; Farabee).

2nd Called Session

Senate Bill 1, General Appropriations Act; item vetoes (by Jones; Rudd). See following text of veto proclamation.

NOTE: The first name in parentheses designates the author of the bill. The second name designates the sponsor of the bill in the other house.

II. TEXT OF ITEM VETO PROCLAMATION, GENERAL APPROPRIATIONS ACT

Senate Bill 1, the General Appropriations Bill, has reached my desk for action, having been duly certified by the Comptroller of Public Accounts pursuant to Article III, Section 49a of the Texas Constitution. It authorizes an expenditure of $38.3 billion in total funds and $24.04 billion in general revenue funds for fiscal 1988-89, after rider adjustments.

The Texas Legislature this year worked through a regular session and two special sessions in an historic effort to control government spending and attempt to set priorities. There is no question that much blood, sweat and tears were shed in this effort, and I wish to commend Lieutenant Governor Hobby and Speaker Lewis on their willingness to work with me. I would also like to recognize the members of the Senate Finance Committee and the House Appropriations Committee for their hard work over the last seven months, and the members of the Conference Committee who drafted the final product now before me in the form of Senate Bill 1. But most important of all I believe all Texans owe a tremendous debt of gratitude to those courageous members of the House of Representatives who fought tirelessly on the House floor to hold state spending to a fiscally responsible level.

For two and a half weeks I have reviewed this budget. It is the critical product of the Legislature's seven-month effort. While I commend the Legislature and its leadership for their efforts, there are places that can stand additional scrutiny and additional economies. It is in that spirit that I exercise my constitutional prerogative of line item veto so that modest advances are made in pursuit of fiscal discipline and budgetary integrity.

My line item vetoes, totaling $167.4 million, will include the elimination of individual aircraft operations in specific agencies. The intent is to both save Texas taxpayers significant sums of money, while at the same time encouraging agencies to utilize the Aircraft Pooling Board.

In another line item veto, I am removing a mischievous measure aptly entitled the "Doomsday Amendment." This measure is nothing but a crude attempt at legislative and political blackmail, unbecoming of our Texas legislative process. It is hoped that the thinking and the tactics that produced such an insidious measure will be exorcised prior to the 71st Legislative Session.

I have long believed that the systems offices throughout our college and university systems are not fully incorporated into their respective institutions. One veto reflects a recommendation originally made in the Policy Budget presented to the Texas Legislature in February. To directly quote from that report: "As an economy measure, I recommend individual institutions allocate funds from their budget as a substitute for direct revenue funding of the system offices. Beside saving money, I hope this system change will have the positive effect of making system offices more sensitive to the needs of their respective institutions."

Additional veto items include reductions in administrative and bureaucratic costs in the Department of Human Services, while other savings are found in higher education and the State Department of Highways and Public Transportation. While a sharp eye was focused on savings, a constant sensitivity to services was maintained throughout the budget review process.

Our state government is in a period of dramatic transition. As never before, each agency, board and commission must review every expense, must prioritize every program and must ensure to the people of Texas that every dollar spent is done so with maximum efficiency and effectiveness. The efforts we have begun this year must continue at full speed into the next biennium and beyond.

Summary of Items Vetoed

	Fiscal Year 1988	Fiscal Year 1989
ARTICLE I - EXECUTIVE AND ADMINISTRATIVE DEPARTMENTS AND AGENCIES		
Texas Aeronautics Commission - Page I-8		
Item 1.b. Aircraft Operations	$ 105,080 & U.B.	$ 59,450
Department of Agriculture - Page I-12		
Item 1.d. Air Travel	$ 140,000	$ 140,000
Office of the Attorney General - Page I-38		
Item 1.d. Aircraft Operations	$ 273,929	$ 137,929
Page I-46 (Rider) 22. In addition to the amounts herein appropriated in line items 3.a. and 3.b. during the biennium, there is appropriated all state-earned depreciation funds and related federal matching funds earned by these depreciation funds in an amount not to exceed $1,000,000.		
Comptroller of Public Accounts - Page I-60		
Item 4. Aircraft Operations	$ 727,239	$ 727,239
Office of the Governor - Page I-119		
(Rider) 20. Funds appropriated above may be expended to fund the operations of the Governor's Commission on Physical Fitness at the discretion of the Governor. In addition, any gifts, grants, or donations of private funds received for the benefit of the Governor's Commission on Physical Fitness are authorized and appropriated for the purposes specified by the donor.		
State Department of Highways and Public Transportation - Page I-121		
Item 6. Capital Construction	$33,973,696	U.B.
Page I-125 (Rider) 17. Funds appropriated above in Item 4.a., Public Travel and Information Services, include amounts for the production and distribution of "Texas Highways", the official travel magazine of the state as intended by H.C.R. No. 26, Sixty-fourth Legislature, Regular Session, 1975. The State Highway and Public Transportation Commission is directed to set subscription rates and other charges at a level that will generate receipts approximately sufficient to cover the costs incurred in the		

production and distribution of the magazine. The department may sell advertising space in "Texas Highways", not to exceed 25% of the total space per issue. Revenues collected from subscription rates and advertising space sales may be used to increase the appropriation line item 4.a. to the extent of such collections.		
General Land Office and Veterans' Land Board - Page I-150		
Item 4.a. Aerial Photography and Operations	$ 309,257	$ 309,767
Item 4.b. Retrofit		275,000
Railroad Commission - Page I-219		
Item 1.d. Aircraft	$ 132,067	$ 132,267 & U.B.
Item 8. Texas Petroleum Research Committee	212,187	212,187
Public Utility Commission of Texas - Page I-248		
Item 3.c. Consumer Information and Response	$ 200,000	$ 200,000
ARTICLE II - HEALTH, WELFARE AND REHABILITATION AGENCIES		
Texas Department of Health - Page II-16		
Item 13.a. Cancer Registry	$ 927,111	$ 927,111
Department of Human Services - Page II-30		
Item 7.g. Program Support	$ 5,803,325	$ 5,807,008
Item 8.g. Program Support	2,305,224	2,305,224
Item 12.b. Quality Assurance and Consultation	704,129	704,129
Item 15.b. Client Services	1,000,000	1,000,000
Item 19. Implementation of S.B. 298, 70th Legislature, Regular Session, pursuit of liens.	321,000	U.B.
Department of Mental Health and Mental Retardation - Page II-48		
Item 22d. Aircraft Operations (non-transferable)	$ 201,488	$ 201,488 & U.B.
Page II-52 (Rider) 11. Contingent upon the sale of the land and property of the Texas Research Institute of Mental Sciences, or the Leander Rehabilitation Facility, or the Austin State School Annex, the Texas Department of Mental Health and Mental Retardation is hereby appropriated $3,058,200 from the proceeds of the sale for life safety construction improvements or other high priorities of		

the department. Any remaining proceeds shall be deposited in the General Revenue Fund.

ARTICLE III - AGENCIES OF PUBLIC EDUCATION

Texas Central Education Agency - Programs -
Page III-1

Item 1.i. (2) Loss to Section 16.252(e)	$52,000,000	U.B.

Coordinating Board, Texas College and University System -
Page III-23

Item 21. Utility Contingency Fund	$ 2,500,000	U.B.

Page III-26 (Rider)
12. Authorization for the expenditure of funds appropriated above for utilities is contingent upon certification by the Comptroller of Public Accounts that a general academic institution, medical college, health science center, or technical institute has expended all funds appropriated for utilities in that fiscal year. No institution of higher education which has transferred funds from the line item for utilities may request or receive funds during the same fiscal year from the Utility Contingency Fund. In addition, no institution of higher education may receive funds from the Utility Contingency Fund unless it has adopted and submitted an energy conservation program pursuant to Article V, Section 90 of this Act. Any institution receiving funds from the Utility Contingency Fund shall expend said funds only for utilities and any unexpended balances shall revert to the Utility Contingency Fund. Such funds shall not be used to support auxiliary enterprises. The funds appropriated for the Utility Contingency Fund shall be administered and dispensed pursuant to the above qualifications and in the amounts indicated by the Coordinating Board, Texas College and University System. An unexpended balance contained in the Contingency Fund as of August 31, 1988, is hereby reappropriated for the same purposes for the fiscal year beginning September 1, 1988.

Page III-27 (Rider)
20. The Comptroller will transfer $750,000 to the General Revenue Fund from any unexpended balances remaining from the appropriations for Reductions in Estimated Other Educational and General Funds made to the Coordinating Board in either Senate Bill No. 1, page III-23 or House Bill No. 5, Acts of the Sixty-ninth Legislature, Third Called Session. The remainder of the balances are hereby reappropriated to reduce 1987 income shortfalls at eligible institutions.

Page III-28 (Rider)
22. In addition to the amount provided above to the Coordinating Board, $50,000 from the General Revenue Fund is hereby appropriated which will be matched by local funds of the University System of South Texas for the purpose of conducting a study of the status, needs, and impact of higher education in South Texas as they relate to the needs and existing facilities of

the State as a whole serviced by public institutions of higher education.

Public Junior/Community Colleges -
Page III-35

Item 50. Staff Group Insurance Premiums	$21,093,960	$24,258,054

Page III-39 (Rider)
21. In addition to the funds appropriated above to Alamo Community College and Northeast Texas Community College, 50 percent of any remaining or unexpended balances from appropriations for fiscal year 1987 made to those institutions in item 48(b) and 48(c) of Senate Bill No. 1., Sixty-ninth Legislature, Third Called Session, page III-34, are hereby reappropriated to those respective institutions for the biennium beginning September 1, 1987 to fund contact hours earned in excess of those used in the base period for making the 1988-1989 appropriations. The State Auditor shall determine the actual number of contact hours generated in excess of the 1988-1989 base period. In no instance shall disbursements be greater than those actually earned. The unexpended balances may be used only in support of those elements of cost eligible for state funding.

The University of Texas System
System Administration -
Page III-39

Item 1. Administration	$ 710,326	$ 710,326

Texas A&M University System
Administrative and General Offices -
Page III-52

Item 1. Administration	$ 345,185	$ 345,185

Prairie View A&M University -
Page III-55

Page III-55 (Rider)
2. In addition to the amounts specified above, there is also hereby appropriated to Prairie View A&M University $382,276 for contract cleaning and repairs and replacement of equipment resulting from a fire in Hilliard Hall on the campus of Prairie View A&M University.

Texas Transportation Institute -
Page III-59

(Rider)
2. In addition to the amounts specified above, there is also hereby appropriated to the Texas Transportation Institute, $929,385 from the General Revenue Fund for the fiscal year beginning September 1, 1987 for replacement of a research laboratory building and equipment located at the Bryan Research and Extension Center, Bryan, Texas, totally destroyed by fire. Any balances remaining as of August 31, 1988 from this appropriation are hereby reappropriated for fiscal year 1989.

The University of Houston System System Administration - Page III-66		
Item 1. Administration		$ 2,140,417
Lamar University System System Office - Page III-69		
Item 1. Administration	$ 294,935	$ 296,105
Texas Tech University Museum - Page III-79		
Item 1. Main Museum		$ 418,549
Item 2. Ranching Heritage Center		40,497
Panhandle-Plains Historical Museum - Page III-81		
Item 1. Museum Operations		$ 458,740
Sam Houston Memorial Museum - Page III-84		
Item 1. Museum Operations		$ 308,680

ARTICLE VII - Page VII - 12

Section 2. In the event House Bill No. 61, Acts of the 70th Legislature, 2nd Called Session, 1987, becomes law but no part of which takes effect before the 91st day after the adjournment of that session of the Legislature, the following institutions shall be reduced from the level contained in Article III of this Act by the listed percentage multiplied by the difference between the level of funding contained in Article III of this Act and the 1987 operating level or the 1987 adjusted base, whichever produces the smaller result. The comptroller of public accounts is authorized and directed to calculate and execute the provisions of this Section.

The University of Texas at Arlington	50%
The University of Texas at Austin	10%
The University of Texas at Dallas	100%
The University of Texas at El Paso	20%
The University of Texas at San Antonio	40%
Prairie View A&M University	33%
Corpus Christi State University	33%
Houston Community College (of total, taken from West Houston Campus only)	40%
University of Houston-Clear Lake	100%
University of Houston-Victoria	100%
North Texas State University	100%
Texas Tech University	50%
Texas Woman's University (Denton Campus only)	20%
West Texas State University	100%
Southwest Texas State University	100%
Alamo Community College	40%
Alvin Junior College	100%
Amarillo College	100%
Blinn College	100%

APPENDIX A

Brazosport College	100%
Clarendon College	100%
Collin County Community College	100%
Cooke County Junior College	100%
Dallas County Community College	40%
Del Mar Junior College	33%
El Paso Community College	20%
Frank Phillips Junior College	100%
Henderson County Junior College	100%
Kilgore College	50%
Lee College	50%
McLennan County Junior College	100%
Midland College	100%
Navarro Junior College	100%
North Harris County College	100%
Paris Junior College	100%
San Jacinto College	50%
Southwest Texas Community College	100%
Tarrant County Community College	40%
Temple Junior College	100%
Vernon Regional Junior College	100%
Weatherford Junior College	100%
Texas State Technical Institute-Waco	100%
Texas State Technical Institute-Amarillo	100%
Tuition Equalization Grants	50%
Texas A&M University Agricultural Extension Service	50%
Texas A&M University Engineering Extension Service	50%
Texas Forest Service	50%
Sul Ross State University (taken entirely from Uvalde Center)	33% of total
Texas Tech University Health Sciences Center - Amarillo Regional Academic Health Center	100%

Statement of Objections and Reasons for Veto

Aircraft Operations:

Texas Aeronautics Commission

Item 1.b.

Texas Department of Agriculture

Item 1.d.

Office of the Attorney General

Item 1.d.

Comptroller of Public Accounts

Item 4.

General Land Office and Veterans' Land Board

Item 4.a. and b.

Railroad Commission

Item 1.d.

Texas Department of Mental Health and Mental Retardation

Item 22.d.

The time has passed when state employees can enjoy the privilege of flying in almost empty agency-owned aircraft. However, some agencies still abuse this privilege by flying in state planes to cities served by commercial airlines and by flying at passenger levels far below plane capacity. In enacting stronger restrictions in Section 19, Article V of Senate Bill 1, the Legislature showed that it recognized the existing problems. However, the language is not strong enough to correct those problems.

Each agency affected by this veto is being requested to transfer its aircraft to the State Aircraft Pooling Board as soon as possible. In addition, agencies with aircraft authorization which do not have line item appropriations for aircraft use will be requested to take similar action. The Department of Public Safety, the Parks and Wildlife Department and the Department of Corrections, because of the unique needs of their law enforcement activities, continuation of funding for aircraft is necessary.

APPENDIX A

ARTICLE I - EXECUTIVE AND ADMINISTRATIVE DEPARTMENTS AND AGENCIES

Office of the Attorney General

Rider 22.
The Child Support Enforcement program received direct appropriations of $44,035,928. This appropriated amount is adequate for enforcement; additional appropriation to this program is unnecessary.

Office of the Governor

Rider 20.
The 69th Legislature, 3rd Called Session, eliminated the direct appropriation to the Governor's Commission on Physical Fitness and directed the Governor to provide adequate funding to phase out operations of the agency from Deficiency and Emergency Grants. Since the 70th Legislature made no direct appropriation to the Governor's Commission on Physical Fitness this rider is unnecessary.

State Department of Highways and Public Transportation

Item 6.

Construction of a new administrative office building is unnecessary at this time. The Greer Office Building which currently houses the central office staff has recently undergone major repair and rehabilitation and is adequate in these times of fiscal restraint.

Railroad Commission

Item 8.

The primary purpose of the Texas Petroleum Research Committee is to promote the development, utilization, and conservation of energy natural resources through research publications and presentations conducted by the University of Texas and Texas A&M University. These research funds duplicate other resources available through the Higher Education Coordinating Board and direct appropriations to the two institutions. Additional funds may also be available through grants awarded under the Oil Overcharge Restitutionary Act.

Public Utility Commission

Item 3.b.

The Consumer Information and Response activities include investigation, resolution, and reporting of consumer complaints and utility tariff compliance. Other functions include the distribution of consumer information and responses to telephone and written requests. The 68th Legislature established a separate Office of Public Utility Counsel to represent the residential and small commercial consumer. The activities of the Consumer Information and Response section duplicate functions which are performed by the Office of the Public Utility Counsel, and veto of this item eliminates unnecessary duplication in state services.

ARTICLE II - HEALTH, WELFARE AND REHABILITATION AGENCIES

Texas Department of Health

Item 13c.

In 1985, the Legislature established the Cancer Council as part of the effort to provide for cancer research, cancer prevention, and medical care for cancer victims. The Cancer Registry was established in the Health Department to maintain a central data bank of accurate, precise and current information regarding cancer in Texas. The Cancer Registry function should be transferred to the Texas Cancer Council.

Department of Human Services

Item 7.g. and Item 8.g.

I support these two programs wholeheartedly. The appropriation bill pattern adopted for this agency consolidated central administrative functions into one line item, making it impossible to veto selected administrative functions. However, there remains in the Department of Human Services budget sufficient funds

to administer these programs, but attention must be given to an allocation of resources making administrative functions a lesser priority than the delivery of human services. For example, funding for these crucial programs can come from any of the following areas: computer acquisitions and computer maintenance, field management support administration, aircraft operations, or renovations and capital outlay.

Item 12.b.

This activity in the Vendor Drug program should be restructured and conducted more efficiently. Of the ten largest medicaid prescription drug programs in the United States, only California and New Jersey have pharmacists in the field in numbers close to that in Texas. Texas has one of the lowest average prescription drug expenditures per medicaid drug utilizer; a more centralized quality assurance and consultation function will continue that effort.

Item 15.b.

This item creates a separate appropriation for an already existing function in the Adult Protective Services program. There is sufficient funding available in line item 15.a. and a separate appropriation under this program is not required. This, in conjunction with the necessary policy of holding the expansion of programs to a minimum, is the reason for veto.

Item 19.

This line item appropriates additional funds to implement the department's sunset legislation. This appropriation is not necessary because the budget increased over 1986-1987 levels and can absorb this function.

Department of Mental Health and Mental Retardation

Page II-52, Rider Provision (11)
This rider appropriates $3,058,000 to the Department of Mental Health and Mental Retardation for life safety construction improvements and other items from the sale of land and property. The Department has been authorized to issue bonds totaling $47,142,300 and received a general revenue appropriation of $8,671,802 for Capital Outlay and Construction. These two items include life safety code construction and repairs. Therefore, funds available are adequate to provide for the necessary construction and repairs to meet program needs for the 1988-89 biennium.

Texas Central Education Agency Programs -
Page III-1

Item I.i.(2) Loss to Section 16.252(e)

Under a funding provision in House Bill 72, the state subsidizes school districts experiencing a loss in property values greater than eight percent from the prior year. The statute allows the Commissioner to adjust for such losses in value. The majority of these property value losses have occurred in districts with greater than state average wealth. Conversely, there are no provisions whereby the state benefits when districts enjoy large property value increases. Eliminating this item will mean that all districts' local fund assignments will be based on their prior year property value, and the Commissioner will still be able to make adjustments for economic or natural disasters.

Texas Higher Education Coordinating Board -
Page III-23

Item 21.

The second largest item of expenditure for institutions of higher education is utilities. Recent studies verify potential savings in utility costs but note lack of effort and incentive by the institutions. One new incentive added by the 70th Legislature is a rider encouraging an outside professional energy management audit. This appropriation represents only a small percent of 1986 utility expenses, budgeted for utility cost overruns. It is inappropriate to budget for excessive expenditures where savings are possible; such a practice serves as a disincentive for real savings. The lump sum appropriations for higher education allows complete management flexibility on individual campuses, and allows each institution to set spending priorities. Given this new

flexibility in addition to appropriation increases, institutions can adjust funding where needed and should not require additional general revenue to pay for inefficiency.

Texas Higher Education Coordinating Board -
Page III-20

Rider 20.
This rider enables institutions of higher education to carry forward unexpended balances from funds appropriated for shortfalls in 1986 educational and general income estimates. However, a report by the state auditor indicates that sufficient money was allocated in 1987 to institutions of higher education. In addition, these institutions were given the ability to carry forward 1986 unexpended balances for use in 1987. Furthermore, the 70th legislature made significant changes in financing of institutions of higher education. These changes include lump sum appropriations with component transferability and complete removal of educational and general estimates from the method of finance. Certain border schools may now allow foreign nationals to pay resident tuition. All of these changes allow institutions additional flexibility, designed to ensure sufficient financial resources during the 1988-89 biennium.

Rider 22.
The Select Committee on Higher Education recently finished a complete study of higher education in Texas. The committee heard many hours of testimony and is well aware of the special needs in South Texas. Should the Coordinating Board decide further study is needed, it may be financed with funds appropriated to the Coordinating Board and local funds.

