

# HOUSE JOURNAL

---

---

EIGHTY-SECOND LEGISLATURE, REGULAR SESSION

---

---

## PROCEEDINGS

---

EIGHTY-SECOND DAY — SATURDAY, MAY 21, 2011

The house met at 10 a.m. and was called to order by the speaker.

The roll of the house was called and a quorum was announced present (Record 1230).

Present — Mr. Speaker; Aliseda; Allen; Alonzo; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Burnam; Button; Cain; Callegari; Carter; Castro; Chisum; Christian; Coleman; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Flynn; Frullo; Gallego; Garza; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hernandez Luna; Hilderbran; Hochberg; Hopson; Howard, C.; Howard, D.; Huberty; Hughes; Hunter; Isaac; Jackson; Johnson; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pickett; Pitts; Price; Quintanilla; Raymond; Reynolds; Riddle; Ritter; Rodriguez; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Taylor, V.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

Absent — Alvarado.

Invocations were offered by Bill Rasco, pulpit minister, Spring Creek Church of Christ, Tomball, and Kerry Baker, rabbi, Austin.

The speaker recognized Representative Berman who led the house in the pledges of allegiance to the United States and Texas flags.

### REGULAR ORDER OF BUSINESS SUSPENDED

On motion of Representative Fletcher and by unanimous consent, the reading and referral of bills was postponed until just prior to adjournment.

**HR 2163 - ADOPTED**

(by Brown)

Representative Brown moved to suspend all necessary rules to take up and consider at this time **HR 2163**.

The motion prevailed.

The following resolution was laid before the house:

**HR 2163**, Commemorating the 40th anniversary of the Texas Sea Grant College Program.

**HR 2163** was adopted.

**LEAVE OF ABSENCE GRANTED**

The following member was granted leave of absence for the remainder of today because of important business in the district:

Hernandez Luna on motion of D. Howard.

(Kuempel in the chair)

**HJR 130 - HOUSE CONCURS IN SENATE AMENDMENTS****TEXT OF SENATE AMENDMENTS**

Representative Branch called up with senate amendments for consideration at this time,

**HJR 130**, A joint resolution meeting requirements of the United States Department of Education concerning federal student aid by naming private institutions of higher education in the State of Texas that are authorized to operate educational programs beyond secondary education, including programs leading to a degree or certificate.

Representative Branch moved to concur in the senate amendments to **HJR 130**.

The motion to concur in the senate amendments to **HJR 130** prevailed by (Record 1231): 141 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Alonzo; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Burnam; Button; Cain; Callegari; Carter; Castro; Chisum; Christian; Coleman; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Flynn; Frullo; Gallego; Garza; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hilderbran; Hochberg; Hopson; Howard, C.; Howard, D.; Huberty; Hughes; Hunter; Isaac; Jackson; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pickett; Pitts; Price; Quintanilla; Raymond; Reynolds;

Riddle; Ritter; Rodriguez; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Taylor, V.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

Present, not voting — Mr. Speaker; Kuempel(C).

Absent, Excused — Hernandez Luna.

Absent — Allen; Alvarado; Johnson; Miles; Naishtat; Smith, T.

#### STATEMENTS OF VOTE

When Record No. 1231 was taken, I was temporarily out of the house chamber. I would have voted yes.

Alvarado

When Record No. 1231 was taken, I was in the house but away from my desk. I would have voted yes.

T. Smith

#### Senate Committee Substitute

**CSHJR 130**, A joint resolution meeting requirements of the United States Department of Education concerning federal student aid by naming private institutions of higher education in the State of Texas that are authorized to operate educational programs beyond secondary education, including programs leading to a degree or certificate.

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

WHEREAS, On October 29, 2010, the United States Department of Education released Final Regulations on Program Integrity Issues in an effort to strengthen federal student aid programs at postsecondary institutions; one provision seeks to clarify the minimum a state must do to authorize a postsecondary institution so that the institution is able to participate in federal student aid and other federal funding programs; and

WHEREAS, Specifically, 34 C.F.R. Section 600.9 was amended to require that postsecondary institutions be "established by name as an educational institution by a State through a charter, statute, constitutional provision, or other action" and that they be "authorized to operate educational programs beyond secondary education, including programs leading to a degree or certificate"; and

WHEREAS, Section 61.003, Texas Education Code, cites state universities by name and Section 61.063, Texas Education Code, establishes a process for naming public community colleges, but state law regards private institutions of higher education differently; and

WHEREAS, Rather than naming them, Section 61.003, Texas Education Code, defines "private or independent institutions of higher education" as those institutions organized under the Texas Non-Profit Corporation Act, now part of the Texas Business Organizations Code, that are exempt from taxation under Article VIII, Section 2, Texas Constitution, and Section 501(c)(3), Internal

Revenue Code of 1986, and that are accredited by the Commission on Colleges of the Southern Association of Colleges and Schools, the Liaison Committee on Medical Education, or the American Bar Association; and

WHEREAS, Such institutions are exempt from Section 61.301, Texas Education Code, which provides for the "regulation of private postsecondary educational institutions," because they are accredited by an accrediting agency recognized by the Texas Higher Education Coordinating Board; and

WHEREAS, The state is home to many institutions covered by Section 61.003, Texas Education Code, some of which have educated students since the mid-1800s, and all of which have been in operation for at least 20 years; each is eligible to participate in one or more state-funded student financial aid programs subject to audit by the Texas Higher Education Coordinating Board, and those that participate in such programs provide student enrollment and graduation data to the coordinating board for accountability purposes; moreover, consumer complaints about the institutions can be made to the Office of the Attorney General, consumer protection division; and complaints concerning financial impropriety and ethical misconduct can be made to the Office of the Attorney General, charitable trust division; and

WHEREAS, The state's private postsecondary educational institutions include: Abilene Christian University, Amberton University, Austin College, Baylor University, Baylor College of Medicine, the College of St. Thomas More, Concordia University Texas, Dallas Baptist University, East Texas Baptist University, Hardin-Simmons University, Houston Baptist University, Howard Payne University, Huston-Tillotson University, Jacksonville College, Jarvis Christian College, Le Tourneau University, Lon Morris College, Lubbock Christian University, McMurry University, Our Lady of the Lake University, Parker University, Paul Quinn College, Rice University, St. Edward's University, St. Mary's University, Schreiner University, Southern Methodist University, South Texas College of Law, Southwestern University, Southwestern Adventist University, Southwestern Assemblies of God University, Southwestern Christian College, Texas Chiropractic College, Texas Christian University, Texas College, Texas Lutheran University, Texas Wesleyan University, Trinity University, University of Dallas, University of the Incarnate Word, University of Mary Hardin-Baylor, University of St. Thomas, Wayland Baptist University, and Wiley College; now, therefore, be it

RESOLVED, That the 82nd Legislature of the State of Texas hereby notify the United States Department of Education that the aforementioned colleges and universities are authorized in the State of Texas to operate educational programs beyond secondary education, including programs leading to a degree or certificate, and that therefore the State of Texas has met the conditions of 34 C.F.R. Section 600.9; and, be it further

RESOLVED, That the Texas secretary of state forward official copies of this resolution to the secretary of education, to the president of each college and university named, to the president of the Senate and the speaker of the House of Representatives of the United States Congress, and to all the members of the



Texas delegation to Congress with the request that this resolution be entered in the Congressional Record as a memorial to the Congress of the United States of America.

**HB 2973 - HOUSE CONCURS IN SENATE AMENDMENTS  
TEXT OF SENATE AMENDMENTS**

Representative Hunter called up with senate amendments for consideration at this time,

**HB 2973**, A bill to be entitled An Act relating to encouraging public participation by citizens by protecting a person's right to petition, right of free speech, and right of association from meritless lawsuits arising from actions taken in furtherance of those rights.

Representative Hunter moved to concur in the senate amendments to **HB 2973**.

The motion to concur in the senate amendments to **HB 2973** prevailed by (Record 1232): 141 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Burnam; Button; Cain; Callegari; Carter; Castro; Chisum; Christian; Coleman; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Flynn; Frullo; Gallego; Garza; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hilderbran; Hochberg; Hopson; Howard, C.; Howard, D.; Huberty; Hughes; Hunter; Isaac; Jackson; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lucio; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pickett; Pitts; Price; Quintanilla; Reynolds; Riddle; Ritter; Rodriguez; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Taylor, V.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

Present, not voting — Mr. Speaker; Kuempel(C).

Absent, Excused — Hernandez Luna.

Absent — Alvarado; Johnson; Lyne; Miles; Naishtat; Raymond.

**STATEMENT OF VOTE**

When Record No. 1232 was taken, I was temporarily out of the house chamber. I would have voted yes.

Alvarado

### Senate Committee Substitute

**CSHB 2973**, A bill to be entitled An Act relating to encouraging public participation by citizens by protecting a person's right to petition, right of free speech, and right of association from meritless lawsuits arising from actions taken in furtherance of those rights.

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

SECTION 1. This Act may be cited as the Citizens Participation Act.

SECTION 2. Subtitle B, Title 2, Civil Practice and Remedies Code, is amended by adding Chapter 27 to read as follows:

#### CHAPTER 27. ACTIONS INVOLVING THE EXERCISE OF CERTAIN CONSTITUTIONAL RIGHTS

Sec. 27.001. DEFINITIONS. In this chapter:

(1) "Communication" includes the making or submitting of a statement or document in any form or medium, including oral, visual, written, audiovisual, or electronic.

(2) "Exercise of the right of association" means a communication between individuals who join together to collectively express, promote, pursue, or defend common interests.

(3) "Exercise of the right of free speech" means a communication made in connection with a matter of public concern.

(4) "Exercise of the right to petition" means any of the following:

(A) a communication in or pertaining to:

(i) a judicial proceeding;

(ii) an official proceeding, other than a judicial proceeding, to administer the law;

(iii) an executive or other proceeding before a department of the state or federal government or a subdivision of the state or federal government;

(iv) a legislative proceeding, including a proceeding of a legislative committee;

(v) a proceeding before an entity that requires by rule that public notice be given before proceedings of that entity;

(vi) a proceeding in or before a managing board of an educational or eleemosynary institution supported directly or indirectly from public revenue;

(vii) a proceeding of the governing body of any political subdivision of this state;

(viii) a report of or debate and statements made in a proceeding described by Subparagraph (iii), (iv), (v), (vi), or (vii); or

(ix) a public meeting dealing with a public purpose, including statements and discussions at the meeting or other matters of public concern occurring at the meeting;

(B) a communication in connection with an issue under consideration or review by a legislative, executive, judicial, or other governmental body or in another governmental or official proceeding;

(C) a communication that is reasonably likely to encourage consideration or review of an issue by a legislative, executive, judicial, or other governmental body or in another governmental or official proceeding;

(D) a communication reasonably likely to enlist public participation in an effort to effect consideration of an issue by a legislative, executive, judicial, or other governmental body or in another governmental or official proceeding; and

(E) any other communication that falls within the protection of the right to petition government under the Constitution of the United States or the constitution of this state.

(5) "Governmental proceeding" means a proceeding, other than a judicial proceeding, by an officer, official, or body of this state or a political subdivision of this state, including a board or commission, or by an officer, official, or body of the federal government.

(6) "Legal action" means a lawsuit, cause of action, petition, complaint, cross-claim, or counterclaim or any other judicial pleading or filing that requests legal or equitable relief.

(7) "Matter of public concern" includes an issue related to:

(A) health or safety;

(B) environmental, economic, or community well-being;

(C) the government;

(D) a public official or public figure; or

(E) a good, product, or service in the marketplace.

(8) "Official proceeding" means any type of administrative, executive, legislative, or judicial proceeding that may be conducted before a public servant.

(9) "Public servant" means a person elected, selected, appointed, employed, or otherwise designated as one of the following, even if the person has not yet qualified for office or assumed the person's duties:

(A) an officer, employee, or agent of government;

(B) a juror;

(C) an arbitrator, referee, or other person who is authorized by law or private written agreement to hear or determine a cause or controversy;

(D) an attorney or notary public when participating in the performance of a governmental function; or

(E) a person who is performing a governmental function under a claim of right but is not legally qualified to do so.

Sec. 27.002. PURPOSE. The purpose of this chapter is to encourage and safeguard the constitutional rights of persons to petition, speak freely, associate freely, and otherwise participate in government to the maximum extent permitted by law and, at the same time, protect the rights of a person to file meritorious lawsuits for demonstrable injury.

Sec. 27.003. MOTION TO DISMISS. (a) If a legal action is based on, relates to, or is in response to a party's exercise of the right of free speech, right to petition, or right of association, that party may file a motion to dismiss the legal action.

(b) A motion to dismiss a legal action under this section must be filed not later than the 60th day after the date of service of the legal action. The court may extend the time to file a motion under this section on a showing of good cause.

(c) Except as provided by Section 27.006(b), on the filing of a motion under this section, all discovery in the legal action is suspended until the court has ruled on the motion to dismiss.

Sec. 27.004. HEARING. A hearing on a motion under Section 27.003 must be set not later than the 30th day after the date of service of the motion unless the docket conditions of the court require a later hearing.

Sec. 27.005. RULING. (a) The court must rule on a motion under Section 27.003 not later than the 30th day following the date of the hearing on the motion.

(b) Except as provided by Subsection (c), on the motion of a party under Section 27.003, a court shall dismiss a legal action against the moving party if the moving party shows by a preponderance of the evidence that the legal action is based on, relates to, or is in response to the party's exercise of:

- (1) the right of free speech;
- (2) the right to petition; or
- (3) the right of association.

(c) The court may not dismiss a legal action under this section if the party bringing the legal action establishes by clear and specific evidence a prima facie case for each essential element of the claim in question.

Sec. 27.006. EVIDENCE. (a) In determining whether a legal action should be dismissed under this chapter, the court shall consider the pleadings and supporting and opposing affidavits stating the facts on which the liability or defense is based.

(b) On a motion by a party or on the court's own motion and on a showing of good cause, the court may allow specified and limited discovery relevant to the motion.

Sec. 27.007. ADDITIONAL FINDINGS. (a) At the request of a party making a motion under Section 27.003, the court shall issue findings regarding whether the legal action was brought to deter or prevent the moving party from exercising constitutional rights and is brought for an improper purpose, including to harass or to cause unnecessary delay or to increase the cost of litigation.

(b) The court must issue findings under Subsection (a) not later than the 30th day after the date a request under that subsection is made.

Sec. 27.008. APPEAL. (a) If a court does not rule on a motion to dismiss under Section 27.003 in the time prescribed by Section 27.005, the motion is considered to have been denied by operation of law and the moving party may appeal.

(b) An appellate court shall expedite an appeal or other writ, whether interlocutory or not, from a trial court order on a motion to dismiss a legal action under Section 27.003 or from a trial court's failure to rule on that motion in the time prescribed by Section 27.005.

(c) An appeal or other writ under this section must be filed on or before the 60th day after the date the trial court's order is signed or the time prescribed by Section 27.005 expires, as applicable.

Sec. 27.009. DAMAGES AND COSTS. (a) If the court orders dismissal of a legal action under this chapter, the court shall award to the moving party:

(1) court costs, reasonable attorney's fees, and other expenses incurred in defending against the legal action as justice and equity may require; and

(2) sanctions against the party who brought the legal action as the court determines sufficient to deter the party who brought the legal action from bringing similar actions described in this chapter.

(b) If the court finds that a motion to dismiss filed under this chapter is frivolous or solely intended to delay, the court may award court costs and reasonable attorney's fees to the responding party.

Sec. 27.010. EXEMPTIONS. (a) This chapter does not apply to an enforcement action that is brought in the name of this state or a political subdivision of this state by the attorney general, a district attorney, a criminal district attorney, or a county attorney.

(b) This chapter does not apply to a legal action brought against a person primarily engaged in the business of selling or leasing goods or services, if the statement or conduct arises out of the sale or lease of goods, services, or an insurance product or a commercial transaction in which the intended audience is an actual or potential buyer or customer.

(c) This chapter does not apply to a legal action seeking recovery for bodily injury, wrongful death, or survival or to statements made regarding that legal action.

Sec. 27.011. CONSTRUCTION. (a) This chapter does not abrogate or lessen any other defense, remedy, immunity, or privilege available under other constitutional, statutory, case, or common law or rule provisions.

(b) This chapter shall be construed liberally to effectuate its purpose and intent fully.

SECTION 3. The change in law made by this Act applies only to a legal action filed on or after the effective date of this Act. A legal action filed before the effective date of this Act is governed by the law in effect immediately before that date, and that law is continued in effect for that purpose.

SECTION 4. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2011.

### **HB 3342 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

Representative Naishtat called up with senate amendments for consideration at this time,

**HB 3342**, A bill to be entitled An Act relating to representation of and by the state and joinder of the state in certain mental health proceedings.

Representative Naishtat moved to concur in the senate amendments to **HB 3342**.

The motion to concur in the senate amendments to **HB 3342** prevailed by (Record 1233): 141 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Burnam; Button; Cain; Callegari; Carter; Castro; Chisum; Christian; Coleman; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Flynn; Frullo; Gallego; Garza; Geren; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hilderbran; Hochberg; Hopson; Howard, C.; Howard, D.; Huberty; Hughes; Hunter; Isaac; Jackson; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; McClendon; Menendez; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pickett; Pitts; Price; Quintanilla; Raymond; Reynolds; Riddle; Ritter; Rodriguez; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Taylor, V.; Thompson; Torres; Truitt; Veasey; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

Present, not voting — Mr. Speaker; Kuempel(C).

Absent, Excused — Hernandez Luna.

Absent — Alvarado; Giddings; Johnson; Martinez Fischer; Miles; Turner.

#### STATEMENTS OF VOTE

When Record No. 1233 was taken, I was temporarily out of the house chamber. I would have voted yes.

Alvarado

When Record No. 1233 was taken, I was in the house but away from my desk. I would have voted yes.

Giddings

#### Senate Committee Substitute

**CSHB 3342**, A bill to be entitled An Act relating to representation of and by the state and joinder of the state in certain mental health proceedings.

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

SECTION 1. Section 571.016, Health and Safety Code, is amended to read as follows:

Sec. 571.016. REPRESENTATION OF STATE. Unless specified otherwise, in a hearing held under this subtitle, including a hearing held under Subchapter G, Chapter 574:

(1) the county attorney shall represent the state; or

(2) if the county has no county attorney, the district attorney, the criminal district attorney, or a court-appointed special prosecutor shall represent the state.

SECTION 2. Chapter 571, Health and Safety Code, is amended by adding Section 571.0167 to read as follows:

Sec. 571.0167. HABEAS CORPUS PROCEEDINGS. (a) A petition for a writ of habeas corpus arising from a commitment order must be filed in the court of appeals for the county in which the order is entered.

(b) The state shall be made a party in a habeas corpus proceeding described in subsection (a). The appropriate attorney prescribed by Section 571.016 shall represent the state.

(c) In a habeas corpus proceeding in which a state inpatient mental facility or a physician employed by a state inpatient mental health facility is a party as a result of enforcing a commitment order, the appropriate attorney prescribed by Section 571.016 shall represent the facility or physician, or both the facility and physician if both are parties, unless the attorney determines that representation violates the Texas Disciplinary Rules of Professional Conduct.

SECTION 3. The change in law made by this Act applies only to a hearing or proceeding that commences on or after the effective date of this Act. A hearing or proceeding that commences before the effective date of this Act is governed by the law in effect on the date the hearing or proceeding commenced, and the former law is continued in effect for that purpose.

SECTION 4. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2011.

#### **LEAVE OF ABSENCE GRANTED**

The following member was granted leave of absence for the remainder of today because of important business in the district:

Woolley on motion of Kleinschmidt.

#### **HB 417 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

Representative Anchia called up with senate amendments for consideration at this time,

**HB 417**, A bill to be entitled An Act relating to claims for compensation for wrongful imprisonment.

#### **HB 417 - STATEMENT OF LEGISLATIVE INTENT**

REPRESENTATIVE HANCOCK: Representative Anchia, initially looking at this, it looked like there might be some concerns with this legislation, especially when it came across from the senate. Are you aware of that?

REPRESENTATIVE ANCHIA: Yes, sir.

HANCOCK: And so, what we've done in the last 24 hours is kind of check around with the various offices. And what we've discovered in the legislation, and with regards to the senate, is this was very carefully and very narrowly crafted, so it deals with a very specific instance, that there were conversations that took place in all offices, and there is agreement on this legislation. Is that your understanding?

ANCHIA: That's my understanding, Representative Hancock. And I think the language you're referring to is that which dealt with the Graves situation. The governor had talked about wanting to help Anthony Graves, and what happened in the Graves situation is there wasn't an actual finding of innocence by the judge. Regrettably, that didn't happen in the original order. Ultimately, a special prosecutor was appointed. The special prosecutor says, "Hey, this guy is innocent," but because our statute said you had to have a finding of actual innocence from a judge, he was stuck in limbo. So this has been narrowly crafted by the attorney general, the comptroller's office, and the governor's office to deal with that specific situation.

HANCOCK: And, also, there was a provision in there regarding health insurance, and just for clarification for the body, that did come through the Insurance Committee. For clarification, and also to be placed in the journal, my understanding, and our understanding in Insurance, was that the insurance available would be available, but yet the state would not be responsible for the payment of that insurance. It simply allows access to insurance.

ANCHIA: That's correct. So in the case of exonerees, they would be able to buy in. That's why there was no fiscal note to the state, and they would cover all parts of the premium. And if you would like to do some legislative intent on that, I'm happy to put that in the record.

HANCOCK: If you don't mind.

#### REMARKS ORDERED PRINTED

Representative Hancock moved to print remarks between Representative Anchia and Representative Hancock.

The motion prevailed.

Representative Anchia moved to concur in the senate amendments to **HB 417**.

The motion to concur in the senate amendments to **HB 417** prevailed by (Record 1234): 143 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Burnam; Button; Cain; Callegari; Carter; Castro; Chisum; Christian; Coleman; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Flynn; Frullo; Gallego; Garza; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hilderbran; Hochberg; Hopson; Howard, C.; Howard,



D.; Huberty; Hughes; Hunter; Isaac; Jackson; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez Fischer; McClendon; Menendez; Miles; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pickett; Pitts; Price; Quintanilla; Raymond; Reynolds; Riddle; Ritter; Rodriguez; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Taylor, V.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Workman; Zedler; Zerwas.

Present, not voting — Mr. Speaker; Kuempel(C).

Absent, Excused — Hernandez Luna; Woolley.

Absent — Alvarado; Johnson; Martinez.

### STATEMENT OF VOTE

When Record No. 1234 was taken, I was temporarily out of the house chamber. I would have voted yes.

Alvarado

### Senate Committee Substitute

**CSHB 417**, A bill to be entitled An Act relating to claims for compensation for wrongful imprisonment.

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

SECTION 1. The heading to Subchapter A, Chapter 103, Civil Practice and Remedies Code, is amended to read as follows:

SUBCHAPTER A. ELIGIBILITY; NOTICE OF ELIGIBILITY [AND CHOICE OF COMPENSATION METHOD]

SECTION 2. Section 103.001(a), Civil Practice and Remedies Code, is amended to read as follows:

(a) A person is entitled to compensation if:

(1) the person has served in whole or in part a sentence in prison under the laws of this state; and

(2) the person:

(A) has received a full pardon on the basis of innocence for the crime for which the person was sentenced; ~~[or]~~

(B) has been granted relief on the basis of actual innocence of the crime for which the person was sentenced; or

(C) has been granted relief in accordance with a writ of habeas corpus and:

(i) the state district court in which the charge against the person was pending has entered an order dismissing the charge; and

(ii) the district court's dismissal order is based on a motion to dismiss in which the state's attorney states that no credible evidence exists that inculpates the defendant and, either in the motion or in an affidavit, the state's attorney states that the state's attorney believes that the defendant is actually innocent of the crime for which the person was sentenced.

SECTION 3. Subchapter A, Chapter 103, Civil Practice and Remedies Code, is amended by adding Section 103.002 to read as follows:

Sec. 103.002. NOTICE TO WRONGFULLY IMPRISONED PERSON. (a) In this section:

(1) "Department" means the Texas Department of Criminal Justice.

(2) "Penal institution" has the meaning assigned by Article 62.001, Code of Criminal Procedure.

(3) "Wrongfully imprisoned person" has the meaning assigned by Section 501.091, Government Code, as added by Chapter 1389 (S.B. 1847), Acts of the 81st Legislature, Regular Session, 2009.

(b) The department shall provide to each wrongfully imprisoned person information, both orally and in writing, that includes:

(1) guidance on how to obtain compensation under this chapter; and

(2) a list of and contact information for nonprofit advocacy groups, identified by the department, that assist wrongfully imprisoned persons in filing claims for compensation under this chapter.

(c) The department must provide the information required under Subsection (b):

(1) at the time of the release of the wrongfully imprisoned person from a penal institution; or

(2) as soon as practicable after the department has reason to believe that the person is entitled to compensation under Section 103.001(a).

SECTION 4. Section 103.003, Civil Practice and Remedies Code, is amended to read as follows:

Sec. 103.003. LIMITATION ON TIME TO FILE. A person seeking compensation under this chapter must file an application with the comptroller for compensation under Subchapter B not [Not] later than the third anniversary of the date:

(1) the person on whose imprisonment the claim is based received a [the] pardon as provided by Section 103.001(a)(2)(A);

(2) the person was granted relief as provided by Section 103.001(a)(2)(B); or

(3) an order of dismissal described by Section 103.001(a)(2)(C) was signed [was granted relief as required by Section 103.001, a person seeking compensation under this chapter must file an application with the comptroller for compensation under Subchapter B].

SECTION 5. Sections 103.051(a), (b-1), and (d), Civil Practice and Remedies Code, are amended to read as follows:

(a) To apply for compensation under this subchapter, the claimant must file with the comptroller's judiciary section:

(1) an application for compensation provided for that purpose by the comptroller;

(2) a verified copy of the pardon, ~~[or]~~ court order, motion to dismiss, and affidavit, as applicable, justifying the application for compensation;

(3) a statement provided by the Texas Department of Criminal Justice and any county or municipality that incarcerated the person on whose imprisonment the claim is based in connection with the relevant sentence verifying the length of incarceration;

(4) if applicable, a statement from the Department of Public Safety verifying registration as a sex offender and length of registration;

(5) if applicable, a statement from the Texas Department of Criminal Justice verifying the length of time spent on parole; and

(6) if the claimant is applying for compensation under Section 103.052(a)(2), a certified copy of each child support order under which child support payments became due during the time the claimant served in prison and copies of the official child support payment records described by Section 234.009, Family Code, for that period.

(b-1) In determining the eligibility of a claimant, the comptroller shall consider only the verified copies of documents ~~[copy of the pardon or court order]~~ filed ~~[by the claimant]~~ under Subsection (a)(2) ~~[(a)]~~. If the filed documents do ~~[pardon or court order does]~~ not clearly indicate on their ~~[its]~~ face that the person is entitled to compensation under Section 103.001(a)(2) ~~[pardon or the court order was granted or rendered on the basis of the claimant's actual innocence of the crime for which the claimant was sentenced]~~, the comptroller shall deny the claim. The comptroller's duty to determine the eligibility of a claimant under this section is purely ministerial.

(d) If the comptroller denies the claim, the comptroller must state the reason for the denial. Not later than the 30th ~~[10th]~~ day after the date the denial is received, the claimant must submit an application to cure any problem identified. Not later than the 45th day after the date an application is received under this subsection, the comptroller shall determine the claimant's eligibility and the amount owed.

SECTION 6. Section 103.054, Civil Practice and Remedies Code, is amended to read as follows:

Sec. 103.054. PAYMENT OF CERTAIN TUITION AND FEES. If requested by the claimant before the seventh anniversary of the relevant date described by Section 103.003 ~~[the claimant received the pardon or was granted relief as required by Section 103.001]~~, tuition for up to 120 credit hours, including tuition charged under Section 54.0513, Education Code, or any other law granting an educational institution discretion to set the tuition rate, and any mandatory fees associated with attendance at the institution, charged by a career center or public institution of higher education shall be paid on behalf of the claimant.

SECTION 7. Chapter 103, Civil Practice and Remedies Code, is amended by adding Subchapter C to read as follows:

## SUBCHAPTER C. FEES

Sec. 103.101. FEES LIMITED; PREREQUISITES TO FEE AGREEMENT. (a) A person, including an attorney, may not charge or collect a fee for preparing, filing, or curing a claimant's application under Section 103.051 unless the fee is based on a reasonable hourly rate.

(b) An attorney may enter into a fee agreement with a claimant for services related to an application under Section 103.051 only after the attorney has disclosed in writing to the claimant the hourly rate that will be charged for the services.

(c) An attorney may not collect a fee for preparing, filing, or curing a claimant's application under Section 103.051 before a final determination is made by the comptroller that the claimant is eligible or ineligible for compensation under this chapter.

Sec. 103.102. SUBMISSION OF FEE REPORT. (a) Together with an application for compensation under this chapter or not later than the 14th day after the date the application or cured application is filed, a person seeking payment for preparing, filing, or curing the application must file a fee report with the comptroller's judiciary section.

(b) A fee report under this section must include:

(1) the total dollar amount sought for fees;

(2) the number of hours the person worked preparing, filing, or curing the application; and

(3) the name of the applicant.

(c) A fee report under this section is public information subject to Chapter 552, Government Code.

SECTION 8. Section 501.091, Government Code, as added by Chapter 1389 (SB 1847), Acts of the 81st Legislature, Regular Session, 2009, is amended by amending Subsection (a) and adding Subsection (d) to read as follows:

(a) In this section, "wrongfully imprisoned person" means a person who:

(1) has served in whole or in part a sentence in a facility operated by or under contract with the department; and

(2) has:

(A) received a pardon for innocence for the crime for which the person was sentenced; ~~or~~

(B) ~~otherwise~~ been granted relief on the basis of actual innocence of the crime for which the person was sentenced; or

(C) been granted relief in accordance with a writ of habeas corpus  
and:

(i) the state district court in which the charge against the person was pending has entered an order dismissing the charge; and

(ii) the district court's dismissal order is based on a motion to dismiss in which the state's attorney states that no credible evidence exists that inculpatates the defendant and, either in the motion or in an affidavit, the state's attorney states that the state's attorney believes that the defendant is actually innocent of the crime for which the person was sentenced.

(d) The department shall provide information to wrongfully imprisoned persons as required by Section 103.002, Civil Practice and Remedies Code.

SECTION 9. Section 501.091, Government Code, as added by Chapter 180 (HB 1736), Acts of the 81st Legislature, Regular Session, 2009, is repealed.

SECTION 10. Subchapter C, Chapter 103, Civil Practice and Remedies Code, as added by this Act, applies only to an attorney's fee agreement entered into on or after January 1, 2012. An attorney's fee agreement entered into before January 1, 2012, is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 11. Section 103.001(a)(2)(C), Civil Practice and Remedies Code, as added by this Act, applies to a person who has received an order of dismissal signed on or after September 1, 2009.

SECTION 12. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2011.

#### **Senate Amendment No. 1 (Senate Floor Amendment No. 1)**

Amend CSHB 417 (senate committee printing) by striking all below the enacting clause and substituting the following:

SECTION 1. The heading to Subchapter A, Chapter 103, Civil Practice and Remedies Code, is amended to read as follows:

#### **SUBCHAPTER A. ELIGIBILITY; NOTICE OF ELIGIBILITY [~~AND CHOICE OF COMPENSATION METHOD~~]**

SECTION 2. Section 103.001, Civil Practice and Remedies Code, is amended by amending Subsection (a) and adding Subsections (d) and (e) to read as follows:

(a) A person is entitled to compensation if:

(1) the person has served in whole or in part a sentence in prison under the laws of this state; and

(2) the person:

(A) has received a full pardon on the basis of innocence for the crime for which the person was sentenced; ~~[or]~~

(B) has been granted relief in accordance with a writ of habeas corpus that is based on a court finding or determination that the person is actually innocent of the crime for which the person was sentenced; or

(C) has been granted relief in accordance with a writ of habeas corpus and:

(i) the state district court in which the charge against the person was pending has entered an order dismissing the charge; and

(ii) the district court's dismissal order is based on a motion to dismiss in which the state's attorney states that no credible evidence exists that inculpates the defendant and, either in the motion or in an affidavit, the state's attorney states that the state's attorney believes that the defendant is actually innocent of the crime for which the person was sentenced [~~on the basis of actual innocence of the crime for which the person was sentenced~~].

(d) Subject to this section, a person entitled to compensation under Subsection (a) is also eligible to obtain group health benefit plan coverage through the Texas Department of Criminal Justice as if the person were an employee of the department. This subsection does not entitle the person's spouse or other dependent or family member to group health benefit plan coverage. Coverage may be obtained under this subsection for a period of time equal to the total period the claimant served for the crime for which the claimant was wrongfully imprisoned, including any period during which the claimant was released on parole or to mandatory supervision or required to register under Chapter 62, Code of Criminal Procedure. A person who elects to obtain coverage under this subsection shall pay a monthly contribution equal to the total amount of the monthly contributions for that coverage for an employee of the department.

(e) Notwithstanding Section 103.053(c), annuity payments may be reduced by an amount necessary to make the payments required by Subsection (d), and that amount shall be transferred to an appropriate account as provided by the comptroller by rule to fund that coverage.

SECTION 3. Subchapter A, Chapter 103, Civil Practice and Remedies Code, is amended by adding Section 103.002 to read as follows:

Sec. 103.002. NOTICE TO WRONGFULLY IMPRISONED PERSON. (a) In this section:

(1) "Department" means the Texas Department of Criminal Justice.

(2) "Penal institution" has the meaning assigned by Article 62.001, Code of Criminal Procedure.

(3) "Wrongfully imprisoned person" has the meaning assigned by Section 501.091, Government Code, as added by Chapter 1389 (SB 1847), Acts of the 81st Legislature, Regular Session, 2009.

(b) The department shall provide to each wrongfully imprisoned person information, both orally and in writing, that includes:

(1) guidance on how to obtain compensation under this chapter; and

(2) a list of and contact information for nonprofit advocacy groups, identified by the department, that assist wrongfully imprisoned persons in filing claims for compensation under this chapter.

(c) The department must provide the information required under Subsection (b):

(1) at the time of the release of the wrongfully imprisoned person from a penal institution; or

(2) as soon as practicable after the department has reason to believe that the person is entitled to compensation under Section 103.001(a).

SECTION 4. Section 103.003, Civil Practice and Remedies Code, is amended to read as follows:

Sec. 103.003. LIMITATION ON TIME TO FILE. A person seeking compensation under this chapter must file an application with the comptroller for compensation under Subchapter B not ~~Not~~ later than the third anniversary of the date:

(1) the person on whose imprisonment the claim is based received a ~~the~~ pardon as provided by Section 103.001(a)(2)(A);

(2) the person's application for a writ of habeas corpus was granted as provided by Section 103.001(a)(2)(B); or

(3) an order of dismissal described by Section 103.001(a)(2)(C) was signed [was granted relief as required by Section 103.001, a person seeking compensation under this chapter must file an application with the comptroller for compensation under Subchapter B].

SECTION 5. Section 103.051, Civil Practice and Remedies Code, is amended by amending Subsections (a), (b-1), and (d) and adding Subsection (f) to read as follows:

(a) To apply for compensation under this subchapter, the claimant must file with the comptroller's judiciary section:

(1) an application for compensation provided for that purpose by the comptroller;

(2) a verified copy of the pardon, ~~[or]~~ court order, motion to dismiss, and affidavit, as applicable, justifying the application for compensation;

(3) a statement provided by the Texas Department of Criminal Justice and any county or municipality that incarcerated the person on whose imprisonment the claim is based in connection with the relevant sentence verifying the length of incarceration;

(4) if applicable, a statement from the Department of Public Safety verifying registration as a sex offender and length of registration;

(5) if applicable, a statement from the Texas Department of Criminal Justice verifying the length of time spent on parole; and

(6) if the claimant is applying for compensation under Section 103.052(a)(2), a certified copy of each child support order under which child support payments became due during the time the claimant served in prison and copies of the official child support payment records described by Section 234.009, Family Code, for that period.

(b-1) In determining the eligibility of a claimant, the comptroller shall consider only the verified copies of documents ~~[copy of the pardon or court order]~~ filed ~~[by the claimant]~~ under Subsection (a)(2) ~~[(a)]~~. If the filed documents do ~~[pardon or court order does]~~ not clearly indicate on their ~~[its]~~ face that the person is entitled to compensation under Section 103.001(a)(2) ~~[pardon or the court order was granted or rendered on the basis of the claimant's actual innocence of the crime for which the claimant was sentenced]~~, the comptroller shall deny the claim. The comptroller's duty to determine the eligibility of a claimant under this section is purely ministerial.

(d) If the comptroller denies the claim, the comptroller must state the reason for the denial. Not later than the 30th ~~[10th]~~ day after the date the denial is received, the claimant must submit an application to cure any problem identified. Not later than the 45th day after the date an application is received under this subsection, the comptroller shall determine the claimant's eligibility and the amount owed.

(f) To apply for coverage through the Texas Department of Criminal Justice under Section 103.001(d), the claimant must file with the department:

(1) an application for coverage provided for that purpose by the department; and

(2) a statement by the comptroller that the comptroller has determined the claimant to be eligible for compensation under this subchapter.

SECTION 6. Section 103.054, Civil Practice and Remedies Code, is amended to read as follows:

Sec. 103.054. PAYMENT OF CERTAIN TUITION AND FEES. If requested by the claimant before the seventh anniversary of the relevant date described by Section 103.003 [~~the claimant received the pardon or was granted relief as required by Section 103.001~~], tuition for up to 120 credit hours, including tuition charged under Section 54.0513, Education Code, or any other law granting an educational institution discretion to set the tuition rate, and any mandatory fees associated with attendance at the institution, charged by a career center or public institution of higher education shall be paid on behalf of the claimant.

SECTION 7. Chapter 103, Civil Practice and Remedies Code, is amended by adding Subchapter C to read as follows:

#### SUBCHAPTER C. FEES

Sec. 103.101. FEES LIMITED; PREREQUISITES TO FEE AGREEMENT. (a) A person, including an attorney, may not charge or collect a fee for preparing, filing, or curing a claimant's application under Section 103.051 unless the fee is based on a reasonable hourly rate.

(b) An attorney may enter into a fee agreement with a claimant for services related to an application under Section 103.051 only after the attorney has disclosed in writing to the claimant the hourly rate that will be charged for the services.

(c) An attorney may not collect a fee for preparing, filing, or curing a claimant's application under Section 103.051 before a final determination is made by the comptroller that the claimant is eligible or ineligible for compensation under this chapter.

Sec. 103.102. SUBMISSION OF FEE REPORT. (a) Together with an application for compensation under this chapter or not later than the 14th day after the date the application or cured application is filed, a person seeking payment for preparing, filing, or curing the application must file a fee report with the comptroller's judiciary section.

(b) A fee report under this section must include:

(1) the total dollar amount sought for fees;

(2) the number of hours the person worked preparing, filing, or curing the application; and

(3) the name of the applicant.

(c) A fee report under this section is public information subject to Chapter 552, Government Code.

SECTION 8. Section 501.091, Government Code, as added by Chapter 1389 (SB 1847), Acts of the 81st Legislature, Regular Session, 2009, is amended by amending Subsection (a) and adding Subsection (d) to read as follows:

(a) In this section, "wrongfully imprisoned person" means a person who:



(1) has served in whole or in part a sentence in a facility operated by or under contract with the department; and

(2) has:

(A) received a pardon for innocence for the crime for which the person was sentenced; ~~or~~

(B) been granted relief in accordance with a writ of habeas corpus that is based on a court finding or determination that the person is actually innocent of the crime for which the person was sentenced; or

(C) been granted relief in accordance with a writ of habeas corpus and:

(i) the state district court in which the charge against the person was pending has entered an order dismissing the charge; and

(ii) the district court's dismissal order is based on a motion to dismiss in which the state's attorney states that no credible evidence exists that inculpatates the defendant and, either in the motion or in an affidavit, the state's attorney states that the state's attorney believes that the defendant is actually innocent of the crime for which the person was sentenced ~~[otherwise been granted relief on the basis of actual innocence of the crime for which the person was sentenced].~~

(d) The department shall provide information to wrongfully imprisoned persons as required by Section 103.002, Civil Practice and Remedies Code.

SECTION 9. Subchapter C, Chapter 1551, Insurance Code, is amended by adding Section 1551.115 to read as follows:

Sec. 1551.115. PARTICIPATION BY WRONGFULLY IMPRISONED PERSONS. Subject to Section 103.001, Civil Practice and Remedies Code, a person who is entitled to compensation under Chapter 103, Civil Practice and Remedies Code, is eligible to obtain health benefit plan coverage under the group benefits program in the manner and to the extent that an employee of the Texas Department of Criminal Justice would be entitled to coverage, except that this section does not entitle the person's spouse or other dependent or family member to coverage.

SECTION 10. Section 501.091(a), Government Code, as added by Chapter 180 (HB 1736), Acts of the 81st Legislature, Regular Session, 2009, is repealed.

SECTION 11. Section 103.001(a)(2)(C), Civil Practice and Remedies Code, as added by this Act, applies to a person who has received an order of dismissal signed on or after September 1, 2009.

SECTION 12. Sections 103.001(d) and (e) and 103.051(f), Civil Practice and Remedies Code, and Section 1551.115, Insurance Code, as added by this Act, apply to a person the comptroller of public accounts has determined to be eligible for compensation as provided by Section 103.051(b), Civil Practice and Remedies Code, on or after September 1, 2011.

SECTION 13. Subchapter C, Chapter 103, Civil Practice and Remedies Code, as added by this Act, applies only to an attorney's fee agreement entered into on or after January 1, 2012. An attorney's fee agreement entered into before January 1, 2012, is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 14. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2011.

**HB 3510 - HOUSE CONCURS IN SENATE AMENDMENTS  
TEXT OF SENATE AMENDMENTS**

Representative Hamilton called up with senate amendments for consideration at this time,

**HB 3510**, A bill to be entitled An Act relating to the regulation of the towing, booting, and storage of vehicles.

Representative Hamilton moved to concur in the senate amendments to **HB 3510**.

The motion to concur in the senate amendments to **HB 3510** prevailed by (Record 1235): 143 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Burnam; Button; Cain; Callegari; Carter; Castro; Chisum; Christian; Coleman; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Flynn; Frullo; Gallego; Garza; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hilderbran; Hochberg; Hopson; Howard, C.; Howard, D.; Huberty; Hughes; Hunter; Isaac; Jackson; Johnson; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pickett; Pitts; Price; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Taylor, V.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Workman; Zedler; Zerwas.

Present, not voting — Mr. Speaker; Kuempel(C).

Absent, Excused — Hernandez Luna; Woolley.

Absent — Alvarado; Davis, Y.; Reynolds.

**STATEMENTS OF VOTE**

When Record No. 1235 was taken, I was temporarily out of the house chamber. I would have voted yes.

Alvarado

I was shown voting yes on Record No. 1235. I intended to vote no.

P. King

**Senate Committee Substitute**

**CSHB 3510**, A bill to be entitled An Act relating to the regulation of the towing, booting, and storage of vehicles.

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

SECTION 1. Section 2303.1511, Occupations Code, is amended by adding Subsection (c) to read as follows:

(c) This section does not apply to a vehicle received as a result of an incident management tow requested by a law enforcement agency unless the law enforcement agency requests a report of incident management tows within the jurisdiction of the agency. In this subsection, "incident management tow" has the meaning assigned by Section 2308.002.

SECTION 2. Section 2303.154(a), Occupations Code, is amended to read as follows:

(a) If a vehicle is not claimed by a person permitted to claim the vehicle or ~~[is not taken into custody by]~~ a law enforcement agency has not taken an action in response to a notice under Section 683.031(c) [Chapter 683], Transportation Code, before the 15th [41st] day after the date notice is mailed or published under Section 2303.151 or 2303.152, the operator of the vehicle storage facility shall send a second notice to the registered owner and the primary lienholder of the vehicle.

SECTION 3. Section 2303.160(c), Occupations Code, is amended to read as follows:

(c) Subsection (b) does not require a vehicle storage facility to release a vehicle to the owner or operator of the vehicle if the owner or operator of the vehicle does not:

(1) pay the charges for services regulated under this chapter or Chapter 2308, including charges for an incident management tow, as defined by Section 2308.002 [associated with delivery or storage of the vehicle]; and

(2) present valid photo identification issued by this state, another state, [or] a federal agency, or a foreign government.

SECTION 4. Sections 2308.002(5-a) and (7), Occupations Code, are amended to read as follows:

(5-a) "Incident management tow" means any tow of a vehicle in which the tow truck is summoned to the scene [because] of a traffic accident or to an incident, including the removal of a vehicle, commercial cargo, and commercial debris from an accident or incident scene.

(7) "Parking facility" means public or private property used, wholly or partly, for restricted or paid vehicle parking. The term includes:

(A) a restricted space on a portion of an otherwise unrestricted parking facility; and

(B) a commercial parking lot, a parking garage, and a parking area serving or adjacent to a business, church, school, home that charges a fee for parking, apartment complex, property governed by a property owners' association, or government-owned property leased to a private person, including:

(i) a portion of the right-of-way of a public roadway that is leased by a governmental entity to the parking facility owner; and

(ii) the area between the facility's property line abutting a county or municipal public roadway and the center line of the roadway's drainage way or the curb of the roadway, whichever is farther from the facility's property line.

SECTION 5. Section 2308.057, Occupations Code, is amended to read as follows:

Sec. 2308.057. RULES. (a) The commission shall adopt rules for permitting tow trucks and licensing towing operators, towing companies, booting companies, and boot operators. The commission may adopt different rules applicable to each type of permit or license.

(a-1) The commission shall adopt [~~including~~] rules for denial of applications and permits if the applicant, a partner, principal, officer, or general manager of the applicant, or other license or permit holder has:

(1) a criminal conviction, or has pleaded guilty or nolo contendere to an offense, before the date of the application, for:

(A) a felony; or

(B) a misdemeanor punishable by confinement in jail or by a fine in an amount that exceeds \$500;

(2) violated an order of the commission or executive director, including an order for sanctions or administrative penalties;

(3) failed to submit a license or permit bond in an amount established by the commission;

(4) knowingly submitted false or incomplete information on the application; or

(5) filed an application to permit a tow truck previously permitted by a license or permit holder.

(b) The commission by rule shall adopt:

(1) standards of conduct for license and permit holders under this chapter; and

(2) requirements for a consent tow, private property tow, and incident management tow.

SECTION 6. Section 2308.159(c), Occupations Code, is amended to read as follows:

(c) A license holder may renew a license issued under this chapter by:

(1) submitting an application on a form prescribed by the executive director;

(2) submitting evidence demonstrating compliance with the requirements for the license type as required by this chapter or commission rule;

(3) paying a renewal fee; and

(4) [~~2~~] completing continuing education as required by Section 2308.157.

SECTION 7. Subchapter E, Chapter 2308, Occupations Code, is amended by adding Section 2308.2065 to read as follows:

Sec. 2308.2065. FEES FOR NONCONSENT TOWS; REFUNDS. (a) A license or permit holder may not charge a fee for a nonconsent tow that is greater than:

(1) the fee for a nonconsent tow established under Section 2308.0575;  
or

(2) a fee for a nonconsent tow authorized by a political subdivision.

(b) A license or permit holder may not charge a fee for a service related to a nonconsent tow that is not included in the list of fees established:

(1) under Section 2308.0575; or

(2) by a political subdivision.

(c) The department may require a license or permit holder to refund to a vehicle owner or operator the:

(1) amount charged to the owner or operator in excess of the amounts established by commission rule or by a political subdivision; or

(2) total amount of the charges for a service not listed in the amounts established by commission rule or by a political subdivision.

SECTION 8. The heading to Section 2308.255, Occupations Code, is amended to read as follows:

Sec. 2308.255. TOWING COMPANY'S OR BOOT OPERATOR'S AUTHORITY TO REMOVE AND STORE OR BOOT UNAUTHORIZED VEHICLE.

SECTION 9. Sections 2308.255(a) and (d), Occupations Code, are amended to read as follows:

(a) A towing company that is insured as provided by Subsection (c) may, without the consent of an owner or operator of an unauthorized vehicle, remove and store the vehicle at a vehicle storage facility at the expense of the owner or operator of the vehicle if:

(1) the towing company has received written verification from the parking facility owner that:

(A) the parking facility owner has installed the signs required by Section 2308.252(a)(1); or

(B) the owner or operator received notice under Section 2308.252(a)(2) or the parking facility owner gave notice complying with Section 2308.252(a)(3); or

(2) on request the parking facility owner provides to the owner or operator of the vehicle information on the name of the towing company and vehicle storage facility that will be used to remove and store the vehicle and the vehicle is:

(A) left in violation of Section 2308.251; ~~or~~

(B) in or obstructing a portion of a paved driveway; or

(C) on a ~~abutting~~ public roadway used for entering or exiting the facility and the removal is approved by a peace officer.

(d) A towing company may remove and store a vehicle under Subsection (a) and a boot operator may boot a vehicle under Section 2308.257 only if the parking facility owner:

(1) requests that the towing company remove and store or that the boot operator boot the specific vehicle; or

(2) has a standing written agreement with the towing company or boot operator to enforce parking restrictions in the parking facility [~~from which the vehicle will be removed~~].

SECTION 10. Section 2308.257, Occupations Code, as added by Chapter 757 (SB 702), Acts of the 81st Legislature, Regular Session, 2009, is redesignated as Section 2308.2555, Occupations Code, to read as follows:

Sec. 2308.2555 [~~2308.257~~]. **REMOVAL OF CERTAIN UNAUTHORIZED VEHICLES IN RURAL AREAS.** (a) This section applies only to an abandoned vehicle that has damaged a fence on private property in a rural area.

(b) A law enforcement agency directing a towing company or tow operator to remove an abandoned vehicle that is located on private property shall provide the towing company or tow operator with the name and telephone number of the property owner or the owner's agent if the owner or agent has provided the information to the law enforcement agency.

(c) A towing company or tow operator provided with information under Subsection (b) shall contact the property owner or the owner's agent before entering private property to tow a vehicle described by Subsection (a).

SECTION 11. Subchapter F, Chapter 2308, Occupations Code, is amended by adding Section 2308.2565 to read as follows:

Sec. 2308.2565. VEHICLE STORAGE FACILITY DUTY TO REPORT AFTER ACCEPTING UNAUTHORIZED VEHICLE. (a) Except for an incident management tow requested by a law enforcement agency, a vehicle storage facility accepting a vehicle that is towed under this chapter shall within two hours after receiving the vehicle report to the police department of the municipality from which the vehicle was towed or, if the vehicle was towed from a location that is not in a municipality with a police department, to the sheriff of the county from which the vehicle was towed:

- (1) a general description of the vehicle;
- (2) the state and number of the vehicle's license plate, if any;
- (3) the vehicle identification number of the vehicle, if it can be ascertained;
- (4) the location from which the vehicle was towed; and
- (5) the name and location of the vehicle storage facility in which the vehicle is being stored.

(b) A law enforcement agency may request a vehicle storage facility to provide a report, in a manner prescribed by the law enforcement agency, of incident management tows within the jurisdiction of the agency. A vehicle storage facility must provide the report not later than 48 hours after the time the facility receives the request.

SECTION 12. Section 2308.301(b), Occupations Code, is amended to read as follows:

(b) Except as provided by Section 2308.305, an unauthorized vehicle may be towed under Section 2308.252(a)(1) or booted under Section 2308.257 only if each sign prohibiting unauthorized vehicles:

- (1) is made of weather-resistant material;
- (2) is at least 18 inches wide and 24 inches tall;

- (3) contains the international symbol for towing vehicles;
- (4) contains a statement describing who may park in the parking facility and prohibiting all others;
- (5) bears the words, as applicable:
  - (A) "Unauthorized Vehicles Will Be Towed or Booted at Owner's or Operator's Expense";
  - (B) "Unauthorized Vehicles Will Be Towed at Owner's or Operator's Expense"; or
  - (C) "Unauthorized Vehicles Will Be Booted at Owner's or Operator's Expense";
- (6) contains a statement of the days and hours of towing and booting enforcement; and
- (7) contains a number, including the area code, of a telephone that is answered 24 hours a day to enable an owner or operator of a vehicle to locate a towed vehicle or to arrange for removal of a boot from a vehicle.

SECTION 13. Section 2308.302(c), Occupations Code, is amended to read as follows:

(c) The portion of the sign immediately below the international towing symbol must:

(1) ~~[contain the words "Towing And Booting Enforced"]~~ in lettering at least two inches in height, contain the words, as applicable:

- (A) "Towing and Booting Enforced";
- (B) "Towing Enforced"; or
- (C) "Booting Enforced"; and

(2) ~~[The lettering on this portion of the sign must]~~ consist of white letters on a bright red background.

SECTION 14. Section 2308.401, Occupations Code, is amended by adding Subsection (c) to read as follows:

(c) This section does not apply to a sign required under Section 2308.301 provided by a towing or booting company to a parking facility owner.

SECTION 15. Section 2308.402, Occupations Code, is amended by adding Subsection (c) to read as follows:

(c) This section does not apply to a sign required under Section 2308.301 provided by a towing or booting company to a parking facility owner.

SECTION 16. Sections 2308.458(b), (c), and (e), Occupations Code, are amended to read as follows:

(b) The court shall notify the person who requested the hearing for a towed vehicle, the parking facility owner or law enforcement agency that authorized the removal of the vehicle, the towing company, and the vehicle storage facility in which the vehicle was placed of the date, time, and place of the hearing in a manner provided by Rule 21a, Texas Rules of Civil Procedure. The notice of the hearing to the towing company and the parking facility owner or law enforcement agency that authorized the removal of the vehicle must include a copy of the request for hearing. Notice to the law enforcement agency that authorized the removal of the vehicle is sufficient as notice to the political subdivision in which the law enforcement agency is located.

(c) The issues in a hearing regarding a towed vehicle under this chapter are:

(1) whether probable cause existed for the removal and placement of the vehicle;

(2) whether a towing charge imposed or collected in connection with the removal or placement of the vehicle was greater than the amount authorized by the political subdivision under Section 2308.201 or 2308.202;

(3) whether a towing charge imposed or collected in connection with the removal or placement of the vehicle was greater than the amount authorized under Section 2308.203 [~~or 2308.204~~]; or

(4) whether a towing charge imposed or collected in connection with the removal or placement of the vehicle was greater than the amount authorized [~~filed with the department~~] under Section 2308.0575 [~~2308.206~~].

(e) The court may award:

(1) court costs and attorney's fees to the prevailing party;

(2) the reasonable cost of photographs submitted under Section 2308.456(b)(8) to a vehicle owner or operator who is the prevailing party;

(3) an amount equal to the amount that the towing charge or booting removal charge and associated parking fees exceeded fees regulated by a political subdivision or authorized by this code or by Chapter 2303; and

(4) reimbursement of fees paid for vehicle towing, storage, or removal of a boot.

SECTION 17. Section 2308.504(b), Occupations Code, is amended to read as follows:

(b) An offense under this section is a Class C misdemeanor. An offense under this section is enforceable by law enforcement.

SECTION 18. Section 2308.505(b), Occupations Code, is amended to read as follows:

(b) An offense under this section is a misdemeanor punishable by a fine of not less than \$200 or more than \$1,000 per violation. An offense under this section is enforceable by law enforcement.

SECTION 19. (a) The following sections of the Occupations Code are repealed:

(1) Section 2308.204;

(2) Section 2308.206; and

(3) Section 2308.404(d).

(b) Section 2308.256(a), Occupations Code, as amended by Chapter 1310 (HB 2571), Acts of the 81st Legislature, Regular Session, 2009, is repealed to conform to the repeal of Section 2308.256, Occupations Code, by Chapter 757 (SB 702), Acts of the 81st Legislature, Regular Session, 2009.

SECTION 20. (a) The change in law made by this Act to Section 2308.159, Occupations Code, applies only to an application for renewal of a license made on or after September 1, 2011.

(b) An application for renewal of a license made before September 1, 2011, is governed by the law as it existed immediately before September 1, 2011, and that law is continued in effect for that purpose.



(c) The Texas Commission of Licensing and Regulation shall adopt rules to implement the changes in law made by this Act to Chapters 2303 and 2308, Occupations Code, not later than January 1, 2012.

(d) The changes in law made by Section 2303.154, Occupations Code, as amended by this Act, apply to a vehicle accepted by a vehicle storage facility on or after the effective date of this Act. A vehicle accepted before the effective date of this Act is governed by the law in effect at the time the vehicle was accepted, and the former law is continued in effect for that purpose.

SECTION 21. To the extent of any conflict, this Act prevails over another Act of the 82nd Legislature, Regular Session, 2011, relating to nonsubstantive additions to and corrections in enacted codes.

SECTION 22. This Act takes effect September 1, 2011.

### **HB 1814 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

Representative Lucio called up with senate amendments for consideration at this time,

**HB 1814**, A bill to be entitled An Act relating to the provision of water and certain equipment by water supply or sewer service corporations for use in fire suppression and the liability of those corporations.

Representative Lucio moved to concur in the senate amendments to **HB 1814**.

The motion to concur in the senate amendments to **HB 1814** prevailed by (Record 1236): 143 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Burnam; Button; Cain; Callegari; Carter; Castro; Chisum; Christian; Coleman; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Frullo; Gallego; Garza; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hilderbran; Hochberg; Hopson; Howard, C.; Howard, D.; Huberty; Hughes; Hunter; Isaac; Jackson; Johnson; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pickett; Pitts; Price; Quintanilla; Raymond; Reynolds; Riddle; Ritter; Rodriguez; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Taylor, V.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Workman; Zedler; Zerwas.