Public/Junior Community Colleges -
Page III-35

Item 50.

Public/Junior Community Colleges in Texas currently receive more per capita funding than any other state in the nation. Additional increases in appropriations made to these schools exceed what is reasonable for good public policy in these difficult times. The intent of this veto is not to eliminate group insurance premiums for staff. Staff group insurance premiums for these colleges should be paid through funds allocated to each individual school.

Public/Junior Community Colleges -
Page III-39

Rider 21.
All public/junior community colleges are funded by formula; funds are distributed in a lump sum grant to each institution, and colleges are not allowed to bring forward unexpended balances from year to year. Any exception to this policy would be imprudent.

University of Texas System Administration -
Page III-39

Texas A&M University System Administrative and General Offices -
Page III-52

Lamar University System Office -
Page III-66

University of Houston System Administration -
Page III-66

Administrative offices are not a separate branch of a university's system, but an integral part of each institution's structure, supporting individual institutions and being supported by them in turn. It is necessary for administrations to be responsive to the needs of individual institutions, and separate funding for these offices is contrary to that policy. The University of Houston System Office receives the largest general revenue appropriation in this category; a veto of the second year only will allow time to implement this needed change.

Prairie View A&M University -
Page III-55

Texas Transportation Institute -
Page III-59

Rider 2.
Article 7, Section 18 of the Texas Constitution provides that institutions within the Texas A&M University System may receive funding for repair and rehabilitation of buildings from bonds issued using the Texas A&M University share of the Permanent University Fund. The use of general revenue funds for this purpose is unnecessary.

Texas Tech University Museum -
Page III-79

Panhandle-Plains Historical Museum -
Page III-81

Sam Houston Memorial Museum -
Page III-84

Elimination of funding of these three museums in the second year will allow their institutions of higher education to establish priorities for their funding and to involve the communities in which they are located to share in the responsibilities for their existence. A more efficient method of funding these items is user fees, contributions, and grants.

ARTICLE VII - Page VII - 12

Rarely has any action more justly deserved condemnation than the type of rank intimidation attempted in this insidious provision. The reasons for the veto of this particular item are more fully stated in the introduction.

Senate Bill 1 was received by the Governor's Office less than ten days prior to adjournment of the Second Called Session of the Seventieth Legislature. I have signed Senate Bill 1, which shall be filed with the Secretary of State, together with this Proclamation stating my objections to individual items of appropriation therein. In accordance with Article IV, Section 14 of the Texas Constitution, individual items of appropriation objected to shall be of no force or effect. The remaining portion of the bill shall be effective according to its terms.

The Secretary of State shall take notice of this action and notify the Legislature.

IN TESTIMONY WHEREOF, I have hereunto signed my name officially and caused the seal of the State to be affixed hereto at Austin, this 6th day of August, 1987.

William P. Clements, Jr.
Governor of Texas

Jack M. Rains
Secretary of State

APPENDIX B

PROPOSED CONSTITUTIONAL AMENDMENTS AND REFERENDA

The 70th Legislature in the regular session passed 23 joint resolutions proposing 24 constitutional amendments. Of those, 23 proposed amendments will appear on the November 3, 1987, election ballot and one will appear on the November 8, 1988, election ballot. In the second called session, the legislature passed four joint resolutions proposing amendments. Two will appear on the 1987 ballot and two will appear on the 1988 ballot.

Also on the 1987 ballot will be two statewide referenda: one regarding pari-mutuel wagering and another regarding continuation of an appointed State Board of Education.

The list below includes the proposition for each amendment and referendum as it will appear on the ballot. Any enabling legislation or legislation whose effect is contingent on the adoption of an amendment is indicated in parentheses.

I. For Election November 3, 1987

Proposed Constitutional Amendments

AMENDMENT NO. 1 (HOUSE JOINT RESOLUTION 104)

House Author: Waterfield
Senate Sponsor: Santiesteban

The constitutional amendment to provide for the surety of a grain warehouse fund to be established by the grain industry for the protection of farmers and depositors of grain in public warehouse facilities.

AMENDMENT NO. 2 (HOUSE JOINT RESOLUTION 60)

House Author: Leonard
Senate Sponsor: Glasgow

The constitutional amendment to raise the maximum property tax rate that may be adopted by certain rural fire prevention districts, but only if approved by the districts' residents. (HB 53, 2nd C.S.)

AMENDMENT NO. 3 (HOUSE JOINT RESOLUTION 48)

House Author: Schlueter
Senate Sponsor: Jones

The constitutional amendment to limit school tax increases on the residence homestead of the surviving spouse of an elderly person if the surviving spouse is at least 55 years of age.

AMENDMENT NO. 4 (HOUSE JOINT RESOLUTION 5)

House Author: Ashley Smith
Senate Sponsor: Glasgow

The constitutional amendment authorizing the legislature to provide assistance to encourage economic development in the state. (HB 49, 2nd C.S., Art. 1)

AMENDMENT NO. 5 (HOUSE JOINT RESOLUTION 65)

House Author: Cain
Senate Sponsor: Montford

The constitutional amendment authorizing agreements between the State Department of Highways and Public Transportation and the Texas Turnpike Authority and the governing bodies of counties with a population of more than 400,000, adjoining counties, and cities and districts located in those counties to aid turnpikes, toll roads, and toll bridges by guaranteeing bonds issued by the Texas Turnpike Authority. (HB 1364)

AMENDMENT NO. 6 (HOUSE JOINT RESOLUTION 4)

House Author: Colbert
Senate Sponsor: Glasgow

The constitutional amendment authorizing the legislature to provide for state financing of the development and production of Texas products and businesses. (HB 4, Arts. 15, 16) (HB 49, 2nd C.S., Art. 2)

AMENDMENT NO. 7 (SENATE JOINT RESOLUTION 55)

Senate Author: Parmer
House Sponsor: Stiles

The constitutional amendment providing for the issuance of general obligation bonds to finance certain local public facilities. (HB 4, Art. 17)

AMENDMENT NO. 8 (SENATE JOINT RESOLUTION 56)

Senate Author: McFarland
House Sponsor: Aikin

The constitutional amendment authorizing the issuance of general obligation bonds for projects relating to corrections institutions and mental health and mental retardation facilities. (SB 1407)

AMENDMENT NO. 9 (SENATE JOINT RESOLUTION 9)

Senate Author: Brown
House Sponsor: Ashley Smith

The constitutional amendment to provide that a member of the legislature is eligible to be elected or appointed and to serve in a different state office but may not receive an increase in compensation granted to that office during the legislative term to which he was elected.

AMENDMENT NO. 10 (SENATE JOINT RESOLUTION 12, 1st proposition)

Senate Author: McFarland
House Sponsor: Berlanga

The constitutional amendment to allow the legislature to exempt from ad valorem taxation certain personal property not held or used for the production of income.

AMENDMENT NO. 11 (SENATE JOINT RESOLUTION 12, 2nd proposition)

Senate Author: McFarland
House Sponsor: Berlanga

The constitutional amendment providing for voting for the exemption from ad valorem taxation of certain property that is located in the state for only a temporary period of time.

AMENDMENT NO. 12 (SENATE JOINT RESOLUTION 35)

Senate Author: Caperton
House Sponsor: Perez

The constitutional amendment permitting spouses to hold community property with right of survivorship. (SB 893)

AMENDMENT NO. 13 (SENATE JOINT RESOLUTION 27)

Senate Author: Blake
House Sponsor: Connelly

The constitutional amendment to allow for the creation and establishment, by law, of special districts to provide emergency services. (SB 669) (HB 1226)

APPENDIX B

AMENDMENT NO. 14 (SENATE JOINT RESOLUTION 34)

Senate Author: Montford
House Sponsor: Hury

The constitutional amendment giving the state a limited right to appeal in criminal cases. (SB 762)

AMENDMENT NO. 15 (HOUSE JOINT RESOLUTION 35)

House Author: Yost
Senate Sponsor: Anderson

The constitutional amendment to provide for the abolition of the office of county treasurer in Gregg, Fayette, and Nueces counties.

AMENDMENT NO. 16 (SENATE JOINT RESOLUTION 6, 2nd C.S.)

Senate Author: Lyon
House Sponsor: Blackwood

The constitutional amendment providing that certain justice precincts may contain more than one justice of the peace court.

AMENDMENT NO. 17 (SENATE JOINT RESOLUTION 26)

Senate Author: Montford
House Sponsor: Toomey

The constitutional amendment authorizing the legislature to define for all purposes the governmental and proprietary functions of a municipality. (SB 5, 1st C.S.)

AMENDMENT NO. 18 (HOUSE JOINT RESOLUTION 18)

House Author: Williamson
Senate Sponsor: Farabee

The constitutional amendment relating to the creation, operation, and financing of jail districts. (HB 400)

AMENDMENT NO. 19 (HOUSE JOINT RESOLUTION 88)

House Author: Al Luna
Senate Sponsor: Edwards

The constitutional amendment authorizing the issuance of general obligation bonds to fund undertakings related to a superconducting super collider research facility sponsored or authorized by the United States government, and to make appropriate grants for such undertakings. (HB 1909)

AMENDMENT NO. 20 (HOUSE JOINT RESOLUTION 96)

House Author: Stiles
Senate Sponsor: Parker

The constitutional amendment to authorize the legislature to provide ad valorem tax relief for certain offshore drilling equipment that is not in use. (HB 2082)

AMENDMENT NO. 21 (SENATE JOINT RESOLUTION 17)

Senate Author: Farabee
House Sponsor: Gibson

The constitutional amendment permitting the legislature to include the speaker of the house of representatives or the speaker's appointee in the membership of an executive agency or committee.

AMENDMENT NO. 22 (SENATE JOINT RESOLUTION 53)

Senate Author: Edwards
House Sponsor: Glossbrenner

The constitutional amendment to allow the legislature to limit the authority of a governor to fill vacancies in state and district offices during the end of the governor's term if the governor is not reelected.

AMENDMENT NO. 23 (SENATE JOINT RESOLUTION 54)

Senate Author: Montford
House Sponsor: Terral Smith

The constitutional amendment to authorize the issuance of an additional $400 million of Texas Water Development Bonds for water supply, water quality, and flood control purposes.

AMENDMENT NO. 24 (HOUSE JOINT RESOLUTION 83)

House Author: Stiles
Senate Sponsor: Sims

The constitutional amendment to permit a county to perform work, without compensation, for another governmental entity.

AMENDMENT NO. 25 (SENATE JOINT RESOLUTION 5, 2nd C.S.)

Senate Author: Sarpalius
House Sponsor: Smithee

The constitutional amendment authorizing the legislature to permit the Amarillo Hospital District to serve certain residents of Randall County, to authorize Randall County to provide financial assistance to the district, and to authorize certain hospital districts to change their boundaries. (HB 147, 2nd C.S.)

Referenda

PROPOSITION 1

SENATE BILL 86 (70th Leg., 2nd Called Session, 1987)

Senate Author: Parker
House Sponsor: Hammond

The State Board of Education shall be composed of members who are appointed from districts instead of elected, with equal representation from throughout the State of Texas.

PROPOSITION 2

SENATE BILL 15 (69th Leg., 2nd Called Session, 1986)

Senate Author: Harris
House Sponsor: Berlanga

The legalization of pari-mutuel wagering under the Texas Racing Act on a county-by-county local option basis.

(The two acts provide that the propositions shall be printed on the ballot beneath the proposed constitutional amendments under the heading: "Referendum Proposition.")

II. For Election November 8, 1988

Proposed Constitutional Amendments

HOUSE JOINT RESOLUTION 2

House Author: Schlueter
Senate Sponsor: Leedom

The constitutional amendment establishing an economic stabilization fund in the state treasury to be used to offset unforeseen shortfalls in revenue. (HB 61, 2nd C.S., Art. 11)

(The election for this amendment was changed from 1987 to 1988 by SJR 5 and SJR 8, 70th Leg., 2nd C.S.)

HOUSE JOINT RESOLUTION 5 (2nd C.S.)

House Author: Schlueter
Senate Sponsor: Edwards

The constitutional amendment to provide for the investment of the permanent university fund, the permanent school fund, and public employee retirement systems in the Texas growth fund created by the amendment, which will directly create, retain, and expand job opportunity and economic growth in Texas.

SENATE JOINT RESOLUTION 8 (2nd C.S.)

Senate Author: Montford
House Sponsor: Gib Lewis

The constitutional amendment and/or clarification providing that federal reimbursement of state highway dedicated funds are themselves dedicated for the purpose of acquiring rights-of-way and constructing, maintaining, and policing public roadways.

APPENDIX C

I. RESOLUTIONS AUTHORIZING LEGISLATIVE INTERIM STUDIES

Joint Committees

HOUSE CONCURRENT RESOLUTION 3

Author: Burnett
Senate Sponsor: Sims
Subject: State artist
Committee: A special joint committee is created that is composed of three members of the house appointed by the speaker of the house and three members of the senate appointed by the lieutenant governor.
Duties: The committee has the task of designating a state artist for the year May 1, 1987, to April 30, 1988, and for the year May 1, 1988, to April 30, 1989.

HOUSE CONCURRENT RESOLUTION 20

Author: Collazo
Senate Sponsor: Parker
Subject: Korean War and Vietnam War memorial
Committee: A special advisory committee is composed of two senators and two citizen members appointed by the lieutenant governor and two state representatives and two citizen members appointed by the speaker of the house.
Duties: The committee is established to assist the State Preservation Board in the planning and the solicitation of funding for a memorial honoring Texans who fought and died in the Korean War and the war in Vietnam and Southeast Asia.

HOUSE CONCURRENT RESOLUTION 21

Author: Madla
Senate Sponsor: Farabee
Subject: Substance abuse treatment delivery system
Committee: The Committee on Substance Abuse Treatment Delivery, which convened during the regular session, is composed of three members of the house of representatives appointed by the speaker of the house and three members of the senate appointed by the lieutenant governor. The committee was originally charged to report its findings by March 13, 1987; however, H.C.R. 110 extended the life of the committee to August 31, 1987.
Duties: The committee is assigned to examine the substance abuse treatment delivery system for the purpose of making recommendations to the 70th Legislature.

HOUSE CONCURRENT RESOLUTION 36

Author: Stiles
Senate Sponsor: Montford
Subject: Executive branch of state government
Committee: The joint interim committee shall consist of 15 members: three senators and two public members appointed by the lieutenant governor; three state representatives and two public members appointed by the speaker of the house of representatives; and five public members appointed by the governor. The nine public members must have demonstrated experience in economy and efficiency techniques as used by private industry, and one must be experienced also in the public sector.
Duties: The committee shall study the organization and structure of state agencies in the executive branch of state government, make recommendations for managerial improvements in those agencies, and consider the feasibility of consolidating certain groups of agencies.

APPENDIX C

HOUSE CONCURRENT RESOLUTION 66

Author: Collazo
Senate Sponsor: Edwards
Subject: Historic preservation
Committee: The Joint Special Committee on Preservation of Publicly Owned Buildings shall be composed of 11 members: two members of the senate and one citizen member appointed by the lieutenant governor; two members of the house of representatives and one citizen member appointed by the speaker of the house; three additional citizen members appointed by the governor; and two ex officio members, the chairman of the Texas Historical Commission and the chairman of the Texas Antiquities Committee.
Duties: The committee shall study the state's role in preserving publicly owned buildings.

HOUSE CONCURRENT RESOLUTION 98

Author: Schoolcraft
Senate Sponsor: Brooks
Subject: Health care
Committee: The Texas Commission on Health Care Reimbursement Alternatives shall be composed of 18 members: four members of the house of representatives and three public members appointed by the speaker of the house; four members of the senate and three public members appointed by the lieutenant governor; and three additional public members and a chair appointed by the governor.
Duties: The commission shall design a basic health plan for uninsured and underinsured individuals who cannot afford or acquire adequate health insurance.

HOUSE CONCURRENT RESOLUTION 107

Author: Delco
Senate Sponsor: Parker
Subject: Medical, dental, and allied health education system
Committee: The Special Committee on Post-Secondary Medical, Dental, and Allied Health Education shall be composed of eight members: two members of the senate and two members of the general public who are not health care professionals, appointed by the lieutenant governor; and two members of the house of representatives and two members of the general public who are not health care professionals, appointed by the speaker of the house. The chair shall appoint three advisory committees representing the medical, dental, and allied health care professions and designate one member from each committee to serve as the chair of that advisory committee.
Duties: The committee shall study all issues and concerns relating to the medical, dental, and allied health education system.

HOUSE CONCURRENT RESOLUTION 137

Author: Millsap
Senate Sponsor: Blake
Subject: Creation of special joint committees during the interim
Duties: House Concurrent Resolution 137 authorizes the lieutenant governor or the speaker of the house of representatives, or in the event of a vacancy in either presiding office, the chair of the Senate Administration Committee or the chair of the House Administration Committee, to create by mutual agreement special joint committees during the legislative interim.

HOUSE CONCURRENT RESOLUTION 148

Author: Hinojosa
Senate Sponsor: Parmer
Subject: Housing
Committee: The Task Force on Affordable Housing shall be composed of 18 members. The speaker of the house of representatives and lieutenant governor each shall appoint: four members of the legislative house

over which, respectively, they preside; one citizen representing public housing providers; one citizen representing private housing providers; one citizen representing the religious communities; and one citizen representing the poor. The governor shall appoint two citizens who are knowledgeable on issues of affordable housing in Texas.
Duties: The committee shall study the need for affordable housing in Texas.

HOUSE CONCURRENT RESOLUTION 165

Author: McKinney
Senate Sponsor: Brooks
Subject: Administration of state health and human services
Committee: The Special Select Committee on Health and Human Services shall be composed of 12 members: one state representative and three public members appointed by the speaker of the house of representatives; one state senator and three public members appointed by the lieutenant governor; and four public members, including a chair, appointed by the governor. The 10 members appointed from the public sector shall be representative of any of the following groups: health and human services professionals; efficiency experts; individuals representing health and human services consumers; accountants; health and human services providers; or individuals knowledgeable of management issues relating to health and human services policy.
Duties: The committee shall study the state's health and human services programs and review the management of health and human services programs provided by all involved state agencies.

HOUSE CONCURRENT RESOLUTION 189

Author: Williamson
Senate Sponsor: Sims
Subject: Financing of capital construction projects
Committee: The Select Interim Committee on Capital Construction shall be composed of the governor, serving as ex officio chair; the lieutenant governor and speaker of the house of representatives, serving as ex officio co-vice-chairs; the chair of the House Committee on State Affairs; the chair of the Senate Committee on State Affairs; five members appointed by the governor; four members appointed by the lieutenant governor; four members appointed by the speaker of the house of representatives; and the chairman of the Texas Public Building Authority.
Duties: The committee shall study the financing of public capital facilities, including an assessment of infrastructure needs, a review and evaluation of current procedures and construction priorities, and recommendations for improving the existing funding mechanisms.

HOUSE CONCURRENT RESOLUTION 213

Author: A. Smith
Senate Sponsor: Brooks
Subject: Long-term health care
Committee: The Special Task Force on the Future of Long-Term Health Care shall be composed of 12 members: three members of the house of representatives appointed by the speaker of the house; three members of the senate appointed by the lieutenant governor; and six members, appointed jointly by the speaker and lieutenant governor, representing the interests of the nursing home industry, consumers, the general public, and physicians.
Duties: The task force shall study the current and future status of long-term health care and analyze all laws and regulations relating to this issue.

APPENDIX C

SENATE CONCURRENT RESOLUTION 26

Author: Jones

House Sponsor: Ceverha
Subject: Oil overcharge funds
Committee: The Oil Overcharge Committee, which was created and functioned during the regular session, consisted of three members of the house of representatives appointed by the speaker of the house and three members of the senate appointed by the lieutenant governor.
Duties: The committee was directed to conduct a series of public hearings and study the distribution of Texas oil overcharge funds resulting from litigation on the overpricing of crude oil and refined petroleum products. The committee, which was scheduled to expire on March 31, 1987, was extended by S.C.R. 77 for such time as necessary to report its recommendations to the 70th Legislature.

SENATE CONCURRENT RESOLUTION 48

Author: Krier
House Sponsor: Colbert
Subject: Literacy
Committee: The Texas Literacy Council is composed of 17 members: two senators and two public members appointed by the lieutenant governor; two state representatives and two public members appointed by the speaker of the house of representatives; and nine members appointed by the governor.
Duties: The council advises the governor, the State Job Training Coordinating Council, the State Board of Education, and the Texas Higher Education Coordinating Board with respect to literacy programs.

SENATE CONCURRENT RESOLUTION 50

Author: Barrientos
House Sponsor: Guerrero
Subject: High school dropouts
Committee: The Joint Special Committee on High School Dropouts shall be composed of 10 members: five members of the senate appointed by the lieutenant governor and five members of the house of representatives appointed by the speaker of the house.
Duties: The committee is established to study the problem of high school dropouts in Texas.