Present, not voting — Mr. Speaker; Kuempel(C).

Absent, Excused — Hernandez Luna; Woolley.

Absent — Alvarado; Flynn; Schwertner.

### STATEMENT OF VOTE

When Record No. 1236 was taken, I was temporarily out of the house chamber. I would have voted yes.

Alvarado

#### Senate Committee Substitute

**CSHB 1814**, A bill entitled to be An Act relating to the provision of water and certain equipment by water supply or sewer service corporations for use in fire suppression and the liability of those corporations.

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

SECTION 1. Section 67.0105, Water Code, is amended to read as follows:

Sec. 67.0105. ~~[CONTRACT FOR]~~ WATER FOR FIRE SUPPRESSION.

(a) A corporation may provide a water supply to a governmental entity or volunteer fire department for use in fire suppression.

(a-1) A corporation may enter into a contract with a governmental entity [municipality] or a volunteer fire department to supply water [either] to [municipally owned] fire hydrants owned by the governmental entity or the [or to] corporation [fire hydrants] for use in fire suppression by the governmental entity's [municipality's] fire department or a volunteer fire department. The contract must be under terms that are mutually beneficial to the contracting parties.

(b) The furnishing of a water supply and fire hydrant equipment by a governmental entity [municipality] or a volunteer fire department directly or through another entity by a lease, contract, or any other manner is an essential governmental function and not a proprietary function for all purposes, including the application of Chapter 101, Civil Practice and Remedies Code.

(c) A corporation that provides [contracts with] a governmental entity [municipality] or volunteer fire department with [to provide] a water supply or fire hydrant equipment to carry out the governmental function described by Subsection (b) may be liable for damages only to the extent that the governmental entity [municipality] or volunteer fire department would be liable if the governmental entity [municipality] or volunteer fire department were performing the governmental function directly.

SECTION 2. Section 341.0358, Health and Safety Code, is amended by adding Subsection (g) to read as follows:

(g) This section also applies to a municipality with a population of more than 36,000 and less than 41,000 located in two counties, one of which is a county with a population of more than 1.8 million.

SECTION 3. The change in law made by this Act applies only to a cause of action that accrues on or after the effective date of this Act. A cause of action that accrues before the effective date of this Act is governed by the law in effect immediately before that date, and that law is continued in effect for that purpose.

SECTION 4. This Act takes effect September 1, 2011.

**HB 1899 - HOUSE CONCURS IN SENATE AMENDMENTS  
TEXT OF SENATE AMENDMENTS**

Representative Pickett called up with senate amendments for consideration at this time,

**HB 1899**, A bill to be entitled An Act relating to the posting of signs in school crossing zones regarding the prohibited use of a wireless communication device while operating a motor vehicle.

Representative Pickett moved to concur in the senate amendments to **HB 1899**.

The motion to concur in the senate amendments to **HB 1899** prevailed by (Record 1237): 142 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Anchia; Anderson, C.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Burnam; Button; Cain; Callegari; Carter; Castro; Chisum; Christian; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Frullo; Gallego; Garza; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hilderbran; Hochberg; Hopson; Howard, C.; Howard, D.; Huberty; Hughes; Hunter; Isaac; Jackson; Johnson; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pickett; Pitts; Price; Quintanilla; Raymond; Reynolds; Riddle; Ritter; Rodriguez; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Taylor, V.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Workman; Zedler; Zerwas.

Present, not voting — Mr. Speaker; Kuempel(C).

Absent, Excused — Hernandez Luna; Woolley.

Absent — Alvarado; Anderson, R.; Coleman; Flynn.

**STATEMENT OF VOTE**

When Record No. 1237 was taken, I was temporarily out of the house chamber. I would have voted yes.

Alvarado

**Senate Committee Substitute**

**CSHB 1899**, A bill to be entitled An Act relating to the posting of signs in school crossing zones regarding the prohibited use of a wireless communication device while operating a motor vehicle.

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

SECTION 1. Section 545.425, Transportation Code, is amended by amending Subsections (b-1) and (f) and adding Subsections (b-2), (b-3), (b-4), and (d-1) to read as follows:

(b-1) Except as provided by Subsection (b-2), a [A] municipality, county, or other political subdivision that enforces this section shall post a sign that complies with the standards described by this subsection at the entrance to each school crossing zone in the municipality, county, or other political subdivision. The department shall adopt standards that:

(1) allow for a sign required to be posted under this subsection to be attached to an existing sign at a minimal cost; and

(2) require that a sign required to be posted under this subsection inform an operator that:

(A) the use of a wireless communication device is prohibited in the school crossing zone; and

(B) the operator is subject to a fine if the operator uses a wireless communication device in the school crossing zone.

(b-2) A municipality, county, or other political subdivision that by ordinance or rule prohibits the use of a wireless communication device while operating a motor vehicle throughout the jurisdiction of the political subdivision is not required to post a sign as required by Subsection (b-1) if the political subdivision:

(1) posts signs that are located at each point at which a state highway, U.S. highway, or interstate highway enters the political subdivision and that state:

(A) that an operator is prohibited from using a wireless communication device while operating a motor vehicle in the political subdivision; and

(B) that the operator is subject to a fine if the operator uses a wireless communication device while operating a motor vehicle in the political subdivision; and

(2) subject to all applicable United States Department of Transportation Federal Highway Administration rules, posts a message that complies with Subdivision (1) on any dynamic message sign operated by the political subdivision located on a state highway, U.S. highway, or interstate highway in the political subdivision.

(b-3) A sign posted under Subsection (b-2)(1) must be readable to an operator traveling at the applicable speed limit.

(b-4) The political subdivision shall pay the costs associated with the posting of signs under Subsection (b-2).

(d-1) The affirmative defense available in Subsection (d)(2) is not available for an offense under Subsection (b) committed in a school crossing zone located in a municipality, county, or other political subdivision that is in compliance with Subsection (b-2).

(f) Except as provided by Subsection (b-2), this [This] section preempts all local ordinances, rules, or regulations that are inconsistent with specific provisions of this section adopted by a political subdivision of this state relating to the use of a wireless communication device by the operator of a motor vehicle.

SECTION 2. This Act takes effect September 1, 2011.

**HB 2457 - HOUSE REFUSES TO CONCUR  
IN SENATE AMENDMENTS  
CONFERENCE COMMITTEE APPOINTED**

Representative J. Davis called up with senate amendments for consideration at this time,

**HB 2457**, A bill to be entitled An Act relating to the amendment of Texas Enterprise Fund grant agreements.

Representative J. Davis moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 2457**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 2457**: J. Davis, chair; Strama, Peña, Reynolds, and Murphy.

**HB 3302 - HOUSE REFUSES TO CONCUR  
IN SENATE AMENDMENTS  
CONFERENCE COMMITTEE APPOINTED**

Representative Reynolds called up with senate amendments for consideration at this time,

**HB 3302**, A bill to be entitled An Act relating to the authority of certain Type A economic development corporations to undertake certain categories of projects.

Representative Reynolds moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 3302**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 3302**: Reynolds, chair; Murphy, Vo, Miles, and R. Anderson.

**HB 2488 - HOUSE CONCURS IN SENATE AMENDMENTS  
TEXT OF SENATE AMENDMENTS**

Representative Scott called up with senate amendments for consideration at this time,

**HB 2488**, A bill to be entitled An Act relating to access to a child's medical records by the child's attorney ad litem, guardian ad litem, or amicus attorney.

Representative Scott moved to concur in the senate amendments to **HB 2488**.

The motion to concur in the senate amendments to **HB 2488** prevailed by (Record 1238): 141 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Burnam; Button; Cain; Callegari; Carter; Castro; Chisum; Christian; Cook; Craddock; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Flynn; Frullo; Gallego; Garza; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hilderbran; Hochberg; Hopson; Howard, C.; Howard, D.; Huberty; Hughes; Hunter; Isaac; Jackson; Johnson; Keffer; King, P.; King, S.; King, T.; Kolkhorst; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pickett; Pitts; Price; Quintanilla; Raymond; Reynolds; Riddle; Ritter; Rodriguez; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Solomons; Strama; Taylor, L.; Taylor, V.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Workman; Zedler; Zerwas.

Present, not voting — Mr. Speaker; Kuempel(C).

Absent, Excused — Hernandez Luna; Woolley.

Absent — Alvarado; Coleman; Kleinschmidt; Miles; Smithee.

#### STATEMENTS OF VOTE

When Record No. 1238 was taken, I was temporarily out of the house chamber. I would have voted yes.

Alvarado

When Record No. 1238 was taken, my vote failed to register. I would have voted yes.

Smithee

#### Senate Committee Substitute

**CSHB 2488**, A bill to be entitled An Act relating to access to a child's medical records by the child's attorney ad litem, guardian ad litem, or amicus attorney.

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

SECTION 1. Section 107.006, Family Code, is amended by amending Subsections (a) and (c) and adding Subsections (d), (e), and (f) to read as follows:

(a) In ~~[Except as provided by Subsection (e), in]~~ conjunction with an appointment under this chapter, other than an appointment of an attorney ad litem for an adult or a parent, the court shall issue an order authorizing the attorney ad litem, guardian ad litem for the child, or amicus attorney to have immediate access to the child and any information relating to the child.

(c) Without requiring a further order or release, the custodian of a [A] medical, mental health, or drug or alcohol treatment record of a child that is privileged or confidential under other law shall release the record [may be

released] to a person authorized to access the record [appointed] under Subsection (a), except that a child's drug or alcohol treatment record that is confidential under 42 U.S.C. Section 290dd-2 may only be released as provided under applicable federal regulations [only in accordance with the other law].

(d) The disclosure of a confidential record under this section does not affect the confidentiality of the record, and the person provided access to the record may not disclose the record further except as provided by court order or other law.

(e) Notwithstanding the provisions of this section, the requirements of Section 159.008, Occupations Code, apply.

(f) Records obtained under this section shall be destroyed on termination of the appointment.

SECTION 2. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2011.

### HB 3372 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative T. King called up with senate amendments for consideration at this time,

**HB 3372**, A bill to be entitled An Act relating to standards for a structure that is connected to a public water supply system and has a rainwater harvesting system.

Representative T. King moved to concur in the senate amendments to **HB 3372**.

The motion to concur in the senate amendments to **HB 3372** prevailed by (Record 1239): 139 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Anchia; Anderson, C.; Anderson, R.; Aycocock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Burnam; Button; Cain; Callegari; Carter; Castro; Chisum; Christian; Coleman; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Frullo; Garza; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Guillen; Gutierrez; Hamilton; Hancock; Harless; Harper-Brown; Hartnett; Hilderbran; Hopson; Howard, C.; Howard, D.; Huberty; Hughes; Hunter; Isaac; Jackson; Johnson; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pickett; Pitts; Price; Quintanilla; Raymond; Reynolds; Riddle; Ritter; Rodriguez; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Taylor, V.; Thompson; Torres; Truitt; Veasey; Villarreal; Vo; Walle; Weber; White; Workman; Zedler; Zerwas.

Present, not voting — Mr. Speaker; Kuempel(C).

Absent, Excused — Hernandez Luna; Woolley.

Absent — Alvarado; Cook; Flynn; Gallego; Hardcastle; Hochberg; Turner.

### STATEMENT OF VOTE

When Record No. 1239 was taken, I was temporarily out of the house chamber. I would have voted yes.

Alvarado

### Senate Committee Substitute

**CSHB 3372**, A bill to be entitled An Act relating to rainwater harvesting systems that are connected to public water supply systems.

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

SECTION 1. Section 341.042, Health and Safety Code, is amended by amending Subsection (b) and adding Subsections (b-1), (b-2), (b-3), and (b-4) to read as follows:

(b) The commission by rule shall provide that if a structure is connected to a public water supply system and has a rainwater harvesting system for indoor use, [:

~~(1) the structure must have appropriate cross-connection safeguards];~~  
and

~~(2) the rainwater harvesting system may be used only for nonpotable indoor purposes].~~

(b-1) The commission shall work with the department to develop rules regarding the installation and maintenance of rainwater harvesting systems that are used for indoor potable purposes and connected to a public water supply system. The rules must contain criteria that are sufficient to ensure that:

(1) safe sanitary drinking water standards are met; and

(2) harvested rainwater does not come into communication with a public water supply system's drinking water at a location off of the property on which the rainwater harvesting system is located.

(b-2) A person who installs and maintains rainwater harvesting systems that are connected to a public water supply system and are used for potable purposes must be licensed by the Texas State Board of Plumbing Examiners as a master plumber or journeyman plumber and hold an endorsement issued by the board as a water supply protection specialist.

(b-3) A person who intends to connect a rainwater harvesting system to a public water supply system for use for potable purposes must give written notice of that intention to the municipality in which the rainwater harvesting system is located or the owner or operator of the public water supply system before connecting the rainwater harvesting system to the public water supply system.

(b-4) A municipally owned water or wastewater utility, a municipality, or the owner or operator of a public water supply system may not be held liable for any adverse health effects allegedly caused by the consumption of water collected by a rainwater harvesting system that is connected to a public water supply system and is used for potable purposes if the municipally owned water or



wastewater utility, municipality, or public water supply system is in compliance with the sanitary standards for drinking water applicable to the municipally owned water or wastewater utility, municipality, or public water supply system.

SECTION 2. This Act takes effect September 1, 2011.

**HB 3531 - HOUSE CONCURS IN SENATE AMENDMENTS  
TEXT OF SENATE AMENDMENTS**

Representative Strama called up with senate amendments for consideration at this time,

**HB 3531**, A bill to be entitled An Act relating to a system for monitoring prescriptions of certain drugs under the Medicaid program for children in foster care.

Representative Strama moved to concur in the senate amendments to **HB 3531**.

The motion to concur in the senate amendments to **HB 3531** prevailed by (Record 1240): 142 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Anchia; Anderson, C.; Anderson, R.; Aycóck; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Burnam; Cain; Callegari; Carter; Castro; Chisum; Christian; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Frullo; Gallego; Garza; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hilderbran; Hochberg; Hopson; Howard, C.; Howard, D.; Huberty; Hughes; Hunter; Isaac; Jackson; Johnson; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pickett; Pitts; Price; Quintanilla; Raymond; Reynolds; Riddle; Ritter; Rodriguez; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Taylor, V.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Workman; Zedler; Zerwas.

Present, not voting — Mr. Speaker; Kuempel(C).

Absent, Excused — Hernandez Luna; Woolley.

Absent — Alvarado; Button; Coleman; Flynn.

**STATEMENT OF VOTE**

When Record No. 1240 was taken, I was temporarily out of the house chamber. I would have voted yes.

Alvarado

**Senate Committee Substitute**

**CSHB 3531**, A bill to be entitled An Act relating to a system for monitoring prescriptions of certain drugs under the Medicaid program for children in foster care.

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

SECTION 1. Subchapter A, Chapter 533, Government Code, is amended by adding Section 533.0161 to read as follows:

Sec. 533.0161. MONITORING OF PSYCHOTROPIC DRUG PRESCRIPTIONS FOR CERTAIN CHILDREN. (a) In this section, "psychotropic drug" has the meaning assigned by Section 261.111, Family Code.

(b) The commission shall implement a system under which the commission will use Medicaid prescription drug data to monitor the prescribing of psychotropic drugs for children who are:

(1) in the conservatorship of the Department of Family and Protective Services; and

(2) enrolled in the STAR Health Medicaid managed care program.

(c) The commission shall include as a component of the monitoring system required by this section a medical review of a prescription to which Subsection (b) applies when that review is appropriate.

SECTION 2. If before implementing any provision of this Act a state agency determines that a waiver or authorization from a federal agency is necessary for implementation of that provision, the agency affected by the provision shall request the waiver or authorization and may delay implementing that provision until the waiver or authorization is granted.

SECTION 3. This Act takes effect September 1, 2011.

**HB 240 - HOUSE CONCURS IN SENATE AMENDMENTS  
TEXT OF SENATE AMENDMENTS**

Representative Parker called up with senate amendments for consideration at this time,

**HB 240**, A bill to be entitled An Act relating to requiring the Texas Commission on Environmental Quality to adopt rules preventing accidental or unintentional access to on-site sewage disposal systems.

Representative Parker moved to concur in the senate amendments to **HB 240**.

The motion to concur in the senate amendments to **HB 240** prevailed by (Record 1241): 140 Yeas, 1 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Burnam; Button; Cain; Callegari; Carter; Castro; Chisum; Christian; Cook; Craddick; Creighton; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Frullo; Gallego; Garza; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hilderbran; Hochberg; Hopson; Howard, C.; Howard, D.; Huberty; Hughes;

Hunter; Isaac; Jackson; Johnson; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Pickett; Pitts; Price; Quintanilla; Raymond; Reynolds; Riddle; Ritter; Rodriguez; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, V.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Workman; Zedler; Zerwas.

Nays — Phillips.

Present, not voting — Mr. Speaker; Kuempel(C).

Absent, Excused — Hernandez Luna; Woolley.

Absent — Alvarado; Coleman; Crownover; Flynn; Taylor, L.

#### STATEMENTS OF VOTE

When Record No. 1241 was taken, I was temporarily out of the house chamber. I would have voted yes.

Alvarado

When Record No. 1241 was taken, I was in the house but away from my desk. I would have voted yes.

Crownover

When Record No. 1241 was taken, I was in the house but away from my desk. I would have voted yes.

L. Taylor

#### Senate Committee Substitute

**CSHB 240**, A bill to be entitled An Act relating to requiring the Texas Commission on Environmental Quality to adopt rules preventing access to on-site sewage disposal systems.

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

SECTION 1. Section 366.012(a), Health and Safety Code, is amended to read as follows:

(a) To assure the effective and efficient administration of this chapter, the commission shall:

(1) adopt rules governing the installation of on-site sewage disposal systems, including rules concerning the:

(A) review and approval of on-site sewage disposal systems; and

(B) temporary waiver of a permit for an emergency repair; and

(2) adopt rules under this chapter that:

(A) encourage the use of economically feasible alternative techniques and technologies for on-site sewage disposal systems that can be used in soils not suitable for conventional on-site sewage disposal; [and]

(B) address the separation of graywater, as defined by Section 341.039, in a residence served by an on-site sewage disposal system; and

(C) require on-site sewage disposal systems, including risers and covers, installed after September 1, 2012, to be designed to prevent access to the system by anyone other than:

(i) the owner of the system; or

(ii) a person described by Section 366.071(a) or (b).

SECTION 2. This Act takes effect September 1, 2011.

### LEAVE OF ABSENCE GRANTED

The following member was granted leave of absence temporarily for today because of important business in the district:

Flynn on motion of Berman.

### HB 2609 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Guillen called up with senate amendments for consideration at this time,

**HB 2609**, A bill to be entitled An Act relating to employment at or by certain facilities serving the elderly or persons with disabilities.

Representative Guillen moved to concur in the senate amendments to **HB 2609**.

The motion to concur in the senate amendments to **HB 2609** prevailed by (Record 1242): 142 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Bohac; Bonnen; Branch; Brown; Burkett; Burnam; Button; Cain; Callegari; Carter; Castro; Chisum; Christian; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Frullo; Gallego; Garza; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hilderbran; Hochberg; Hopson; Howard, C.; Howard, D.; Huberty; Hughes; Hunter; Isaac; Jackson; Johnson; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pickett; Pitts; Price; Quintanilla; Raymond; Reynolds; Riddle; Ritter; Rodriguez; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Taylor, V.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Workman; Zedler; Zerwas.

Present, not voting — Mr. Speaker; Kuempel(C).

Absent, Excused — Flynn; Hernandez Luna; Woolley.

Absent — Alvarado; Berman; Coleman.

### STATEMENTS OF VOTE

When Record No. 1242 was taken, I was temporarily out of the house chamber. I would have voted yes.

Alvarado

When Record No. 1242 was taken, I was in the house but away from my desk. I would have voted yes.

Berman

### Senate Committee Substitute

**CSHB 2609**, A bill to be entitled An Act relating to convictions barring employment at or by certain facilities serving the elderly or persons with disabilities.

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

SECTION 1. Section 250.006(a), Health and Safety Code, is amended to read as follows:

(a) A person for whom the facility is entitled to obtain criminal history record information may not be employed in a facility if the person has been convicted of an offense listed in this subsection:

- (1) an offense under Chapter 19, Penal Code (criminal homicide);
- (2) an offense under Chapter 20, Penal Code (kidnapping and unlawful restraint);
- (3) an offense under Section 21.02, Penal Code (continuous sexual abuse of young child or children), or Section 21.11, Penal Code (indecent with a child);
- (4) an offense under Section 22.011, Penal Code (sexual assault);
- (5) an offense under Section 22.02, Penal Code (aggravated assault);
- (6) an offense under Section 22.04, Penal Code (injury to a child, elderly individual, or disabled individual);
- (7) an offense under Section 22.041, Penal Code (abandoning or endangering child);
- (8) an offense under Section 22.08, Penal Code (aiding suicide);
- (9) an offense under Section 25.031, Penal Code (agreement to abduct from custody);
- (10) an offense under Section 25.08, Penal Code (sale or purchase of a child);
- (11) an offense under Section 28.02, Penal Code (arson);
- (12) an offense under Section 29.02, Penal Code (robbery);
- (13) an offense under Section 29.03, Penal Code (aggravated robbery);
- (14) an offense under Section 21.08, Penal Code (indecent exposure);
- (15) an offense under Section 21.12, Penal Code (improper relationship between educator and student);
- (16) an offense under Section 21.15, Penal Code (improper photography or visual recording);
- (17) an offense under Section 22.05, Penal Code (deadly conduct);

(18) an offense under Section 22.021, Penal Code (aggravated sexual assault);

(19) an offense under Section 22.07, Penal Code (terroristic threat);

(20) an offense under Section 33.021, Penal Code (online solicitation of a minor);

(21) an offense under Section 34.02, Penal Code (money laundering);

(22) an offense under Section 35A.02, Penal Code (Medicaid fraud);

(23) an offense under Section 36.06, Penal Code (obstruction or retaliation);

(24) an offense under Section 42.09, Penal Code (cruelty to livestock animals), or under Section 42.092, Penal Code (cruelty to nonlivestock animals);  
or

(25) [(24)] a conviction under the laws of another state, federal law, or the Uniform Code of Military Justice for an offense containing elements that are substantially similar to the elements of an offense listed by this subsection.

SECTION 2. This Act takes effect September 1, 2011.

## **HB 2716 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

Representative Darby called up with senate amendments for consideration at this time,

**HB 2716**, A bill to be entitled An Act relating to the management and preservation of the county clerk's records and to the county clerk's records archive.

Representative Darby moved to concur in the senate amendments to **HB 2716**.

The motion to concur in the senate amendments to **HB 2716** prevailed by (Record 1243): 142 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Burnam; Button; Cain; Callegari; Carter; Castro; Chisum; Christian; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Frullo; Gallego; Garza; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hilderbran; Hochberg; Hopson; Howard, C.; Howard, D.; Huberty; Hughes; Hunter; Isaac; Jackson; Johnson; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pickett; Pitts; Price; Quintanilla; Raymond; Reynolds; Riddle; Ritter; Rodriguez; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith,

T.; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Taylor, V.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Workman; Zedler; Zerwas.

Present, not voting — Mr. Speaker; Kuempel(C).

Absent, Excused — Flynn; Hernandez Luna; Woolley.

Absent — Alvarado; Coleman; Landtroop.

### STATEMENT OF VOTE

When Record No. 1243 was taken, I was temporarily out of the house chamber. I would have voted yes.

Alvarado

### Senate Committee Substitute

**CSHB 2716**, A bill to be entitled An Act relating to fees charged for the management and preservation of the county clerk's records.

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

SECTION 1. Section 118.0216(c), Local Government Code, is amended to read as follows:

(c) The [~~In a county that is adjacent to an international boundary, the~~] fee shall be deposited in a separate records management and preservation account in the general fund of the county.

SECTION 2. Sections 118.025(d), (e), (g), and (i), Local Government Code, are amended to read as follows:

(d) The fee shall be deposited in a separate records archive account in the general fund of the county. Any interest accrued remains with the account.

(e) The funds generated from the collection of a fee under this section may be expended only for the preservation and restoration of the county clerk's records archive. The county clerk shall designate the public documents that are part of the records archive for purposes of this section. The designation of public documents by the county clerk under this subsection is subject to approval by the commissioners court in a public meeting during the budget process.

(g) Before collecting the fee under this section, the [~~The~~] county clerk shall prepare an annual written plan for funding the preservation and restoration of the county clerk's records archive. The commissioners court shall publish notice of a public hearing on the plan in a newspaper of general circulation in the county not later than the 15th day before the date of the hearing. After the public hearing, the plan shall be considered for approval by the commissioners court. Funds from the records archive account may be expended only as provided by the plan. All expenditures from the records archive account shall comply with Subchapter C, Chapter 262. The hearing may be held during the budget process. After establishing the fee, the plan may be approved annually during the budget process.

(i) The fee is subject to approval by the commissioners court in a public meeting during the budget process.

SECTION 3. Section 118.025(j), Local Government Code, is repealed.

SECTION 4. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2011.

**HB 2959 - HOUSE CONCURS IN SENATE AMENDMENTS  
TEXT OF SENATE AMENDMENTS**

Representative Price called up with senate amendments for consideration at this time,

**HB 2959**, A bill to be entitled An Act relating to the required transfer of records to a new county chair of a political party; providing a penalty.

Representative Price moved to concur in the senate amendments to **HB 2959**.

The motion to concur in the senate amendments to **HB 2959** prevailed by (Record 1244): 139 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Burnam; Button; Cain; Callegari; Carter; Castro; Chisum; Christian; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Frullo; Gallego; Garza; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hilderbran; Hochberg; Hopson; Howard, C.; Howard, D.; Huberty; Hughes; Hunter; Isaac; Jackson; Johnson; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lucio; Lyne; Madden; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Patrick; Paxton; Peña; Perry; Phillips; Pickett; Pitts; Price; Quintanilla; Raymond; Reynolds; Riddle; Ritter; Rodriguez; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Taylor, V.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Workman; Zedler; Zerwas.

Present, not voting — Mr. Speaker; Kuempel(C).

Absent, Excused — Flynn; Hernandez Luna; Woolley.

Absent — Alvarado; Coleman; Mallory Caraway; Menendez; Miles; Parker.

**STATEMENTS OF VOTE**

When Record No. 1244 was taken, I was temporarily out of the house chamber. I would have voted yes.

Alvarado

When Record No. 1244 was taken, my vote failed to register. I would have voted yes.

Parker



### Senate Committee Substitute

**CSHB 2959**, A bill to be entitled An Act relating to the required transfer of records to a new county chair of a political party; providing a penalty.

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

SECTION 1. Section 171.028, Election Code, is amended by adding Subsections (c) and (d) to read as follows:

(c) A person commits an offense if the person fails to transfer records as required by Subsection (a).

(d) An offense under Subsection (c) is a Class C misdemeanor.

SECTION 2. This Act takes effect September 1, 2011.

### HB 1127 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Gutierrez called up with senate amendments for consideration at this time,

**HB 1127**, A bill to be entitled An Act relating to notice of relief available to certain members of the military required to be provided in certain real property documentation.

Representative Gutierrez moved to concur in the senate amendments to **HB 1127**.

The motion to concur in the senate amendments to **HB 1127** prevailed by (Record 1245): 138 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Burnam; Button; Cain; Callegari; Carter; Castro; Chisum; Christian; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Frullo; Gallego; Garza; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Guillen; Gutierrez; Hamilton; Hardcastle; Harless; Harper-Brown; Hartnett; Hilderbran; Hochberg; Hopson; Howard, C.; Howard, D.; Huberty; Hughes; Hunter; Isaac; Jackson; Johnson; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pickett; Pitts; Price; Raymond; Reynolds; Riddle; Ritter; Rodriguez; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Taylor, V.; Thompson; Torres; Truitt; Veasey; Villarreal; Vo; Walle; Weber; White; Workman; Zedler; Zerwas.

Present, not voting — Mr. Speaker; Kuempel(C).

Absent, Excused — Flynn; Hernandez Luna; Woolley.

Absent — Alvarado; Coleman; Hancock; Menendez; Miles; Quintanilla; Turner.

### STATEMENT OF VOTE

When Record No. 1245 was taken, I was temporarily out of the house chamber. I would have voted yes.

Alvarado

#### Senate Committee Substitute

**CSHB 1127**, A bill to be entitled An Act relating to notice of relief available to certain members of the military required to be provided in certain real property documentation.