SENATE CONCURRENT RESOLUTION 87

Author: Brooks
House Sponsor: Wilson
Subject: Human services contracting by state government
Committee: The Committee on Texas Department of Human Services Audit Sampling Methodology is composed of six members: a chair appointed by the lieutenant governor and two other members appointed by the speaker of the house of representatives, each of whom shall be a statistician from a Texas college or university with expertise in sampling methodology; a representative of a health care industry that is subject to audit by the Texas Department of Human Services, appointed by the speaker; the commissioner of human services or a designee from the department; and the state auditor or a designee from the auditor's office.
Duties: The committee is assigned to develop and recommend a statistically appropriate methodology for sampling and extrapolation to be used by the Texas Department of Human Services in auditing contract vendors. The committee is directed to submit a report of findings and recommendations by December 1, 1988.

SENATE CONCURRENT RESOLUTION 105

Author: Blake
House Sponsor: Millsap
Subject: Centennial of the Capitol
Committee: The Capitol Centennial Committee has nine members, three each appointed by the governor, lieutenant governor, and speaker of the house.

Duties: The committee is directed to plan the events celebrating the centennial of the dedication of the Capitol.

SENATE CONCURRENT RESOLUTION 122

Author: Parker
House Sponsor: C. Evans
Subject: Security for judicial judgments
Committee: The Joint Special Committee on Security for Judgments shall be composed of five members of the senate appointed by the lieutenant governor and five members of the house of representatives appointed by the speaker of the house.
Duties: The committee shall undertake a joint study of Texas law and procedure relating to security for judgments, including clarification of the courts' discretion in determining the amount of bond, the relation of the right to post bond to the right to obtain abstracts of judgments and full judgment liens, and the advisability of establishing a maximum level of bond.

SENATE CONCURRENT RESOLUTION 123

Author: Washington
House Sponsor: Cooper
Subject: Services for the disabled
Committee: The Transition Services Task Force shall consist of one member appointed by the governor, one senator appointed by the lieutenant governor, and one state representative appointed by the speaker of the house of representatives, and in addition shall include broad-based participation by the parents of children with disabilities, self-advocates, disability consumer organizations, and advocacy organizations.
Duties: The committee shall assess the effectiveness of existing services to the disabled and recommend a model or models for the delivery of such services.

HOUSE CONCURRENT RESOLUTION 17 (2nd Called Session)

Author: Toomey
Senate Sponsor: Caperton
Subject: Spousal rights in state pension plans
Committee: Senate Jurisprudence Committee & House Committee on Judiciary
Duties: The committees are directed to study jointly Texas law and procedure relating to the preparation of a uniform law providing for direct payment of pension benefits to certain qualified nonemployee spouses patterned after the Retirement Equity Act of 1984.

HOUSE CONCURRENT RESOLUTION 18 (2nd Called Session)

Author: Toomey
Senate Sponsor: Caperton
Subject: Collection of child support
Committee: Senate Jurisprudence Committee and House Committee on Judiciary
Duties: The committees are directed to study jointly certain matters relating to child support laws and procedures.

HOUSE CONCURRENT RESOLUTION 19 (2nd Called Session)

Author: C. Evans
Senate Sponsor: McFarland
Subject: Efficiency of state government operations
Committee: The Select Committee on State Government Management Effectiveness is composed of the governor, lieutenant governor, speaker of the house, chair of the House Committee on State Affairs, chair of the Senate Committee on State Affairs, five members appointed by the governor, four members appointed by the lieutenant governor, and four members appointed by the speaker of the house. The governor is ex officio chair of the committee, but he may designate an acting chair from among the members.

Duties: The committee is directed to study the effective management of state government operations, in particular identifying opportunities for better use of available state funds by eliminating waste and reducing or avoiding costs.

HOUSE CONCURRENT RESOLUTION 20 (2nd Called Session)

Author: Hury
Senate Sponsor: Tejeda
Subject: Judicial reform
Committee: The Joint Select Committee on the Judiciary is composed of 15 members: five members of the senate, appointed by the lieutenant governor; five members of the house of representatives, appointed by the speaker of the house; and five citizen members, appointed by the governor. The lieutenant governor and speaker jointly designate the chair and vice-chair.
Duties: The committee is established to study all issues relating to needed changes affecting the state's judiciary and judicial branch operations. The study is to include the issues of judicial selection, campaign finance, ethics, compensation, and salary.

HOUSE CONCURRENT RESOLUTION 27 (2nd Called Session)

Author: R. Smith
Senate Sponsor: Farabee
Subject: Workers' compensation
Committee: The Joint Select Committee on Workers' Compensation Insurance is composed of 10 members: five members of the senate appointed by the lieutenant governor and five members of the house of representatives appointed by the speaker. The speaker and lieutenant governor each designate a cochair. Provision is also made for appointment of a six-member advisory panel by the cochairs.
Duties: The committee is directed to conduct a detailed study of the workers' compensation system in Texas, the impact of the system on employees and employers, and how other states have addressed the problems that Texas now faces.

SENATE CONCURRENT RESOLUTION 24 (2nd Called Session)

Author: Brooks
House Sponsor: Hury
Subject: Texas Heroes Monument in Galveston
Committee: The Texas Heroes Monument Commission is composed of six members: two members each appointed by the governor, the lieutenant governor, and the speaker of the house.
Duties: The commission is to direct an effort to restore the Texas Heroes Monument, including improving accessibility to the monument.

SENATE CONCURRENT RESOLUTION 25 (2nd Called Session)

Author: Brooks
House Sponsor: McKinney
Subject: Rural health care
Committee: The Special Task Force on Rural Health Care Delivery in Texas is composed of nine members: three public members appointed by the governor; two senators and one public member appointed by the lieutenant governor; and two state representatives and one public member appointed by the speaker. The governor designates the chair. The task force is authorized to appoint four advisory groups to assist it with specific issues.
Duties: The task force is directed to define minimal desired medical care for rural counties and communities and identify the resources available or needed to provide a voluntary plan to meet the needs of Texas counties.

House or Senate Committees

HOUSE RESOLUTION 105

Author: L. Evans
Subject: Use of unemployment benefits for new businesses
Committee: House Committee on Labor and Employment Relations
Duties: The committee shall study the feasibility of permitting unemployed workers to use unemployment benefits in setting up new business ventures.

HOUSE RESOLUTION 143

Author: Melton
Subject: Teenage suicide
Committee: The House Select Committee on Teenage Suicide shall be composed of five members of the house of representatives appointed by the speaker of the house.
Duties: The committee shall study the problem of teenage suicides.

HOUSE RESOLUTION 373

Author: L. Evans
Subject: Rural agricultural enterprise zones
Committee: House Committee on Agriculture and Livestock
Duties: The committee shall study the feasibility of creating rural or agricultural enterprise zones in Texas.

HOUSE RESOLUTION 491

Author: Barton
Subject: Areawide waste treatment
Committee: The House Special Committee on Areawide Waste Treatment shall be composed of five members of the house of representatives appointed by the speaker of the house.
Duties: The committee shall study those special districts and authorities that are authorized by state law to manage and control waste disposal within their jurisdictions, including an assessment of the desirability of periodic sunset review of those entities.

HOUSE RESOLUTION 504

Author: L. Evans
Subject: Jury pools
Committee: House Committee on Judiciary
Duties: The committee shall study the feasibility of developing a computer system within the office of the secretary of state to facilitate the expansion of jury pools by merging voter registration and driver's license lists.

HOUSE RESOLUTION 538

Author: Hammond
Subject: Investment of public funds
Committee: House Committee on Financial Institutions
Duties: The committee shall study the need to clarify and consolidate existing statutes governing the investment of public funds by local and regional governmental entities. The committee also shall study the advisability of expanding the investment options of local governments and institutions of higher education.

HOUSE RESOLUTION 620

Author: Harrison
Subject: Security interests in farm products
Committee: The House Special Committee on Security Interests in Farm Products shall consist of nine members appointed by the speaker of the house of representatives including two members of the House

Committee on Agriculture and Livestock, one member of the House Committee on Financial Institutions, one member representing the banking industry, one member representing livestock marketing interests, one member representing grain elevator operators, one member representing agricultural banks, and two members representing agricultural organizations.
Duties: The committee shall study security interests in farm products and determine appropriate statutory means for providing protection to purchasers of farm products from secured creditors of the seller.

SENATE RESOLUTION 210

Author: Brown
Subject: Space industry
Committee: The Space Science Industry Commission shall consist of 12 members, including two senators, appointed by the lieutenant governor.
Duties: The commission is assigned to assess factors influencing the space science industry, evaluate its growth potential, and recommend ways to support existing facilities within the industry and to attract new ones.

SENATE RESOLUTION 256

Author: Santiesteban
Subject: Municipal Utility Districts
Committee: The Senate Special Committee on Municipal Utility Districts shall be composed of three senators appointed by the lieutenant governor.
Duties: The committee is directed to study the potential for defaults among county municipal utility districts.

SENATE RESOLUTION 291

Author: Truan
Subject: Release of toxic substances
Committee: Senate Subcommittee on Health Services
Duties: The subcommittee is directed to conduct hearings to determine ways and means to insure timely notification of persons who may be affected by uncontrolled releases of life-threatening toxic materials.

SENATE RESOLUTION 571

Author: Sarpalius
Subject: Transportation and disposal of high-level nuclear waste
Committee: The Senate Select Committee on High-Level Nuclear Waste shall be composed of 12 members, including six members of the senate and six public members, appointed by the lieutenant governor.
Duties: The committee shall study issues relating to the potential transportation of high-level nuclear waste within this state, including all matters of relevance to the State of Texas arising from the federal program for high-level radioactive waste disposal established by the federal Nuclear Waste Policy Act of 1982.

SENATE RESOLUTION 572

Author: Sarpalius
Subject: Juvenile justice
Committee: The Senate Select Committee on the Juvenile Justice System shall be composed of 12 members, including six senators and six citizens knowledgeable about the state's juvenile probation system, appointed by the lieutenant governor.
Duties: The committee shall study the state's juvenile justice system with an emphasis on improved coordination between state and local services.

SENATE RESOLUTION 624

Author: Brown
Subject: Abandoned offshore oil and gas rigs
Committee: Senate Committee on Natural Resources

Duties: The committee shall study various uses for abandoned offshore oil and gas rigs including consideration of a statewide artificial reef plan.

SENATE RESOLUTION 643

Author: Farabee
Subject: Surrogacy contracts
Committee: Senate Committee on State Affairs
Duties: The committee shall study the legal and ethical aspects of the issue of surrogacy contracts and determine the advisability of amending Texas law as it relates to this issue.

SENATE RESOLUTION 648

Author: Sarpalius
Subject: Agribusiness issues
Committee: The Subcommittee on Agriculture of the Senate Committee on Natural Resources is augmented for purposes of the resolution by five public members appointed by the lieutenant governor.
Duties: The subcommittee shall study means to enhance the economic vitality of the state's natural fiber and meat packing industries.

SENATE RESOLUTION 657

Author: Sarpalius
Subject: Certification of animal reproduction technicians
Committee: Subcommittee on Agriculture of the Senate Committee on Natural Resources
Duties: The subcommittee shall study the certification of animal reproduction technicians.

SENATE RESOLUTION 109 (2nd Called Session)

Author: Brooks
Subject: Waste management
Committee: The Task Force on Waste Management Policy is composed of 12 members: the chair of the Senate Committee on Health and Human Services and two other senators appointed by the lieutenant governor; three public members appointed by the lieutenant governor; three public members appointed by the governor; the chairman of the Texas Air Control Board or his designee; the chairman of the Texas Water Commission or his designee; and the chairman of the Texas Department of Health or his designee. The chair of the Senate Committee on Health and Human Services serves as chair of the task force.
Duties: The task force is to study all aspects and issues relating to the management of all waste products by local, state, and federal governments. The study is to include an assessment of the scope and consistency of state and federal regulations pertaining to waste management; generation and transportation of various wastes; selection, approval, and regulation of treatment and storage facilities; projected demand for new facilities; and adequacy of existing technology to safely dispose of various waste products, including the use of waste to generate energy.

SENATE RESOLUTION 124 (2nd Called Session)

Author: Truan
Subject: University systems components in South Texas
Committee: A select committee is created composed of 10 voting members: five members of the senate appointed by the lieutenant governor and five citizen members appointed by the governor from among the residents of certain counties. The committee also includes nine nonvoting ex officio members representing certain universities and university systems.
Duties: The committee is directed to study the establishment of a component or components of The University of Texas System and The Texas A&M University System in South Texas, including the issue of where such components should be located.

APPENDIX C

SENATE RESOLUTION 127 (2nd Called Session)

Author: Brooks

Subject: Intermediate Care Facilities for the Mentally Retarded Program (ICF-MR)
Committee: Senate Committee on Health and Human Services
Duties: The committee is directed to monitor the development of the joint long-range plan for services to persons with developmental disabilities; identify problems relating to the ICF-MR survey process, reimbursement rates, availability of services, and the effects of the prospective payment program; examine the feasibility of consolidating public-funded health care services for children; and determine the needs of medically fragile, chronically ill children and their families.

SENATE RESOLUTION 139 (2nd Called Session)

Author: Zaffirini
Subject: Mental and developmental disabilities
Committee: A special senate committee is created that is composed of five senators appointed by the lieutenant governor.
Duties: The committee is directed to study the prevention of mental and developmental disabilities and develop a comprehensive plan for prevention. The study is to include a review of other state programs and an evaluation of establishing an office of prevention of mental and developmental disabilities in Texas.

SENATE RESOLUTION 141 (2nd Called Session)

Author: Washington
Subject: Prison industries
Committee: Senate Criminal Justice Committee
Duties: The committee is directed to study the prison industries program operated by the Texas Department of Corrections.

II. LEGISLATION AUTHORIZING INTERIM STUDIES BY EXECUTIVE AGENCIES OR STATUTORY COMMITTEES

HOUSE BILL 2

Author: Schlueter
Senate Sponsor: Jones
Subject: Taxation
Committee: The Select Committee on Tax Equity shall be composed of 13 members: four public members appointed by the governor; two members of the senate and two public members appointed by the lieutenant governor; two members of the house of representatives and two public members appointed by the speaker; and the comptroller of public accounts.
Duties: The committee, a four-year panel that expires September 1, 1991, shall conduct studies and make findings regarding the burden of state and local taxation borne by various segments of the state's economy and by various categories of individual taxpayers.

HOUSE BILL 3

Author: Hackney
Senate Sponsor: Glasgow
Subject: State economic development planning
Agency: The Texas Strategic Economic Policy Commission consists of the governor, the lieutenant governor, the speaker of the house, members of the board of the Texas Department of Commerce, three persons appointed by the governor, three persons appointed by the lieutenant governor, and three persons appointed by the speaker of the house. The governor serves as chairman of the commission. The commission expires on June 1, 1989.
Duties: The commission's primary duty is the development of a comprehensive, long-range strategic plan for diversifying and developing the economy of the state. The commission is directed to submit the plan to the legislature before January 1, 1989.

HOUSE BILL 4 (Section 12)

Author: A. Smith
Senate Sponsor: Glasgow
Subject: State permits required for business enterprises
Agency: Texas Department of Commerce
Duties: The department is directed to conduct an analysis and report to the 71st Legislature on the effectiveness of a comprehensive application procedure to expedite the identification and processing of permits.

HOUSE BILL 173 (Section 5)

Author: Blackwood
Senate Sponsor: Zaffirini
Subject: Inhalant abuse
Committee: The Special Inhalant Abuse Committee consists of six members, three appointed by the lieutenant governor and three appointed by the speaker of the house.
Duties: The committee is directed to monitor and evaluate the effect of H.B. 173 in curbing the problem of inhalant abuse and to report its findings and recommendations to the 71st Legislature not later than February 15, 1989.

APPENDIX C

HOUSE BILL 500 (Section 2)

Author: S. Hudson

Senate Sponsor: Johnson
Subject: Pilot day-care/prekindergarten program
Agencies: Texas Department of Human Services and Central Education Agency
Duties: The two agencies are directed to design a pilot day-care/prekindergarten program. The details of the proposed pilot program are to be presented to the 71st Legislature for implementation during the school year beginning September 1990.

HOUSE BILL 538 (Section 4)

Author: Richardson
Senate Sponsor: Sims
Subject: Missing child prevention and identification
Agency: Central Education Agency
Duties: The agency is directed to establish on a pilot program basis in selected school districts a missing child prevention and identification program. By January 31, 1989, the agency shall submit to the 71st Legislature a report that includes an evaluation of the effectiveness of the program implemented in the selected districts and a recommendation concerning the implementation and content of voluntary programs in school districts.

HOUSE BILL 1050 (Section 4)

Author: C. Evans
Senate Sponsor: Parker
Subject: Gifted and talented students
Agency: State Board of Education
Duties: The board is directed to review the statutory limit on the number of students for which a school district may receive funding under the gifted and talented student allotment. The board is to make a report to the 71st Legislature with recommendations concerning the elimination or modification of the limit.

HOUSE BILL 1154 (Section 3)

Author: Madla
Senate Sponsor: Brooks
Subject: Support services for mentally or developmentally disabled persons
Agencies: Texas Department of Mental Health and Mental Retardation and Texas Department of Human Services
Duties: Each department shall submit to the 71st Legislature a report for the fiscal year ending August 31, 1988, detailing certain information about current support services and including recommendations for improvement of services.

HOUSE BILL 1785

Author: Williamson
Senate Sponsor: Jones
Subject: Uniform statewide accounting system
Committee: The Uniform Statewide Accounting System Committee consists of the comptroller of public accounts, who serves as chair, the governor, the lieutenant governor, the speaker of the house, the treasurer, the state auditor, and a representative of the Texas Higher Education Coordinating Board. A member of the committee may designate another person to serve in his place.
Duties: The committee is directed to perform a study and cost-benefit analysis and prepare a comprehensive plan for the development of a pilot program and for the preliminary implementation of an automated uniform accounting system for all state agencies, including institutions of higher education. The committee shall develop a plan for the system no later than August 31, 1988, and shall present the plan for the system and its implementation to the 71st Legislature by January 1, 1989.

HOUSE CONCURRENT RESOLUTION 84

Author: Grusendorf
Senate Sponsor: Krier
Subject: Public school textbook adoption
Agency: State Board of Education
Duties: The board is requested to study the feasibility of an eight-year cycle for the adoption of textbooks in certain subject areas.

HOUSE CONCURRENT RESOLUTION 202

Author: McDonald
Senate Sponsor: Brooks
Subject: Nursing home care
Agency: Long-Term Care Coordinating Council for the Elderly
Duties: The council is directed to study the needs of Texas nursing home residents and to identify methods of assuring that these needs are met as effectively and efficiently as possible.

HOUSE RESOLUTION 733

Author: Earley
Subject: Telecommunications
Committee: The Advisory Committee on Extended Area Service, to be established by the Public Utility Commission of Texas, shall be composed of 12 members. The commission shall appoint four representatives of local telephone companies, two from companies with more than 500,000 access lines in the state and two with less than that number; three representatives of communities that have petitioned the commission for extended area service; and three public members, including one from or representing the larger consumer community. The speaker of the house of representatives shall appoint two members of the house.
Duties: The advisory committee shall advise the commission on its procedures for approving requests for extended area telecommunications services.

SENATE BILL 245 (Section 45)

Author: McFarland
House Sponsor: Granoff
Subject: TDC inmates with special needs
Agency: Texas Department of Corrections
Duties: The department is directed to coordinate research and prepare a report identifying inmates with special needs and considering the feasibility of transferring those inmates from department facilities to more appropriate facilities outside the department. Certain state agencies are directed to assist the department. The report must be submitted to the 71st Legislature on or before the date that the regular session convenes.

SENATE BILL 257 (Section 2.14)

Author: Farabee
House Sponsor: Gibson
Subject: Services to persons with developmental disabilities
Agencies: Texas Department of Mental Health and Mental Retardation and Texas Department of Human Services
Duties: The departments are directed to develop a joint long-range plan for services to persons with developmental disabilities, including mental retardation. The boards of each department, after reviewing and approving the plan, shall present it to the 71st Legislature not later than February 1, 1989.

APPENDIX C

SENATE BILL 257 (Section 2.17)

Author: Farabee
House Sponsor: Gibson
Subject: Fee schedule, MHMR services
Agency: Fee Advisory Committee, Texas Department of Mental Health and Mental Retardation
Duties: The committee shall assist the department in developing an equitable schedule and conduct a study of the impact of the fee schedule. The committee shall submit a report on the impact to the 71st Legislature.