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

SECTION 1. Section 24.0051(d), Property Code, is amended to read as follows:

(d) In a suit described by Subsection (c), the citation required by Rule 739, Texas Rules of Civil Procedure, must include the following notice to the defendant on the first page of the citation in English and Spanish and in conspicuous bold print:

#### SUIT TO EVICT

**THIS SUIT TO EVICT INVOLVES IMMEDIATE DEADLINES. A TENANT WHO IS SERVING ON ACTIVE MILITARY DUTY MAY HAVE SPECIAL RIGHTS OR RELIEF RELATED TO THIS SUIT UNDER FEDERAL LAW, INCLUDING THE SERVICEMEMBERS CIVIL RELIEF ACT (50 U.S.C. APP. SECTION 501 ET SEQ.), OR STATE LAW, INCLUDING SECTION 92.017, TEXAS PROPERTY CODE. CALL THE STATE BAR OF TEXAS TOLL-FREE AT 1-877-9TEXBAR IF YOU NEED HELP LOCATING AN ATTORNEY. IF YOU CANNOT AFFORD TO HIRE AN ATTORNEY, YOU MAY BE ELIGIBLE FOR FREE OR LOW-COST LEGAL ASSISTANCE.**

SECTION 2. Section 51.002, Property Code, is amended by adding Subsection (i) to read as follows:

**(i) A notice served on a debtor under this section must contain, in addition to any other statements required under this section, language substantially similar to the following:**

**"Assert and protect your rights as a member of the armed forces of the United States. If you are or your spouse is serving on active military duty, including active military duty as a member of the Texas National Guard or the National Guard of another state or as a member of a reserve component of the armed forces of the United States, please send written notice of the active duty military service to the sender of this notice immediately."**

SECTION 3. Section 209.006(b), Property Code, is amended to read as follows:

(b) The notice must:

(1) describe the violation or property damage that is the basis for the suspension action, charge, or fine and state any amount due the association from the owner; and

(2) inform the owner that the owner:

(A) is entitled to a reasonable period to cure the violation and avoid the fine or suspension unless the owner was given notice and a reasonable opportunity to cure a similar violation within the preceding six months; ~~and~~

(B) may request a hearing under Section 209.007 on or before the 30th day after the date the owner receives the notice; and

(C) may have special rights or relief related to the enforcement action under federal law, including the Servicemembers Civil Relief Act (50 U.S.C. app. Section 501 et seq.), if the owner is serving on active military duty.

SECTION 4. The change in law made by Section 24.0051, Property Code, as amended by this Act, applies only to a suit for which notice is required under Chapter 24, Property Code, that is filed on or after the effective date of this Act. A suit for which notice is required under Chapter 24, Property Code, that is filed before the effective date of this Act is governed by the law in effect immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 5. The change in law made by Section 51.002, Property Code, as amended by this Act, applies only to a sale for which a notice is required under that section on or after the effective date of this Act. A sale for which notice is required under Section 51.002, Property Code, before the effective date of this Act is governed by the law in effect immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 6. The change in law made by Section 209.006, Property Code, as amended by this Act, applies only to an enforcement action for which a notice is required under that section that commences on or after the effective date of this Act. An enforcement action for which notice is required under Section 209.006, Property Code, that commences before the effective date of this Act is governed by the law in effect when the enforcement action commenced, and that law is continued in effect for that purpose.

SECTION 7. This Act takes effect January 1, 2012.

## **HB 252 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

Representative Hilderbran called up with senate amendments for consideration at this time,

**HB 252**, A bill to be entitled An Act relating to application and eligibility for an exemption from ad valorem taxation of the residence homestead of a person.

Representative Hilderbran moved to concur in the senate amendments to **HB 252**.

The motion to concur in the senate amendments to **HB 252** prevailed by (Record 1246): 136 Yeas, 0 Nays, 3 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Anchia; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burnam; Button; Cain; Callegari; Carter; Castro; Chisum; Christian; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland;

Eissler; Elkins; Farias; Farrar; Fletcher; Frullo; Gallego; Garza; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hilderbran; Hochberg; Hopson; Howard, C.; Howard, D.; Huberty; Hughes; Hunter; Jackson; Johnson; Keffer; King, P.; King, S.; King, T.; Kolkhorst; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez Fischer; McClendon; Menendez; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pickett; Pitts; Price; Quintanilla; Raymond; Reynolds; Riddle; Ritter; Rodriguez; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Taylor, V.; Thompson; Torres; Truitt; Veasey; Villarreal; Vo; Walle; Weber; White; Workman; Zedler; Zerwas.

Present, not voting — Mr. Speaker; Kuempel(C); Martinez.

Absent, Excused — Flynn; Hernandez Luna; Woolley.

Absent — Alvarado; Anderson, C.; Burkett; Coleman; Isaac; Kleinschmidt; Miles; Turner.

#### STATEMENTS OF VOTE

When Record No. 1246 was taken, I was temporarily out of the house chamber. I would have voted yes.

Alvarado

When Record No. 1246 was taken, my vote failed to register. I would have voted yes.

C. Anderson

When Record No. 1246 was taken, I was in the house but away from my desk. I would have voted yes.

Isaac

#### Senate Committee Substitute

**CSHB 252**, A bill to be entitled An Act relating to eligibility for an exemption from ad valorem taxation of the residence homestead of a person.

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

SECTION 1. Section 11.43, Tax Code, is amended by amending Subsection (j) and adding Subsections (n) and (o) to read as follows:

(j) In addition to the items required by Subsection (f), an [Am] application for a residence homestead [am] exemption prescribed by the comptroller and authorized by [under] Section 11.13 must:

(1) list each owner of the residence homestead and the interest of each owner;

(2) state that the applicant does not claim an exemption under that section on another residence homestead in this state or claim a residence homestead exemption on a residence homestead outside this state;

(3) state that each fact contained in the application is true; [~~and~~]

(4) include a copy of the applicant's driver's license or state-issued personal identification certificate and:

(A) a copy of the applicant's vehicle registration receipt; or

(B) if the applicant does not own a vehicle, an affidavit to that effect signed by the applicant and a copy of a utility bill for the property subject to the claimed exemption in the applicant's name;

(5) state ~~[include a sworn statement]~~ that the applicant has read and understands the notice of the penalties required by Subsection (f); and

(6) be signed by the applicant.

(n) A chief appraiser may not allow an exemption provided by Section 11.13 unless:

(1) the address on the driver's license or state-issued personal identification certificate provided by the applicant under Subsection (j) corresponds to the address on the applicant's vehicle registration receipt or utility bill provided under that subsection; and

(2) the address indicated in Subdivision (1) corresponds to the address of the property for which the exemption is claimed.

(o) The application form for an exemption authorized by Section 11.13 must require an applicant for an exemption under Subsection (c) or (d) of that section who is not specifically identified on a deed or other appropriate instrument recorded in the applicable real property records as an owner of the residence homestead to provide an affidavit or other compelling evidence establishing the applicant's ownership of an interest in the homestead.

SECTION 2. The change in law made by this Act applies only to an application for a residence homestead exemption filed with a chief appraiser on or after the effective date of this Act. An application for a residence homestead exemption filed with a chief appraiser before the effective date of this Act is governed by the law in effect when the application was filed, and the former law is continued in effect for that purpose.

SECTION 3. This Act takes effect September 1, 2011.

### **Senate Amendment No. 1 (Senate Floor Amendment No. 1)**

Amend **CSHB 252** (senate committee printing) as follows:

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

SECTION \_\_\_\_\_. (a) Section 11.432, Tax Code, is amended to read as follows:

Sec. 11.432. HOMESTEAD EXEMPTION FOR MANUFACTURED HOME. (a) Except as provided by Subsection (a-1), for ~~[For]~~ a manufactured home to qualify as a residence homestead ~~[for an exemption]~~ under Section 11.13, the application for ~~[the]~~ exemption required by Section 11.43 must be accompanied by:

(1) a copy of the statement of ownership and location for the manufactured home issued by the manufactured housing division of the Texas Department of Housing and Community Affairs under Section 1201.207, Occupations Code, showing that the individual applying for the exemption is the owner of the manufactured home;

(2) a [or be accompanied by a verified] copy of the purchase contract or payment receipt showing that the applicant is the purchaser of the manufactured home; or

(3) a sworn affidavit by the applicant stating that:

(A) the applicant is the owner of the manufactured home;

(B) the seller of the manufactured home did not provide the applicant with a purchase contract; and

(C) the applicant could not locate the seller after making a good faith effort[~~, unless a photostatic copy of the current title page for the home is displayed on the computer website of the Texas Department of Housing and Community Affairs~~].

(a-1) An [The] appraisal district may rely upon the computer records of the Texas Department of Housing and Community Affairs to verify an applicant's ownership of a manufactured home. An applicant is not required to submit an accompanying document described by Subsection (a) if the appraisal district verifies the applicant's ownership under this subsection [determine whether a manufactured home qualifies for an exemption].

(b) The land on which a manufactured home is located qualifies as a residence homestead [for an exemption] under Section 11.13 only if:

(1) the land is owned by one or more individuals, including the applicant [manufactured home qualifies for an exemption as provided by Subsection (a)]; [and]

(2) the applicant occupies the manufactured home as the applicant's principal residence; and

(3) the applicant demonstrates ownership of the manufactured home under Subsection (a) or the appraisal district determines the applicant's ownership under Subsection (a-1) [manufactured home is listed together with the land on which it is located under Section 25.08].

(c) The owner of land that qualifies as a residence homestead under this section [consumer] is entitled to obtain the homestead exemptions provided by Section 11.13 and any other benefit granted under this title to the owner of a residence homestead regardless of whether the applicant [owner] has elected to treat the manufactured home as real property or personal property and regardless of whether the manufactured home is listed on the tax rolls with the real property to which it is attached or listed on the tax rolls separately.

(d) [(e)] In this section, "manufactured home" has the meaning assigned by Section 1201.003, Occupations Code.

(b) Section 25.08, Tax Code, is amended by adding Subsection (g) to read as follows:

(g) The chief appraiser shall apportion a residence homestead exemption for property consisting of land and a manufactured home listed separately on the tax roll on a pro rata basis based on the appraised value of the land and the manufactured home.

(c) Section 11.432, Tax Code, as amended by this Act, applies only to an application for a residence homestead exemption filed on or after the effective date of this section. An application filed before the effective date of this section is governed by the law in effect when the application was filed, and that law is continued in effect for that purpose.

(d) Section 25.08, Tax Code, as amended by this Act, applies only to an apportionment of a residence homestead exemption for a tax year beginning on or after the effective date of this section.

(e) This section takes effect January 1, 2012.

(2) In SECTION 2 of the bill, between "Act" and "applies" (page 1, line 58), insert "to Section 11.43, Tax Code,".

(3) In SECTION 3 of the bill (page 2, line 2), strike "This Act" and substitute "Except as otherwise provided by this Act, this Act".

### **HB 1057 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

Representative Anchia called up with senate amendments for consideration at this time,

**HB 1057**, A bill to be entitled An Act relating to business leave time for certain municipal firefighters and police officers.

Representative Anchia moved to concur in the senate amendments to **HB 1057**.

The motion to concur in the senate amendments to **HB 1057** prevailed by (Record 1247): 138 Yeas, 2 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Burnam; Button; Cain; Callegari; Carter; Castro; Chisum; Christian; Cook; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Frullo; Gallego; Garza; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hilderbran; Hochberg; Hopson; Howard, C.; Howard, D.; Huberty; Hughes; Hunter; Isaac; Jackson; Johnson; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Landtroop; Larson; Lavender; Legler; Lewis; Lozano; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Peña; Perry; Phillips; Pickett; Pitts; Price; Quintanilla; Raymond; Reynolds; Riddle; Ritter; Rodriguez; Schwertner; Scott; Sheets; Sheffield; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Taylor, V.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Workman; Zedler; Zerwas.

Nays — Craddick; Paxton.

Present, not voting — Mr. Speaker; Kuempel(C).

Absent, Excused — Flynn; Hernandez Luna; Woolley.

Absent — Alvarado; Coleman; Laubenberg; Miles; Shelton.

### STATEMENTS OF VOTE

When Record No. 1247 was taken, I was temporarily out of the house chamber. I would have voted yes.

Alvarado

I was shown voting yes on Record No. 1247. I intended to vote no.

Berman

I was shown voting yes on Record No. 1247. I intended to vote no.

Darby

When Record No. 1247 was taken, my vote failed to register. I would have voted no.

Laubenberg

I was shown voting yes on Record No. 1247. I intended to vote no.

Legler

I was shown voting yes on Record No. 1247. I intended to vote no.

Parker

### Senate Committee Substitute

**CSHB 1057**, A bill entitled to be An Act relating to business leave time for certain municipal firefighters and police officers.

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

SECTION 1. Subchapter A, Chapter 142, Local Government Code, is amended by adding Section 142.014 to read as follows:

Sec. 142.014. BUSINESS LEAVE TIME ACCOUNT FOR FIREFIGHTERS IN CERTAIN MUNICIPALITIES. (a) This section applies only to firefighters employed by a municipality with a population of one million or more that has not adopted Chapter 174 and to which Chapter 143 does not apply.

(b) In this section:

(1) "Business leave" means leave taken for the purpose of attending to the business of an employee organization.

(2) "Employee organization" includes:

(A) the Dallas Fire Fighters Association;

(B) the Dallas Black Fire Fighters Association; and

(C) the Dallas Hispanic Firefighters Association.

(c) If the constitution and bylaws of an employee organization authorize the employee organization to participate in the establishment and maintenance of a business leave time account as provided by this section, a firefighter who is a member of an employee organization may donate not more than one hour of accumulated vacation or compensatory time for each calendar quarter to the business leave time account of the employee organization to which the firefighter belongs. The municipality shall establish and maintain a separate business leave



time account for each employee organization that has approved or ratified the use of business leave time by its members under this section and has a specific provision in the constitution and bylaws of that employee organization.

(d) Only a firefighter who is a member of an employee organization may use for business leave purposes the time donated to the account of the employee organization. A firefighter may use for business leave purposes the time donated under this section without receiving a reduction in salary and without reimbursing the municipality.

(e) A request to use for business leave purposes the time in an employee organization's time account must be in writing and be submitted to the municipality by the president or the equivalent officer of the employee organization or by that officer's designee.

(f) The municipality shall grant a request for business leave that complies with Subsection (e) unless:

(1) denial of the request is necessary because of an emergency; or

(2) a grant of the request will result in having an insufficient number of firefighters to carry out the normal functions of the municipality.

(g) The municipality shall account for the time donated to each account and used from each account. The municipality shall credit and debit an account on an hour-for-hour basis regardless of the cash value of the time donated or used.

(h) An employee organization may not use for business leave purposes more than 4,000 hours from its business leave time account under this section in a calendar year unless the municipality approves the use of hours in excess of 4,000. This subsection does not prevent an employee organization from accumulating more than 4,000 hours, but only addresses the total number of donated hours that an employee organization may use in any calendar year.

(i) The use of business leave by a firefighter under this section is not a break in service for any purpose and is treated as any other paid leave.

SECTION 2. Sections 142.013(b) and (c), Local Government Code, are amended to read as follows:

(b) In this section:

(1) "Business leave" means leave taken for the purpose of attending to the business of an employee organization.

(2) "Employee organization" includes:

(A) the Texas Peace Officers Association;

(B) the Dallas Police Association;

(C) the Dallas Fraternal Order of Police; ~~and~~

(D) the Latino Peace Officers Association; and

(E) the Black Police Association of Greater Dallas.

(c) If the constitution and bylaws of an employee organization authorize the employee organization to participate in the establishment and maintenance of a business leave time account as provided by this section, a ~~A~~ police officer may donate not more than two hours for each month of accumulated vacation or compensatory time to the business leave time account of the ~~an~~ employee organization. The municipality shall establish and maintain a business leave time account for each employee organization.

SECTION 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2011.

**HB 8 - HOUSE CONCURS IN SENATE AMENDMENTS  
TEXT OF SENATE AMENDMENTS**

Representative Darby called up with senate amendments for consideration at this time,

**HB 8**, A bill to be entitled An Act relating to prohibiting certain private transfer fees and the preservation of private real property rights; providing penalties.

Representative Darby moved to concur in the senate amendments to **HB 8**.

The motion to concur in the senate amendments to **HB 8** prevailed by (Record 1248): 142 Yeas, 1 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Burnam; Button; Cain; Callegari; Carter; Castro; Chisum; Christian; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Frullo; Gallego; Garza; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hilderbran; Hochberg; Hopson; Howard, C.; Howard, D.; Huberty; Hughes; Hunter; Isaac; Jackson; Johnson; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pickett; Pitts; Price; Quintanilla; Raymond; Reynolds; Riddle; Ritter; Rodriguez; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Workman; Zedler; Zerwas.

Nays — Taylor, V.

Present, not voting — Mr. Speaker; Kuempel(C).

Absent, Excused — Flynn; Hernandez Luna; Woolley.

Absent — Alvarado; Coleman.

**STATEMENT OF VOTE**

When Record No. 1248 was taken, I was temporarily out of the house chamber. I would have voted yes.

Alvarado

**Senate Committee Substitute**

**CSHB 8**, A bill to be entitled An Act relating to prohibiting certain private transfer fees and the preservation of private real property rights; providing penalties.

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

SECTION 1. Chapter 5, Property Code, is amended by adding Subchapter G to read as follows:

**SUBCHAPTER G. CERTAIN PRIVATE TRANSFER FEES PROHIBITED;  
PRESERVATION OF PRIVATE REAL PROPERTY RIGHTS**

**Sec. 5.201. DEFINITIONS.** In this subchapter:

(1) "Encumbered property" means all property, including the property of a subsequent purchaser, subject to the same private transfer fee obligation.

(2) "Lender" means a lending institution, including a bank, trust company, banking association, savings and loan association, mortgage company, investment bank, credit union, life insurance company, and governmental agency, that customarily provides financing or an affiliate of a lending institution.

(3) "Payee" means a person who claims the right to receive or collect a private transfer fee payable under a private transfer fee obligation and who may or may not have a pecuniary interest in the obligation.

(4) "Private transfer fee" means an amount of money, regardless of the method of determining the amount, that is payable on the transfer of an interest in real property or payable for a right to make or accept a transfer.

(5) "Private transfer fee obligation" means an obligation to pay a private transfer fee created under:

(A) a declaration or other covenant recorded in the real property records in the county in which the property subject to the private transfer fee obligation is located;

(B) a contractual agreement or promise; or

(C) an unrecorded contractual agreement or promise.

(6) "Subsequent owner" means a person who acquires real property by transfer from a person other than the person who is the seller of the property on the date the private transfer fee obligation is created.

(7) "Subsequent purchaser" means a person who purchases real property from a person other than the person who is the seller on the date the private transfer fee obligation is created. The term includes a lender who provides a mortgage loan to a subsequent purchaser to purchase the property.

(8) "Transfer" means the sale, gift, conveyance, assignment, inheritance, or other transfer of an ownership interest in real property.

**Sec. 5.202. CERTAIN PRIVATE TRANSFER FEE OBLIGATIONS VOID.** (a) Except as provided by this subchapter, a private transfer fee obligation created on or after the effective date of this subchapter is not binding or enforceable against a subsequent owner or subsequent purchaser of an interest in real property and is void.

(b) For purposes of this subchapter, the following payments are not considered private transfer fee obligations:

(1) consideration paid by a purchaser to a seller for an interest in real property transferred, including, as applicable, a mineral interest transferred, including additional consideration paid to a seller for the property's appreciation, development, or sale after the interest in the property has been transferred to the purchaser, if the additional consideration is paid only once and that payment does not bind successors in interest to the property to any private transfer fee obligation;

(2) a commission paid to a licensed real estate broker under a written agreement between a seller or purchaser and the broker, including an additional commission for the property's appreciation, development, or sale after the interest in property is transferred to the purchaser;

(3) interest, a fee, a charge, or another type of payment to a lender under a loan secured by a mortgage on the property, including:

(A) a fee payable for the lender's consent to an assumption of the loan or transfer of the property subject to the mortgage;

(B) a fee or charge payable for an estoppel letter or certificate;

(C) a shared appreciation interest or profit participation; or

(D) other consideration payable in connection with the loan;

(4) rent, reimbursement, a fee, a charge, or another type of payment to a lessor under a lease, including a fee for consent to an assignment, sublease, encumbrance, or transfer of a lease;

(5) consideration paid to the holder of an option to purchase an interest in property, or to the holder of a right of first refusal or first offer to purchase an interest in property, for waiving, releasing, or not exercising the option or right when the property is transferred to another person;

(6) a fee payable to or imposed by a governmental entity in connection with recording the transfer of the property;

(7) dues, a fee, a charge, an assessment, a fine, a contribution, or another type of payment under a declaration or other covenant or under law, including a fee or charge payable for a change of ownership entered in the records of an association to which this subdivision applies or an estoppel letter or resale certificate issued under Section 207.003 by an association to which this subdivision applies or the person identified under Section 209.004(a)(6), provided that no portion of the fee or charge is required to be passed through to a third party designated or identifiable in the declaration or other covenant or law or in a document referenced in the declaration or other covenant or law, unless paid to:

(A) an association as defined by Section 82.003 or 221.002 or the person or entity managing the association as provided by Section 82.116(a)(5) or 221.032(b)(11), as applicable;

(B) a property owners' association as defined by Section 202.001 or 209.002 or the person or entity described by Section 209.004(a)(6); or

(C) a property owners' association as defined by Section 202.001 that does not require an owner of property governed by the association to be a member of the association or the person or entity described by Section 209.004(a)(6);

(8) dues, a fee, a charge, an assessment, a fine, a contribution, or another type of payment for the transfer of a club membership related to the property;

(9) dues, a fee, a charge, an assessment, a fine, a contribution, or another type of payment paid to an organization exempt from federal taxation under Section 501(c)(3) or 501(c)(4), Internal Revenue Code of 1986, only if the organization uses the payments to directly benefit the encumbered property by:

(A) supporting or maintaining only the encumbered property;

(B) constructing or repairing improvements only to the encumbered property; or

(C) providing activities or infrastructure to support quality of life, including cultural, educational, charitable, recreational, environmental, and conservation activities and infrastructure, that directly benefit the encumbered property; or

(10) a fee payable to or imposed by the Veterans' Land Board for consent to an assumption or transfer of a contract of sale and purchase.

(c) The benefit described by Subsection (b)(9)(C) may collaterally benefit a community composed of:

(1) property that is adjacent to the encumbered property; or

(2) property a boundary of which is not more than 1,000 yards from a boundary of the encumbered property.

(d) Notwithstanding Subsection (c), an organization may provide a direct benefit under Subsection (b)(9) if:

(1) the organization provides to the general public activities or infrastructure described by Subsection (b)(9)(C);

(2) the provision of activities or infrastructure substantially benefits the encumbered property; and

(3) the governing body of the organization:

(A) is controlled by owners of the encumbered property; and

(B) approves payments for activities or infrastructure at least annually.

(e) An organization may provide activities and infrastructure described by Subsection (b)(9)(C) to another organization exempt from federal taxation under Section 501(c)(3) or 501(c)(4), Internal Revenue Code of 1986, at no charge for de minimis usage without violating the requirements of this section.

Sec. 5.203. NOTICE REQUIREMENTS FOR CONTINUATION OF EXISTING PRIVATE TRANSFER FEE OBLIGATIONS. (a) A person who receives a private transfer fee under a private transfer fee obligation created before the effective date of this subchapter must, on or before January 31, 2012, file for record a "Notice of Private Transfer Fee Obligation" as provided by this section in the real property records of each county in which the property is located.

(b) Multiple payees of a single private transfer fee under a private transfer fee obligation must designate one payee as the payee of record for the fee.

(c) A notice under Subsection (a) must:

(1) be printed in at least 14-point boldface type;

(2) state the amount of the private transfer fee and the method of determination, if applicable;

(3) state the date or any circumstance under which the private transfer fee obligation expires, if any;

(4) state the purpose for which the money from the private transfer fee obligation will be used;

(5) notwithstanding Subsection (b), state the name of each payee and each payee's contact information;

(6) state the name and address of the payee of record to whom the payment of the fee must be sent;

(7) include the acknowledged signature of each payee or authorized representative of each payee; and

(8) state the legal description of the property subject to the private transfer fee obligation.

(d) A person required to file a notice under this section shall:

(1) refile the notice described by this section not earlier than the 30th day before the third anniversary of the original filing date described by Subsection (a) and within a similar 30-day period every third year thereafter; and

(2) amend the notice to reflect any change in the name or address of any payee included in the notice not later than the 30th day after the date the change occurs.

(e) A person who amends a notice under Subsection (d)(2) must include:

(1) the recording information of the original notice filed as required by this section; and

(2) the legal description of the property subject to the private transfer fee obligation.

(f) If a person required to file a notice under this section fails to comply with this section:

(1) payment of the private transfer fee may not be a requirement for the conveyance of an interest in the property to a purchaser;

(2) the property is not subject to further obligation under the private transfer fee obligation; and

(3) the private transfer fee obligation is void.

Sec. 5.204. ADDITIONAL COMPLIANCE REQUIREMENT: TIMELY ACCEPTANCE OF FEES PAID UNDER EXISTING PRIVATE TRANSFER FEE OBLIGATIONS. (a) The payee of record on the date a private transfer fee is paid under a private transfer fee obligation subject to Section 5.203 must accept the payment on or before the 30th day after the date the payment is tendered to the payee.

(b) If the payee of record fails to comply with Subsection (a):

(1) the payment must be returned to the remitter;

(2) payment of the private transfer fee may not be a requirement for the conveyance of an interest in the property to a purchaser; and

(3) the property is not subject to further obligation under the private transfer fee obligation.

Sec. 5.205. DISCLOSURE OF EXISTING TRANSFER FEE OBLIGATION REQUIRED IN CONTRACT FOR SALE. A seller of real property that may be subject to a private transfer fee obligation shall provide written notice to a potential purchaser stating that the obligation may be governed by this subchapter.

Sec. 5.206. WAIVER VOID. A provision that purports to waive a purchaser's rights under this subchapter is void.

Sec. 5.207. INJUNCTIVE OR DECLARATORY RELIEF; PROVIDING PENALTIES. (a) The attorney general may institute an action for injunctive or declaratory relief to restrain a violation of this subchapter.

(b) In addition to instituting an action for injunctive or declaratory relief under Subsection (a), the attorney general may institute an action for civil penalties against a payee for a violation of this chapter. Except as provided by Subsection (c), a civil penalty assessed under this section may not exceed an amount equal to two times the amount of the private transfer fee charged or collected by the payee in violation of this subchapter.

(c) If the court in which an action under Subsection (b) is pending finds that a payee violated this subchapter with a frequency that constitutes a pattern or practice, the court may assess a civil penalty not to exceed \$250,000.

(d) The comptroller shall deposit to the credit of the general revenue fund all money collected under this section.

SECTION 2. Section 5.017, Property Code, is repealed.

SECTION 3. Section 5.205, Property Code, as added by this Act, applies only to a contract for the sale of real property entered into on or after January 1, 2012. A contract for the sale of real property entered into before January 1, 2012, is governed by the law in effect immediately before the effective date of this Act, and the former law is continued in effect for that purpose.

SECTION 4. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2011.

### **HB 1573 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

Representative Gallego called up with senate amendments for consideration at this time,

**HB 1573**, A bill to be entitled An Act relating to certain pretrial and post-trial procedures in a criminal case.

Representative Gallego moved to concur in the senate amendments to **HB 1573**.

The motion to concur in the senate amendments to **HB 1573** prevailed by (Record 1249): 140 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Button; Cain; Callegari; Carter; Castro; Chisum; Christian; Cook; Craddick; Creighton;

Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Frullo; Gallego; Garza; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hilderbran; Hochberg; Hopson; Howard, C.; Howard, D.; Huberty; Hughes; Hunter; Isaac; Jackson; Johnson; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Landtroop; Larson; Laubenberg; Lavender; Legler; Lozano; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Miles; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pickett; Pitts; Price; Quintanilla; Raymond; Reynolds; Riddle; Ritter; Rodriguez; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Taylor, V.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Workman; Zedler; Zerwas.

Present, not voting — Mr. Speaker; Kuempel(C).

Absent, Excused — Flynn; Hernandez Luna; Woolley.

Absent — Alvarado; Burnam; Coleman; Lewis; Menendez.

#### STATEMENT OF VOTE

When Record No. 1249 was taken, I was temporarily out of the house chamber. I would have voted yes.

Alvarado

#### Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HB 1573** (senate committee report) by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_ . Article 64.01, Code of Criminal Procedure, is amended by amending Subsections (a) and (b) and adding Subsection (a-1) to read as follows:

(a) In this section, "biological material":

(1) means an item that is in possession of the state and that contains blood, semen, hair, saliva, skin tissue or cells, fingernail scrapings, bone, bodily fluids, or other identifiable biological evidence that may be suitable for forensic DNA testing; and

(2) includes the contents of a sexual assault evidence collection kit.

(a-1) A convicted person may submit to the convicting court a motion for forensic DNA testing of evidence containing biological material. The motion must be accompanied by an affidavit, sworn to by the convicted person, containing statements of fact in support of the motion.

(b) The motion may request forensic DNA testing only of evidence described by Subsection (a-1) [~~(a)~~] that was secured in relation to the offense that is the basis of the challenged conviction and was in the possession of the state during the trial of the offense, but:

(1) was not previously subjected to DNA testing[+]



~~[(A) because DNA testing was:  
[(i) not available; or  
[(ii) available, but not technologically capable of providing probative results; or~~

~~[(B) through no fault of the convicted person, for reasons that are of a nature such that the interests of justice require DNA testing]; or~~

(2) although previously subjected to DNA testing, can be subjected to testing with newer testing techniques that provide a reasonable likelihood of results that are more accurate and probative than the results of the previous test.