SENATE BILL 257 (Section 2.18)

Author: Farabee
House Sponsor: Gibson
Subject: Treatment of abused children
Agencies: Texas Department of Mental Health and Mental Retardation and Texas Department of Human Services
Duties: The departments shall conduct a joint study of current methods for treating abused children, the effectiveness of each method, and the feasibility of using the methods in this state. The study is to consider fiscal impact and necessary statutory changes. The findings are to be submitted to the appropriate committees of the house and senate by January 1, 1989.

SENATE BILL 257 (Section 6.01)

Author: Farabee
House Sponsor: Gibson
Subject: Local mental health authorities
Agency: Single Portal Review Committee, Texas Department of Mental Health and Mental Retardation
Duties: The committee shall prepare a report for the 71st Legislature on improving the process of designating local mental health authorities as single portal authorities. The Texas Board of Mental Health and Mental Retardation shall forward the report to the appropriate committees of the house and senate by February 1, 1989.

SENATE BILL 257 (Article 8)

Author: Farabee
House Sponsor: Gibson
Subject: Genetic services
Agency: Interagency Council for Genetic Services
Duties: By February 1, 1989, the council shall submit a report to the 71st Legislature recommending improvements to the present system of providing genetic services. The report must detail any actions taken by the council to improve services and may include recommendations to improve council operations.

SENATE BILL 257 (Article 10)

Author: Farabee
House Sponsor: Gibson
Subject: Alcohol and substance abuse services
Committee: The Alcohol and Substance Abuse Services Oversight Committee consists of nine members: three members of the senate, appointed by the lieutenant governor; three members of the house of representatives, appointed by the speaker of the house; and three members appointed by the governor. The governor selects from among the appointees the chair and vice-chair.
Duties: The committee is directed to evaluate the system established by the Alcohol and Substance Abuse Services Oversight Act and the general alcohol and substance abuse services system in the state. The committee must submit a report on the evaluation, with recommendations for any changes, to the legislature by February 1, 1989.

SENATE BILL 298 (Section 1.11)

Author: Edwards
House Sponsor: Vowell
Subject: State services to disabled persons
Agency: Advisory Committee for Services to Aged and Disabled Persons, Texas Department of Human Services
Duties: The advisory committee is to examine and review issues related to the delivery of departmental services to disabled persons. The committee shall submit a copy of its report to the Texas Health and Human Services Coordinating Council and to the appropriate committees of the 71st Legislature by February 1, 1989.

SENATE BILL 298 (Section 1.16)

Author: Edwards
House Sponsor: Vowell
Subject: State services to disabled persons
Agency: Council on Disabilities
Duties: The council is directed to review the services currently available to disabled persons and develop recommendations relating to the duties of the Texas Department of Human Services in providing state services to disabled persons. A report of findings and recommendations must be submitted to the 71st Legislature by February 1, 1989.

SENATE BILL 298 (Section 3.05)

Author: Edwards
House Sponsor: Vowell
Subject: Children and youth services
Agency: Texas Health and Human Services Coordinating Council
Duties: The council is directed to study the costs and benefits of combining services to children and youth in the state. The study shall focus on the possibility of creating a single children and youth services agency to provide coordinated services. The council shall also study alternative means of financing contract residential care for children and youth. The council is to submit a report by February 1, 1989, to the governor and the 71st Legislature.

SENATE CONCURRENT RESOLUTION 49

Author: Parker
House Sponsor: Delco
Subject: Faculty compensation at public institutions of higher education
Agency: Texas Higher Education Coordinating Board
Duties: The board shall study faculty compensation packages at peer institutions across the nation and gather data to use as a basis for a comparable faculty compensation package in Texas.

SENATE CONCURRENT RESOLUTION 55

Author: Parker
House Sponsor: Delco
Subject: General funding policies at institutions of higher education
Agency: Texas Higher Education Coordinating Board
Duties: The board shall make a comprehensive study of general funding policies at institutions of higher education, with particular emphasis on recommendations made by the Select Committee on Higher Education.

APPENDIX C

SENATE CONCURRENT RESOLUTION 101

Author: Brooks
House Sponsor: McDonald
Subject: Services to the elderly
Agency: Texas Department on Aging
Duties: The department shall prepare an analysis and report on the effectiveness of certain state-funded programs for the elderly.

HOUSE BILL 21 (2nd Called Session) (Section 4)

Author: Kuempel
Senate Sponsor: Farabee
Subject: State employee retirement annuities
Agency: Board of Trustees, Employees Retirement System of Texas
Duties: If the board cannot adopt a rule as prescribed by the act, it shall prepare recommendations for the 71st Legislature regarding what may be required to set the value of the first 10 years of a system member's service credit in the employee class at 1.8 percent. The report shall be submitted to the lieutenant governor and speaker of the house before the convening of the 71st Legislature.

HOUSE BILL 167 (2nd Called Session) (Section 14)

Author: C. Harris
Senate Sponsor: Farabee
Subject: Child support
Agencies: State Bureau of Vital Statistics, Office of Attorney General, and the clerks of certain courts
Duties: These entities are directed to recommend a form for the expanded reporting of information relating to divorces and annulments of marriage to the 71st Legislature. They are to consider including in the form the amount of periodic child support ordered, if any, the frequency with which the obligation is made, and other information needed by the state for the effective enforcement of child support orders. Any recommendations shall also include a statement of fiscal impact on state and local governments.

HOUSE BILL 173 (2nd Called Session) (Section 5)

Author: Haley
Senate Sponsor: Parker
Subject: Teacher career ladder
Agency: State Board of Education
Duties: The board shall conduct a study to determine the most effective means of implementing career ladder level assignments that are made on the basis of student achievement in addition to other bases required by law. The board shall report the results of the study to the 71st Legislature not later than January 1, 1989.

SENATE BILL 62 (2nd Called Session) (Section 6)

Author: Zaffirini
House Sponsor: Agnich
Subject: Radioactive wastes
Agency: Texas Low-Level Radioactive Waste Disposal Authority
Duties: At least 60 days before the regular session of the 71st Legislature convenes, the authority shall submit to the appropriate legislative committees a report on the volumes and types of radioactive wastes generated by the decommissioning of nuclear power reactors.

APPENDIX D
LEGISLATIVE POLICY RESOLUTIONS

70th Legislature, Regular Session

House Concurrent Resolution 17, requesting the State of Texas to take all necessary actions to facilitate the successful hosting of the 1988 Democratic National Convention (Wallace; Brooks).

House Concurrent Resolution 32, endorsing the proposed settlement agreement regarding purchase of electricity for state-owned office buildings in Austin (Stiles; Barrientos).

House Concurrent Resolution 52, directing the Board of Pardons and Paroles to accelerate the rate of expenditure of special community services funds so that an additional 500 openings are available in halfway houses as soon as possible (Ceverha; McFarland).

House Concurrent Resolution 64, inviting the Province of Taiwan to join with Texas in a sister state relationship (C. Evans; Brooks).

House Concurrent Resolution 75, designating the Lightning Whelk as the State Shell of Texas (Willy; Brown).

House Concurrent Resolution 99, recognizing the need to provide funding so that the income level for Medicaid nursing home care can be raised to the allowable level (Kuempel; Brooks).

House Concurrent Resolution 100, encouraging all counties to make every effort to provide their fair share of funding in support of local juvenile probation services (Ceverha; McFarland).

House Concurrent Resolution 102, endorsing the establishment of the Texas Commission on the Bicentennial of the U.S. Constitution and supporting the commission's enhancement of state and local participation in the observance of the 200th anniversary of the United States Constitution (Givens; Krier).

House Concurrent Resolution 106, adopting the Texas Charter for Public Higher Education as state policy for allocating public resources for higher education (G. Lewis; Parker).

House Concurrent Resolution 149, urging the Coordinating Board, Texas College and University System, to actively monitor institutional compliance with the provisions of the Equal Educational Opportunity Plan for Higher Education and to ensure that any standards set for recommended incentive funding are consistent with the goals of the plan (Delco; Parker).

House Concurrent Resolution 152, directing the Texas Department of Health to take certain actions in responding to the unique health needs of Mexican Americans with respect to diabetes (McDonald; Santiesteban).

House Concurrent Resolution 167, requesting the governor to create a Christopher Columbus Quincentenary Jubilee Commission (Lucio; Brooks).

House Concurrent Resolution 168, directing the Central Education Agency to develop a program for the prevention of youth suicide (Collazo; Zaffirini).

House Concurrent Resolution 172, authorizing the burial of Albert Boyce Harrell in the state cemetery (Saunders; Armbrister).

House Concurrent Resolution 176, requesting the Federal Regulatory Commission to approve and support the Mojave pipeline project (Hackney; Whitmire).

House Concurrent Resolution 177, requesting convenience stores not to sell cigarette papers without loose tobacco (Edwards; Zaffirini).

House Resolution 26, urging the U.S. Secretary of Commerce to expedite the issuance of a special temporary import license for Lone Star Steel Company (Russell).

House Resolution 68, adopting a mission statement for the State of Texas, emphasizing scientific and technological resources (A. Luna).

House Resolution 253, requesting presidents of state-supported universities to take action to eliminate the use of illegal drugs on college campuses and directing the Coordinating Board, Texas College and University System, to draw up procedural guidelines to guarantee students' rights to due process prior to disciplinary action (Hammond).

House Resolution 348, mandating all state agencies involved with the shrimping industry to help develop a program for saving sea turtles (Collazo).

House Resolution 535, urging the State Board of Education to require inclusion of concepts of civic literacy in the secondary exit level assessment instrument (Waterfield).

Senate Concurrent Resolution 22, authorizing the Texas Board of Health to establish an Organ Information Office; directing the department to prepare and distribute related educational materials and to facilitate educational programs (Farabee; McDonald).

Senate Concurrent Resolution 23, requesting the governor to declare a livestock disaster when necessary; directing the Texas Animal Health Commission to assess the magnitude of a livestock disaster; authorizing the commission to quarantine certain animals; urging the governor to appoint a task force charged with developing a contingency plan; providing that expenses for a livestock disaster response be reimbursed through donations (Sarpalius; C. Johnson).

Senate Concurrent Resolution 31, urging the public and private sectors of Texas to review the report of the Latchkey Task Force (Brooks; Barton).

Senate Concurrent Resolution 42, requesting the State Preservation Board to erect a monument honoring Texans who participated in the defense of Pearl Harbor (Caperton; Kubiak).

Senate Concurrent Resolution 57, designating the Texas Maritime Museum in Aransas County as the official state maritime museum (Armbrister; Roberts).

Senate Concurrent Resolution 58, directing the Texas Department of Human Services, Central Education Agency, Texas Department of Mental Health and Mental Retardation, Texas Rehabilitation Commission, Texas Department of Health, and Texas Commission for the Blind to develop a plan for services to children with disabilities under the managing conservatorship of the Texas Department of Human Services; specifying the content of the plan; requiring these agencies to consult with advocacy and consumer groups (Barrientos; Cooper).

Senate Concurrent Resolution 66, expressing support for the continuation of programs that provide health-care and personal-care services for elderly Texans in home and community settings (Brooks; McKinney).

Senate Concurrent Resolution 68, establishing the Division of Oversight for Mental Health Services under the office of the governor or his designee (Farabee; Madla).

Senate Concurrent Resolution 75, recognizing Alzheimer's disease as a physical disease rather than a mental disorder and encouraging health service providers and reimbursement sources to do likewise (Brooks; Eckels).

Senate Concurrent Resolution 76, encouraging the development of educational programs regarding Alzheimer's disease and related disorders (Brooks; Hury).

Senate Concurrent Resolution 79, encouraging state agencies to develop fitness programs for their employees (Truan; Glossbrenner).

Senate Concurrent Resolution 81, directing the Central Education Agency to encourage the provision of programs for students with disabilities in integrated settings (Barrientos; Glossbrenner).

Senate Concurrent Resolution 85, encouraging the legal, banking, and insurance communities to provide public information on the value of estate planning for victims of Alzheimer's disease (Brooks; Finnell).

Senate Concurrent Resolution 88, directing the Texas Department of Human Services to monitor the new single administrative law judge appeal process (Brooks; Wilson).

Senate Concurrent Resolution 89, directing the Texas Department of Human Services to implement certain recommendations regarding training in its audit of programs (Brooks; Wilson).

Senate Concurrent Resolution 90, requesting the Texas Department of Human Services to implement certain recommendations regarding its program audit procedures (Brooks; Wilson).

Senate Concurrent Resolution 91, authorizing the State Department of Highways and Public Transportation to expend certain funds to add a visitors center at McDonald Observatory (Sims; Shaw).

Senate Concurrent Resolution 96, declaring the intent of the 70th Legislature that the State Purchasing and General Services Commission develop recommendations for building use charges for state agencies located in state-owned buildings; that appropriate budget agencies consider these recommendations and incorporate some form of building use charges when developing their proposed budgets for the 71st Legislature (Leedom; Shaw).

Senate Concurrent Resolution 117, directing the Central Education Agency to provide clarification to school districts regarding excused absences of students and physician verification of illness; directing the Senate Committee on Health and Human Services, the Senate Committee on Education, and the House Committee on Education to monitor the implementation of the resolution; directing the Central Education Agency to make a report to these agencies (Brooks; Colbert).

Senate Concurrent Resolution 135, requesting the cooperation of the Texas Department of Mental Health and Mental Retardation, the Central Education Agency, and the Texas Rehabilitation Commission in implementing an interagency agreement to improve coordination of their services to persons with disabilities (Brooks; Barton).

Senate Concurrent Resolution 136, directing the State Board of Insurance to clarify the requirements of the law relating to provision of insurance coverage for certain psychiatric treatment and to assist consumers and providers of the applicable services with complaints about unfairly denied coverage for psychiatric day services (Brooks; Patronella).

Senate Resolution 46, adopting a mission statement for the State of Texas emphasizing scientific and technological resources (Edwards).

Senate Resolution 261, mandating all state agencies involved with the shrimping industry to work with industry officials in developing a comprehensive program for saving sea turtles (Parker).

Senate Resolution 718, endorsing the passage of legislation in the 1st called session that tracks the content of HB 1985 of the regular session (Truan).

70th Legislature, 2nd Called Session

House Concurrent Resolution 11, extending the period of authorization to fly the official POW/MIA flag on the Capitol grounds until May 31, 1989 (Melton; Blake).

House Concurrent Resolution 14, reaffirming the adoption of "Texas, Our Texas" as the state song (D. Hudson; Blake).

House Concurrent Resolution 36, inviting Sematech to locate facilities in Texas (Richardson; Krier).

House Concurrent Resolution 64, directing the Capitol Committee, Inc., to modify implementation of the "Walk in History" restoration project (C. Evans; McFarland).

House Resolution 110, designating the Museum of African-American Life and Culture as the state's official repository for Black Texana (S. Hudson).

Senate Resolution 64, designating the Museum of African-American Life and Culture as the state's official repository for Black Texana (Johnson).

NOTE: The first name in parentheses designates the author of the resolution. The second name designates the sponsor of the resolution in the other house.

APPENDIX E

STATE AGENCIES AND ADVISORY BOARDS, ABOLISHED AND CREATED

Bill numbers refer to the 1987 regular session, except for those bills listed separately at the end of the table. A list of state agency abbreviations follows the tables. Codes for the second column are as follows:

X	Abolished
C	Created
V	Created if voters approve constitutional amendment
RX	Replaced by a new agency or advisory board
RC	Replaces a previous agency or advisory board
T	Termination date change, other than 12-year sunset extension
*	Appointment authorized, at discretion of agency or state official

Bill	Change	Agency	Termination Sunset	Termination Other
HB2	C	Select Committee on Tax Equity		1991
HB3	C	Texas Strategic Economic Policy Commission		1989
HB4	RC	Texas Department of Commerce	1999	
	RX	Texas Economic Development Commission		
	RX	Texas World Trade Development Authority		
	RX	Texas World Trade Council		
	RX	Enterprise Zone Board		
	RX	Technology Training Board		
	RX	Texas Tourist Development Agency		
	RX	Texas Music Commission		
HB36	C	Advisory Committee on Asbestos Removal		
HB83	C	Advisory Committee on Probation Department Management		
HB102	C	Advisory Committee on Minority Recruitment		
HB173	C	Special Inhalant Abuse Committee		
HB384	C	Advisory Board on Crane Operation		
HB524	X	Texas Amusement Machine Commission		
HB550	T	Texas Commission for the Deaf	1999	
HB651	C	Advisory Council of the Opticians' Registry (DoH)		
HB734	C	Texas Water Resources Finance Authority		
HB744	C	Advisory Council to the State Banking Commission		
HB822	C	Citizens Advisory Committee to the Texas Low-Level Radioactive Waste Disposal Authority		
HB855	C	Board of Trustees of the Manufactured Homeowners' Recovery Fund		
HB911	C	Advisory Commission on State Emergency Communications	1999	
HB1010	C	Interagency Coordinating Council		
HB1021	C	Accident Prevention Advisory Committee (SBI)		
HB1066	C	Texas Council on Alzheimer's Disease and Related Disorders	1999	
HB1251	C	Supreme Court Education Committee		
HB1511	C	Texas Space Commission	1993	
HB1642	X	Educational Advisory Committee (SfB)		
	X	Consumers Advisory Committee (SfB)		
HB1785	C	Uniform Statewide Accounting System Committee		

Bill	Change	Agency	Termination Sunset	Termination Other
HB1847	RX	Statewide Advisory Committee to the Maternal and Infant Health Improvement Services Program (DoH)		
	RC	Statewide Advisory Committee on Maternal and Infant Health Improvement Services (THHSCC)		
HB1919	C	Fire Ant Advisory Board	1999	
HB1961	C	Air Conditioning and Refrigeration Contractors Advisory Board		
HB2012	C	Advisory Committee on Building Specifications for Windstorm and Hail Insurance		
HB2079	C	Texas Academy of Mathematics and Science		
	C	Texas Academy of Mathematics and Science Advisory Board		
HB2181	RX	Coordinating Board, Texas College and University System		
	RC	Texas Higher Education Coordinating Board	1989	
	C	Advisory Committee on Advanced Research		
	C	Advisory Committee on Advanced Technology		
	C	Advisory Committee on Research Assessment		
	C	Advisory Committee on Statements of Core Curriculum		
HB2183	C	Advisory Committee on Core Curriculum (SBE)		
HB2235	C	Job-start Advisory Board (DoA)		
HB2243	T	Texas Board of Licensure for Nursing Home Administrators	1997	
	T	Council for Social Work Certification	1999	
	T	State Department of Highways and Public Transportation	1991	
HB2597	C	Texas Center for Superconductivity		
SB39	C	Hazardous Waste Research Center		
	C	Hazardous Waste Research Center Policy Board		
	C	Hazardous Waste Research Center Advisory Council		
SB80	C	Advisory Council to the State Board of Insurance		
SB95	RX	State Board of Morticians		
	RC	Texas Funeral Service Commission	1991	
SB244	T	Texas Diabetes Council	1997	
SB245	C	Advisory Committee on Agriculture to the Texas Department of Corrections		
	C	Families of Inmates Advisory Committee		
	C	Role of the Family in Reducing Recidivism Advisory Committee		
SB257	C	Interagency Council on Autism and Pervasive Developmental Disorders		1999
	C	Task Force on Autism and Pervasive Developmental Disorders		
	C	Interagency Council for Genetic Services	1989	
	C	Alcohol and Substance Abuse Services Oversight Committee		1997
	C	Citizens' Planning Advisory Committee (TDMHMR)		
	C	Fee Advisory Committee (TDMHMR)		
	C	Single Portal Review Committee		
SB296	T	Texas Conservation Foundation	1991	

APPENDIX E

Bill	Change	Agency	Termination Sunset	Termination Other
SB298	T	Interstate Compact on the Placement of Children	1999	
	RC	Medical Care Advisory Committee		
	C*	School Age Pregnancy Interagency Advisory Committee		
	C	Children and Youth Services State Coordinating Committee		
	C	Advisory Committee for Services to Aged and Disabled Persons		
	RC	State Advisory Committee on Child-Care Administrators and Facilities		
	RX	State Advisory Committee on Child-Care Facilities		
	C	Advisory Subcommittee on Child-Care Administration		
	X	Legislative Study Committee on Temporary Emergency Relief Programs		
SB325	C	Texas Natural Resources Information System Task Force		
SB537	C	Toxic Substances Coordinating Committee		
SB719	C	Interagency Council on Mentally Retarded, Developmentally Disabled, and Mentally Ill Offenders	1999	
SB744	C	State Cogeneration Council		
SB776	C	Texas Innovation Information Network Advisory Committee		1991
SB784	RX	North Texas State University		
	RC	University of North Texas		
SB800	C	Law Enforcement Management Institute (CLEOSE)		
SB827	C	Child Day Care Advisory Committee (TEC)		
SB894	X	Texas Closeup Advisory Council		
SB1027	C	Bond Review Board* (see note below)		
	C	Bond Finance Office		
SB1132	C	Health Maintenance Organization Solvency Surveillance Committee		
SB1160	C	Professional Nursing Peer Review Committee		
SB1333	C	Special Review Board for Veterans' Land Board Loans (DoA)		
SB1355	C	Health Care Advisory Committee (IAB)		
	C	Hospital Care Advisory Committee		
	C	Physician Advisory Committee for Fees and Charges		
	C	Physician Advisory Committee for Utilization		
	C	Chiropractic Care Advisory Committee		
	C	Podiatric Care Advisory Committee		
	C	Physical Therapy Advisory Committee		
	C	Pharmaceutical Advisory Committee		
SB1421	C	Dental Laboratory Certification Council		
SB1439	C	Medical Radiologic Technologist Advisory Board		

Statutory authority expired under current law

	X	Clean Air Study Committee		
	X	Task Force on Personal Care Homes		
	X	Task Force on Alcoholics and Drug-Dependent Persons		
	X	Texas 1986 Sesquicentennial Commission		

Bill	Change	Agency	Termination Sunset	Termination Other
	X	Texas 1986 Sesquicentennial Commission Executive Committee		
	X	Water District and River Authority Study Committee		

The following consist of agency changes enacted by the 69th Legislature in its called sessions of 1986

Bill	Change	Agency	Termination Sunset	Termination Other
SB15 (2nd)	C	Texas Racing Commission		
SB5 (3rd)	C	Cash Management Committee		
SB13 (3rd)	C	Productivity Bonus Commission		

The following consist of agency changes enacted by the 70th Legislature in its 1st Called Session of 1987

Bill	Change	Agency	Termination Sunset	Termination Other
SB2	C	Division of Consumer Protection (SBI)		
SB8	C	Division of Risk Management (IAB)		

The following consist of agency changes enacted by the 70th Legislature in its 2nd Called Session of 1987

Bill	Change	Agency	Termination Sunset	Termination Other
HB32	C	On-site Wastewater Treatment Research Council	1989	
HB44	X	Texas Commission on Economy and Efficiency in State Government		
HB49	C	Agricultural Diversification Board		
	C	Texas Agricultural Finance Authority		
HB167	C	Advisory Committee on Guidelines for Possession of and Access to a Child		
	C	Advisory Committee on Child Support Guidelines		
SB33	C	Oil Overcharge Review Committee		
	C	Oil Overcharge Technical Advisory Panel		
SB64	RC	Texas Public Finance Authority		
	RX	Texas Public Building Authority		

State agency abbreviations:

CLEOSE	Commission on Law Enforcement Officer Standards and Education
DoA	Department of Agriculture
DoH	Department of Health
HB	Health Board
IAB	Industrial Accident Board
SBE	State Board of Education
SBI	State Board of Insurance
SfB	School for the Blind

APPENDIX E

TDMHMR	Texas Department of Mental Health and Mental Retardation
TEC	Texas Employment Commission
THHSCC	Texas Health and Human Services Coordinating Council

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*Note: Legislation creating the Bond Review Board is also contained in the following bills: HB4, HB734, HB1169, HB1183, HB1909, HB2090, SB1407, and HB49 (2nd Called Session).