SECTION \_\_\_\_\_. Chapter 64, Code of Criminal Procedure, is amended by adding Article 64.035 to read as follows:

Art. 64.035. UNIDENTIFIED DNA PROFILES. If an analyzed sample meets the applicable requirements of state or federal submission policies, on completion of the testing under Article 64.03, the convicting court shall order any unidentified DNA profile to be compared with the DNA profiles in:

(1) the DNA database established by the Federal Bureau of Investigation; and

(2) the DNA database maintained by the Department of Public Safety under Subchapter G, Chapter 411, Government Code.

SECTION \_\_\_\_\_. Article 64.04, Code of Criminal Procedure, is amended to read as follows:

Art. 64.04. FINDING. After examining the results of testing under Article 64.03 and any comparison of a DNA profile under Article 64.035, the convicting court shall hold a hearing and make a finding as to whether, had the results been available during the trial of the offense, it is reasonably probable that the person would not have been convicted.

SECTION \_\_\_\_\_. The change in law made by this Act in amending Chapter 64, Code of Criminal Procedure, applies to a motion for forensic DNA testing filed on or after the effective date of this Act. A motion for forensic DNA testing filed before the effective date of this Act is covered by the law in effect at the time the motion was filed, and the former law is continued in effect for that purpose.

## **HB 92 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

Representative Cook called up with senate amendments for consideration at this time,

**HB 92**, A bill to be entitled An Act relating to the regulation of slaughterers by certain counties.

Representative Cook moved to concur in the senate amendments to **HB 92**.

The motion to concur in the senate amendments to **HB 92** prevailed by (Record 1250): 138 Yeas, 1 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Burnam; Button; Cain; Callegari; Carter; Castro; Chisum; Christian; Cook; Craddick;

Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Frullo; Gallego; Garza; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Guillen; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hilderbran; Hochberg; Hopson; Howard, C.; Howard, D.; Huberty; Hughes; Hunter; Isaac; Johnson; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pickett; Pitts; Price; Quintanilla; Raymond; Reynolds; Riddle; Ritter; Rodriguez; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Taylor, V.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; Zedler; Zerwas.

Nays — White.

Present, not voting — Mr. Speaker; Kuempel(C).

Absent, Excused — Flynn; Hernandez Luna; Woolley.

Absent — Alvarado; Coleman; Gutierrez; Hartnett; Jackson; Workman.

#### STATEMENT OF VOTE

When Record No. 1250 was taken, I was temporarily out of the house chamber. I would have voted yes.

Alvarado

#### Senate Committee Substitute

**CSHB 92**, A bill to be entitled An Act relating to the regulation of slaughterers by certain counties.

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

SECTION 1. Section 148.001, Agriculture Code, is amended to read as follows:

Sec. 148.001. DEFINITION. In this chapter, "slaughterer" means a person engaged in the business of:

- (1) slaughtering livestock for profit; or
- (2) selling livestock, as a primary business, to be slaughtered by the purchaser on premises owned or operated by the seller, in a county:

(A) with a population of one million or more;

(B) that contains two or more municipalities with a population of 250,000 or more;

(C) that is adjacent to a county described by Paragraph (B); or

(D) that is adjacent to a county described by Paragraph (C) and:

(i) has a population of not more than 50,000 and contains a municipality with a population of at least 20,000; or

(ii) contains, wholly or partly, two or more municipalities with a population of 250,000 or more.

SECTION 2. Section 234.032, Local Government Code, is amended to read as follows:

Sec. 234.032. APPLICABILITY. This subchapter applies only in the unincorporated area of a county if the county:

(1) contains two or more municipalities with a population of 250,000 or more; ~~or~~

(2) is a county adjacent to a county described by Subdivision (1); or

(3) is a county adjacent to a county described by Subdivision (2) and:

(A) has a population of not more than 50,000 and contains a municipality with a population of at least 20,000; or

(B) contains, wholly or partly, two or more municipalities with a population of 250,000 or more.

SECTION 3. This Act takes effect September 1, 2011.

**Senate Amendment No. 1 (Senate Floor Amendment No. 1)**

Amend **CSHB 92** (senate committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Section 142.001(1), Agriculture Code, is amended to read as follows:

(1) "Estray" means stray livestock, stray exotic livestock, stray bison, or stray exotic fowl.

**Senate Amendment No. 2 (Senate Floor Amendment No. 1 - Third Reading)**

Amend **HB 92** on third reading by striking second reading Floor Amendment No. 1 by Estes.

**LEAVE OF ABSENCE GRANTED**

The following member was granted leave of absence temporarily for today because of important business:

Alvarado on motion of Solomons.

**HB 350 - HOUSE CONCURS IN SENATE AMENDMENTS  
TEXT OF SENATE AMENDMENTS**

Representative Gallego called up with senate amendments for consideration at this time,

**HB 350**, A bill to be entitled An Act relating to discharging fines and costs assessed against certain juvenile defendants through community service or tutoring.

Representative Gallego moved to concur in the senate amendments to **HB 350**.

The motion to concur in the senate amendments to **HB 350** prevailed by (Record 1251): 140 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Anchia; Anderson, C.; Anderson, R.; Aycocck; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Burnam; Button; Cain; Carter; Castro; Chisum; Christian; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Frullo; Gallego; Garza; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hilderbran; Hochberg; Hopson; Howard, C.; Howard, D.; Huberty; Hunter; Isaac; Jackson; Johnson; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; .Martinez; Martinez Fischer; McClendon; Menendez; Miles; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pickett; Pitts; Price; Quintanilla; Raymond; Reynolds; Riddle; Ritter; Rodriguez; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Taylor, V.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Workman; Zerwas.

Present, not voting — Mr. Speaker; Kuempel(C).

Absent, Excused — Alvarado; Flynn; Hernandez Luna; Woolley.

Absent — Callegari; Coleman; Hughes; Zedler.

#### STATEMENT OF VOTE

When Record No. 1251 was taken, I was excused because of important business. Had I been present, I would have voted yes.

Alvarado

#### Senate Committee Substitute

**CSHB 350**, A bill to be entitled An Act relating to discharging fines and costs assessed against certain juvenile defendants through community service or tutoring.

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

SECTION 1. Subchapter B, Chapter 45, Code of Criminal Procedure, is amended by adding Article 45.0492 to read as follows:

Art. 45.0492. COMMUNITY SERVICE OR TUTORING IN SATISFACTION OF FINE OR COSTS FOR CERTAIN JUVENILE DEFENDANTS. (a) This article applies only to a defendant younger than 17 years of age who is assessed a fine or costs for a Class C misdemeanor occurring in a building or on the grounds of the primary or secondary school at which the defendant was enrolled at the time of the offense.

(b) A justice or judge may require a defendant described by Subsection (a) to discharge all or part of the fine or costs by performing community service or attending a tutoring program that is satisfactory to the court. A defendant may discharge an obligation to perform community service or attend a tutoring program under this article by paying at any time the fine and costs assessed.

(c) In the justice's or judge's order requiring a defendant to participate in community service work or a tutoring program under this article, the justice or judge must specify the number of hours the defendant is required to work or attend tutoring.

(d) The justice or judge may order the defendant to perform community service work under this article only for a governmental entity or a nonprofit organization that provides services to the general public that enhance social welfare and the general well-being of the community. A governmental entity or nonprofit organization that accepts a defendant under this article to perform community service must agree to supervise the defendant in the performance of the defendant's work and report on the defendant's work to the justice or judge who ordered the community service.

(e) A tutoring program that accepts a defendant under this article must agree to supervise the defendant in the attendance of the tutoring program and report on the defendant's work to the justice or judge who ordered the tutoring.

(f) A justice or judge may not order a defendant to perform more than 16 hours of community service per week or attend more than 16 hours of tutoring per week under this article unless the justice or judge determines that requiring additional hours of work or tutoring does not cause a hardship on the defendant or the defendant's family. For purposes of this subsection, "family" has the meaning assigned by Section 71.003, Family Code.

(g) A defendant is considered to have discharged not less than \$50 of fines or costs for each eight hours of community service performed or tutoring program attended under this article.

(h) A sheriff, employee of a sheriff's department, county commissioner, county employee, county judge, justice of the peace, municipal court judge, officer or employee of a political subdivision other than a county, nonprofit organization, or tutoring program is not liable for damages arising from an act or failure to act in connection with an activity performed by a defendant under this article if the act or failure to act:

(1) was performed pursuant to court order; and

(2) was not intentional, grossly negligent, or performed with conscious indifference or reckless disregard for the safety of others.

(i) A local juvenile probation department or a court-related services office may provide the administrative and other services necessary for supervision of a defendant required to perform community service under this article.

SECTION 2. Article 45.051(a-1), Code of Criminal Procedure, is amended to read as follows:

(a-1) Notwithstanding any other provision of law, as an alternative to requiring a defendant charged with one or more offenses to make payment of all court costs as required by Subsection (a), the judge may:

(1) allow the defendant to enter into an agreement for payment of those costs in installments during the defendant's period of probation;

(2) require an eligible defendant to discharge all or part of those costs by performing community service or attending a tutoring program under Article 45.049 or 45.0492; or

(3) take any combination of actions authorized by Subdivision (1) or (2).

SECTION 3. The changes in law made by this Act apply only to an offense committed or conduct that occurs on or after the effective date of this Act. An offense committed or conduct that occurs before the effective date of this Act is governed by the law in effect when the offense was committed or the conduct occurred, and the former law is continued in effect for that purpose. For purposes of this section, an offense is committed or conduct occurs before the effective date of this Act if any element of the offense or conduct occurs before the effective date.

SECTION 4. This Act takes effect September 1, 2011.

**HB 2476 - HOUSE CONCURS IN SENATE AMENDMENTS  
TEXT OF SENATE AMENDMENTS**

Representative Hilderbran called up with senate amendments for consideration at this time,

**HB 2476**, A bill to be entitled An Act relating to the appraisal for ad valorem tax purposes of certain dealer's heavy equipment inventory; providing penalties.

Representative Hilderbran moved to concur in the senate amendments to **HB 2476**.

The motion to concur in the senate amendments to **HB 2476** prevailed by (Record 1252): 141 Yeas, 0 Nays, 3 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Burnam; Button; Cain; Callegari; Carter; Castro; Chisum; Christian; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Frullo; Gallego; Garza; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hilderbran; Hochberg; Hopson; Howard, C.; Howard, D.; Huberty; Hunter; Isaac; Jackson; Johnson; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pickett; Pitts; Price; Quintanilla; Raymond; Reynolds; Riddle; Ritter; Rodriguez; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Taylor, V.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Workman; Zedler; Zerwas.

Present, not voting — Mr. Speaker; Driver; Kuempel(C).

Absent, Excused — Alvarado; Flynn; Hernandez Luna; Woolley.

Absent — Coleman; Hughes.

### STATEMENT OF VOTE

When Record No. 1252 was taken, I was excused because of important business. Had I been present, I would have voted yes.

Alvarado

#### Senate Committee Substitute

**CSHB 2476**, A bill to be entitled An Act relating to the appraisal for ad valorem tax purposes of certain dealer's heavy equipment inventory; providing penalties.

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

SECTION 1. Sections 23.1241(a)(1), (2), (6), (7), (8), and (9), Tax Code, are amended to read as follows:

(1) "Dealer" means a person engaged in the business in this state of selling, leasing, or renting heavy equipment.

(2) "Dealer's heavy equipment inventory" means all items of heavy equipment that a dealer holds for sale, lease, or rent during a 12-month period ~~[at retail]~~. ~~[The term includes items of heavy equipment that are leased or rented but subject to a purchase option by the lessee or renter.]~~

(6) "Heavy equipment" means self-propelled, self-powered, or pull-type equipment, including farm equipment or a diesel engine, that weighs at least 1,500 ~~[3,000]~~ pounds and is intended to be used for agricultural, construction, industrial, maritime, mining, or forestry uses. The term does not include a motor vehicle that is required by:

(A) Chapter 501, Transportation Code, to be titled; or

(B) Chapter 502, Transportation Code, to be registered.

(7) "Sales price" means:

(A) the total amount of money paid or to be paid to a dealer for the purchase of an item of heavy equipment; or

(B) for a lease or rental ~~[with an option to purchase]~~, the total amount of the lease or rental payments ~~[plus any final consideration, excluding interest]~~.

(8) "Subsequent sale" means a dealer-financed sale of an item of heavy equipment that, at the time of the sale, has been the subject of a dealer-financed sale from the same dealer's heavy equipment inventory in the same calendar year. The term does not include a rental or lease with an unexercised purchase option or without a purchase option.

(9) "Total annual sales" means the total of the:

(A) sales price for each sale from a dealer's heavy equipment inventory in a 12-month period; and

(B) lease and rental payments received for each lease or rental of heavy equipment inventory in a 12-month period.

SECTION 2. Section 23.1241, Tax Code, is amended by amending Subsections (b), (e), and (j) and adding Subsection (b-1) to read as follows:

(b) For the purpose of the computation of property tax,[-

~~[(1)]~~ the market value of a dealer's heavy equipment inventory on January 1 is the total annual sales, less sales to dealers, fleet transactions, and subsequent sales, for the 12-month period corresponding to the preceding tax year, divided by 12 ~~and~~

~~[(2) a sale is considered to occur when possession of an item of heavy equipment is transferred from the dealer to the purchaser].~~

(b-1) For the purpose of the computation of property tax on the market value of the dealer's heavy equipment inventory, the sales price of an item of heavy equipment that is sold during the preceding tax year after being leased or rented for a portion of that same tax year is considered to be the sum of the sales price of the item plus the total lease and rental payments received for the item in the preceding tax year.

(e) A dealer is presumed to be an owner of a dealer's heavy equipment inventory on January 1 if, in the 12-month period ending on December 31 of the preceding year, the dealer sold, leased, or rented an item of heavy equipment to a person other than a dealer. The presumption is not rebutted by the fact that a dealer has no item of heavy equipment physically on hand for sale from the dealer's heavy equipment inventory on January 1.

(j) In addition to other penalties provided by law, a dealer who fails to file or fails to timely file a declaration required by Subsection (f) shall forfeit a penalty. A tax lien attaches to the dealer's business personal property to secure payment of the penalty. The appropriate district attorney, criminal district attorney, or county attorney ~~may~~ ~~[shall]~~ collect the penalty established by this section in the name of the ~~[chief appraiser or]~~ collector. The chief appraiser may collect the penalty in the name of the chief appraiser. The chief appraiser or the appropriate district attorney, criminal district attorney, or county attorney may sue to enforce compliance with this section. Venue of an action brought under this subsection, including an action for injunctive relief, is in the county in which the violation occurred or in the county in which the owner maintains the owner's principal place of business or residence. The court may award attorney's fees to a chief appraiser, district attorney, criminal district attorney, or county attorney who prevails in a suit to collect a penalty or enforce compliance with this section. A penalty forfeited under this subsection is \$1,000 for each month or part of a month in which a declaration is not filed or timely filed after it is due.

SECTION 3. Sections 23.1242(b), (d), (e), (f), and (m), Tax Code, are amended to read as follows:

(b) Except for an item of heavy equipment sold to a dealer, an item of heavy equipment included in a fleet transaction, ~~[or]~~ an item of heavy equipment that is the subject of a subsequent sale, or an item of heavy equipment that is subject to a lease or rental, an owner or a person who has agreed by contract to pay the owner's current year property taxes levied against the owner's heavy equipment inventory shall assign a unit property tax to each item of heavy equipment sold from a dealer's heavy equipment inventory. In the case of a lease or rental, the owner shall assign a unit property tax to each item of heavy equipment leased or rented. The unit property tax of each item of heavy equipment is determined by multiplying the sales price of the item or the monthly lease or rental payment



received for the item, as applicable, by the unit property tax factor. If the transaction is a lease or rental, the owner shall collect the unit property tax from the lessee or renter at the time the lessee or renter submits payment for the lease or rental. The owner of the equipment shall state the amount of the unit property tax assigned as a separate line item on an invoice. On or before the 10th day of each month the owner shall, together with the statement filed by the owner as required by this section, deposit with the collector an amount equal to the total of unit property tax assigned to all items of heavy equipment sold, leased, or rented from the dealer's heavy equipment inventory in the preceding month to which a unit property tax was assigned. The money shall be deposited by the collector to the credit of the owner's escrow account for prepayment of property taxes as provided by this section. An escrow account required by this section is used to pay property taxes levied against the dealer's heavy equipment inventory, and the owner shall fund the escrow account as provided by this subsection.

(d) Except as provided by Section 23.1243, the [The] owner may not withdraw funds in an escrow account created under this section.

(e) The comptroller by rule shall adopt a dealer's heavy equipment inventory tax statement form. Each month, a dealer shall complete the form regardless of whether an item of heavy equipment is sold, leased, or rented. A dealer may use no other form for that purpose. The statement may include the information the comptroller considers appropriate but shall include at least the following:

(1) a description of each item of heavy equipment sold, leased, or rented including any unique identification or serial number affixed to the item by the manufacturer;

(2) the sales price of or lease or rental payment received for the item of heavy equipment, as applicable;

(3) the unit property tax of the item of heavy equipment, if any; and

(4) the reason no unit property tax is assigned if no unit property tax is assigned.

(f) On or before the 10th day of each month, a dealer shall file with the collector the statement covering the sale, lease, or rental of each item of heavy equipment sold, leased, or rented by the dealer in the preceding month. On or before the 10th day of a month following a month in which a dealer does not sell, lease, or rent an item of heavy equipment, the dealer must file the statement with the collector and indicate that no sales, leases, or rentals were made in the prior month. A dealer shall file a copy of the statement with the chief appraiser and retain documentation relating to the disposition of each item of heavy equipment sold and the lease or rental of each item of heavy equipment. A chief appraiser or collector may examine documents held by a dealer as provided by this subsection in the same manner, and subject to the same conditions, as provided by Section 23.1241(g).

(m) In addition to other penalties provided by law, a dealer who fails to file or fails to timely file a statement as required by this section shall forfeit a penalty. A tax lien attaches to the dealer's ~~owner's~~ business personal property to secure payment of the penalty. The appropriate district attorney, criminal district

attorney, or county attorney may ~~shall~~ collect the penalty established by this section in the name of the ~~chief appraiser or~~ collector. The chief appraiser may collect the penalty in the name of the chief appraiser. The chief appraiser or the appropriate district attorney, criminal district attorney, or county attorney may sue to enforce compliance with this section. Venue of an action brought under this subsection, including an action for injunctive relief, is in the county in which the violation occurred or in the county in which the owner maintains the owner's principal place of business or residence. The court may award attorney's fees to a chief appraiser, district attorney, criminal district attorney, or county attorney who prevails in a suit to collect a penalty or enforce compliance with this section. A penalty forfeited under this subsection is \$500 for each month or part of a month in which a statement is not filed or timely filed after it is due.

SECTION 4. Subchapter B, Chapter 23, Tax Code, is amended by adding Section 23.1243 to read as follows:

Sec. 23.1243. REFUND OF PREPAYMENT OF TAXES ON FLEET TRANSACTION. (a) In this section, "dealer" and "fleet transaction" have the meanings assigned those terms by Section 23.1241.

(b) A dealer may apply to the chief appraiser for a refund of the unit property tax paid on a sale that is a fleet transaction.

(c) The chief appraiser shall determine whether to approve or deny, wholly or partly, the refund requested in the application. The chief appraiser shall deliver a written notice of the chief appraiser's determination to the collector maintaining the escrow account described by Section 23.1242 and to the applicant that states the amount, if any, to be refunded.

(d) A collector who receives a notice described by Subsection (c) stating an amount to be refunded shall pay the amount to the dealer not later than the 45th day after the date the collector receives the notice. The dealer shall use the dealer's best efforts to pay the refund to the customer who paid the tax that relates to the fleet transaction for which the refund is requested not later than the 30th day after the date the dealer receives the refund.

SECTION 5. Section 41.44(a), Tax Code, is amended to read as follows:

(a) Except as provided by Subsections (b), (b-1), (c), (c-1), and (c-2), to be entitled to a hearing and determination of a protest, the property owner initiating the protest must file a written notice of the protest with the appraisal review board having authority to hear the matter protested:

(1) before May 1 or not later than the 30th day after the date that notice to the property owner was delivered to the property owner as provided by Section 25.19, if the property is a single-family residence that qualifies for an exemption under Section 11.13, whichever is later;

(2) before June 1 or not later than the 30th day after the date that notice was delivered to the property owner as provided by Section 25.19 in connection with any other property, whichever is later;

(3) in the case of a protest of a change in the appraisal records ordered as provided by Subchapter A of this chapter or by Chapter 25, not later than the 30th day after the date notice of the change is delivered to the property owner;

[~~or~~]

(4) in the case of a determination that a change in the use of land appraised under Subchapter C, D, E, or H, Chapter 23, has occurred, not later than the 30th day after the date the notice of the determination is delivered to the property owner; or

(5) in the case of a determination of eligibility for a refund under Section 23.1243, not later than the 30th day after the date the notice of the determination is delivered to the property owner.

SECTION 6. Section 41.47, Tax Code, is amended by adding Subsection (c) to read as follows:

(c) If, in the case of a determination of eligibility for a refund requested under Section 23.1243, the appraisal review board determines that the dealer is entitled to a refund in excess of the amount, if any, to which the chief appraiser determined the dealer to be entitled, the board shall order the chief appraiser to deliver written notice of the board's determination to the collector and the dealer in the manner provided by Section 23.1243(c).

SECTION 7. Section 42.01, Tax Code, is amended to read as follows:

Sec. 42.01. RIGHT OF APPEAL BY PROPERTY OWNER. A property owner is entitled to appeal:

(1) an order of the appraisal review board determining:

(A) a protest by the property owner as provided by Subchapter C of Chapter 41; ~~[or]~~

(B) a determination of an appraisal review board on a motion filed under Section 25.25; or

(C) a determination of an appraisal review board of eligibility for a refund requested under Section 23.1243; or

(2) an order of the comptroller issued as provided by Subchapter B, Chapter 24, apportioning among the counties the appraised value of railroad rolling stock owned by the property owner.

SECTION 8. Sections 23.1241(i) and 23.1242(l), Tax Code, are repealed.

SECTION 9. This Act applies only to ad valorem taxes imposed for a tax year beginning on or after the effective date of this Act.

SECTION 10. This Act takes effect January 1, 2012.

### **BILLS AND RESOLUTIONS SIGNED BY THE SPEAKER**

Notice was given at this time that the speaker had signed bills and resolutions in the presence of the house (see the addendum to the daily journal, Signed by the Speaker, House List No. 34).

(Callegari in the chair)

### **HB 200 - HOUSE REFUSES TO CONCUR IN SENATE AMENDMENTS CONFERENCE COMMITTEE APPOINTED**

Representative Parker called up with senate amendments for consideration at this time,

**HB 200**, A bill to be entitled An Act relating to the notification of the release of certain inmates given to certain courts and law enforcement agencies.

Representative Parker moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 200**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 200**: Parker, chair; Madden, Marquez, Perry, and White.

### **HB 2907 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

Representative Branch called up with senate amendments for consideration at this time,

**HB 2907**, A bill to be entitled An Act relating to the requirements for and procedures governing tuition equalization grants.

(Hamilton in the chair)

Representative Branch moved to concur in the senate amendments to **HB 2907**.

The motion to concur in the senate amendments to **HB 2907** prevailed by (Record 1253): 142 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Burnam; Button; Cain; Callegari; Carter; Castro; Chisum; Christian; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Frullo; Gallego; Garza; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Guillen; Gutierrez; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hilderbran; Hochberg; Hopson; Howard, C.; Howard, D.; Huberty; Hughes; Hunter; Isaac; Jackson; Johnson; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Miller, D.; Miller, S.; Morrison; Muñoz; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pickett; Pitts; Price; Quintanilla; Raymond; Reynolds; Riddle; Ritter; Rodriguez; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Taylor, V.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Workman; Zedler; Zerwas.

Present, not voting — Mr. Speaker; Hamilton(C).

Absent, Excused — Alvarado; Flynn; Hernandez Luna; Woolley.

Absent — Coleman; Murphy.

**STATEMENTS OF VOTE**

When Record No. 1253 was taken, I was excused because of important business. Had I been present, I would have voted yes.

Alvarado

I was shown voting yes on Record No. 1253. I intended to vote present, not voting because I am a trustee of a private university in Texas.

Parker

**Senate Committee Substitute**

**CSHB 2907**, A bill to be entitled An Act relating to the requirements for and procedures governing tuition equalization grants.

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

SECTION 1. Sections 61.221 and 61.224, Education Code, are amended to read as follows:

Sec. 61.221. TUITION EQUALIZATION GRANTS AUTHORIZED. In order to provide the maximum possible utilization of existing educational resources and facilities within this state, both public and private, the coordinating board is authorized to provide tuition equalization grants to Texas residents enrolled in any approved private Texas college or university, based on student financial need, but not to exceed a grant amount of more than that specified in the appropriation by the legislature or as provided by Section 61.227.

Sec. 61.224. APPLICATION OF GENERAL APPROPRIATIONS ACT RIDERS. Those riders in the General Appropriations Act that apply to expenditure of state funds at state-supported colleges and universities shall also apply to expenditure of state funds at any college or university attended by a ~~which any~~ student receiving aid under this subchapter ~~may attend~~.

SECTION 2. Section 61.225(b), Education Code, is amended to read as follows:

(b) To be eligible for a tuition equalization grant, a person must:

(1) be a Texas resident as defined under Subchapter B, Chapter 54, [by the coordinating board] and meet, at a minimum, the resident requirements defined by law for Texas resident tuition in fully state-supported institutions of higher education;

(2) be enrolled for at least one-half of a full course load conforming to an individual degree plan in an approved college or university;

(3) be required to pay more tuition than is required at a public college or university and be charged no less than the regular tuition required of all students enrolled at the institution;

(4) establish financial need in accordance with procedures and regulations of the coordinating board;

(5) not be a recipient of any form of athletic scholarship while receiving the tuition equalization grant; and

(6) have complied with other requirements adopted by the coordinating board under this subchapter.

SECTION 3. Sections 61.2251(b), (c), and (e), Education Code, as added by Chapter 1230 (**HB 1172**), Acts of the 79th Legislature, Regular Session, 2005, are amended to read as follows:

(b) To be eligible for a tuition equalization grant in the first academic year in which the person receives the grant, a person must:

(1) be a Texas resident as defined under Subchapter B, Chapter 54, [by the coordinating board] and meet, at a minimum, the resident requirements defined by law for Texas resident tuition in fully state-supported institutions of higher education;

(2) be enrolled in at least three-fourths of a full course load conforming to an individual degree plan in an approved college or university;

(3) be required to pay more tuition than is required at a public college or university and be charged no less than the regular tuition required of all students enrolled at the institution;

(4) establish financial need in accordance with procedures and regulations of the coordinating board;

(5) not be a recipient of any form of athletic scholarship while receiving a tuition equalization grant;

(6) make satisfactory academic progress toward a degree or certificate as determined by the institution at which the person is enrolled; and

(7) have complied with other requirements adopted by the coordinating board under this subchapter.

(c) After qualifying for a tuition equalization grant under Subsection (b), a person may receive a tuition equalization grant in a subsequent academic year in which the person is enrolled at an approved institution only if the person:

(1) meets the requirements of Subsection (b), including, as of the end of the full academic year in which the person initially receives a tuition equalization grant, making satisfactory academic progress toward a degree or certificate as determined by the institution at which the person is enrolled;

(2) as of the end of each subsequent academic year in which the person receives a tuition equalization grant, has completed at least:

(A) 24 semester credit hours in the person's most recent full academic year, if the person is enrolled in an undergraduate degree or certificate program; or

(B) 18 semester credit hours in the person's most recent full academic year, if the person is enrolled in a graduate or professional degree program; ~~and~~

(3) has earned an overall grade point average of at least 2.5 on a four-point scale or the equivalent on coursework previously attempted at public or private institutions of higher education; and

(4) has completed at least 75 percent of the semester credit hours attempted in the person's most recent full academic year.

(e) The coordinating board shall adopt rules to allow a person who is otherwise eligible to receive a tuition equalization grant, in the event of a hardship or for other good cause shown, to receive a tuition equalization grant if the person does not:

- (1) make satisfactory academic progress as required under Subsection (b)(6) or (c)(1);
- (2) complete the semester credit hours required by Subsection (c)(2) or (4);
- (3) maintain the grade point average required by Subsection (c)(3); or
- (4) complete the person's certificate or degree program within the period prescribed by Subsection (d).