APPENDIX F

TEXAS SENATE
70th LEGISLATURE

Name	District No.	Post Office	Political Party
Anderson, Richard	1	Marshall	Dem.
Armbrister, Kenneth	18	Victoria	Dem.
Barrientos, Gonzalo	14	Austin	Dem.
Blake, Roy	3	Nacogdoches	Dem.
Brooks, Chet	11	Pasadena	Dem.
Brown, J. E. "Buster"	17	Lake Jackson	Rep.
Caperton, Kent	5	Bryan	Dem.
Edwards, Chet	9	Duncanville	Dem.
Farabee, Ray	30	Wichita Falls	Dem.
Glasgow, Bob	22	Stephenville	Dem.
Green, Gene	6	Houston	Dem.
Harris, O. H. (Ike)	8	Dallas	Rep.
Henderson, Don	7	Houston	Rep.
Johnson, Eddie Bernice	23	Dallas	Dem.
Jones, Grant	24	Temple	Dem.
Krier, Cynthia Taylor	26	San Antonio	Rep.
Leedom, John	16	Dallas	Rep.
Lyon, Ted	2	Mesquite	Dem.
McFarland, Bob	10	Arlington	Rep.
Montford, John T.	28	Lubbock	Dem.
Parker, Carl	4	Port Arthur	Dem.
Parmer, Hugh Q.	12	Fort Worth	Dem.
Santiesteban, H. Tati	29	El Paso	Dem.
Sarpalius, Bill	31	Amarillo	Dem.
Sims, Bill	25	San Angelo	Dem.
Tejeda, Frank	19	San Antonio	Dem.
Truan, Carlos	20	Corpus Christi	Dem.
Uribe, Hector	27	Brownsville	Dem.
Washington, Craig A.	13	Houston	Dem.
Whitmire, John	15	Houston	Dem.
Zaffirini, Judith	21	Laredo	Dem.

APPENDIX G

TEXAS HOUSE OF REPRESENTATIVES
70th LEGISLATURE

Name	District No.	Post Office	Political Party
Lewis, Gibson D. (Gib) (Speaker)	89	Fort Worth	Dem.
Agnich, Fred	114	Dallas	Rep.
Aikin, A. M. III (Bob)	3	Commerce	Dem.
Arnold, Billy L.	106	Grand Prairie	Dem.
Barton, Erwin W.	144	Pasadena	Dem.
Beauchamp, Jerry J.	119	San Antonio	Dem.
Berlanga, Hugo	34	Corpus Christi	Dem.
Betts, Weldon	140	Houston	Dem.
Blackwood, Bill	105	Mesquite	Rep.
Blair, Fred	110	Dallas	Dem.
Burnett, Richard J. (Dick)	66	San Angelo	Dem.
Cain, David	107	Dallas	Dem.
Campbell, Ben	61	Lewisville	Rep.
Carriker, Steven A.	78	Roby	Dem.
Carter, Bill	91	Fort Worth	Rep.
Cavazos, Eddie	35	Corpus Christi	Dem.
Ceverha, Bill	112	Dallas	Rep.
Clark, Jerry	20	Buna	Dem.
Clemons, Billy	17	Lufkin	Dem.
Colbert, Paul	132	Houston	Dem.
Collazo, Frank, Jr.	23	Port Arthur	Dem.
Connelly, D. Barry	126	Houston	Rep.
Cooper, Anne	47	San Marcos	Rep.
Craddick, Tom	76	Midland	Rep.
Criss, Lloyd	25	LaMarque	Dem.
Cuellar, Henry	43	Laredo	Dem.
Cuellar, Renato	42	Weslaco	Dem.
Culberson, John	125	Houston	Rep.
Danburg, Debra	137	Houston	Dem.
Delco, Wilhelmina	50	Austin	Dem.
Denton, Betty	56	Waco	Dem.
Dutton, Harold	142	Houston	Dem.
Earley, Robert	33	Portland	Dem.
Eckels, Robert A.	133	Houston	Rep.
Edge, Eldon	45	Poth	Dem.
Edwards, Al	146	Houston	Dem.
Evans, Charles	92	Hurst	Rep.
Evans, Larry	147	Houston	Dem.
Finnell, Charles	80	Holliday	Dem.
Garcia, Orlando	115	San Antonio	Dem.
Gavin, John	81	Wichita Falls	Dem.
Geistweidt, Gerald	67	Mason	Rep.
Gibson, Bruce	58	Cleburne	Dem.

Givens, Ron	83	Lubbock	Rep.
Glossbrenner, Ernestine	44	Alice	Dem.
Granoff, Al	108	Dallas	Dem.
Grusendorf, Kent	94	Arlington	Rep.
Guerrero, Lena	51	Austin	Dem.
Hackney, Clint	139	Houston	Dem.
Haley, Bill	10	Center	Dem.
Hammond, Bill	109	Dallas	Rep.
Harris, Chris	93	Arlington	Rep.
Harris, Jack	27	Pearland	Rep.
Harrison, Dudley	68	Sanderson	Dem.
Heflin, Talmadge	149	Houston	Rep.
Hightower, Allen Ross, Jr.	18	Livingston	Dem.
Hilbert, Paul J.	150	Houston	Rep.
Hill, Anita	101	Garland	Rep.
Hill, Patricia	102	Dallas	Rep.
Hinojosa, Juan	41	McAllen	Dem.
Hollowell, Bill	5	Grand Saline	Dem.
Holzheauser, Steve	32	Victoria	Rep.
Horn, Jim	59	Lewisville	Rep.
Hudson, David	6	Tyler	Dem.
Hudson, Samuel W. III	100	Dallas	Dem.
Hunter, Bob	79	Abilene	Rep.
Hury, James	24	Galveston	Dem.
Johnson, Cliff	11	Palestine	Dem.
Johnson, Sam	60	Plano	Rep.
Jones, Arves E., Sr.	71	El Paso	Rep.
Kubiak, Dr. L. B.	13	Rockdale	Dem.
Kuempel, Edmund	46	Seguin	Rep.
Laney, James E. (Pete)	85	Hale Center	Dem.
Larry, Jerald H.	111	Dallas	Dem.
Leonard, Bob, Jr.	97	Fort Worth	Rep.
Lewis, Ron	19	Mauriceville	Dem.
Lucio, Eddie, Jr.	39	Brownsville	Dem.
Luna, Albert III	143	Houston	Dem.
Luna, Gregory	116	San Antonio	Dem.
Madla, Frank	117	San Antonio	Dem.
Marchant, Ken	99	Carrollton	Rep.
Martinez, Roman	148	Houston	Dem.
McDonald, Nancy	73	El Paso	Dem.
McKinney, Dr. Mike	15	Centerville	Dem.
McWilliams, Jim	9	Marshall	Dem.
Melton, Bob	57	Gatesville	Dem.
Millsap, Mike	96	Fort Worth	Dem.
Morales, Dan	124	San Antonio	Dem.
Moreno, Alejandro (Alex), Jr.	40	Edinburg	Dem.
Moreno, Paul	72	El Paso	Dem.
Oakley, William (Keith)	4	Terrell	Dem.
Ovard, A. R.	113	Dallas	Rep.
Parker, Jim	65	Comanche	Dem.

Patrick, Kae T.	123	San Antonio	Rep.
Patronella, David	138	Houston	Dem.
Patterson, L. P. (Pete)	2	Brookston	Dem.
Pennington, Randy	130	Houston	Rep.
Perez, Nicolas J.	74	El Paso	Dem.
Perry, Rick	64	Haskell	Dem.
Pierce, George	122	San Antonio	Rep.
Polumbo, Anthony L. (Tony)	128	Houston	Dem.
Price, Al	22	Beaumont	Dem.
Rangel, Irma	37	Kingsville	Dem.
Repp, Glenn	104	Duncanville	Rep.
Richardson, Bob	49	Austin	Rep.
Riley, Randall	52	Round Rock	Rep.
Roberts, Ted	36	Corpus Christi	Rep.
Robinson, Phyllis	31	Gonzales	Dem.
Robnett, Nolan J. (Buzz)	82	Lubbock	Rep.
Rodriguez, Ciro D.	118	San Antonio	Dem.
Rudd, Jim	77	Brownfield	Dem.
Russell, Sam	8	Mount Pleasant	Dem.
Saunders, Robert	30	La Grange	Dem.
Schlueter, Stan	54	Killeen	Dem.
Schoolcraft, Alan	121	San Antonio	Rep.
Seidlits, Curtis L., Jr.	62	Sherman	Dem.
Shaw, Larry Don	69	Big Spring	Dem.
Shea, Gwyn Clarkston	98	Irving	Rep.
Shelley, Dan	127	Channelview	Rep.
Shine, Hugh D.	53	Temple	Rep.
Smith, Ashley	136	Houston	Rep.
Smith, Richard A.	14	Bryan	Rep.
Smith, Terral	48	Austin	Rep.
Smithee, John	86	Amarillo	Rep.
Staniswalis, Chip	87	Amarillo	Rep.
Stiles, Mark	21	Beaumont	Dem.
Sutton, Lou Nelle	120	San Antonio	Dem.
Tallas, Jim	26	Houston	Rep.
Taylor, M. A.	55	Waco	Rep.
Telford, Barry B.	1	De Kalb	Dem.
Thompson, Garfield	95	Fort Worth	Dem.
Thompson, Senfronia	141	Houston	Dem.
Toomey, Mike	135	Houston	Rep.
Uher, D. R. (Tom)	29	Bay City	Dem.
Valigura, Keith	16	Conroe	Rep.
Vowell, Jack	70	El Paso	Rep.
Waldrop, Tom	12	Corsicana	Dem.
Wallace, Ralph	145	Houston	Dem.
Warner, Larry	38	Port Isabel	Dem.
Waterfield, Richard A.	88	Canadian	Rep.
Watkins, Gary L.	75	Odessa	Dem.
Watson, Ed	129	Deer Park	Dem.
Whaley, Foster	84	Pampa	Dem.

Williamson, Richard	63	Weatherford	Dem.
Willis, Doyle	90	Fort Worth	Dem.
Willy, John	28	Angleton	Rep.
Wilson, Ron	131	Houston	Dem.
Wolens, Steven	103	Dallas	Dem.
Wright, Brad	134	Houston	Rep.
Yost, Gerald	7	Longview	Rep.

APPENDIX H

ENACTMENTS BY AUTHOR AND SPONSOR

In the Texas Legislature, the terms author and sponsor have distinctive meanings. The author is the legislator who introduces a legislative measure in the house of origin. The sponsor is the legislator who carries or is responsible for the passage of the measure in the other chamber after the measure has been passed in the house of origin.

The following is a list of state senators and representatives with the bills that they authored and sponsored and that were passed and sent to the governor during the regular and two called sessions. An asterisk (*) indicates a bill vetoed by the governor.

I. SENATE

ANDERSON

Authored -

SB 691, SB 861, SB 862, SB 864, SB 1154

Sponsored -

HB 134, HB 175, HB 372, HB 631, HB 829, HB 1179, HB 1230, HB 1261, HB 1293, HB 1349, HB 1881, HB 2022, HB 2193, HB 2235*, HB 2604

ARMBRISTER

Authored -

SB 320, SB 321, SB 359, SB 462, SB 531, SB 666, SB 816, SB 817, SB 819, SB 977, SB 1123, SB 1125, SB 1177, SB 1334, SB 1335, SB 1336, SB 20 (2nd C.S.), SB 45 (2nd C.S.)

Sponsored -

HB 77, HB 147, HB 235, HB 309, HB 526, HB 657, HB 737, HB 788, HB 826, HB 914, HB 915, HB 938, HB 1020, HB 1121, HB 1221, HB 1330, HB 1347, HB 1432, HB 1596, HB 1608, HB 1675, HB 1709, HB 1710, HB 1811, HB 1812, HB 1938, HB 1977, HB 2008, HB 2095, HB 2101, HB 2124, HB 2328, HB 2409, HB 2528, HB 2568, HB 2571, HB 2586, HB 105 (2nd C.S.), HB 147 (2nd C.S.)

BARRIENTOS

Authored -

SB 24, SB 26, SB 261, SB 385, SB 395, SB 488, SB 489, SB 933, SB 962, SB 988, SB 1011*, SB 1150, SB 1151, SB 1265*, SB 1266*, SB 1292, SB 1452, SB 1453, SB 81 (2nd C.S.)

Sponsored -

HB 152, HB 162, HB 177, HB 186, HB 258, HB 280, HB 316, HB 328, HB 452, HB 559, HB 759, HB 817, HB 906, HB 947, HB 1084*, HB 1085, HB 1090, HB 1134, HB 1196, HB 1560, HB 1561, HB 1610, HB 1647, HB 1756, HB 1849*, HB 1901, HB 1933*, HB 2281, HB 2392, HB 2544

BLAKE

Authored -

SB 95, SB 505, SB 560, SB 591, SB 669, SB 865, SB 868*, SB 950, SB 1326, SB 1518

Sponsored -

HB 119, HB 166, HB 312, HB 571, HB 581, HB 604, HB 841, HB 911, HB 979, HB 1138, HB 1279, HB 1280, HB 1503, HB 1606, HB 1636,

HB 1637, HB 1638, HB 1874, HB 2045, HB 2060, HB 2090, HB 2130, HB 2404, HB 2511, HB 2558, HB 2602, HB 159 (2nd C.S.)

BROOKS

Authored -

SB 263, SB 326, SB 957, SB 1062, SB 1134, SB 1160, SB 1161, SB 1162, SB 1163, SB 1331, SB 1332, SB 1348, SB 1357, SB 1371, SB 1403, SB 1405, SB 1421, SB 1431, SB 1439, SB 1460, SB 1487, SB 40 (2nd C.S.), SB 87 (2nd C.S.)

Sponsored -

HB 8*, HB 37, HB 49, HB 168, HB 384*, HB 420, HB 558, HB 636, HB 637, HB 692, HB 806, HB 858, HB 876, HB 925, HB 1002, HB 1003, HB 1066, HB 1141, HB 1154, HB 1469, HB 1650, HB 1847, HB 1848*, HB 1869, HB 1994, HB 2012, HB 2030, HB 2091, HB 2125, HB 2560, HB 117 (2nd C.S.)

BROWN

Authored -

SB 1, SB 5, SB 13, SB 176, SB 464, SB 561, SB 646, SB 909, SB 1183, SB 1191, SB 1216, SB 1273, SB 1448*

Sponsored -

HB 23, HB 142, HB 317, HB 360, HB 368, HB 524, HB 527, HB 687, HB 715, HB 812, HB 874, HB 1133, HB 1511, HB 1514, HB 1531, HB 1552, HB 1582, HB 1716, HB 1746, HB 1758, HB 1783, HB 1787, HB 1788, HB 1837, HB 1855, HB 1919, HB 1927, HB 1931, HB 1939, HB 1957, HB 1989, HB 1990, HB 2092, HB 2146, HB 2308, HB 2456, HB 2513, HB 2542, HB 2563, HB 2564, HB 2565, HB 2584, HB 95 (2nd C.S.), HB 126 (2nd C.S.)

CAPERTON

Authored -

SB 161, SB 162, SB 163, SB 168, SB 281, SB 327, SB 372, SB 474, SB 476, SB 497, SB 696, SB 697, SB 719, SB 756, SB 841, SB 893, SB 1138, SB 1300, SB 1301, SB 1315, SB 1322, SB 1355, SB 1449, SB 1501, SB 1517

Sponsored -

HB 141*, HB 144, HB 203, HB 440, HB 494, HB 530, HB 614, HB 617, HB 650, HB 750, HB 855, HB 975, HB 1125, HB 1175, HB 1300, HB 1360, HB 1363, HB 1384, HB 1405, HB 1732, HB 1875, HB 1960, HB 2014, HB 2144, HB 2216*, HB 2252, HB 2291, HB 2486, HB 2508, HB 2554, HB 142 (2nd C.S.), HB 168 (2nd C.S.)

EDWARDS

Authored -

SB 200, SB 280, SB 296, SB 298, SB 382, SB 523, SB 776, SB 884*, SB 939, SB 1277, SB 1279*, SB 1428, SB 18 (2nd C.S.)

Sponsored -

HB 50, HB 58, HB 59, HB 102, HB 187, HB 201, HB 313, HB 426, HB 484*, HB 612, HB 613, HB 742, HB 875, HB 957, HB 1010, HB 1071, HB 1103, HB 1183*, HB 1401, HB 1402, HB 1407, HB 1412, HB 1424, HB 1617, HB 1632, HB 1818, HB 1853, HB 1854, HB 1909, HB 1987, HB 2024, HB 2085, HB 2243, HB 2276, HB 2364, HB 2370, HB 2371, HB 2551, HB 2623

APPENDIX H

FARABEE

Authored -

SB 16, SB 17, SB 33, SB 43, SB 108, SB 130, SB 141, SB 142, SB 148, SB 149, SB 202, SB 251, SB 257, SB 299, SB 336, SB 341, SB 342, SB 373, SB 430, SB 431, SB 444, SB 513, SB 524, SB 525, SB 563, SB 630, SB 632, SB 637, SB 687, SB 739, SB 752, SB 789, SB 826, SB 827, SB 1027, SB 1108, SB 1419, SB 1446, SB 1454, SB 1497, SB 8 (1st C.S.), SB 9 (1st C.S.), SB 27 (2nd C.S.), SB 56 (2nd C.S.)

Sponsored -

HB 56, HB 81, HB 344, HB 356, HB 400, HB 418, HB 623, HB 662, HB 667, HB 677, HB 680, HB 683, HB 783, HB 834, HB 843, HB 917, HB 1021, HB 1038, HB 1051, HB 1251, HB 1353, HB 1370, HB 1523, HB 1642, HB 1823, HB 1829, HB 2119*, HB 2158, HB 2187, HB 2278, HB 2345, HB 2369, HB 2417, HB 2481, HB 2514*, HB 19 (2nd C.S.), HB 21 (2nd C.S.), HB 166 (2nd C.S.), HB 167 (2nd C.S.)