SECTION 4. Section 61.2251, Education Code, as added by Chapter 1181 (SB 1227), Acts of the 79th Legislature, Regular Session, 2005, is redesignated as Section 61.2252, Education Code, to read as follows:

Sec. 61.2252 [~~61.2251~~]. REESTABLISHING ELIGIBILITY FOR GRANT. If a person who receives an initial tuition equalization grant after the 2004-2005 academic year fails to meet any of the applicable requirements of this subchapter after the completion of any semester or term, the person may not receive a tuition equalization grant during the next semester or term in which the person enrolls. The person may become eligible to receive a tuition equalization grant in a subsequent semester or term if the person:

- (1) completes a semester or term during which the student is not eligible for a tuition equalization grant; and
- (2) meets all the applicable requirements of this subchapter.

SECTION 5. Sections 61.227(a), (b), and (e), Education Code, are amended to read as follows:

(a) On determination of a person's ~~[receipt of a certification of the amount of]~~ financial need ~~[from an approved institution]~~, the institution at which the student is enrolled ~~[coordinating board]~~ shall certify the amount of the tuition equalization grant based on financial need but not to exceed a grant amount of more than that specified in the appropriation by the legislature, or more than the difference between the tuition at the private institution attended and the tuition at public colleges and universities.

(b) The proper amount of the tuition equalization grant shall be paid to the student through the college or university in which the student ~~[he]~~ is enrolled.

(e) Notwithstanding any restrictions provided by Subsection (c) on the amount of a grant, a tuition equalization grant for an academic period for an undergraduate student who establishes exceptional financial need in accordance with the procedures and rules of the coordinating board may be certified by the institution at which the undergraduate student is enrolled ~~[coordinating board]~~ in an amount not to exceed 150 percent of the amount of the grant that the student would otherwise have been awarded for that period under the other provisions of this section.

SECTION 6. Section 61.230, Education Code, is amended to read as follows:

Sec. 61.230. ANNUAL REPORT. ~~[(a)]~~ The coordinating board shall include in its annual report to the legislature on financial aid in this state a breakdown of tuition equalization grant recipients by ethnicity indicating the percentage of each ethnic group that received tuition equalization grant money ~~[for each academic year]~~ at each institution.

SECTION 7. The changes in law made by this Act apply beginning with tuition equalization grants awarded for the 2011-2012 academic year. A tuition equalization grant awarded for an academic year before that academic year is covered by the law in effect when the grant was awarded, and that law is continued in effect for that purpose.

SECTION 8. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2011.

**SB 201 - REQUEST OF SENATE GRANTED  
CONFERENCE COMMITTEE APPOINTED**

On motion of Representative Callegari, the house granted the request of the senate for the appointment of a Conference Committee on **SB 201**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 201**: Callegari, chair; Berman, Farias, S. Miller, and Pickett.

**HR 2181 - ADOPTED  
(by Bohac)**

Representative Bohac moved to suspend all necessary rules to take up and consider at this time **HR 2181**.

The motion prevailed.

The following resolution was laid before the house:

**HR 2181**, Congratulating Jenny Rebecca Sykes and Travis Miller Griffin on their wedding.

**HR 2181** was adopted.

(Speaker in the chair)

**MAJOR STATE CALENDAR  
SENATE BILLS  
THIRD READING**

The following bills were laid before the house and read third time:

**SB 31 ON THIRD READING  
(Solomons - House Sponsor)**

**SB 31**, A bill to be entitled An Act relating to the composition of the districts for the election of members of the Texas Senate.

**SB 31 - REMARKS**

REPRESENTATIVE SOLOMONS: Thank you, Mr. Speaker, members. I appreciate everybody's participation. Whether everybody agrees or not, this is kind of a historic moment, and I would like to move passage of the bill.



REPRESENTATIVE BURNAM: I'll be very brief. This is **SB 31**, it cracks both the African American and Hispanic communities in Tarrant County into four different senatorial districts. I believe that it is illegal, immoral, and wrong, and I want to make sure that anybody that has those concerns votes against it.

### REMARKS ORDERED PRINTED

Representative Burnam moved to print remarks on **SB 31**.

The motion prevailed.

**SB 31** was passed by (Record 1254): 96 Yeas, 47 Nays, 3 Present, not voting.

Yeas — Aliseda; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Button; Cain; Callegari; Carter; Chisum; Christian; Cook; Craddick; Crownover; Darby; Davis, J.; Davis, S.; Driver; Eissler; Elkins; Fletcher; Frullo; Garza; Geren; Gonzales, L.; Gooden; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hilderbran; Hopson; Howard, C.; Huberty; Hughes; Hunter; Isaac; Jackson; Keffer; King, P.; King, S.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lyne; Madden; Margo; Miller, D.; Miller, S.; Morrison; Murphy; Nash; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pitts; Price; Riddle; Ritter; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Taylor, L.; Taylor, V.; Torres; Weber; White; Workman; Zedler; Zerwas.

Nays — Allen; Alonzo; Anchia; Burnam; Castro; Coleman; Creighton; Davis, Y.; Deshotel; Dukes; Dutton; Eiland; Farias; Farrar; Gallego; Giddings; Gonzales, V.; Gonzalez; Guillen; Gutierrez; Hochberg; Johnson; King, T.; Lozano; Lucio; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Muñoz; Naishtat; Oliveira; Pickett; Quintanilla; Raymond; Reynolds; Rodriguez; Thompson; Truitt; Turner; Veasey; Villarreal; Vo; Walle.

Present, not voting — Mr. Speaker(C); Howard, D.; Strama.

Absent, Excused — Alvarado; Flynn; Hernandez Luna; Woolley.

### STATEMENT OF VOTE

When Record No. 1254 was taken, I was excused because of important business. Had I been present, I would have voted no.

Alvarado

### MESSAGE FROM THE SENATE

A message from the senate was received at this time (see the addendum to the daily journal, Messages from the Senate, Message No. 2).

(Bonnen in the chair)

**SB 1811 ON THIRD READING**  
**(Pitts - House Sponsor)**

**SB 1811**, A bill to be entitled An Act relating to certain state fiscal matters; providing penalties.

**Amendment No. 1**

Representative Pitts offered the following amendment to **SB 1811**:

Amend **SB 1811** on third reading in ARTICLE 2 of the bill, by striking SECTION 2.02 of the bill (repealing Sections 221.006, 222.007, 223.009, 401.151(e), and 401.154, Insurance Code), substituting the following SECTIONS, appropriately numbered, and renumbering SECTIONS of ARTICLE 2 of the bill accordingly:

SECTION \_\_\_\_\_. Section 221.006, Insurance Code, is amended by adding Subsection (c) to read as follows:

(c) An insurer is not entitled to a credit under Subsection (a) for an examination or evaluation fee paid in calendar year 2012 or 2013. This subsection expires January 1, 2014.

SECTION \_\_\_\_\_. Section 222.007, Insurance Code, is amended by adding Subsection (c) to read as follows:

(c) An insurer or health maintenance organization is not entitled to a credit under Subsection (a) for an examination or evaluation fee paid in calendar year 2012 or 2013. This subsection expires January 1, 2014.

SECTION \_\_\_\_\_. Section 223.009, Insurance Code, is amended by adding Subsection (c) to read as follows:

(c) A title insurance company is not entitled to a credit under Subsection (a) for an examination or evaluation fee paid in calendar year 2012 or 2013. This subsection expires January 1, 2014.

SECTION \_\_\_\_\_. Section 401.151, Insurance Code, is amended by adding Subsection (f) to read as follows:

(f) An insurer is not entitled to a credit under Subsection (e) for an examination or evaluation fee paid in calendar year 2012 or 2013. This subsection expires January 1, 2014.

SECTION \_\_\_\_\_. Section 401.154, Insurance Code, is amended to read as follows:

Sec. 401.154. TAX CREDIT AUTHORIZED. (a) An insurer is entitled to a credit on the amount of premium taxes to be paid by the insurer for all examination fees paid under Section 401.153. The insurer may take the credit for the taxable year during which the examination fees are paid and may take the credit to the same extent the insurer may take a credit for examination fees paid when a salaried department examiner conducts the examination.

(b) An insurer is not entitled to a credit under Subsection (a) for an examination fee paid in calendar year 2012 or 2013. This subsection expires January 1, 2014.

Amendment No. 1 was adopted.

**Amendment No. 2**

Representatives Pitts, Parker, and Guillen offered the following amendment to **SB 1811**:

Amend **SB 1811** on third reading by striking ARTICLE 12 of the bill ("SALES AND USE TAX HOLIDAY"), as amended on second reading by the McClendon amendment (bar code 823959), and as the McClendon amendment was amended by the Guillen amendment (bar code 824451), substituting the following appropriately numbered ARTICLE to the bill and renumbering subsequent ARTICLES and SECTIONS of the bill accordingly:

ARTICLE \_\_. PERIOD FOR SALES AND USE TAX HOLIDAY

SECTION \_\_.01. Section 151.326(a), Tax Code, is amended to read as follows:

(a) The sale of an article of clothing or footwear designed to be worn on or about the human body is exempted from the taxes imposed by this chapter if:

(1) the sales price of the article is less than \$100; and

(2) the sale takes place during a period beginning at 12:01 a.m. on the first ~~third~~ Friday in August and ending at 12 midnight on the following Sunday.

SECTION \_\_.02. Section 151.326(a), Tax Code, as amended by this article, does not affect tax liability accruing before the effective date of this article. That liability continues in effect as if this article had not been enacted, and the former law is continued in effect for the collection of taxes due and for civil and criminal enforcement of the liability for those taxes.

SECTION \_\_.03. This article takes effect immediately if the Act receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this article takes effect September 1, 2011.

Amendment No. 2 was adopted.

**Amendment No. 3**

Representative Alonzo offered the following amendment to **SB 1811**:

Amend **SB 1811** on third reading by adding the following appropriately numbered ARTICLE to the bill and renumbering subsequent ARTICLES and SECTIONS of the bill appropriately:

ARTICLE \_\_. FISCAL MATTERS CONCERNING  
SCHOLARSHIPS AWARDED FROM STUDENT SUCCESS-BASED FUNDS

SECTION \_\_.01. Subchapter A, Chapter 56, Education Code, is amended by adding Section 56.005 to read as follows:

Sec. 56.005. STUDENT PRIORITY FOR SCHOLARSHIPS AWARDED FROM STUDENT SUCCESS-BASED FUNDS. (a) In this section:

(1) "Coordinating board" means the Texas Higher Education Coordinating Board.

(2) "Critical field" means a field of study designated as a critical field under Subsection (b).

(b) Except as otherwise provided by Subdivision (2), the fields of engineering, computer science, mathematics, physical science, allied health, nursing, and teaching certification in the field of science or mathematics are critical fields. Beginning September 1, 2012, the coordinating board, based on the coordinating board's determination of those fields of study in which the support and development of postsecondary education programs at the bachelor's degree level are most critically necessary for serving the needs of this state, by rule may:

(1) designate as a critical field a field of study that is not currently designated by this subsection or by the board as a critical field; or

(2) remove a field of study from the list of fields currently designated by this subsection or by the board as critical fields.

(c) Notwithstanding any other law, in determining who should receive scholarships awarded by an institution of higher education from funds appropriated to the institution based on student success, the institution may give priority to awarding the scholarships to eligible students enrolled in critical fields.

(d) The coordinating board may adopt rules for the administration of this section.

Amendment No. 3 was adopted.

#### **Amendment No. 4**

Representative Hartnett offered the following amendment to **SB 1811**:

Amend **SB 1811** (house committee printing) by adding the following appropriately numbered ARTICLE to the bill and renumbering subsequent ARTICLES and SECTIONS of the bill accordingly:

ARTICLE \_\_\_\_ FISCAL MATTERS REGARDING BASIC CIVIL LEGAL SERVICES, INDIGENT DEFENSE, AND JUDICIAL TECHNICAL SUPPORT  
SECTION \_\_\_\_ .01. Subchapter A, Chapter 22, Government Code, is amended by adding Section 22.016 to read as follows:

Sec. 22.016. JUDICIAL ACCESS AND IMPROVEMENT ACCOUNT. (a) The judicial access and improvement account is an account in the general revenue fund.

(b) Subject to Subsection (d), money in the judicial access and improvement account shall be appropriated only as provided by this section. The supreme court may use an amount determined by the supreme court, which annually may not exceed \$1 million, to phase in electronic filing and retrieval in courts in this state. The remainder of the money in the account shall be divided as follows:

(1) an amount equal to 70 percent of the remainder shall be deposited to the credit of the basic civil legal services account of the judicial fund established under Section 51.943 for use in programs approved by the supreme court that provide basic civil legal services to indigents; and

(2) an amount equal to 30 percent of the remainder shall be deposited to the credit of the fair defense account established under Section 71.058.

(c) The supreme court in consultation with the judicial committee on information technology may enter into an agreement with the Office of Court Administration of the Texas Judicial System to implement the electronic filing and retrieval in courts of this state authorized under Subsection (b), including acquiring the necessary technology, software, and data storage.

(d) The comptroller may retain two percent of the money remitted to the comptroller for deposit in the judicial access and improvement account. The comptroller shall use the money to audit and administer fund balances and to ensure the timely deposit of money in accounts as required by this section.

(e) Section 403.095 does not apply to money dedicated under this section.

SECTION    .02. Section 101.0615, Government Code, is amended to read as follows:

Sec. 101.0615. DISTRICT COURT FEES AND COSTS: LOCAL GOVERNMENT CODE. The clerk of a district court shall collect fees and costs under the Local Government Code as follows:

(1) additional filing fees:

(A) for each civil suit filed, for court-related purposes for the support of the judiciary and for civil legal services to an indigent:

(i) for family law cases and proceedings as defined by Section 25.0002, Government Code (Sec. 133.151, Local Government Code) . . . \$45; or

(ii) for any case other than a case described by Subparagraph (i) (Sec. 133.151, Local Government Code) . . . \$50; and

(B) on the filing of any civil action or proceeding requiring a filing fee, including an appeal, and on the filing of any counterclaim, cross-action, intervention, interpleader, or third-party action requiring a filing fee, to fund civil legal services for the indigent:

(i) for family law cases and proceedings as defined by Section 25.0002, Government Code (Sec. 133.152, Local Government Code) . . . \$15 [~~\$5~~]; or

(ii) for any case other than a case described by Subparagraph (i) (Sec. 133.152, Local Government Code) . . . \$20 [~~\$10~~];

(2) additional filing fee to fund the courthouse security fund, if authorized by the county commissioners court (Sec. 291.008, Local Government Code) . . . not to exceed \$5;

(3) additional filing fee for filing documents not subject to certain filing fees to fund the courthouse security fund, if authorized by the county commissioners court (Sec. 291.008, Local Government Code) . . . \$1;

(4) additional filing fee to fund the courthouse security fund in Webb County, if authorized by the county commissioners court (Sec. 291.009, Local Government Code) . . . not to exceed \$20;

(5) court cost in civil cases other than suits for delinquent taxes to fund the county law library fund, if authorized by the county commissioners court (Sec. 323.023, Local Government Code) . . . not to exceed \$35; and

(6) on the filing of a civil suit, an additional filing fee to be used for court-related purposes for the support of the judiciary (Sec. 133.154, Local Government Code) . . . \$42.

SECTION \_\_.03. Subchapter F, Chapter 102, Government Code, is amended by adding Section 102.1035 to read as follows:

Sec. 102.1035. ADDITIONAL COURT COSTS ON CONVICTION IN JUSTICE COURT: LOCAL GOVERNMENT CODE. A clerk of a justice court shall collect from a defendant a court cost of \$5 under Section 133.108, Local Government Code, on conviction of an offense, other than an offense relating to a pedestrian or the parking of a motor vehicle.

SECTION \_\_.04. Subchapter G, Chapter 102, Government Code, is amended by adding Section 102.1215 to read as follows:

Sec. 102.1215. ADDITIONAL COURT COSTS ON CONVICTION IN MUNICIPAL COURT: LOCAL GOVERNMENT CODE. A clerk of a municipal court shall collect from a defendant a court cost of \$5 under Section 133.108, Local Government Code, on conviction of an offense, other than an offense relating to a pedestrian or the parking of a motor vehicle.

SECTION \_\_.05. Subchapter B, Chapter 403, Government Code, is amended by adding Section 403.0306 to read as follows:

Sec. 403.0306. FEES AND COSTS ASSESSED FOR JUDICIAL ACCESS AND IMPROVEMENT ACCOUNT. Notwithstanding any other law, if in any state fiscal biennium the legislature:

(1) does not appropriate any money to the judicial access and improvement account for the purposes provided by Section 22.016:

(A) the comptroller and the office of court administration shall notify each clerk of a justice or municipal court, as appropriate, not to assess fees and court costs under Sections 102.1035 and 102.1215 of this code and Section 133.108, Local Government Code, during the state fiscal biennium; and

(B) a clerk of a justice or municipal court may not assess fees and court costs under Sections 102.1035 and 102.1215 of this code and Section 133.108, Local Government Code, during the state fiscal biennium; or

(2) appropriates only a portion of the money to the judicial access and improvement account for the purposes provided by Section 22.016:

(A) the comptroller and the office of court administration shall:

(i) proportionally adjust the amount of the fees and court costs to be assessed under Sections 102.1035 and 102.1215 of this code and Section 133.108, Local Government Code, during the state fiscal biennium; and

(ii) notify each clerk of a justice or municipal court, as appropriate, of the amount of the fees and court costs to be assessed under Sections 102.1035 and 102.1215 of this code and Section 133.108, Local Government Code, during the state fiscal biennium; and

(B) a clerk of a justice or municipal court shall assess the amount of the fees and court costs determined by the comptroller under Paragraph (A) during the state fiscal biennium.

SECTION \_\_.06. Section 133.003, Local Government Code, is amended to read as follows:

Sec. 133.003. CRIMINAL FEES. This chapter applies to the following criminal fees:

(1) the consolidated fee imposed under Section 133.102;

- (2) the time payment fee imposed under Section 133.103;
- (3) fees for services of peace officers employed by the state imposed under Article 102.011, Code of Criminal Procedure, and forwarded to the comptroller as provided by Section 133.104;
- (4) costs on conviction imposed in certain statutory county courts under Section 51.702, Government Code, and deposited in the judicial fund;
- (5) costs on conviction imposed in certain county courts under Section 51.703, Government Code, and deposited in the judicial fund;
- (6) the administrative fee for failure to appear or failure to pay or satisfy a judgment imposed under Section 706.006, Transportation Code;
- (7) fines on conviction imposed under Section 621.506(g), Transportation Code;
- (8) the fee imposed under Article 102.0045, Code of Criminal Procedure;
- (9) the cost on conviction imposed under Section 133.105 and deposited in the judicial fund; ~~and~~
- (10) the cost on conviction imposed under Section 133.107; and
- (11) the cost on conviction imposed under Section 133.108.

SECTION \_\_.07. Section 133.058, Local Government Code, is amended by adding Subsection (c-1) to read as follows:

(c-1) A municipality or county may retain five percent of the money collected as a fee under Section 133.108 to be used for judicial support.

SECTION \_\_.08. Subchapter C, Chapter 133, Local Government Code, is amended by adding Section 133.108 to read as follows:

Sec. 133.108. FEE FOR JUDICIAL ACCESS AND IMPROVEMENT. (a) A person convicted in a municipal or justice court of an offense, other than an offense relating to a pedestrian or the parking of a motor vehicle, shall pay as a court cost, in addition to other costs, a fee of \$5 to be used to fund basic civil legal services and criminal defense for indigents and electronic filing in courts in this state through the judicial access and improvement account established under Section 22.016, Government Code.

(b) The treasurer shall remit the fees collected under this section to the comptroller in the manner provided by Subchapter B. The comptroller shall credit the remitted fees to the credit of the judicial access and improvement account established under Section 22.016, Government Code.

SECTION \_\_.09. Section 133.152(a), Local Government Code, is amended to read as follows:

(a) In addition to other fees collected under Section 133.151(a) or otherwise authorized or required by law, the clerk of a district court shall collect the following fees on the filing of any civil action or proceeding requiring a filing fee, including an appeal, and on the filing of any counterclaim, cross-action, intervention, interpleader, or third-party action requiring a filing fee:

(1) \$15 ~~[\$5]~~ in family law cases and proceedings as defined by Section 25.0002, Government Code; and

(2) \$20 ~~[\$10]~~ in any case other than a case described by Subdivision (1).

SECTION \_\_.10. (a) Section 51.607, Government Code, does not apply to the imposition of a court cost or fee under this article.

(b) The changes in law made by this article apply to the costs imposed on or after September 1, 2011, for conviction of an offense that occurs on or after that date.

(c) For purposes of Subsection (b) of this section, an offense is committed before the date specified by that subsection if any element of the offense occurs before the specified date. Court costs imposed on conviction of an offense committed before that specified date are governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose.

(d) Section 133.152(a), Local Government Code, as amended by this article, and Section 101.0615, Government Code, as amended by this article, apply only to a civil action or proceeding filed in a district court on or after the effective date of this article. A civil action or proceeding filed before that date is governed by the law in effect on the date the action or proceeding was filed, and the former law is continued in effect for that purpose.

Amendment No. 4 failed of adoption by (Record 1255): 36 Yeas, 105 Nays, 1 Present, not voting.

Yeas — Alonzo; Anchia; Cook; Davis, J.; Davis, S.; Davis, Y.; Driver; Dukes; Eiland; Eissler; Gallego; Guillen; Hardcastle; Hartnett; Hochberg; Howard, D.; Hunter; Jackson; Lozano; Lucio; Margo; Marquez; Martinez; Menendez; Muñoz; Naishtat; Oliveira; Otto; Perry; Pickett; Raymond; Rodriguez; Shelton; Smith, T.; Strama; Vo.

Nays — Aliseda; Allen; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen(C); Branch; Brown; Burkett; Burnam; Button; Cain; Callegari; Carter; Chisum; Christian; Craddick; Creighton; Crownover; Darby; Deshotel; Dutton; Elkins; Farias; Farrar; Fletcher; Frullo; Garza; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Gutierrez; Hamilton; Hancock; Harless; Harper-Brown; Hilderbran; Hopson; Howard, C.; Huberty; Hughes; Isaac; Johnson; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lyne; Madden; Mallory Caraway; Martinez Fischer; Miles; Miller, D.; Miller, S.; Morrison; Murphy; Nash; Orr; Parker; Patrick; Paxton; Peña; Phillips; Pitts; Price; Quintanilla; Reynolds; Riddle; Ritter; Schwertner; Scott; Sheets; Sheffield; Simpson; Smith, W.; Smithee; Solomons; Taylor, L.; Taylor, V.; Thompson; Torres; Truitt; Turner; Veasey; Walle; Weber; White; Workman; Zedler; Zerwas.

Present, not voting — Mr. Speaker.

Absent, Excused — Alvarado; Flynn; Hernandez Luna; Woolley.

Absent — Castro; Coleman; McClendon; Villarreal.



**STATEMENTS OF VOTE**

When Record No. 1255 was taken, I was excused because of important business. Had I been present, I would have voted no.

Alvarado

I was shown voting yes on Record No. 1255. I intended to vote no.

Cook

I was shown voting yes on Record No. 1255. I intended to vote no.

Driver

I was shown voting yes on Record No. 1255. I intended to vote no.

Eissler

I was shown voting yes on Record No. 1255. I intended to vote no.

Hunter

I was shown voting yes on Record No. 1255. I intended to vote no.

Otto

I was shown voting yes on Record No. 1255. I intended to vote no.

T. Smith

**Amendment No. 5**

Representatives Isaac, Simpson, Sheets, Zedler, Bohac, Beck, Aliseda, R. Anderson, Perry, Landtroop, Driver, Gooden, Garza, Lavender, Christian, and Laubenberg offered the following amendment to **SB 1811**:

Amend **SB 1811** on third reading as follows:

(1) In Section 7.01, Article 7, of the bill, in the first line of amended Section 42.259(f), Education Code, strike "(c)(8) or (d)(3)" and substitute "(c)(8), (d)(3), or (f-1)".

(2) Between Sections 7.01 and 7.02, Article 7, of the bill, insert:

SECTION 7.015. Section 42.259, Education Code, is amended by adding Subsection (f-1) to read as follows:

(f-1) Notwithstanding Subsections (c)(8) or (d)(3), if the comptroller finds that sufficient money is available for the purposes after making necessary Medicaid payments due on or before the 25th day of August:

(1) payments from the foundation school fund to each category 2 school district shall be made so that 15 percent of the yearly entitlement of the district is paid in an installment to be made on or before the 25th day of August;  
and

(2) payments from the foundation school fund to each category 3 school district shall be made so that 20 percent of the yearly entitlement of the district is paid in an installment to be made on or before the 25th day of August.

Amendment No. 5 was adopted.

**SB 1811**, as amended, was passed by (Record 1256): 100 Yeas, 44 Nays, 1 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen(C); Branch; Brown; Burkett; Button; Cain; Callegari; Chisum; Christian; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Deshotel; Driver; Eiland; Eissler; Elkins; Fletcher; Frullo; Garza; Geren; Gonzales, L.; Gooden; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hilderbran; Hopson; Howard, C.; Huberty; Hughes; Hunter; Isaac; Jackson; Keffer; King, P.; King, S.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lyne; Madden; Margo; Miller, D.; Miller, S.; Morrison; Murphy; Nash; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pitts; Price; Riddle; Ritter; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Taylor, L.; Torres; Truitt; Weber; White; Workman; Zedler; Zerwas.

Nays — Anchia; Burnam; Carter; Castro; Coleman; Davis, Y.; Dukes; Dutton; Farias; Farrar; Gallego; Giddings; Gonzales, V.; Gonzalez; Guillen; Gutierrez; Hochberg; Howard, D.; Johnson; King, T.; Lozano; Lucio; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McClendon; Miles; Muñoz; Naishtat; Oliveira; Pickett; Quintanilla; Raymond; Reynolds; Rodriguez; Strama; Taylor, V.; Thompson; Turner; Veasey; Villarreal; Vo; Walle.

Present, not voting — Mr. Speaker.

Absent, Excused — Alvarado; Flynn; Hernandez Luna; Woolley.

Absent — Menendez.

#### STATEMENTS OF VOTE

I was shown voting yes on Record No. 1256. I intended to vote no.

Allen

I was shown voting yes on Record No. 1256. I intended to vote no.

Alonzo

When Record No. 1256 was taken, I was excused because of important business. Had I been present, I would have voted no.

Alvarado

I was shown voting yes on Record No. 1256. I intended to vote no.

Deshotel

#### SCR 57 - ADOPTED (Eiland - House Sponsor)

Representative Eiland moved to suspend all necessary rules to take up and consider at this time **SCR 57**.

The motion prevailed.

The following resolution was laid before the house:

**SCR 57**, Recalling **HB 2277** from the house for further consideration.

**SCR 57** was adopted.

**LOCAL, CONSENT, AND RESOLUTIONS CALENDAR**  
**SENATE BILLS**  
**THIRD READING**

**SB 1662 ON THIRD READING**  
**(Turner - House Sponsor)**

**SB 1662**, A bill to be entitled An Act relating to the payment of costs associated with certain educational programs of Prairie View A&M University.

**SB 1662** was passed by (Record 1257): 136 Yeas, 4 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Anchia; Anderson, R.; Aycock; Beck; Berman; Bohac; Branch; Brown; Burkett; Burnam; Button; Cain; Callegari; Carter; Castro; Chisum; Christian; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Frullo; Gallego; Garza; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Hartnett; Hochberg; Hopson; Howard, C.; Howard, D.; Huberty; Hughes; Hunter; Isaac; Jackson; Johnson; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lewis; Lozano; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Miles; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pickett; Pitts; Price; Quintanilla; Raymond; Reynolds; Riddle; Ritter; Rodriguez; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Taylor, V.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; White; Workman; Zedler; Zerwas.

Nays — Anderson, C.; Lavender; Legler; Weber.

Present, not voting — Mr. Speaker; Bonnen(C).

Absent, Excused — Alvarado; Flynn; Hernandez Luna; Woolley.

Absent — Coleman; Harper-Brown; Hilderbran; Menendez.

**STATEMENTS OF VOTE**

When Record No. 1257 was taken, I was excused because of important business. Had I been present, I would have voted yes.

Alvarado

When Record No. 1257 was taken, I was in the house but away from my desk. I would have voted yes.

Hilderbran

**SB 20 - HOUSE SPONSORS AUTHORIZED**

On motion of Representative Keffer, Representatives Keffer, Chisum, C. Howard, and Anchia were authorized as house sponsors to **SB 20**.

**MAJOR STATE CALENDAR  
SENATE BILLS  
SECOND READING**

The following bills were laid before the house and read second time:

**SB 20 ON SECOND READING**

**(Strama, Keffer, Chisum, C. Howard, and Anchia - House Sponsors)**

**SB 20**, A bill to be entitled An Act relating to a grant program for certain natural gas motor vehicles.

**Amendment No. 1**

Representatives Otto and Chisum offered the following amendment to **SB 20**:

Amend **SB 20** (house committee report) as follows:

(1) In SECTION 1 of the bill, in added Section 386.252(a)(1)(E), Health and Safety Code (page 1, line 24), strike "and".