GLASGOW

Authored -

SB 111, SB 113, SB 151, SB 152, SB 185, SB 189, SB 190, SB 198, SB 199, SB 402, SB 403, SB 455, SB 473, SB 526, SB 530, SB 652, SB 654, SB 656, SB 748, SB 784, SB 785, SB 786, SB 873, SB 1373, SB 1374, SB 1375, SB 1388, SB 1486, SB 1502, SB 28 (2nd C.S.)

Sponsored -

HB 3, HB 4, HB 5, HB 133, HB 151*, HB 249, HB 327, HB 391, HB 425, HB 471, HB 523, HB 697, HB 720, HB 768, HB 924, HB 942*, HB 959*, HB 1226, HB 1260, HB 1652, HB 1742, HB 1879, HB 2079, HB 2449, HB 2517, HB 2575, HB 2576, HB 2588, HB 9 (2nd C.S.), HB 53 (2nd C.S.), HB 61 (2nd C.S.), HB 62 (2nd C.S.), HB 120 (2nd C.S.), HB 176 (2nd C.S.)

GREEN

Authored -

SB 63, SB 64, SB 80, SB 82, SB 92, SB 273, SB 274, SB 276, SB 277, SB 279, SB 494, SB 495, SB 659, SB 660, SB 914, SB 916, SB 1049, SB 1054, SB 1055, SB 1130, SB 1131, SB 1132, SB 1239*, SB 1346, SB 1384, SB 1385

Sponsored -

HB 78, HB 278, HB 279, HB 351, HB 355, HB 361, HB 362, HB 363, HB 364, HB 365, HB 366, HB 367, HB 386, HB 575, HB 576, HB 577, HB 578, HB 579, HB 592, HB 707*, HB 717, HB 791, HB 813, HB 863, HB 943, HB 952, HB 982*, HB 1069, HB 1078*, HB 1150, HB 1294, HB 1483, HB 1653, HB 1685, HB 2056, HB 2098, HB 2107, HB 2174, HB 2347, HB 123 (2nd C.S.)

HARRIS

Authored -

SB 344, SB 370, SB 539, SB 876, SB 878, SB 879, SB 912, SB 952, SB 953, SB 954, SB 1069, SB 1142, SB 1144, SB 1148, SB 1184, SB 1441

Sponsored -

HB 396*, HB 689, HB 744, HB 745, HB 923, HB 1032, HB 1043, HB 1123, HB 1178*, HB 1453, HB 1488, HB 1551, HB 1714, HB 1718, HB 1865, HB 1947, HB 2135, HB 2190, HB 2408, HB 2445, HB 2546, HB 39 (2nd C.S.), HB 133 (2nd C.S.)

HENDERSON

Authored -

SB 172, SB 260, SB 349, SB 429, SB 892, SB 895, SB 945, SB 1080*, SB 1081, SB 1083, SB 1225, SB 1435, SB 1514, SB 22 (2nd C.S.), SB 50 (2nd C.S.), SB 79 (2nd C.S.)

Sponsored -

HB 160, HB 190, HB 349, HB 457, HB 624, HB 684, HB 705, HB 828, HB 1325, HB 1410, HB 1509, HB 1512, HB 1621, HB 1814*, HB 1820, HB 2002, HB 2031, HB 2262, HB 2299, HB 2555, HB 2594, HB 2597, HB 2621, HB 2622, HB 81 (2nd C.S.)

JOHNSON

Authored -

SB 481, SB 482, SB 483, SB 484*, SB 485, SB 1207, SB 1424, SB 1521

Sponsored -

HB 497, HB 500, HB 528, HB 935, HB 1006, HB 1213, HB 1356, HB 1616*, HB 1838, HB 1889, HB 2136, HB 2400, HB 59 (2nd C.S.)

JONES

Authored -

SB 83, SB 213, SB 266, SB 267, SB 292, SB 293, SB 306, SB 308, SB 309, SB 311, SB 312, SB 379, SB 468, SB 469, SB 506, SB 551, SB 581, SB 616, SB 617, SB 618, SB 619, SB 620, SB 661, SB 746, SB 989, SB 1313, SB 1352, SB 1360, SB 1378, SB 1382, SB 1387, SB 1420, SB 1444*, SB 1532, SB 2 (1st C.S.), SB 1 (2nd C.S.), SB 6 (2nd C.S.), SB 33 (2nd C.S.), SB 58 (2nd C.S.), SB 64 (2nd C.S.), SB 84 (2nd C.S.)

Sponsored -

HB 2, HB 268, HB 485, HB 597, HB 651*, HB 699, HB 734, HB 1148, HB 1169, HB 1208, HB 1237*, HB 1248, HB 1303, HB 1327, HB 1328, HB 1329, HB 1568, HB 1613, HB 1694*, HB 1745, HB 1785, HB 1866, HB 2151, HB 2197, HB 2213, HB 2224, HB 2329, HB 2515, HB 7 (2nd C.S.), HB 10 (2nd C.S.), HB 63 (2nd C.S.), HB 64 (2nd C.S.), HB 170 (2nd C.S.), HB 177 (2nd C.S.)

KRIER

Authored -

SB 61, SB 386, SB 390, SB 434, SB 874, SB 887, SB 938, SB 1037, SB 1038, SB 1043, SB 1058, SB 1066, SB 1067, SB 1068, SB 1071, SB 1097, SB 1111, SB 1170, SB 1436, SB 1437, SB 1479, SB 35 (2nd C.S.)

Sponsored -

HB 110, HB 161, HB 285, HB 354, HB 474, HB 879, HB 1271, HB 1614, HB 1739, HB 1942, HB 2036, HB 2087

LEEDOM

Authored -

SB 85, SB 102, SB 115, SB 207, SB 212, SB 243, SB 339, SB 340, SB 478, SB 507, SB 536, SB 647, SB 899, SB 1425, SB 1426

Sponsored -

HB 217, HB 554, HB 723, HB 725, HB 758, HB 798, HB 954, HB 1068, HB 1835, HB 1961, HB 2011, HB 2220, HB 2241, HB 2599, HB 40 (2nd C.S.)

APPENDIX H

LYON

Authored -

SB 177, SB 206, SB 504, SB 512*, SB 515, SB 598, SB 611, SB 753, SB 1084, SB 1210*, SB 1409, SB 1429, SB 51 (2nd C.S.)

Sponsored -

HB 39, HB 169, HB 176, HB 287, HB 353, HB 410, HB 556, HB 784, HB 802, HB 865, HB 908, HB 973, HB 1219, HB 1354, HB 1622, HB 1984*, HB 2506, HB 2530, HB 2532, HB 2539, HB 2611, HB 135 (2nd C.S.)

McFARLAND

Authored -

SB 203, SB 215, SB 244, SB 245, SB 262, SB 269, SB 297, SB 803, SB 806, SB 807, SB 825, SB 888, SB 894, SB 896, SB 929, SB 930, SB 1021, SB 1407, SB 1417, SB 1422, SB 23 (2nd C.S.)

Sponsored -

HB 16, HB 51, HB 153, HB 253, HB 254, HB 306, HB 377, HB 412, HB 441, HB 517, HB 635, HB 679, HB 771, HB 1232, HB 1834, HB 1894, HB 1911, HB 2320, HB 2507, HB 2526, HB 2556, HB 2579, HB 2580, HB 2581, HB 28 (2nd C.S.), HB 44 (2nd C.S.), HB 80 (2nd C.S.), HB 146 (2nd C.S.)

MONTFORD

Authored -

SB 119, SB 120, SB 229, SB 236, SB 258, SB 259, SB 323*, SB 324, SB 325, SB 333, SB 410, SB 552, SB 643, SB 683, SB 762, SB 763, SB 764, SB 765, SB 935, SB 947, SB 982, SB 1312, SB 5 (1st C.S.), SB 6 (1st C.S.), SB 7 (1st C.S.), SB 52 (2nd C.S.), SB 68 (2nd C.S.)

Sponsored -

HB 83, HB 150, HB 163, HB 299, HB 339, HB 506, HB 507, HB 508, HB 550, HB 557, HB 568, HB 572, HB 652, HB 815, HB 850, HB 999, HB 1270, HB 1364, HB 1421, HB 1459, HB 1587, HB 1831, HB 1870, HB 2509, HB 2535, HB 2592, HB 32 (2nd C.S.), HB 33 (2nd C.S.), HB 72 (2nd C.S.), HB 121 (2nd C.S.)

PARKER

Authored -

SB 39, SB 46, SB 318, SB 335, SB 367, SB 437, SB 537, SB 543, SB 651, SB 791, SB 792, SB 994, SB 1024, SB 1309, SB 1473, SB 11 (2nd C.S.), SB 86 (2nd C.S.)

Sponsored -

HB 272, HB 273, HB 678, HB 685, HB 736, HB 824, HB 878, HB 888, HB 1050, HB 1104, HB 1160, HB 1217, HB 1431, HB 1543, HB 1619, HB 1630, HB 1731, HB 1737, HB 2082, HB 2083, HB 2181, HB 2182, HB 2183, HB 67 (2nd C.S.), HB 71 (2nd C.S.), HB 173 (2nd C.S.)

PARMER

Authored -

SB 355, SB 496, SB 595, SB 744, SB 800, SB 976, SB 1174, SB 1392, SB 1395, SB 66 (2nd C.S.)

Sponsored -

HB 74, HB 275, HB 442, HB 665, HB 669, HB 708, HB 746*, HB 790, HB 877, HB 967, HB 1100, HB 1950, HB 1956, HB 1963, HB 2051, HB 2273, HB 2567, HB 101 (2nd C.S.), HB 109 (2nd C.S.)

SANTIESTEBAN

Authored -

SB 439, SB 585, SB 599, SB 601, SB 604, SB 605, SB 610, SB 779, SB 998, SB 999, SB 1206, SB 1333, SB 1341, SB 1478

Sponsored -

HB 97, HB 128, HB 629, HB 1195, HB 1210, HB 1231, HB 1239, HB 1263, HB 1315, HB 1326, HB 1839, HB 2050, HB 2143, HB 2337, HB 2363, HB 2601

SARPALIUS

Authored -

SB 20, SB 21, SB 180, SB 233, SB 521, SB 522, SB 1248, SB 1249, SB 1362, SB 1418, SB 36 (2nd C.S.)

Sponsored -

HB 519, HB 591, HB 655, HB 1052, HB 1190, HB 1191*, HB 1586, HB 1721, HB 2131, HB 2274, HB 2448, HB 2510, HB 2537, HB 2566, HB 2574, HB 54 (2nd C.S.)

SIMS

Authored -

SB 88, SB 357, SB 498, SB 583, SB 584, SB 840, SB 1525, SB 17 (2nd C.S.)

Sponsored -

HB 9, HB 41, HB 42, HB 250, HB 323, HB 423, HB 449, HB 503, HB 514, HB 538, HB 625, HB 646, HB 696, HB 792, HB 822, HB 921, HB 1018, HB 1030, HB 1262, HB 1311, HB 1440, HB 1728, HB 1867, HB 1953, HB 2122, HB 2123, HB 2194, HB 2250, HB 2585, HB 2587, HB 2608, HB 49 (2nd C.S.)

TEJEDA

Authored -

SB 705, SB 715, SB 919, SB 920, SB 925, SB 1035, SB 1036, SB 1075, SB 1077, SB 1115

Sponsored -

HB 156, HB 288, HB 543*, HB 682, HB 766, HB 814, HB 1007, HB 1180, HB 1227, HB 1314, HB 1604, HB 1826, HB 1827, HB 1948, HB 1964, HB 2164, HB 2165, HB 2466, HB 130 (2nd C.S.)

TRUAN

Authored -

SB 851, SB 1327

Sponsored -

HB 994, HB 1912, HB 2523

URIBE

Authored -

SB 10, SB 217*, SB 218, SB 408, SB 436, SB 440, SB 545*, SB 635, SB 648, SB 1189

APPENDIX H

Sponsored -

HB 36, HB 390, HB 475, HB 647, HB 710, HB 752, HB 987, HB 1031, HB 1041*, HB 1646, HB 1978, HB 2035, HB 2297, HB 2351, HB 2462, HB 2504, HB 2591

WASHINGTON

Authored -

SB 249, SB 389, SB 698*, SB 701, SB 1345*

Sponsored -

HB 15, HB 65, HB 95, HB 359, HB 620, HB 1299, HB 1318*, HB 1805, HB 2109, HB 2269

WHITMIRE

Authored -

SB 417, SB 564, SB 565, SB 638, SB 726, SB 742, SB 1383

Sponsored -

HB 570, HB 747, HB 782*, HB 991, HB 1678, HB 1896, HB 2106, HB 2140, HB 2171, HB 2316, HB 92 (2nd C.S.)

ZAFFIRINI

Authored -

SB 223, SB 225, SB 658, SB 751, SB 1001, SB 1002, SB 1100, SB 1255, SB 1458, SB 62 (2nd C.S.)

Sponsored -

HB 113, HB 173, HB 502, HB 593, HB 852, HB 907, HB 1077, HB 1079, HB 1368, HB 1387, HB 1504, HB 1699, HB 1775, HB 1904, HB 1906, HB 2549, HB 2595, HB 2598, HB 163 (2nd C.S.)

II. HOUSE OF REPRESENTATIVES

AGNICH

Authored -

HB 1551, HB 1839

Sponsored -

SB 62 (2nd C.S.)

AIKIN

Authored -

HB 1543

Sponsored -

SB 512*, SB 753, SB 1407

ARNOLD

Authored -

HB 1006, HB 1213, HB 1889

Sponsored -

SB 929, SB 1424, SB 1521

BARTON

Authored -

HB 162, HB 217, HB 280, HB 353, HB 355, HB 592, HB 677, HB 692, HB 824, HB 914, HB 915

Sponsored -

SB 63, SB 565, SB 1460

BEAUCHAMP

Authored -

HB 474, HB 1007, HB 1090, HB 59 (2nd C.S.)

BERLANGA

Authored -

HB 651*, HB 1077, HB 1078*, HB 1912, HB 2008, HB 2012, HB 2445

Sponsored -

SB 367, SB 635, SB 697, SB 998, SB 999, SB 1001, SB 1277, SB 1279*, SB 1315, SB 20 (2nd C.S.), SB 28 (2nd C.S.)

BETTS

Authored -

HB 2316

Sponsored -

SB 1055, SB 1331, SB 1332

BLACKWOOD

Authored -

HB 39, HB 169, HB 173, HB 313, HB 784, HB 1407

Sponsored -

SB 82, SB 800, SB 1115

APPENDIX H

BLAIR

Sponsored -

SB 481, SB 482, SB 484*

BURNETT

Authored -

HB 41, HB 42, HB 323, HB 696, HB 921, HB 1311, HB 2587

Sponsored -

SB 1525

CAIN

Authored -

HB 384*, HB 557, HB 908, HB 1353, HB 1354, HB 1356, HB 1360, HB 1363, HB 1364, HB 1531, HB 1838, HB 2400

Sponsored -

SB 444, SB 524, SB 45 (2nd C.S.)

CAMPBELL

Authored -

HB 2546, HB 2556, HB 2579, HB 2580, HB 2581

Sponsored -

SB 1429

CARRIKER

Authored -

HB 850

Sponsored -

SB 306, SB 1454

CARTER

Authored -

HB 635, HB 911, HB 2011

Sponsored -

SB 385, SB 1058

CAVAZOS

Authored -

HB 502, HB 1849*, HB 2022

Sponsored -

SB 1054, SB 81 (2nd C.S.)

CEVERHA

Authored -

HB 798, HB 39 (2nd C.S.), HB 146 (2nd C.S.)

Sponsored -

SB 33 (2nd C.S.)

CLARK

Authored -

HB 678, HB 1179

Sponsored -

SB 1326

CLEMONS

Authored -

HB 119, HB 166, HB 581, HB 2602

COLBERT

Authored -

HB 1469, HB 1642, HB 1847, HB 1848*, HB 2030, HB 2109, HB 2347, HB 2351, HB 2448, HB 2449, HB 2466, HB 2486, HB 2597, HB 117 (2nd C.S.)

Sponsored -

SB 616, SB 617, SB 638, SB 726, SB 776, SB 1062, SB 1435, SB 1514, SB 8 (1st C.S.), SB 9 (1st C.S.)

COLLAZO

Authored -

HB 110, HB 113, HB 272, HB 273, HB 485, HB 1630, HB 1632, HB 2136

Sponsored -

SB 223, SB 225, SB 792, SB 916, SB 1111

CONNELLY

Authored -

HB 190, HB 742

Sponsored -

SB 429, SB 669

COOPER

Authored -

HB 186, HB 423, HB 1646, HB 1647, HB 2252, HB 2281, HB 2544

Sponsored -

SB 213, SB 746, SB 1301, SB 1452, SB 1453

CRADDICK

Authored -

HB 514, HB 1030, HB 1582, HB 1783, HB 2123, HB 2591, HB 2608

Sponsored -

SB 266, SB 308, SB 309, SB 312, SB 1352

CRISS

Authored -

HB 36, HB 78, HB 979, HB 1002, HB 1003, HB 1021, HB 1043, HB 1261, HB 2090, HB 2091, HB 2092, HB 2095

Sponsored -

SB 263, SB 273, SB 464, SB 561, SB 977, SB 1142, SB 1273, SB 1487

APPENDIX H

CUELLAR, H.

Authored -

HB 593, HB 766, HB 907, HB 1079, HB 1775, HB 2193, HB 2595

Sponsored -

SB 658, SB 751, SB 1458

CUELLAR, R.

Authored -

HB 647

CULBERSON

Authored -

HB 1758

DANBURG

Authored -

HB 95, HB 160, HB 161, HB 396*, HB 1410

Sponsored -

SB 744, SB 884*, SB 957, SB 35 (2nd C.S.)

DELCO

Authored -

HB 102, HB 1560, HB 1561, HB 1756, HB 2182, HB 2183, HB 64 (2nd C.S.)

Sponsored -

SB 488, SB 489, SB 543, SB 994, SB 1444*

DENTON

Authored -

HB 655, HB 1190, HB 1191*, HB 2551, HB 2623

DUTTON

Authored -

HB 620, HB 744, HB 994

Sponsored -

SB 277, SB 417, SB 930

EARLEY

Authored -

HB 657, HB 1175, HB 1745, HB 2151, HB 2598

Sponsored -

SB 390, SB 462

ECKELS

Authored -

HB 356, HB 624, HB 790, HB 791, HB 935, HB 1716, HB 1931, HB 1994, HB 2513, HB 2622, HB 40 (2nd C.S.), HB 95 (2nd C.S.), HB 159 (2nd C.S.)

Sponsored -

SB 80, SB 382, SB 473, SB 652, SB 654, SB 656, SB 914, SB 1341, SB 79 (2nd C.S.)

EDGE

Authored -

HB 2549

EDWARDS

Authored -

HB 2014

EVANS, C.

Authored -

HB 617, HB 843, HB 923, HB 924, HB 1041*, HB 1050, HB 1051, HB 1052, HB 1066, HB 1678, HB 1879, HB 2250, HB 2320, HB 2511, HB 2526, HB 2621, HB 28 (2nd C.S.), HB 44 (2nd C.S.), HB 101 (2nd C.S.)

Sponsored -

SB 115, SB 269, SB 719, SB 825, SB 895, SB 1134, SB 1144, SB 1371, SB 1417

EVANS, L.

Authored -

HB 15, HB 65, HB 1805

Sponsored -

SB 249, SB 389, SB 701, SB 1292

FINNELL

Authored -

HB 151*, HB 168, HB 1038, HB 2276

Sponsored -

SB 130, SB 513

GARCIA

Authored -

HB 543*, HB 1314, HB 1604, HB 2291

Sponsored -

SB 841, SB 851, SB 1077, SB 1255

GAVIN

Authored -

HB 316, HB 604, HB 623, HB 783, HB 1178*, HB 1294, HB 1303, HB 81 (2nd C.S.), HB 170 (2nd C.S.)

Sponsored -

SB 292, SB 293, SB 318, SB 370, SB 526, SB 551, SB 661, SB 873, SB 878, SB 879, SB 954, SB 989, SB 1419, SB 2 (1st C.S.), SB 87 (2nd C.S.)

GEISTWEIDT

Authored -

HB 349, HB 449, HB 792, HB 163 (2nd C.S.)

Sponsored -

SB 88, SB 1313

APPENDIX H

GIBSON

Authored -

HB 506, HB 507, HB 508, HB 720, HB 1169, HB 1183*, HB 1230, HB 2024, HB 2278, HB 2514*, HB 2517, HB 2604

Sponsored -

SB 257, SB 297, SB 455, SB 474, SB 748, SB 786, SB 789, SB 920, SB 938, SB 1027, SB 1177, SB 1248, SB 1382, SB 56 (2nd C.S.), SB 64 (2nd C.S.)

GIVENS

Authored -

HB 339

GLOSSBRENNER

Authored -

HB 662, HB 665, HB 667, HB 669, HB 2417, HB 19 (2nd C.S.)

Sponsored -

SB 1266*

GRANOFF

Authored -

HB 426, HB 834

Sponsored -

SB 17, SB 33, SB 245, SB 296, SB 341, SB 637

GRUSENDORF

Authored -

HB 306, HB 377, HB 715, HB 1617, HB 1619, HB 1956, HB 2220

Sponsored -

SB 925, SB 1162

GUERRERO

Authored -

HB 177, HB 278, HB 328, HB 494, HB 759, HB 1901, HB 1904, HB 1906

Sponsored -

SB 545*, SB 1249, SB 1265*, SB 1403, SB 51 (2nd C.S.)

HACKNEY

Authored -

HB 3, HB 5, HB 50, HB 51, HB 144, HB 175, HB 372, HB 612, HB 802, HB 1412, HB 2216*, HB 2363, HB 2364, HB 2369, HB 2370, HB 2371

Sponsored -

SB 10, SB 251, SB 280, SB 281, SB 495, SB 659, SB 691, SB 1138, SB 1210*, SB 1322

HALEY

Authored -

HB 173 (2nd C.S.)

Sponsored -

SB 229, SB 335, SB 696, SB 1312, SB 1473

HAMMOND

Authored -

HB 568, HB 1125, HB 1488, HB 177 (2nd C.S.)

Sponsored -

SB 598, SB 899, SB 86 (2nd C.S.)

HARRIS, C.

Authored -

HB 249, HB 253, HB 254, HB 471, HB 517, HB 1453, HB 2328, HB 2329, HB 109 (2nd C.S.), HB 123 (2nd C.S.), HB 166 (2nd C.S.), HB 167 (2nd C.S.), HB 168 (2nd C.S.)

Sponsored -

SB 531, SB 1174, SB 1422

HARRIS, J.

Authored -

HB 874, HB 1221, HB 1347, HB 1787, HB 1788, HB 1989, HB 1990, HB 2124, HB 2125, HB 2542

Sponsored -

SB 13, SB 947

HARRISON

Authored -

HB 625, HB 1728

Sponsored -

SB 498, SB 522, SB 840, SB 1388, SB 1497

HEFLIN

Authored -

HB 705, HB 1927

Sponsored -

SB 172, SB 440, SB 646

HIGHTOWER

Authored -

HB 279, HB 391, HB 412, HB 1279, HB 1280, HB 1330, HB 2158, HB 146 (2nd C.S.)

Sponsored -

SB 26, SB 163, SB 176, SB 215, SB 591

HILBERT

Authored -

HB 1814*, HB 1818, HB 1820, HB 2299, HB 2555, HB 2594

Sponsored -

SB 83, SB 267, SB 945

HILL, A.

Authored -

HB 37, HB 452, HB 723, HB 725, HB 1068

Sponsored -

SB 200, SB 212, SB 536, SB 647

HILL, P.

Authored -

HB 83, HB 203, HB 689, HB 771, HB 888, HB 2002, HB 2241, HB 2243, HB 2481, HB 133 (2nd C.S.)

Sponsored -

SB 198, SB 243, SB 483, SB 530, SB 1037, SB 1080*, SB 1081, SB 1097, SB 1207, SB 1409

HINOJOSA

Authored -

HB 440, HB 475, HB 614, HB 752, HB 959*, HB 1031, HB 2035, HB 2036, HB 2187, HB 2235*

Sponsored -

SB 168, SB 217*, SB 218, SB 342, SB 1035, SB 1043, SB 1300, SB 1348, SB 1392, SB 66 (2nd C.S.)

HOLLOWELL

Authored -

HB 285, HB 287, HB 863, HB 1069, HB 2532, HB 7 (2nd C.S.)

HOLZHEAUSER

Authored -

HB 556, HB 938, HB 1746, HB 2568, HB 2586

Sponsored -

SB 683, SB 1125

HORN

Authored -

HB 1853, HB 1854, HB 1855, HB 2079, HB 2146

Sponsored -

SB 120, SB 402, SB 784, SB 1441, SB 1448*, SB 1486, SB 1502

HUDSON, D.

Authored -

HB 176, HB 1483, HB 1984*, HB 2611, HB 135 (2nd C.S.)

Sponsored -

SB 1150, SB 1151, SB 1425

HUDSON, S.

Authored -

HB 497, HB 500, HB 528

Sponsored -

SB 189, SB 320

HUNTER

Sponsored -

SB 619

HURY

Authored -

HB 141*, HB 142, HB 636, HB 637, HB 679, HB 687, HB 815, HB 1523, HB 1675, HB 2087, HB 142 (2nd C.S.)

Sponsored -

SB 260, SB 476, SB 497, SB 762, SB 1075, SB 1436, SB 40 (2nd C.S.)

JOHNSON, C.

Authored -

HB 309, HB 312, HB 1227, HB 1327, HB 1328, HB 1329, HB 1503, HB 1621, HB 1622, HB 2558

Sponsored -

SB 5, SB 862, SB 950, SB 1518, SB 18 (2nd C.S.)

JOHNSON, S.

Authored -

HB 56, HB 745, HB 1219, HB 1714

Sponsored -

SB 102, SB 1426

JONES

Authored -

HB 327

Sponsored -

SB 1478

KUBIAK

Authored -

HB 81, HB 420, HB 530, HB 650, HB 975

Sponsored -

SB 162

KUEMPEL

Authored -

HB 1653, HB 2194, HB 10 (2nd C.S.), HB 21 (2nd C.S.)

Sponsored -

SB 108, SB 111, SB 505, SB 583, SB 630, SB 27 (2nd C.S.)

LANEY

Authored -

HB 591, HB 1020, HB 1823, HB 2130, HB 2131

Sponsored -

SB 141, SB 142, SB 149, SB 894, SB 953

LARRY

Authored -

HB 631

Sponsored -

SB 539, SB 806

APPENDIX H

LEONARD

Authored -

HB 8*, HB 344, HB 737, HB 957, HB 1596, HB 53 (2nd C.S.)

Sponsored -

SB 258, SB 763

LEWIS, G.

Authored -

HB 2181

LEWIS, R.

Authored -

HB 707*, HB 1260, HB 2224, HB 2404, HB 67 (2nd C.S.)

Sponsored -

SB 148, SB 478, SB 651, SB 865

LUCIO

Authored -

HB 1431, HB 2119*, HB 2504, HB 80 (2nd C.S.)

Sponsored -

SB 864, SB 1083

LUNA, A.

Authored -

HB 1401, HB 1402, HB 1587, HB 1909, HB 2098, HB 2269

Sponsored -

SB 359, SB 372, SB 564, SB 698*, SB 1100, SB 1225, SB 1345*, SB 1428

LUNA, G.

Authored -

HB 876, HB 2164, HB 2165

MADLA

Authored -

HB 156, HB 987, HB 1084*, HB 1085, HB 1154, HB 1387, HB 1942

Sponsored -

SB 61, SB 321, SB 525, SB 705, SB 803, SB 874, SB 1002, SB 1071, SB 1084, SB 1437, SB 1439

MARCHANT

Authored -

HB 1957, HB 2190

Sponsored -

SB 262, SB 816, SB 1184

MARTINEZ

Authored -

HB 991, HB 1010, HB 2197

Sponsored -

SB 276

McDONALD

Authored -

HB 97, HB 1829, HB 1896

Sponsored -

SB 16, SB 1160, SB 1161, SB 1431

McKINNEY

Authored -

HB 2045, HB 2143, HB 2144, HB 2554

McWILLIAMS

Authored -

HB 858, HB 1138, HB 1293

Sponsored -

SB 666, SB 939

MELTON

Authored -

HB 133, HB 134, HB 484*, HB 697, HB 1987

MILLSAP

Authored -

HB 275, HB 410, HB 877, HB 878, HB 967, HB 1100, HB 1232, HB 1636, HB 1637, HB 1638, HB 1652, HB 1742, HB 1874, HB 1875, HB 1894

Sponsored -

SB 336, SB 560, SB 604, SB 605, SB 779, SB 1021, SB 1395, SB 23 (2nd C.S.)

MORALES

Authored -

HB 680, HB 826, HB 1826, HB 1827, HB 61 (2nd C.S.), HB 176 (2nd C.S.)

Sponsored -

SB 1, SB 43, SB 887, SB 1036, SB 1066

MORENO, A.

Authored -

HB 710, HB 1964, HB 1977, HB 1978

Sponsored -

SB 408, SB 601, SB 648, SB 1189, SB 84 (2nd C.S.)

MORENO, P.

Authored -

HB 128, HB 947

OAKLEY

Authored -

HB 559, HB 1432, HB 2050, HB 2051

Sponsored -

SB 177, SB 206, SB 1154

APPENDIX H

OVARD

Authored -

HB 554

PARKER

Authored -

HB 390, HB 855, HB 1160, HB 1568

Sponsored -

SB 113, SB 151, SB 152, SB 185, SB 785, SB 876, SB 1378

PATRICK

Authored -

HB 523, HB 768, HB 2135

Sponsored -

SB 190, SB 434, SB 494, SB 1132

PATRONELLA

Authored -

HB 351, HB 746*, HB 750, HB 982*, HB 1150, HB 1685, HB 2106, HB 2107, HB 2174, HB 2462

Sponsored -

SB 24, SB 92, SB 279, SB 326, SB 430, SB 431, SB 739, SB 742, SB 1384, SB 1385, SB 22 (2nd C.S.)

PATTERSON

Authored -

HB 268, HB 2506

Sponsored -

SB 1333

PENNINGTON

Authored -

HB 1514

PEREZ

Authored -

HB 613, HB 2337, HB 2601

Sponsored -

SB 599, SB 610, SB 632, SB 893

PERRY

Authored -

HB 572, HB 1440

Sponsored -

SB 344, SB 756, SB 1216, SB 1373, SB 1375

PIERCE

Authored -

HB 130 (2nd C.S.)

Sponsored -

SB 919

POLUMBO

Authored -

HB 457, HB 570, HB 717, HB 782*, HB 952, HB 1650, HB 2171, HB 92 (2nd C.S.), HB 121 (2nd C.S.)

Sponsored -

SB 274, SB 552, SB 764

PRICE

Authored -

HB 841, HB 1616*

Sponsored -

SB 403, SB 791, SB 11 (2nd C.S.)

RANGEL

Authored -

HB 2523

Sponsored -

SB 1327

REPP

Authored -

HB 865, HB 1071, HB 1424, HB 2530, HB 2539

RICHARDSON

Authored -

HB 130, HB 538, HB 1032, HB 1405, HB 1933*, HB 2392

Sponsored -

SB 933, SB 1067, SB 1069

RILEY

Authored -

HB 1709, HB 1710, HB 2515, HB 2528, HB 147 (2nd C.S.)

Sponsored -

SB 1191, SB 1334, SB 1335, SB 1336, SB 36 (2nd C.S.)

ROBERTS

Authored -

HB 23, HB 747, HB 1121, HB 2101

Sponsored -

SB 386

APPENDIX H

ROBINSON

Authored -

HB 147, HB 652

Sponsored -

SB 20, SB 504

ROBNETT

Authored -

HB 1208, HB 1947, HB 1948, HB 1950

Sponsored -

SB 236, SB 333, SB 817, SB 935

RODRIGUEZ

Authored -

HB 354

RUDD

Authored -

HB 163, HB 250, HB 699, HB 999, HB 1421, HB 1870, HB 2509

Sponsored -

SB 119, SB 339, SB 1360, SB 1 (2nd C.S.), SB 6 (2nd C.S.)

RUSSELL

Authored -

HB 1141, HB 1349, HB 1881

Sponsored -

SB 506, SB 618

SAUNDERS

Authored -

HB 788, HB 822, HB 1195, HB 1210, HB 1231, HB 1239, HB 1262, HB 1263, HB 1315, HB 1811, HB 1812, HB 1919, HB 2122, HB 2409

Sponsored -

SB 611, SB 765, SB 819, SB 888, SB 896, SB 962, SB 1383, SB 1449, SB 1501

SCHLUETER

Authored -

HB 2, HB 597, HB 806, HB 875, HB 942*, HB 1148, HB 1237*, HB 1248, HB 1606, HB 1608, HB 1610, HB 1613, HB 1614, HB 1865, HB 1866, HB 1867, HB 2213, HB 2571, HB 63 (2nd C.S.), HB 120 (2nd C.S.)

Sponsored -

SB 311, SB 379, SB 468, SB 581, SB 620, SB 912, SB 1170, SB 1387, SB 1420, SB 1446, SB 58 (2nd C.S.)

SCHOOLCRAFT

Authored -

HB 1180, HB 1739, HB 2031

Sponsored -

SB 1038, SB 1068

SEIDLITS

Authored -

HB 917, HB 2297

Sponsored -

SB 373

SHAW

Authored -

HB 299, HB 503, HB 1699, HB 1953, HB 2585

Sponsored -

SB 469, SB 584, SB 17 (2nd C.S.)

SHEA

Authored -

HB 758, HB 954, HB 1911, HB 2408, HB 2507

Sponsored -

SB 507, SB 1049, SB 1148

SHELLEY

Authored -

HB 1326, HB 1509

Sponsored -

SB 64, SB 660, SB 1131

SHINE

Sponsored -

SB 868*

SMITH, A.

Authored -

HB 4, HB 201, HB 1511, HB 1512, HB 2565

Sponsored -

SB 976, SB 1357, SB 1421, SB 50 (2nd C.S.)

SMITH, R.

Authored -

HB 1018, HB 2508, HB 2535

Sponsored -

SB 327, SB 439, SB 643, SB 1517

SMITH, T.

Authored -

HB 258, HB 386, HB 682, HB 683, HB 685, HB 734, HB 736, HB 817, HB 879, HB 1133, HB 1134, HB 1217, HB 1251, HB 1299, HB 1300, HB 1459, HB 1834, HB 1835, HB 1837, HB 32 (2nd C.S.), HB 33 (2nd C.S.), HB 72 (2nd C.S.)

Sponsored -

SB 161, SB 202, SB 259, SB 323*, SB 395, SB 410, SB 585, SB 807, SB 988, SB 1108, SB 68 (2nd C.S.)

APPENDIX H

SMITHEE

Authored -

HB 288, HB 2574

Sponsored -

SB 21, SB 1362

STANISWALIS

Authored -

HB 1586

Sponsored -

SB 233

STILES

Authored -

HB 441, HB 524, HB 527, HB 852, HB 1694*, HB 1731, HB 1732, HB 1737, HB 2082, HB 2083, HB 2085, HB 2308, HB 62 (2nd C.S.), HB 71 (2nd C.S.)

Sponsored -

SB 39, SB 46, SB 299, SB 355, SB 752, SB 982, SB 1011*, SB 1024, SB 1309

SUTTON

TALLAS

Authored -

HB 317, HB 1938, HB 1939, HB 2456

TAYLOR

Authored -

HB 58, HB 59, HB 187, HB 1325

Sponsored -

SB 199, SB 357, SB 523

TELFORD

Authored -

HB 829

THOMPSON, G.

Authored -

HB 442

THOMPSON, S.

TOOMEY

Authored -

HB 684, HB 828, HB 2262

Sponsored -

SB 349, SB 687, SB 1123, SB 1239*, SB 5 (1st C.S.), SB 6 (1st C.S.), SB 7 (1st C.S.), SB 52 (2nd C.S.)

UHER

Authored -

HB 526, HB 1384

Sponsored -

SB 261, SB 1355, SB 1479

VALIGURA

Authored -

HB 571, HB 1196, HB 1368, HB 1370, HB 1869

VOWELL

Authored -

HB 550, HB 629, HB 2273

Sponsored -

SB 244, SB 298, SB 496, SB 595, SB 826, SB 827, SB 1206

WALDROP

Authored -

HB 646, HB 1103, HB 1104

Sponsored -

SB 203, SB 515

WALLACE

Authored -

HB 2056, HB 2060

Sponsored -

SB 952, SB 1532

WARNER

Authored -

HB 2575, HB 2576

Sponsored -

SB 436

WATERFIELD

Authored -

HB 1721, HB 2274, HB 2537, HB 2566

Sponsored -

SB 180, SB 1418

WATKINS

Authored -

HB 9, HB 1270, HB 1271, HB 1831, HB 2592

WATSON

Authored -

HB 49, HB 152, HB 2140

Sponsored -

SB 537, SB 1130, SB 1346

WHALEY

Authored -

HB 519, HB 2345, HB 2510, HB 54 (2nd C.S.)

WILLIAMSON

Authored -

HB 16, HB 74, HB 77, HB 400, HB 558, HB 814, HB 906, HB 1226, HB 1785, HB 2588, HB 2599, HB 9 (2nd C.S.)

Sponsored -

SB 715, SB 1374

WILLIS

Authored -

HB 153, HB 425, HB 2567

WILLY

Authored -

HB 2563, HB 2564, HB 2584

WILSON

Authored -

HB 235, HB 943, HB 1123, HB 1318*, HB 1963

Sponsored -

SB 437, SB 485, SB 521, SB 892

WOLENS

Authored -

HB 418, HB 708, HB 973, HB 1504, HB 1718, HB 1960, HB 1961

Sponsored -

SB 85, SB 340, SB 563

WRIGHT

Authored -

HB 359, HB 360, HB 361, HB 362, HB 363, HB 364, HB 365, HB 366, HB 367, HB 368, HB 575, HB 576, HB 577, HB 578, HB 579, HB 813, HB 925, HB 2560, HB 126 (2nd C.S.)