(2) In SECTION 1 of the bill, in added Section 386.252(a)(1)(F), Health and Safety Code (page 2, line 3), strike "393.010;" and substitute the following:  
393.010; and

(G) two percent may be used for the Texas alternative fueling facilities program;

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

SECTION \_\_\_\_\_. Section 386.252, Health and Safety Code, is amended by adding Subsection (e) to read as follows:

(e) The commission may allocate unexpended money designated for the Texas alternative fueling facilities program to other programs described under Subsection (a) after the commission allocates money to recipients under the alternative fueling facilities program.

SECTION \_\_\_\_\_. Subtitle C, Title 5, Health and Safety Code, is amended by adding Chapter 394 to read as follows:

**CHAPTER 394. ALTERNATIVE FUELING FACILITIES PROGRAM**

Sec. 394.001. DEFINITIONS. In this chapter:

(1) "Alternative fuel" means a fuel other than gasoline or diesel fuel, other than biodiesel fuel, including electricity, compressed natural gas, liquefied natural gas, hydrogen, propane, or a mixture of fuels containing at least 85 percent methanol by volume.

(2) "Commission" means the Texas Commission on Environmental Quality.

(3) "Program" means the Texas alternative fueling facilities program established under this chapter.

Sec. 394.002. PROGRAM. (a) The commission shall establish and administer the Texas alternative fueling facilities program to provide fueling facilities for alternative fuel in nonattainment areas. Under the program, the commission shall provide a grant for each eligible facility to offset the cost of those facilities.

(b) An entity that constructs, reconstructs, or acquires an alternative fueling facility is eligible to participate in the program.

Sec. 394.003. APPLICATION FOR GRANT. (a) An entity operating in this state that constructs, reconstructs, or acquires a facility to store, compress, or dispense alternative fuels may apply for and receive a grant under the program.

(b) The commission may adopt guidelines to allow a regional planning commission, council of governments, or similar regional planning agency created under Chapter 391, Local Government Code, or a private nonprofit organization to apply for and receive a grant to improve the ability of the program to achieve its goals.

(c) An application for a grant under this chapter must be made on a form provided by the commission and must contain the information required by the commission.

Sec. 394.004. ELIGIBILITY OF FACILITIES FOR GRANTS. (a) The commission by rule shall establish criteria for prioritizing facilities eligible to receive grants under this chapter. The commission shall review and revise the criteria as appropriate.

(b) To be eligible for a grant under the program, the entity receiving the grant must agree to make the alternative fueling facility available to persons not associated with the entity at times designated by the grant agreement.

(c) A recipient of a grant under this chapter is not eligible to receive a second grant under this chapter for the same facility.

Sec. 394.005. RESTRICTION ON USE OF GRANT. A recipient of a grant under this chapter shall use the grant only to pay the costs of the facility for which the grant is made. The recipient may not use the grant to pay the recipient's administrative expenses.

Sec. 394.006. AMOUNT OF GRANT. For each eligible facility for which a recipient is awarded a grant under the program, the commission shall award the grant in an amount equal to the lesser of:

(1) 50 percent of the sum of the actual eligible costs incurred by the grant recipient within deadlines established by the commission to construct, reconstruct, or acquire the facility; or

(2) \$500,000.

Sec. 394.007. EXPIRATION. This chapter expires August 31, 2018.

SECTION \_\_\_\_. The Texas Commission on Environmental Quality shall adopt rules under Section 394.004, Health and Safety Code, as added by this Act, as soon as practicable after the effective date of this Act.

#### MESSAGE FROM THE SENATE

A message from the senate was received at this time (see the addendum to the daily journal, Messages from the Senate, Message No. 1).

**SB 20 - (consideration continued)****AMENDMENT NO. 1 - STATEMENT OF LEGISLATIVE INTENT**

REPRESENTATIVE BURNAM: We discussed earlier that I wanted to ask you a question for legislative intent. Is it your belief that the definition, as included in this amendment, means that alternative fuels—means that fuel other than gasoline or conventional diesel fuels, including biodiesel fuels, electricity compressed natural gas, liquified natural gas, hydrogen propane or a mixture of fuels containing at least 85 percent methanol by volume?

REPRESENTATIVE CHISUM: It absolutely does, and the idea is that gasoline and diesel are not alternative fuels. Biodiesel is and those others that you listed. You said it correct.

**REMARKS ORDERED PRINTED**

Representative Burnam moved to print remarks between Representative Chisum and Representative Burnam.

The motion prevailed.

Amendment No. 1 was adopted.

**Amendment No. 2**

Representative Strama offered the following amendment to **SB 20**:

Amend **SB 20** (house committee report) as follows:

(1) In SECTION 2 of the bill, strike added Section 393.001(5), Health and Safety Code (page 3, lines 20 and 21), and substitute the following:

(5) "Incremental cost" means the difference between the manufacturer's suggested retail price of a baseline vehicle, the documented dealer price of a baseline vehicle, cost to lease or otherwise commercially finance a baseline vehicle, cost to repower with a baseline engine, or other appropriate baseline cost established by the commission, and the actual cost of the natural gas vehicle purchase, lease, or other commercial financing, or repower.

(2) In SECTION 2 of the bill, between added Sections 393.001(5) and (6), Health and Safety Code (page 3, between lines 21 and 22), insert the following new subdivision, numbered appropriately, and renumber subsequent subdivisions of added Section 393.001, Health and Safety Code, accordingly:

( ) "Medium-duty motor vehicle" means a motor vehicle with a gross vehicle weight rating of more than 8,500 pounds that:

(A) is certified to the United States Environmental Protection Agency's light-duty emissions standard; or

(B) has an engine certified to the United States Environmental Protection Agency's light-duty emissions standard.

(3) In SECTION 2 of the bill, in added Section 393.002, Health and Safety Code (page 4, line 4), between "heavy-duty" and "motor vehicle", insert "or medium-duty".

(4) In SECTION 2 of the bill, in added Section 393.002, Health and Safety Code (page 4, line 7), between "heavy-duty" and "motor vehicles", insert "motor vehicles and medium-duty".

(5) In SECTION 2 of the bill, in added Section 393.002, Health and Safety Code (page 4, line 8), between "heavy-duty" and "motor vehicle", insert "or medium-duty".

(6) In SECTION 2 of the bill, in added Section 393.003(a)(1), Health and Safety Code (page 4, line 14), between "heavy-duty" and "motor vehicle", insert "or medium-duty".

(7) In SECTION 2 of the bill, in added Section 393.003(a)(1)(C), Health and Safety Code (page 4, line 19), between "heavy-duty" and "motor vehicle", insert "or medium-duty".

(8) In SECTION 2 of the bill, strike added Sections 393.003(a)(1)(D) and (a)(2), Health and Safety Code (page 4, line 21, through page 5, line 1), and substitute the following:

(D) is powered by an engine certified to:

(i) emit not more than 0.2 grams of nitrogen oxides per brake horsepower hour; or

(ii) meet or exceed the United States Environmental Protection Agency's Bin 5 standard for light-duty engines when powering the vehicle; or

(2) repowered the on-road motor vehicle to a natural gas vehicle powered by a natural gas engine that:

(A) is certified to current federal emissions standards; and

(B) is:

(i) a heavy-duty engine that is certified to emit not more than 0.2 grams of nitrogen oxides per brake horsepower hour; or

(ii) certified to meet or exceed the United States Environmental Protection Agency's Bin 5 standard for light-duty engines when powering the vehicle.

(9) In SECTION 2 of the bill, in added Section 393.003(b), Health and Safety Code (page 5, line 2), between "heavy-duty" and "motor vehicle", insert "or medium-duty".

(10) In SECTION 2 of the bill, in added Section 393.003(b)(1), Health and Safety Code (page 5, line 5), strike "or by another entity".

(11) In SECTION 2 of the bill, in added Section 393.004(a), Health and Safety Code (page 5, line 10), between "heavy-duty" and "motor vehicle", insert "or medium-duty".

(12) In SECTION 2 of the bill, in added Section 393.005(b)(1), Health and Safety Code (page 5, line 27), strike "heavy-duty".

(13) In SECTION 2 of the bill, in added Section 393.005(b)(2)(A), Health and Safety Code (page 6, line 7), between "heavy-duty" and "motor vehicle", insert "or medium-duty".

(14) In SECTION 2 of the bill, in added Section 393.005(b)(2)(B), Health and Safety Code (page 6, line 19), between "heavy-duty" and "motor vehicle", insert "or medium-duty".

(15) In SECTION 2 of the bill, in added Section 393.005(f), Health and Safety Code (page 8, line 4), between "heavy-duty" and "motor vehicle", insert "or medium-duty".

(16) In SECTION 2 of the bill, in added Section 393.005(g), Health and Safety Code (page 8, line 13), between "heavy-duty" and "motor vehicles", insert "motor vehicles and medium-duty".

(17) In SECTION 2 of the bill, strike added Section 393.007(a)(2), Health and Safety Code (page 9, lines 14 through 20), and substitute the following:

(2) is based on:

(A) the certified emission level of nitrogen oxides, or other pollutants as determined by the commission, of the engine powering the natural gas vehicle; and

(B) the usage of the natural gas vehicle; and

(3) may take into account the overall emissions reduction achieved by the natural gas vehicle.

(18) In SECTION 2 of the bill, after added Section 393.007(b), Health and Safety Code (page 10, between lines 1 and 2), insert the following:

(c) A person may not receive a grant under this chapter that, when combined with any other grant, tax credit, or other governmental incentive, exceeds the incremental cost of the vehicle for which the grant is awarded. A person shall return to the commission the amount of a grant awarded under this chapter that, when combined with any other grant, tax credit, or other governmental incentive, exceeds the incremental cost of the vehicle for which the grant is awarded.

(d) The commission shall reduce the amount of a grant awarded under this chapter as necessary to keep the combined incentive total at or below the incremental cost of the vehicle for which the grant is awarded if the grant recipient is eligible to receive an automatic incentive at or before the time a grant is awarded under this chapter.

(19) In SECTION 2 of the bill, strike added Section 393.008(b)(1), Health and Safety Code (page 10, lines 10 through 13), and substitute the following:

(1) provide for the commission to compile and regularly update a listing of preapproved natural gas vehicles:

(A) powered by natural gas engines certified to emit not more than 0.2 grams of nitrogen oxides per brake horsepower hour; or

(B) certified to the United States Environmental Protection Agency's light-duty Bin 5 standard or better;

(20) In SECTION 2 of the bill, in added Section 393.009(a)(1), Health and Safety Code (page 11, line 20), between "on-road heavy-duty" and "natural gas", insert "or medium-duty".

(21) In SECTION 2 of the bill, in added Section 393.009(a)(1), Health and Safety Code (page 11, line 20), between "or heavy-duty" and "natural gas", insert "or medium-duty".

(22) In SECTION 2 of the bill, in added Section 393.009(e)(2), Health and Safety Code (page 12, line 14), between "heavy-duty" and "natural gas", insert "or medium-duty".

(23) In SECTION 2 of the bill, in added Section 393.009(e)(2), Health and Safety Code (page 12, line 15), before "natural gas engines.", insert "heavy-duty or medium-duty".



(24) In SECTION 2 of the bill, strike added Section 393.010(b), Health and Safety Code (page 13, lines 12 and 13), and substitute the following:

(b) The commission may not award more than:

(1) three station grants to any entity; or

(2) one grant for each station.

(25) In SECTION 2 of the bill, between added Sections 393.010(b) and (c), Health and Safety Code (page 13, between lines 13 and 14), insert the following new subsection, designated appropriately, and redesignate subsequent subsections of added Section 393.010, Health and Safety Code, accordingly:

( ) Grants awarded under this section may not exceed:

(1) \$100,000 for a compressed natural gas station;

(2) \$250,000 for a liquefied natural gas station; or

(3) \$400,000 for a station providing both liquefied and compressed natural gas.

(26) In SECTION 2 of the bill, strike added Section 393.011, Health and Safety Code (page 14, lines 6-10) and renumber subsequent Sections of the SECTION accordingly.

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

SECTION \_\_\_\_ . Section 386.252, Health and Safety Code, is amended by adding Subsections (e) and (f) to read as follows:

(e) Notwithstanding Subsection (a), the commission may reallocate money in the fund if:

(1) the commission, in consultation with the governor and the advisory board, determines that the use of the money in the fund for the program established under Chapter 393 will cause the state to be in noncompliance with the state implementation plan to the extent that federal action is likely; and

(2) the commission finds that the reallocation of some or all of the funding for the program established under Chapter 393 would resolve the noncompliance.

(f) Under Subsection (e), the commission may not reallocate more than the minimum amount of money necessary to resolve the noncompliance.

Amendment No. 2 was adopted.

**SB 20**, as amended, was passed to third reading. (S. Davis, Harper-Brown, and Laubenberg recorded voting no; Huberty recorded voting present, not voting.)

**CONSTITUTIONAL AMENDMENTS CALENDAR**  
**SENATE JOINT RESOLUTIONS**  
**SECOND READING**

The following resolutions were laid before the house and read second time:

**SJR 16 ON SECOND READING**  
**(Ritter - House Sponsor)**

**SJR 16**, A joint resolution proposing a constitutional amendment providing for the appraisal for ad valorem tax purposes of open-space land devoted to water-stewardship purposes on the basis of its productive capacity.

**SJR 16** was adopted by (Record 1258): 143 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Anchia; Anderson, C.; Anderson, R.; Aycocck; Beck; Berman; Bohac; Bonnen(C); Branch; Brown; Burkett; Burnam; Button; Cain; Callegari; Carter; Castro; Chisum; Christian; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Frullo; Gallego; Garza; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hilderbran; Hochberg; Hopson; Howard, C.; Howard, D.; Huberty; Hughes; Hunter; Isaac; Jackson; Johnson; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pickett; Pitts; Price; Quintanilla; Raymond; Reynolds; Riddle; Ritter; Rodriguez; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Taylor, V.; Thompson; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Workman; Zedler; Zerwas.

Present, not voting — Mr. Speaker.

Absent, Excused — Alvarado; Flynn; Hernandez Luna; Woolley.

Absent — Coleman; Torres.

**STATEMENTS OF VOTE**

When Record No. 1258 was taken, I was excused because of important business. Had I been present, I would have voted yes.

Alvarado

I was shown voting yes on Record No. 1258. I intended to vote no.

C. Anderson

I was shown voting yes on Record No. 1258. I intended to vote no.

Miles

When Record No. 1258 was taken, I was temporarily out of the house chamber. I would have voted yes.

Torres

**GENERAL STATE CALENDAR  
SENATE BILLS  
SECOND READING**

The following bills were laid before the house and read second time:

**SB 350 ON SECOND READING  
(Truitt - House Sponsor)**

**SB 350**, A bill to be entitled An Act relating to the restructuring of fund obligations and accounts of the Texas Municipal Retirement System and related actuarial and accounting procedures.

**SB 350** was passed to third reading.

**CSSB 341 ON SECOND READING  
(Menendez and Larson - House Sponsors)**

**CSSB 341**, A bill to be entitled An Act relating to authorizing the dissolution of the Bexar Metropolitan Water District; providing a penalty.

(Speaker in the chair)

**Amendment No. 1**

Representative Menendez offered the following amendment to **CSSB 341**:

Amend **CSSB 341** in ARTICLE 2 of the bill (page 10, after line 27), by inserting the following new SECTION in the ARTICLE:

SECTION 2.03. (a) The purpose of this article is to provide all of the eligible voters of the district an opportunity to determine by election whether to continue with the current managing authority of the district or to transition to another managing authority which owns, operates, and manages the system, as defined by Section 1A, Chapter 306, Acts of the 49th Legislature, Regular Session, 1945.

(b) In order to provide all of the district's eligible voters an equal opportunity to vote on the determination in Subsection (a) of this section, the preferred method of election is a district-wide vote with all votes weighted equally. The reasons for this preference include:

(1) the election is a referendum on a single issue, involving different considerations in its structure than the considerations for an election to select members of a multi-member governing body;

(2) neither the vote dilution principles addressed under Section 2 of the Voting Rights Act of 1965 (42 U.S.C. Section 1973 et seq.) nor the three-part analytical framework used to measure vote dilution under Thornburg v. Gingles, 478 U.S. 30 (1986), are applicable to such a single-issue referendum;

(3) the explanation in Butts v. City of New York, 779 F.2d 141 (2d Cir. 1985), cert. denied, 478 U.S. 1021 (1986), that, if "the winner of an election for a single-member office is chosen directly by all the eligible voters" for that office, electoral arrangements are unlikely to deny a class of voters equal opportunity for representation, is equally applicable to the preferred method of election for the single-issue referendum established in this article; and

(4) the preferred method of election established in this article adheres strictly to the constitutional principle of "one person, one vote," a principle which a federal court has stated specifically applies to the district in an order dated September 21, 2006, in Civil Action No. SA-96-CA-335, Rios v. Bexar Metropolitan Water District et al., in the United States District Court, Western District of Texas, and which the district has never challenged by appeal or otherwise.

Amendment No. 1 was adopted.

**Amendment No. 2**

Representative Larson offered the following amendment to **CSSB 341**:

Amend **CSSB 341** (house committee report) as follows:

(1) In the recital to SECTION 1.02 of the bill (page 1, line 14), strike "42, and 43" and substitute "and 42".

(2) In SECTION 1.02 of the bill, in amended Chapter 306, Acts of the 49th Legislature, Regular Session, 1945 (page 7, lines 10-19), strike Section 40.

(3) In SECTION 1.02 of the bill, in amended Chapter 306, Acts of the 49th Legislature, Regular Session, 1945 (page 7, line 20), strike "Sec. 41." and substitute the following:

Sec. 40. (a) This section does not apply to bonds related to a water supply contract existing on or after the effective date of the Act enacting this section entered into by the District and a governmental entity, including the Canyon Regional Water Authority and the Bexar-Medina-Atascosa Counties Water Improvement District No. 1, if revenue from the contract is to be pledged wholly or partly to pay debt service on revenue bonds approved by the attorney general.

(b)

(4) In SECTION 1.02 of the bill, in added Section 41, Chapter 306, Acts of the 49th Legislature, Regular Session, 1945 (page 7, line 22), between "State" and the comma, insert "under Article 2 or Article 2A of the Act enacting this section".

(5) In SECTION 1.02 of the bill, in added Section 42, Chapter 306, Acts of the 49th Legislature, Regular Session, 1945 (page 8, line 6), strike "Sec. 42. (a)" and substitute the following:

Sec. 41. (a) This section does not apply to a water supply contract existing on or after the effective date of the Act enacting this section entered into by the District and a governmental entity, including the Canyon Regional Water Authority and the Bexar-Medina-Atascosa Counties Water Improvement District No. 1, if revenue from the contract is to be pledged wholly or partly to pay debt service on revenue bonds approved by the attorney general.

(b)

(6) In SECTION 1.02 of the bill, in added Section 42(a), Chapter 306, Acts of the 49th Legislature, Regular Session, 1945 (page 8, line 8), between "State" and the comma, insert "under Article 2 or Article 2A of the Act enacting this section".

(7) In SECTION 1.02 of the bill, in added Section 42(a)(1), Chapter 306, Acts of the 49th Legislature, Regular Session, 1945 (page 8, line 12), between "System" and the semicolon, insert "if the contract or other agreement is assumed by the System".

(8) In SECTION 1.02 of the bill, in added Section 42, Chapter 306, Acts of the 49th Legislature, Regular Session, 1945 (page 8, line 18), strike "(b)" and substitute "(c)".

(9) In SECTION 1.02 of the bill, in added Section 42(b), Chapter 306, Acts of the 49th Legislature, Regular Session, 1945 (page 8, line 20), strike "(a)(2)" and substitute "(b)(2)".

(10) In SECTION 1.02 of the bill, in amended Chapter 306, Acts of the 49th Legislature, Regular Session, 1945 (page 8, line 22), strike "43" and substitute "42".

(11) In SECTION 1.02 of the bill, in added Section 43, Chapter 306, Acts of the 49th Legislature, Regular Session, 1945 (page 8, line 24), between "State" and the comma, insert "under Article 2 or Article 2A of the Act enacting this section".

(12) In SECTION 2.01(b) of the bill (page 9, line 11), between "district" and "on the", insert "solely".

(13) In SECTION 2.01(b) of the bill (page 9, line 12), strike "The board" and substitute "Notwithstanding Section 3.005(b), Election Code, the board".

(14) In SECTION 2.01(b) of the bill (page 9, line 14), between "held" and the period, insert "or as soon as practicable, if the effective date of this Act is after the 90th day".

(15) In SECTION 2.01 of the bill (page 10, between lines 14 and 15), insert the following:

(h) The election directed to be held under this article is not intended to prohibit a regular or special election to elect board members.

(16) In SECTION 2.02(a) of the bill (page 10, lines 15-16), strike "Not later than the 20th day after the date on which the election results are officially declared" and substitute "Not later than the 10th day after the determination under Section 67.005(a), Election Code, of the official results of the election".

(17) In SECTION 2A.02(b) of the bill (page 12, line 3), between "district" and "on the", insert "solely".

(18) In SECTION 2A.02(b) of the bill (page 12, line 4), strike "The board" and substitute "Notwithstanding Section 3.005(b), Election Code, the board".

(19) In SECTION 2A.02(b) of the bill (page 12, line 6), between "held" and the period, insert "or as soon as practicable, if the effective date of this Act is after the 90th day".

(20) In SECTION 2A.02 of the bill (page 13, between lines 12 and 13), insert the following:

(i) The election directed to be held under this article is not intended to prohibit a regular or special election to elect board members.

(21) In SECTION 2A.03(a) of the bill (page 13, lines 13-14), strike "Not later than the 20th day after the date on which the election results are officially declared" and substitute "Not later than the 10th day after the determination under Section 67.005(a), Election Code, of the official results of the election".

(22) In the recital to SECTION 3.03 of the bill (page 17, line 1), strike "and 10B" and substitute "10B, and 43".

(23) In SECTION 3.03 of the bill, in added Section 8A(b), Chapter 306, Acts of the 49th Legislature, Regular Session, 1945 (page 17, line 20), between "\$500" and "in", insert "from each person or organization".

(24) In SECTION 3.03 of the bill, in added Section 8A(b), Chapter 306, Acts of the 49th Legislature, Regular Session, 1945 (page 17, line 21), between "the" and "candidate", insert "Director or".

(25) In SECTION 3.03 of the bill, in amended Chapter 306, Acts of the 49th Legislature, Regular Session, 1945 (page 21, between lines 23 and 24), insert the following:

Sec. 43. (a) The Commission shall evaluate the condition of the District and determine whether the District has been sufficiently rehabilitated to enable the District to provide reliable, cost-effective, quality service to its customers.

(b) If the Commission finds that the District has not been rehabilitated, the Commission may order the District to implement any part of the rehabilitation plan developed under Section 34.

(c) If the District fails to comply with a Commission order, the Commission may assess a penalty against the District in the manner provided by Section 13.4151, Water Code.

(26) In SECTION 4.01 of the bill, in added Section 50(a), Chapter 306, Acts of the 49th Legislature, Regular Session, 1945 (page 23, line 1), between "2" and "of", insert "or 2A".

(27) In SECTION 4.01 of the bill, in added Section 50(c), Chapter 306, Acts of the 49th Legislature, Regular Session, 1945 (page 23, line 9), between "assign" and "all", insert "to the System".

(28) In SECTION 4.01 of the bill, in added Section 52, Chapter 306, Acts of the 49th Legislature, Regular Session, 1945 (page 24, line 8), between "2" and "of", insert "or 2A".

(29) In SECTION 5.01 of the bill (page 28, lines 2-3), strike "1973c or any other provisions of that act" and substitute "1973 et seq."

(30) Strike SECTION 5.03 of the bill (page 28, line 23, through page 29, line 1) and substitute the following:

SECTION 5.03. (a) Articles 1, 2, 2A, and 5 of this Act take effect immediately if this Act receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, Articles 1, 2, 2A, and 5 take effect September 1, 2011.

(b) Articles 3 and 4 of this Act take effect as provided by Articles 2 and 2A.

Amendment No. 2 was adopted.

**Amendment No. 3**

Representative Garza offered the following amendment to **CSSB 341**:

Amend **CSSB 341** (senate committee report) as follows:

(1) In section 4.01 of the bill (page 23, line 7 and 8), strike "the election results are certified" and substitute "the System establishes an elected board to manage and operate the System."

**LEAVE OF ABSENCE GRANTED**

The following member was granted leave of absence for the remainder of today because of important business:

Farrar on motion of Burnam.

**CSSB 341- (consideration continued)**

Representative Menendez moved to postpone consideration of **CSSB 341** until 1:45 p.m. today.

The motion prevailed.

(Bonnen in the chair)

**SB 889 ON SECOND READING  
(S. Davis - House Sponsor)**

**SB 889**, A bill to be entitled An Act relating to assignment of rents to holders of certain security interests in real property.

**SB 889** was passed to third reading.

**SB 181 ON SECOND READING  
(Laubenberg, Creighton, and Branch - House Sponsors)**

**SB 181**, A bill to be entitled An Act relating to the calculation and reporting of water usage by municipalities and water utilities for state water planning and other purposes.

**Amendment No. 1**

On behalf of Representative Flynn, Representative Zedler offered the following amendment to **SB 181**:

Amend **SB 181** by inserting the following appropriately-numbered SECTION and renumbering any subsequent SECTIONS and updating any cross-references accordingly:

SECTION \_\_\_\_\_. Section 16.053(c), Water Code, is amended to read as follows:

(c) No later than 60 days after the designation of the regions under Subsection (b), the board shall designate representatives within each regional water planning area to serve as the initial coordinating body for planning. The initial coordinating body may then designate additional representatives to serve on the regional water planning group. The initial coordinating body shall designate additional representatives if necessary to ensure adequate representation from the interests comprising that region, including the public,

counties, municipalities, industries, agricultural interests, environmental interests, small businesses, electric generating utilities, river authorities, water districts, and water utilities. The regional water planning group shall maintain adequate representation from those interests. In addition, the commissioners court of each county located in the regional water planning area shall appoint one representative of the county to the regional water planning group. In addition, representatives of the board, the Parks and Wildlife Department, and the Department of Agriculture shall serve as ex officio members of each regional water planning group.

SECTION \_\_\_\_\_. As soon as practicable after the effective date of this Act, the commissioners court of each county in this state shall appoint an initial representative of the county to the regional water planning group for the regional water planning area in which the county is located, as required by Section 16.053(c), Water Code, as amended by this Act.

Amendment No. 1 was adopted. (Lavender recorded voting no.)

**SB 181**, as amended, was passed to third reading.

**SB 271 ON SECOND READING**  
**(Menendez and Larson - House Sponsors)**

**SB 271**, A bill to be entitled An Act relating to the board of directors of the Bexar Metropolitan Water District.

Representative Menendez moved to postpone consideration of **SB 271** until 8 a.m. Monday, May 23.

The motion prevailed.

**COMMITTEE GRANTED PERMISSION TO MEET**

Representative Hunter requested permission for the Committee on Calendars to meet while the house is in session, at 1 p.m. today, in 3W.15, to set a calendar.

Permission to meet was granted.

**COMMITTEE MEETING ANNOUNCEMENT**

The following committee meeting was announced:

Calendars, 1 p.m. today, 3W.15, for a formal meeting, to set a calendar.

**SB 267 ON SECOND READING**  
**(Elkins - House Sponsor)**

**SB 267**, A bill to be entitled An Act relating to a joint statement regarding the transfer of a motor vehicle as the result of a gift.

**SB 267** was passed to third reading. (Landtroop and Perry recorded voting no.)



**SB 367 ON SECOND READING**  
**(Cook - House Sponsor)**

**SB 367**, A bill to be entitled An Act relating to the review by the attorney general of invoices related to legal services provided to state agencies by outside counsel.

**SB 367** was passed to third reading.

**SB 680 ON SECOND READING**  
**(Woolley - House Sponsor)**

**SB 680**, A bill to be entitled An Act relating to a fee collected by a district clerk for certain certified copies.

**SB 680** was passed to third reading. (The vote was reconsidered later today, and **SB 680** was postponed until 10 a.m. Monday, May 23.)

**SB 859 ON SECOND READING**  
**(Smithee - House Sponsor)**

**SB 859**, A bill to be entitled An Act relating to small and large employer health group cooperatives.

**SB 859** was passed to third reading.

**SB 1167 ON SECOND READING**  
**(Hernandez Luna - House Sponsor)**

**SB 1167**, A bill to be entitled An Act relating to cemeteries and perpetual care cemetery corporations; providing a penalty.

**SB 1167** was passed to third reading.

**SB 29 ON SECOND READING**  
**(Branch - House Sponsor)**

**SB 29**, A bill to be entitled An Act relating to the eligibility of certain postdoctoral fellows and graduate students to participate in health benefit programs at public institutions of higher education.

**SB 29** was passed to third reading. (Christian recorded voting no.)

**SB 385 ON SECOND READING**  
**(Otto, W. Smith, Chisum, Anchia, and Burkett - House Sponsors)**

**SB 385**, A bill to be entitled An Act relating to the creation of an alternative fuel program to be funded by the Texas emissions reduction plan fund.