Sponsored -

SB 95, SB 207, SB 909, SB 1163, SB 1183, SB 1405

YOST

Authored -

HB 812, HB 1552

Sponsored -

SB 324, SB 325, SB 861

A. NUMERICAL INDEX

Regular Session

Bill Number	Page
HB2	236
HB3	154
HB4	156
HB5	21
HB9	250
HB15	73
HB16	130
HB23	63
HB36	26
HB37	29
HB39	53
HB41	59
HB42	158
HB49	23
HB50	87
HB51	38
HB56	67
HB58	247
HB59	78
HB65	63
HB74	135
HB77	22
HB78	26
HB81	176
HB83	164
HB95	63
HB97	29
HB102	75
HB110	111
HB113	60
HB119	251
HB128	113
HB133	237
HB134	103
HB142	131
HB144	114
HB147	176
HB150	67
HB152	18
HB153	49
HB156	248
HB160	26, 37
HB161	60, 111

Bill Number	Page
HB162	23
HB163	69
HB166	131
HB168	29
HB169	109
HB173	57
HB175	22
HB176	78
HB177	195
HB186	47
HB187	50
HB190	216
HB201	116
HB203	112
HB217	128
HB235	177
HB249	63
HB250	200
HB253	21
HB254	131
HB258	9
HB268	215
HB272	183
HB273	250
HB275	23
HB278	226
HB279	59
HB280	251
HB285	248
HB287	50
HB288	56, 231
HB299	73
HB306	79
HB309	136
HB312	158
HB313	64
HB316	187
HB317	112
HB323	110
HB327	127
HB328	214
HB339	47
HB344	176
HB349	60
HB351	230
HB353	79
HB354	214
HB355	227
HB356	209
HB359	60

Bill Number	Page
HB360	206
HB361	206
HB362	206
HB363	206
HB364	206
HB365	207
HB366	207
HB367	207
HB368	207
HB372	37
HB377	82, 88
HB386	125
HB390	249
HB391	73
HB400	149
HB410	177
HB412	40
HB418	22
HB420	29
HB423	253
HB425	248
HB426	227
HB440	37
HB441	40
HB442	50
HB449	55
HB452	160
HB457	127
HB471	79
HB474	227
HB475	69
HB485	218
HB494	61
HB497	253
HB500	181
HB502	110
HB503	162
HB506	207
HB507	211
HB508	207
HB514	123
HB517	48
HB519	141
HB523	195
HB524	159
HB526	151
HB527	59
HB528	108
HB530	128
HB538	113

Bill Number	Page
HB550	169
HB554	65
HB556	248
HB557	159
HB558	125
HB559	26
HB568	250
HB570	231
HB571	61
HB572	17
HB575	208
HB576	208
HB577	208
HB578	208
HB579	208
HB581	251
HB591	54
HB592	61
HB593	113
HB597	131
HB604	200
HB612	88
HB613	86
HB614	114
HB617	114
HB620	195
HB623	52
HB624	44
HB625	26
HB629	74
HB631	65
HB635	59
HB636	42
HB637	44
HB646	128
HB647	250
HB650	98
HB652	126
HB655	251
HB657	50
HB662	160
HB665	23
HB667	194
HB669	194, 200
HB677	29
HB678	225
HB679	65
HB680	38
HB682	110
HB683	58

Bill Number	Page
HB684	65
HB685	57
HB687	187
HB689	123
HB692	178
HB696	54
HB697	65
HB699	155
HB705	61
HB708	227
HB710	209
HB715	208
HB717	102
HB720	137
HB723	80
HB725	128
HB734	96
HB736	211
HB737	204
HB742	23
HB744	24
HB745	54
HB747	209
HB750	227
HB752	24
HB758	148
HB759	127
HB766	251
HB768	178
HB771	50
HB783	123
HB784	53
HB788	45
HB790	126
HB791	245
HB792	144
HB798	26
HB802	195
HB806	183
HB812	26
HB813	208
HB814	103
HB815	37
HB817	58
HB822	105
HB824	123
HB826	61
HB828	151
HB829	145
HB834	211

Bill Number	Page
HB841	187
HB843	196
HB850	131
HB852	175
HB855	24
HB858	80
HB863	248
HB865	150, 250
HB874	123
HB875	24
HB876	29
HB877	136
HB878	68
HB879	17
HB888	172
HB906	126
HB907	45
HB908	107
HB911	159
HB914	251
HB915	251
HB917	45
HB921	159
HB923	187
HB924	52
HB925	196
HB935	190
HB938	99
HB943	245
HB947	39
HB952	141
HB954	218
HB957	74
HB967	181
HB973	252
HB975	48
HB979	200
HB987	178
HB991	146
HB994	137
HB999	194
HB1002	128
HB1003	37, 126
HB1006	123
HB1007	82
HB1010	80
HB1018	194
HB1020	223
HB1021	194
HB1030	93

Bill Number	Page
HB1031	6
HB1032	196
HB1038	200
HB1043	238
HB1050	81
HB1051	221
HB1052	87
HB1066	175
HB1068	155
HB1069	248
HB1071	252
HB1077	54
HB1079	110
HB1085	29
HB1090	88
HB1100	136
HB1103	148
HB1104	64
HB1121	121
HB1123	9
HB1125	210
HB1133	38
HB1134	138
HB1138	248
HB1141	225
HB1148	99
HB1150	56
HB1154	182
HB1160	211
HB1169	160
HB1175	59
HB1179	177
HB1180	22
HB1190	246
HB1195	203
HB1196	66
HB1208	19
HB1210	203
HB1213	112
HB1217	82
HB1219	50
HB1221	138
HB1226	149
HB1227	210
HB1230	24
HB1231	203
HB1232	250
HB1239	203
HB1248	19
HB1251	50

Bill Number	Page
HB1260	94
HB1261	25
HB1262	203
HB1263	204
HB1270	45
HB1271	74
HB1279	147
HB1280	147
HB1293	250
HB1294	249
HB1299	126
HB1300	252
HB1303	187
HB1311	50
HB1314	131
HB1315	202
HB1325	18
HB1326	101
HB1327	99
HB1328	138
HB1329	101
HB1330	204
HB1347	100
HB1349	118
HB1353	107
HB1354	135
HB1356	51
HB1360	192
HB1363	194
HB1364	244
HB1368	227
HB1370	231
HB1384	124
HB1387	120
HB1401	76
HB1402	77
HB1405	75
HB1407	76
HB1410	249
HB1412	85
HB1421	192
HB1424	148
HB1431	129
HB1432	108
HB1440	217
HB1453	37
HB1459	97
HB1469	29
HB1483	74
HB1488	133

Bill Number	Page
HB1503	39, 182
HB1504	210
HB1509	97
HB1511	159
HB1512	28
HB1514	130
HB1523	51
HB1531	18
HB1543	79
HB1551	118
HB1552	68
HB1560	227
HB1561	74
HB1568	54
HB1582	138
HB1586	100
HB1587	238
HB1596	161
HB1604	51
HB1606	237
HB1608	84
HB1610	247
HB1613	224
HB1614	216
HB1617	79
HB1619	82
HB1621	103
HB1622	226
HB1630	113
HB1632	20
HB1636	156
HB1637	156
HB1638	156
HB1642	79
HB1646	252
HB1647	100
HB1650	220
HB1652	9
HB1653	9
HB1675	124
HB1678	244
HB1685	56
HB1699	106
HB1709	145
HB1710	150
HB1714	216
HB1716	221
HB1718	239
HB1721	6
HB1728	121

Bill Number	Page
HB1731	141
HB1732	6
HB1737	141
HB1739	30
HB1742	109
HB1745	218
HB1746	201
HB1756	21
HB1758	79
HB1775	85
HB1783	98
HB1785	154
HB1787	98
HB1788	98
HB1805	178
HB1811	201
HB1812	201
HB1818	84
HB1820	128
HB1823	161
HB1826	66
HB1827	64
HB1829	174
HB1831	74
HB1834	138
HB1835	192
HB1837	136
HB1838	107
HB1839	204
HB1847	177
HB1853	87
HB1854	85
HB1855	85
HB1865	202
HB1866	213
HB1867	216
HB1869	104
HB1870	129
HB1874	13, 161
HB1875	101
HB1879	48
HB1881	23
HB1889	121
HB1894	81
HB1896	6
HB1901	73
HB1904	61
HB1906	59
HB1909	163
HB1911	188

Bill Number	Page
HB1912	6, 98
HB1919	7
HB1927	122
HB1931	129
HB1938	226
HB1939	62, 254
HB1942	141
HB1947	23
HB1948	231
HB1950	146
HB1953	18
HB1956	87
HB1957	227
HB1960	194
HB1961	27
HB1963	10
HB1964	120
HB1977	10
HB1978	10
HB1987	21
HB1989	252
HB1990	141
HB1994	179
HB2002	85
HB2008	245
HB2011	118
HB2012	188
HB2014	245
HB2022	196
HB2024	210
HB2030	30
HB2031	179
HB2035	122
HB2036	194
HB2045	7
HB2050	204
HB2051	103
HB2056	92, 157
HB2060	159
HB2079	77
HB2082	218
HB2083	222
HB2085	133
HB2087	23
HB2090	199
HB2091	138
HB2092	177
HB2095	188
HB2098	122
HB2101	204

Bill Number	Page
HB2106	80
HB2107	66
HB2109	231
HB2122	178
HB2123	146
HB2124	104
HB2125	178
HB2130	161
HB2131	141
HB2135	193
HB2136	74
HB2140	106
HB2143	92
HB2144	88
HB2146	69, 109
HB2151	221
HB2158	38
HB2164	228
HB2165	228
HB2171	51
HB2174	102
HB2181	70
HB2182	71
HB2183	71
HB2187	66
HB2190	48
HB2193	25
HB2194	149
HB2197	200
HB2213	218
HB2220	45
HB2224	161
HB2241	159
HB2243	173
HB2250	228
HB2252	225
HB2262	10
HB2269	119
HB2273	18
HB2274	54
HB2276	87
HB2278	62
HB2281	74
HB2291	114
HB2297	119
HB2299	131
HB2308	66
HB2316	232
HB2320	37
HB2328	114

Bill Number	Page
HB2329	237
HB2337	141
HB2345	54
HB2347	80
HB2351	82
HB2363	93
HB2364	90
HB2369	88
HB2370	88
HB2371	90
HB2392	76
HB2400	246
HB2404	7
HB2408	52
HB2409	204
HB2417	88
HB2445	216
HB2448	223
HB2449	52
HB2456	59
HB2462	82
HB2466	27
HB2481	210
HB2486	37
HB2504	142
HB2506	147
HB2507	142
HB2508	45
HB2509	52
HB2510	147
HB2511	162
HB2513	51
HB2515	147
HB2517	142
HB2523	45
HB2526	48
HB2528	48, 145
HB2530	145
HB2532	52
HB2535	232
HB2537	142
HB2539	142
HB2542	142
HB2544	142
HB2546	144
HB2549	148
HB2551	46
HB2554	147
HB2555	139
HB2556	143

Bill Number	Page
HB2558	46
HB2560	30
HB2563	143
HB2564	143
HB2565	144
HB2566	145
HB2567	51
HB2568	143
HB2571	139
HB2574	48
HB2575	62
HB2576	62
HB2579	144
HB2580	144
HB2581	144
HB2584	243
HB2585	146
HB2586	46
HB2587	145
HB2588	53
HB2591	93
HB2592	46
HB2594	143
HB2595	7
HB2597	13, 76
HB2598	147
HB2599	162
HB2601	144
HB2602	53
HB2604	56
HB2608	253
HB2611	46
HB2621	139
HB2622	131
HB2623	83
HJR2	153
HJR4	153
HJR5	153
HJR18	149
HJR35	126
HJR48	217
HJR60	150
HJR65	244
HJR83	132
HJR88	163
HJR96	217
HJR104	6
SB1	60
SB5	40
SB10	224

Bill Number	Page
SB13	202
SB16	175
SB17	165
SB20	7
SB21	218
SB24	76
SB26	66
SB33	165
SB39	102
SB43	66
SB46	139
SB61	220
SB63	139
SB64	42
SB80	188
SB82	60
SB83	221
SB85	154
SB88	147
SB92	102
SB95	156
SB102	62
SB108	225
SB111	202
SB113	42
SB115	157
SB119	157
SB120	62
SB130	147
SB141	93
SB142	94
SB148	53
SB149	13, 232
SB151	55
SB152	67
SB161	247
SB162	53
SB163	53
SB168	135
SB172	196
SB176	80
SB177	129
SB180	202
SB185	65
SB189	188
SB190	189
SB198	35
SB199	197
SB200	183
SB202	33

Bill Number	Page
SB203	30
SB206	205
SB207	30
SB212	246
SB213	248
SB215	13, 39
SB218	110
SB223	113
SB225	110
SB229	16
SB233	42
SB236	49
SB243	122
SB244	169
SB245	166
SB249	51
SB251	40
SB257	170
SB258	157
SB259	96
SB260	22
SB261	226
SB262	72
SB263	30
SB266	221
SB267	221
SB269	68
SB273	229
SB274	229
SB276	229
SB277	229
SB279	229
SB280	240
SB281	36
SB292	189
SB293	189
SB296	173
SB297	20
SB298	171
SB299	237
SB306	49
SB308	216
SB309	222
SB311	220
SB312	215
SB318	189
SB320	126
SB321	136
SB324	96
SB325	157

Bill Number	Page
SB326	229
SB327	6, 72
SB333	21
SB335	81
SB336	133
SB339	232
SB340	43
SB341	168
SB342	62
SB344	94
SB349	127
SB355	125
SB357	189
SB359	228
SB367	219
SB370	189
SB372	75, 159
SB373	205
SB379	221
SB382	228
SB385	179
SB386	55
SB389	229
SB390	109
SB395	117
SB402	150
SB403	189
SB408	120
SB410	7, 96
SB417	36
SB429	230
SB430	225
SB431	155
SB434	99
SB436	121
SB437	158
SB439	228
SB440	253
SB444	14, 17
SB455	20
SB462	30
SB464	25
SB468	237
SB469	215
SB473	210
SB474	20
SB476	55
SB478	160
SB481	120
SB482	118

Bill Number	Page
SB483	182
SB485	152
SB488	33
SB489	49
SB494	189
SB495	87
SB496	183
SB497	49
SB498	195
SB504	202
SB505	225
SB506	222
SB507	125
SB513	140
SB515	253
SB521	9, 250
SB522	239
SB523	11
SB524	25
SB525	31
SB526	190
SB530	36
SB531	114
SB536	47
SB537	106
SB539	19
SB543	76
SB551	25
SB552	58
SB560	162
SB561	151
SB563	22
SB564	122
SB565	230
SB581	212
SB583	129
SB584	127
SB585	97
SB591	54
SB595	14, 17
SB598	78
SB599	47
SB601	5
SB604	27
SB605	27
SB610	212
SB611	224
SB616	239
SB617	154
SB618	215

Bill Number	Page
SB619	228
SB620	27
SB630	83
SB632	115
SB635	31
SB637	183
SB638	230
SB643	36
SB646	158
SB647	246
SB648	178
SB651	23
SB652	115
SB654	115
SB656	115
SB658	72
SB659	49
SB660	129
SB661	193
SB666	19
SB669	149
SB683	98
SB687	42
SB691	21
SB696	81
SB697	128
SB701	62
SB705	129
SB715	127
SB719	40, 181
SB726	72
SB739	226
SB742	230
SB744	158
SB746	140
SB748	54
SB751	216
SB752	160
SB753	130
SB756	72
SB762	67
SB763	248
SB764	253
SB765	223
SB776	75
SB779	98
SB784	72
SB785	117
SB786	193
SB789	154

Bill Number	Page
SB791	72
SB792	73
SB800	228
SB803	28
SB806	155
SB807	95
SB816	20, 210
SB817	20
SB819	31
SB825	93
SB826	160
SB827	181
SB840	7
SB841	43
SB851	248
SB861	140
SB862	18
SB864	20
SB865	150
SB873	190
SB874	126
SB876	20
SB878	196
SB879	196
SB887	112
SB888	240
SB892	240
SB893	112, 205
SB894	240
SB895	241
SB896	241
SB899	73
SB909	140
SB912	201
SB914	125
SB916	22
SB919	122
SB920	43, 62
SB925	55
SB929	229
SB930	36
SB933	136
SB935	86
SB938	239
SB939	247
SB945	128
SB947	242
SB950	223
SB952	212
SB953	158

Bill Number	Page
SB954	193
SB957	130
SB962	117
SB976	190
SB977	199
SB982	219
SB988	144
SB989	190
SB994	71, 81
SB998	203
SB999	203
SB1001	58
SB1002	115
SB1021	68
SB1024	49
SB1027	154
SB1035	58
SB1036	94
SB1037	243
SB1038	205
SB1043	195
SB1049	197
SB1054	190
SB1055	130
SB1058	183
SB1062	73
SB1066	219
SB1067	137
SB1068	206
SB1069	111
SB1071	85
SB1075	210
SB1077	60
SB1081	162
SB1083	21
SB1084	109
SB1097	158
SB1100	75
SB1108	64
SB1111	111
SB1115	67
SB1123	115
SB1125	43
SB1130	107
SB1131	232
SB1132	190
SB1134	31
SB1138	116
SB1142	25
SB1144	73

Bill Number	Page
SB1148	193
SB1150	180
SB1151	180
SB1154	158
SB1160	31
SB1161	27
SB1162	183
SB1163	180
SB1170	237
SB1174	117
SB1177	94
SB1183	124
SB1184	247
SB1189	7
SB1191	99
SB1206	21
SB1207	182
SB1216	8
SB1225	219
SB1248	8
SB1249	249
SB1255	111
SB1273	193
SB1277	67
SB1292	238
SB1300	68
SB1301	73
SB1309	202
SB1312	158
SB1313	199
SB1315	150
SB1322	112
SB1326	145
SB1327	146
SB1331	148
SB1332	36
SB1333	8
SB1334	43
SB1335	47
SB1336	44
SB1341	211
SB1346	55
SB1348	111
SB1352	222
SB1355	195
SB1357	36
SB1360	108
SB1362	47
SB1371	192
SB1373	144

Bill Number	Page
SB1374	44
SB1375	130
SB1378	146
SB1382	134
SB1383	104
SB1384	55
SB1385	56
SB1387	198
SB1388	8
SB1392	69
SB1395	124
SB1403	31
SB1405	175
SB1407	153
SB1409	56
SB1417	119
SB1418	146
SB1419	44
SB1420	214
SB1421	31
SB1422	67
SB1424	140
SB1425	223
SB1426	223
SB1428	163
SB1429	145
SB1431	192
SB1435	32
SB1436	36
SB1437	140
SB1439	32, 197
SB1441	86
SB1446	103
SB1449	55
SB1452	140
SB1453	140
SB1454	49
SB1458	55
SB1460	238
SB1473	78
SB1478	246
SB1479	25
SB1486	147
SB1487	75
SB1497	28
SB1501	52
SB1502	144
SB1514	130
SB1517	44
SB1518	144

Bill Number	Page
SB1521	145
SB1525	144
SB1532	118
SJR9	155
SJR12	217
SJR17	155
SJR26	124
SJR27	148
SJR34	67
SJR35	205
SJR53	155
SJR54	95
SJR55	134
SJR56	153

1st Called Session

Bill Number	Page
SB2	33, 184
SB5	34
SB6	35
SB7	35
SB8	35
SB9	35, 186

2nd Called Session

Bill Number	Page
HB7	152
HB9	46
HB10	77
HB19	86
HB21	226
HB28	90
HB32	101
HB33	232
HB39	196
HB40	127
HB44	156
HB49	5
HB53	150
HB54	229
HB59	232
HB61	14, 233
HB62	235
HB63	236
HB64	77
HB67	143
HB71	145
HB72	95
HB80	121
HB81	197
HB92	46
HB95	126
HB101	48
HB105	148
HB109	63
HB117	254
HB120	147
HB121	139
HB123	56, 116
HB126	119
HB130	123
HB133	47
HB135	249
HB142	51
HB146	135
HB147	143, 146
HB159	55
HB163	136
HB166	116
HB167	116
HB168	112
HB170	14, 192
HB173	82

Bill Number	Page
HB176	152
HB177	80
HJR5	153
SB1	12
SB6	14
SB11	139
SB17	148
SB18	147
SB20	28
SB22	230
SB23	26
SB27	226
SB28	236
SB33	91
SB35	60, 111
SB36	28
SB40	119
SB45	247
SB50	119
SB51	46
SB52	223
SB56	134
SB58	238
SB62	105
SB64	161
SB66	69
SB68	14
SB79	246
SB81	77
SB84	232
SB86	80
SB87	32
SJR5	146
SJR6	48
SJR8	15

B. TOPICAL INDEX

abortion 177
agricultural workers 5, 200
agriculture 5, 216
AIDS 174
alcoholic beverages 9
appropriations 12
athletes 28, 36
budget execution 152
business and commerce 16, 75, 153, 156
children:
- abuse of 61, 62, 66, 109
- custody of 60, 114
- day care for 130, 181, 182, 183
- missing 113
- support 114, 116, 129
- testimony of 50, 65, 69, 109

city government 34, 117, 241
civil remedies and procedures 33
contracts 23
controlled substances 28, 57, 250
corporations 21
corrections 13, 38, 59, 166
county government 125, 241
courts 42
- existing 42
- new 47

criminal justice and procedure 57, 164
criminal offenses and penalties 40, 56, 57, 60, 231
dram shop law 9
drug abuse and alcoholism 29, 57, 64, 181, 250
elections 84
energy 91
enterprise zones 24
environment 95
family law 109
family violence 60, 111, 114
financial institutions 19
food regulation 177
foreign trade zones 21
government, general 133
gubernatorial appointments 155
hazardous waste 102, 106, 107
hazing 76
health 174
health maintenance organizations 190, 197
health-related businesses and organizations 28
higher education 70
hospital districts 145

hotel occupancy taxes 14, 118, 234, 240
human services 169, 180
Indian tribes 212
indigent health care and services 66, 176, 182
insurance 14, 32, 33, 125, 184, 235, 249
intellectual property 76, 77
jails 121, 126, 131, 135, 149
judges 48
jurors 51, 56, 63
juvenile boards 52
juvenile delinquency 58, 110, 165
labor 199
landlords and tenants 44, 210
law enforcement 26, 59
marriage 36, 112
medical peer review 30, 31, 190
mental health and mental retardation 32, 40, 170, 180, 197
motor fuels tax 235
nursing homes 28
occupational regulation 26
occupational taxes 235
oil and gas 13, 76, 91, 217, 236
open container law 9, 250
open meetings 135
parks and wildlife 201
parole 38, 66, 168
probate 205
probation 13, 39, 65, 164
property interests 112, 209
property taxation 213, 240
prosecutors 53
public defenders 55, 64
public education 78, 220
public lands 223
public officials and employees 225
reinvestment zones 119, 219
retirement:
- city and county 225, 226, 229
- fire fighters and police officers 226
- judicial 50
- state 225
- teachers 73, 83, 225

right-to-know legislation 6, 106
sales taxes 233, 236, 237, 240
special districts 137
speedy trial 63
spousal rape 60, 111
state government 152, 240
state taxes and tax administration 14, 233
statutory revision 240
sunset legislation 164
superconducting super collider 133, 163, 223

teachers 71, 81, 225
telecommunications industry 14, 16, 161, 234
tort reform 33, 184
transit authorities 245
transportation and highways 14, 15, 244
trench safety 23, 160
trucking industry 14, 17
unemployment compensation 199
vehicle and traffic offenses 9, 110, 122, 250
victim compensation 66, 67
water 95
water districts 137
workers' compensation 13, 194