**SB 385** was passed to third reading. (Laubenberg recorded voting no; Huberty recorded voting present, not voting.)

**CSSB 1000 ON SECOND READING**  
**(Geren, Thompson, Hamilton, Darby, Otto, et al. - House Sponsors)**

**CSSB 1000**, A bill to be entitled An Act relating to self-directed and semi-independent status of the Texas Real Estate Commission; making an appropriation.

**CSSB 1000** was passed to third reading.

**SB 1030 ON SECOND READING**  
**(Anchia - House Sponsor)**

**SB 1030**, A bill to be entitled An Act relating to notice by sign requirement for sexually oriented businesses.

**SB 1030** was passed to third reading. (V. Taylor recorded voting no.)

**CSSB 1035 ON SECOND READING**  
**(Harless - House Sponsor)**

**CSSB 1035**, A bill to be entitled An Act relating to motor vehicle title services; providing penalties.

**Amendment No. 1**

Representative Fletcher offered the following amendment to **CSSB 1035**:

Amend **CSSB 1035** (house committee printing) in SECTION 9 of the bill, immediately following proposed Section 520.080, Transportation Code (page 18, between lines 9 and 10), by inserting the following:

(e) If the records maintained under Subsection (b) by a holder of a motor vehicle title service license include a legible photocopy of a driver's license issued by a foreign government, the license holder must also maintain a valid identification document for the customer.

(f) In this section, "valid identification document" means a document that contains an identifiable photograph with information concerning a particular individual that is of a type of document intended or commonly accepted for the purpose of identification of an individual and is issued by:

- (1) an agency or institution of the federal government; or
- (2) an agency, institution, or political subdivision of this state or another state.

Amendment No. 1 was adopted.

**CSSB 1035**, as amended, was passed to third reading. (Landtroop and Perry recorded voting no.)

**SB 1124 ON SECOND READING**  
**(Truitt and Solomons - House Sponsors)**

**SB 1124**, A bill to be entitled An Act relating to licensing and regulation of certain persons involved in residential mortgage lending pursuant to the Texas Secure and Fair Enforcement for Mortgage Licensing Act of 2009; providing penalties.

**Amendment No. 1**

Representative Truitt offered the following amendment to **SB 1124**:

Amend **SB 1124** (house committee printing) as follows:

- (1) In the recital to SECTION 14 of the bill (page 10, line 9), strike "adding Subsection (a-1)" and substitute "adding Subsections (a-1) and (c)".

(2) In SECTION 14 of the bill, following added Section 156.202(a-1), Finance Code (page 13, between lines 20 and 21), insert the following:

(c) The finance commission may grant an exemption from the residential mortgage loan originator licensing requirements of this chapter to a municipality, county, community development corporation, or public or private grant administrator to the extent the entity is administering the Texas HOME Investment Partnerships program if the commission determines that granting the exemption is not inconsistent with the intentions of the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (Pub. L. No. 110-289).

(3) In SECTION 61 of the bill, following added Section 180.003(b), Finance Code (page 65, after line 27), insert the following:

(c) The finance commission may grant an exemption from the licensing requirements of this chapter to a municipality, county, community development corporation, or public or private grant administrator to the extent the entity is administering the Texas HOME Investment Partnerships program if the commission determines that granting the exemption is not inconsistent with the intentions of the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (Pub. L. No. 110-289).

Amendment No. 1 was adopted.

**SB 1124**, as amended, was passed to third reading. (V. Taylor recorded voting no.)

**CSSB 1534 ON SECOND READING**  
**(J. Davis - House Sponsor)**

**CSSB 1534**, A bill to be entitled An Act relating to the operation and certification of career schools or colleges.

**CSSB 1534** was passed to third reading.

**CSSB 1732 ON SECOND READING**  
**(Guillen - House Sponsor)**

**CSSB 1732**, A bill to be entitled An Act relating to authorizing the adjutant general to operate post exchanges on state military property.

**CSSB 1732** was passed to third reading.

**SB 1010 ON SECOND READING**  
**(Workman, Lucio, and Gallego - House Sponsors)**

**SB 1010**, A bill to be entitled An Act relating to providing a victim, guardian of a victim, or close relative of a deceased victim with notice of a plea bargain agreement in certain criminal cases.

**Amendment No. 1**

Representative Workman offered the following amendment to **SB 1010**:

Amend **SB 1010** (house committee report) as follows:

(1) In SECTION 1 of the bill, strike the recital (page 1, lines 6-7) and substitute "Article 26.13, Code of Criminal Procedure, is amended by amending Subsections (a) and (e) and adding Subsection (e-1) to read as follows:"

(2) In SECTION 1 of the bill, strike amended Article 26.13(e), Code of Criminal Procedure (page 2, lines 14 through 23), and substitute the following:

(e) Before accepting a plea of guilty or a plea of nolo contendere, the court shall, as applicable in the case:

(1) inquire as to whether a victim impact statement has been returned to the attorney representing the state;

(2) if a victim impact statement has been returned, [and] ask for a copy of the statement and, on a request by the victim, guardian of a victim, or close relative of a deceased victim, read the statement aloud and in the presence of the defendant; and

(3) inquire as to whether the attorney representing the state has given notice of the existence and terms of any plea bargain agreement to the victim, guardian, or relative [if one has been returned].

(e-1) For purposes of Subsection (e), "victim," "guardian of a victim," and "close relative of a deceased victim" have the meanings assigned by Article 56.01.

(3) In SECTION 2 of the bill, strike amended Article 56.08(e)(2), Code of Criminal Procedure (page 3, lines 17 through 26), and substitute the following:

(2) the judge before accepting the plea bargain agreement is required under Article [Section] 26.13(e) to [ask]:

(A) inquire as to whether a victim impact statement has been returned to the attorney representing the state; [and]

(B) if a victim impact statement has been returned, ask for a copy of the statement and, if requested by the victim, guardian of a victim, or close relative of a deceased victim, read the statement aloud and in the presence of the defendant; and

(C) inquire as to whether the attorney representing the state has given the victim, guardian, or relative notice of the existence and terms of the plea bargain agreement.

(4) Strike SECTION 3 of the bill (page 3, line 27, through page 4, line 6) and substitute the following:

SECTION 3. (a) The change in law made by this Act applies only to a victim impact statement or plea bargain agreement that is presented to a court on or after the effective date of this Act.

(b) A victim impact statement or plea bargain agreement that is presented to a court before the effective date of this Act is covered by the law in effect when the statement or agreement was presented, and the former law is continued in effect for that purpose.

Amendment No. 1 was adopted.

## **Amendment No. 2**

Representative Lucio offered the following amendment to **SB 1010**:

Amend **SB 1010** (house committee printing) as follows:

(1) In SECTION 3(a) of the bill (page 3, line 27), strike "this Act" and substitute "Articles 26.13 and 56.08, Code of Criminal Procedure, as amended by this Act,".

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

SECTION \_\_\_\_\_. Chapter 26, Code of Criminal Procedure, is amended by adding Article 26.131 to read as follows:

Art. 26.131. ORAL STATEMENT REGARDING TERMS OF PLEA BARGAIN AGREEMENT. (a) One immediate family member of a peace officer who dies as the result of alleged criminal conduct for which a defendant has been indicted or for which an information has been returned is entitled to make an oral statement to the court regarding the terms of any plea bargain agreement in the case and regarding whether the peace officer's family supports or opposes the terms of that agreement. The family member who makes the statement must be designated by the peace officer's immediate family.

(b) In a case in which a peace officer dies as a result of the alleged criminal conduct of the defendant, the attorney representing the state shall notify the immediate family members of the deceased peace officer of the existence and terms of any plea bargain agreement and the right of one immediate family member to make an oral statement to the court as described by Subsection (a).

(c) The court shall:

(1) consider an oral statement under Subsection (a) before sentencing the defendant; and

(2) permit the defendant or the defendant's counsel an opportunity to:

(A) cross-examine the person making the oral statement;

(B) comment on the oral statement; and

(C) with the approval of the court, introduce testimony or other information alleging a factual inaccuracy in the oral statement.

(d) Before the immediate family member makes an oral statement under Subsection (a), the court shall inform the family member of the defendant's rights under Subsection (c)(2).

(e) The presentation and consideration of an oral statement under this article is in addition to the consideration of a written victim impact statement under Article 56.03 and does not preclude the presentation of a statement after sentence is pronounced under Article 42.03.

(f) In this article:

(1) "Immediate family member of a peace officer" means an individual who is related to a peace officer within the second degree by affinity or consanguinity.

(2) "Peace officer" has the meaning assigned by Section 1.07, Penal Code.

SECTION \_\_\_\_\_. The change in law made by Article 26.131, Code of Criminal Procedure, as added by this Act, applies only to a plea of guilty or nolo contendere entered on or after the effective date of this Act, regardless of whether the offense with reference to which the plea is entered is committed before, on, or after that date.

Amendment No. 2 was adopted.

**SB 1010**, as amended, was passed to third reading.

**PROVIDING FOR A LOCAL, CONSENT,  
AND RESOLUTIONS CALENDAR**

Representative Thompson moved to set a local, consent, and resolutions calendar for 10 a.m. Monday, May 23.

The motion prevailed.

**COMMITTEE GRANTED PERMISSION TO MEET**

Representative Thompson requested permission for the Committee on Local and Consent Calendars to meet while the house is in session, at 1:30 p.m. today, in 1W.14, to set a calendar.

Permission to meet was granted.

**COMMITTEE MEETING ANNOUNCEMENT**

The following committee meeting was announced:

Local and Consent Calendars, 1:30 p.m. today, 1W.14, for a formal meeting, to set a calendar.

**SB 1596 ON SECOND READING  
(Isaac - House Sponsor)**

**SB 1596**, A bill to be entitled An Act relating to changes in participation in public utility agencies.

**SB 1596** was passed to third reading.

**CSSB 1134 ON SECOND READING  
(Craddick - House Sponsor)**

**CSSB 1134**, A bill to be entitled An Act relating to the issuance of permits for certain facilities regulated by the Texas Commission on Environmental Quality.

**Amendment No. 1**

Representative W. Smith offered the following amendment to **CSSB 1134**:

Amend **CSSB 1134** (house committee report) as follows:

(1) In the recital to SECTION 1 of the bill (page 1, lines 6 and 7), strike "and 382.051963" and substitute "382.051963, and 382.051964".

(2) In SECTION 1 of the bill, after added Section 382.051963, Health and Safety Code (page 4, between lines 25 and 26), add the following:

Sec. 382.051964. AGGREGATION OF FACILITIES. Notwithstanding any other provision of this chapter, the commission may not aggregate a facility that belongs to a Standard Industrial Classification Code identified by Section 382.051961(a) with another facility that belongs to a Standard Industrial Classification Code identified by that section for purposes of consideration as an oil and gas facility, a stationary source, or another single source in a permit by rule or a standard permit unless the facilities being aggregated:

(1) are under the control of the same person or are under the control of persons under common control;

(2) belong to the same two-digit major grouping of Standard Industrial Classification Codes;

(3) are operationally dependant; and

(4) are located not more than 500 feet from a tank battery, separator, or combustion facility.

(3) In SECTION 2(a) of the bill (page 4, lines 26 and 27), strike "and 382.051963" and substitute "382.051963, and 382.051964".

(4) In SECTION 2(b) of the bill (page 5, lines 7 and 8), strike "382.051961 and 382.051962" and substitute "382.051961, 382.051962, and 382.051964".

Amendment No. 1 was adopted.

### **Amendment No. 2**

Representative Burnam offered the following amendment to **CSSB 1134**:

Amend **CSSB 1134** (house committee report) as follows:

(1) In SECTION 1 of the bill, in added Section 382.051961(b)(3), Health and Safety Code (page 2, line 14), strike "and".

(2) In SECTION 1 of the bill, in added Section 382.051961(b)(4), Health and Safety Code (page 2, line 17), between "state" and the period insert the following:

; and

(5) determines that the adoption or amendment of the permit will not cause the state to be in noncompliance with the federal Clean Air Act (42 U.S.C. Section 7401 et seq.)

(Alvarado now present)

Representative Craddick moved to table Amendment No. 2.

The motion to table prevailed by (Record 1259): 102 Yeas, 34 Nays, 1 Present, not voting.

Yeas — Aliseda; Anderson, C.; Anderson, R.; Aycok; Beck; Berman; Bohac; Bonnen(C); Branch; Brown; Burkett; Button; Cain; Callegari; Carter; Chisum; Christian; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Driver; Eiland; Eissler; Elkins; Fletcher; Frullo; Garza; Geren; Gonzales, L.; Gooden; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hilderbran; Hopson; Howard, C.; Huberty; Hughes; Hunter; Isaac; Jackson; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lyne; Madden; Margo; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Nash; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pitts; Price; Quintanilla; Riddle; Ritter; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Taylor, L.; Taylor, V.; Torres; Truitt; Weber; White; Workman; Zedler; Zerwas.

Nays — Allen; Alonzo; Alvarado; Anchia; Burnam; Castro; Davis, Y.; Deshotel; Dukes; Dutton; Gallego; Gonzales, V.; Gonzalez; Guillen; Hochberg; Howard, D.; Johnson; Lucio; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McClendon; Miles; Naishtat; Oliveira; Raymond; Reynolds; Rodriguez; Strama; Thompson; Veasey; Villarreal; Vo.

Present, not voting — Mr. Speaker.

Absent, Excused — Farrar; Flynn; Hernandez Luna; Woolley.

Absent — Coleman; Farias; Giddings; Gutierrez; Lozano; Menendez; Pickett; Turner; Walle.

### **Amendment No. 3**

Representative W. Smith offered the following amendment to **CSSB 1134**:

Amend **CSSB 1134** (house committee report) in SECTION 1 of the bill, in added Section 382.051961, Health and Safety Code (page 2, between lines 26 and 27), by inserting the following:

(d) Unless a demonstration is otherwise required under federal law, a new or amended standard permit or permit by rule adopted under this section may not require a demonstration of compliance with a national ambient air quality standard before the demonstration is required by a state implementation plan adopted to implement that national ambient air quality standard.

Amendment No. 3 was adopted.

**CSSB 1134**, as amended, was passed to third reading.

### **SB 449 ON SECOND READING (Ritter - House Sponsor)**

**SB 449**, A bill to be entitled An Act relating to the appraisal for ad valorem tax purposes of open-space land devoted to water stewardship purposes on the basis of its productive capacity.

**SB 449** was passed to third reading. (Garza recorded voting no.)

### **SB 377 ON SECOND READING (Riddle, Gallego, Burkett, Hartnett, and Carter - House Sponsors)**

**SB 377**, A bill to be entitled An Act relating to the murder of a child as a capital offense.

### **SB 377 - POINT OF ORDER**

Representative Marquez raised a point of order against further consideration of **SB 377**.

### **SB 680 - VOTE RECONSIDERED**

Representative Kleinschmidt moved to reconsider the vote by which **SB 680** was passed to third reading.

The motion to reconsider prevailed.



**SB 680 ON SECOND READING**  
**(Woolley - House Sponsor)**

The chair laid before the house, on its second reading and passage to third reading,

**SB 680**, A bill to be entitled An Act relating to a fee collected by a district clerk for certain certified copies.

**SB 680** was read second time earlier today and was passed to third reading.

Representative Kleinschmidt moved to postpone consideration of **SB 680** until 10 a.m. Monday, May 23.

The motion prevailed.

**MESSAGE FROM THE SENATE**

A message from the senate was received at this time (see the addendum to the daily journal, Messages from the Senate, Message No. 3).

**GENERAL STATE CALENDAR**  
**(consideration continued)**

**SB 377 - (consideration continued)**

The point of order was withdrawn.

Representative Riddle moved to postpone consideration of **SB 377** until 2 p.m. today.

The motion prevailed.

**CSSB 425 ON SECOND READING**  
**(Hancock - House Sponsor)**

**CSSB 425**, A bill to be entitled An Act relating to property and casualty certificates of insurance and approval of property and casualty certificate of insurance forms by the Texas Department of Insurance; providing penalties.

Representative Hancock moved to postpone consideration of **CSSB 425** until 2 p.m. today.

The motion prevailed.

**SB 479 ON SECOND READING**  
**(S. Miller - House Sponsor)**

**SB 479**, A bill to be entitled An Act relating to limiting the liability of certain persons for farm animal activities.

**Amendment No. 1**

Representative S. Miller offered the following amendment to **SB 479**:

Amend **SB 479** (house committee printing) as follows:

(1) In SECTION 2 of the bill, in the recital (page 1, line 11), strike "Subdivision (2-a)" and substitute "Subdivisions (2-a) and (6-a)".

(2) In SECTION 2 of the bill, in amended Section 87.001(1), Civil Practice and Remedies Code (page 1, line 13), between "riding, handling, training, driving," and "assisting", insert "loading, unloading, transporting,".

(3) In SECTION 2 of the bill, strike added Section 87.001(2-a)(B), Civil Practice and Remedies Code (page 1, line 22), and substitute the following:

(B) a bovine animal;

(4) In SECTION 2 of the bill, in amended Section 87.001(3)(D), Civil Practice and Remedies Code (page 2, line 16), strike "inspecting, or evaluating" and substitute "inspecting, ~~or~~ evaluating, handling, loading, unloading, or transporting".

(5) In SECTION 2 of the bill, in amended Section 87.001(3)(D), Civil Practice and Remedies Code (page 2, line 20), strike "inspect, or evaluate" and substitute "inspect, ~~or~~ evaluate, handle, load, unload, or transport".

(6) In SECTION 2 of the bill, after amended Section 87.001(6), Civil Practice and Remedies Code (page 3, after line 27), insert the following:

(6-a) "Livestock producer" means a person who owns, breeds, raises, or feeds livestock animals.

(7) In SECTION 3 of the bill, in amended Section 87.003, Civil Practice and Remedies Code (page 4, line 15), between "professional," and "livestock", insert "livestock producer".

Amendment No. 1 was adopted.

**SB 479**, as amended, was passed to third reading.

**SB 554 ON SECOND READING**  
(Lozano - House Sponsor)

**SB 554**, A bill to be entitled An Act relating to contracts between dentists and health maintenance organizations or insurers.

**SB 554** was passed to third reading.

**SB 577 ON SECOND READING**  
(Frullo - House Sponsor)

**SB 577**, A bill to be entitled An Act relating to the use of facsimile signatures for certain documents involving certain municipalities.

**SB 577** was passed to third reading.

**CSSB 1489 ON SECOND READING**  
(Madden - House Sponsor)

**CSSB 1489**, A bill to be entitled An Act relating to educational, juvenile justice, and criminal justice responses to truancy.

**Amendment No. 1**

Representative Madden offered the following amendment to **CSSB 1489**:

Amend **CSSB 1489** (house committee printing) as follows:

(1) Strike SECTION 1 of the bill (page 1, lines 5 through 13).

(2) In SECTION 2 of the bill, in amended Section 25.094(a)(1), Education Code (page 1, lines 17 through 18), strike "and younger than 18 years of age".

(3) In SECTION 3 of the bill, in added Section 51.03(e-1)(2), Family Code (page 2, line 7), strike "18" and substitute "21".

(4) In SECTION 9 of the bill, in amended Article 102.0174(b), Code of Criminal Procedure (page 5, line 19), strike "the municipal court employs" and substitute "the municipality employs".

(5) In SECTION 9 of the bill, in amended Article 102.0174(b), Code of Criminal Procedure (page 5, line 20), strike "municipal court that does not employ" and substitute "municipality that does not employ".

(6) In SECTION 11 of the bill, in added Section 25.0915(b)(1), Education Code (page 9, line 21), between "school" and "certifying", insert "district".

(7) In SECTION 11 of the bill, in added Section 25.0915(b)(1)(A), Education Code (page 9, line 22), between "school" and "applied", insert "district".

(8) In SECTION 15 of the bill, in amended Section 102.121(6), Government Code (page 13, line 19), strike "the court" and substitute "the municipality".

(9) Renumber SECTIONS of the bill accordingly.

Amendment No. 1 was adopted.

## **Amendment No. 2**

On behalf of Representative McClendon, Representative Madden offered the following amendment to **CSSB 1489**:

Amend **CSSB 1489** (house committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Section 58.106, Family Code, is amended by amending Subsection (a) and adding Subsection (a-1) to read as follows:

(a) Except as otherwise provided by this section, information contained in the juvenile justice information system is confidential information for the use of the department and may not be disseminated by the department except:

(1) with the permission of the juvenile offender, to military personnel of this state or the United States;

(2) to a person or entity to which the department may grant access to adult criminal history records as provided by Section 411.083, Government Code;

(3) to a juvenile justice agency;

(4) to the Texas Youth Commission and the Texas Juvenile Probation Commission for analytical purposes; ~~and~~

(5) to the office of independent ombudsman of the Texas Youth Commission; and

(6) to a county, justice, or municipal court exercising jurisdiction over a juvenile under Section 54.021.

(a-1) Information disseminated under Subsection (a) remains confidential after dissemination and may be disclosed by the recipient only as provided by this title.

Amendment No. 2 was adopted.

**CSSB 1489**, as amended, was passed to third reading.

**CSSB 958 ON SECOND READING**  
**(Larson - House Sponsor)**

**CSSB 958**, A bill to be entitled An Act relating to the regulation of dangerous wild animals.

**Amendment No. 1**

Representative Guillen offered the following amendment to **CSSB 958**:

Amend **CSSB 958** (house committee printing) in SECTION 1 of the bill, in added Section 822.101(8)(D)(i), Health and Safety Code (page 1, line 24), between "activity" and the underlined semi-colon, by inserting "or any research activity that threatens the health and safety of the wild animal".

Amendment No. 1 was adopted.

**Amendment No. 2**

Representative Laubenberg offered the following amendment to **CSSB 958**:

Amend **CSSB 958** (house committee report) as follows:

(1) In SECTION 2 of the bill, in added Section 822.102(a)(14), Health and Safety Code (page 4, line 10), between "wildlife" and "sanctuary", insert "or animal".

(2) In SECTION 2 of the bill, in added Section 822.102(a)(14)(A), Health and Safety Code (page 4, lines 12-13), strike "; or" and substitute the following:

(B) the American Sanctuary Association; or

(3) In SECTION 2 of the bill, in added Section 822.102(a)(14), Health and Safety Code (page 4, line 14), reletter paragraphs appropriately.

Amendment No. 2 was adopted.

**Amendment No. 3**

Representative Hilderbran offered the following amendment to **CSSB 958**:

Amend **CSSB 958** by adding the following:

SECTION 1. Section 822.101, Health and Safety Code, is amended by adding Subdivision (6-a) to read as follows:

(6-a) "Predatory animal" means:

(A) a lion;

(B) a tiger;

(C) a cougar;

(D) a leopard;

(E) a cheetah;

(F) a jaguar;

(G) any hybrid of an animal listed in this subdivision.

SECTION 2. Section 822.102(a), Health and Safety Code, is amended to read as follows:

(a) This subchapter does not apply to:

(1) a county, municipality, or agency of the state or an agency of the United States or an agent or official of a county, municipality, or agency acting in an official capacity;

(2) a research facility, as that term is defined by Section 2(e), Animal Welfare Act (7 U.S.C. Section 2132), and its subsequent amendments, that is licensed by the secretary of agriculture of the United States under that Act;

(3) an organization that is an accredited member of the American Zoo and Aquarium Association;

(4) an injured, infirm, orphaned, or abandoned dangerous wild animal while being transported for care or treatment;

(5) an injured, infirm, orphaned, or abandoned dangerous wild animal while being rehabilitated, treated, or cared for by a licensed veterinarian, an incorporated humane society or animal shelter, or a person who holds a rehabilitation permit issued under Subchapter C, Chapter 43, Parks and Wildlife Code;

(6) a dangerous wild animal owned by and in the custody and control of a transient circus company that is not based in this state if:

(A) the animal is used as an integral part of the circus performances; and

(B) the animal is kept within this state only during the time the circus is performing in this state or for a period not to exceed 30 days while the circus is performing outside the United States;

(7) a dangerous wild animal while in the temporary custody or control of a television or motion picture production company during the filming of a television or motion picture production in this state;

(8) a dangerous wild animal owned by and in the possession, custody, or control of a college or university solely as a mascot for the college or university;

(9) a dangerous wild animal while being transported in interstate commerce through the state in compliance with the Animal Welfare Act (7 U.S.C. Section 2131 et seq.) and its subsequent amendments and the regulations adopted under that Act;

(10) a nonhuman primate owned by and in the control and custody of a person whose only business is supplying nonhuman primates directly and exclusively to biomedical research facilities and who holds a Class "A" or Class "B" dealer's license issued by the secretary of agriculture of the United States under the Animal Welfare Act (7 U.S.C. Section 1 2131 et seq.) and its subsequent amendments;

(11) a dangerous wild animal that is:

(A) owned by or in the possession, control, or custody of a person who is a participant in a species survival plan of the American Zoo and Aquarium Association for that species; and

(B) an integral part of that species survival plan; ~~and~~

(12) in a county west of the Pecos River that has a population of less than 25,000, a cougar, bobcat, or coyote in the possession, custody, or control of a person that has trapped the cougar, bobcat, or coyote as part of a predator or depredation control activity;

(13) an organization that is an accredited member of:

(A) the Zoological Association of America;

(B) the American Sanctuary Association; or

(C) the Global Federation of Animal Sanctuaries; or

(D) the Feline Conservation Federation; and

(14) a Class "C" exhibitor such as a theme park, holding a valid Animal Welfare Act Class "C" license issued by the Animal and Plant Health Inspection Service (9 C.F.R §1.1), also known as Exhibitor, and any entities or individuals, including independent contractors, working under contract with and for the Exhibitor to exhibit animals;

(15) a dangerous wild animal that is owned by or in the possession, custody, or control of a nonprofit organization that is dedicated to rescuing animals and educating the public, if the organization:

(A) is subject to inspection by the Animal and Plant Health Inspection Service of the United States Department of Agriculture as a Class A or Class C licensee under federal regulations;

(B) is a holder of a display permit issued by this state or a county authority;

(C) does not purchase a dangerous wild animal; and

(D) does not obtain a dangerous wild animal from a commercial breeder or a person engaged in the traffic or sale of a dangerous wild animal unless the animal is surrendered to the organization by a person who possesses the animal, including a law enforcement agency or applicable regulatory authority that confiscates the animal.

SECTION 3. The heading to Section 822.103, Health and Safety Code, is amended to read as follows:

Sec. 822.103. CERTIFICATE OF REGISTRATION; RESTRICTIONS; FEES.

SECTION 4. Section 822.103(c), Health and Safety Code, is amended to read as follows:

(c) The animal registration agency may establish and charge reasonable fees for application, issuance, and renewal of a certificate of registration in order to recover the costs associated with the administration and enforcement of this subchapter. The fee charged to an applicant may not exceed \$50 for each dangerous wild animal registered and may not exceed \$500 for each person registering animals, regardless of the number of animals owned by the person, unless the animal is a predatory animal. The fee charged to an applicant may not exceed \$500 for each dangerous wild animal registered that is a predatory animal. The fees collected under this section may be used only to administer and enforce this subchapter.

SECTION 5. Section 822.104(b), Health and Safety Code, is amended to read as follows:

- (b) The application must include:
- (1) the name, address, and telephone number of the applicant;
  - (2) a complete identification of each animal, including species, sex, age, if known, and any distinguishing marks or coloration that would aid in the identification of the animal;
  - (3) the exact location where each animal is to be kept;
  - (4) a sworn statement that:
    - (A) all information in the application is complete and accurate;
    - (B) the applicant has read this subchapter and that all facilities used by the applicant to confine or enclose the animal comply with the requirements of this subchapter; ~~and~~
  - (5) the name of the person who owned the animal immediately before the applicant if the animal is a predatory animal;
  - (6) the address where the applicant obtained the animal if the animal is a predatory animal; and
  - (7) any other information the animal registration agency may require.

SECTION 6. Section 822.105, Health and Safety Code, is amended by adding Subsection (e) to read as follows:

(e) A person who is denied a certificate of registration for a dangerous wild animal that is a predatory animal may not reapply for a certificate of registration for a predatory animal before the first anniversary of the date:

- (1) the denial of an application for a certificate of registration becomes final; or
- (2) the revocation of a certificate of registration becomes final.

SECTION 7. Section 822.107, Health and Safety Code, is amended to read as follows:

Sec. 822.107. LIABILITY INSURANCE. (a) Except as provided by Subsection (b), an [An] owner of a dangerous wild animal shall maintain liability insurance coverage in an amount of not less than \$100,000 for each occurrence for liability for damages for destruction of or damage to property and death or bodily injury to a person caused by the dangerous wild animal.

(b) An owner of a dangerous wild animal that is a predatory animal shall maintain liability insurance coverage in an amount sufficient to cover liability for damages for destruction of or damage to property and death or bodily injury to a person caused by the predatory animal.

(c) The executive commissioner of the Health and Human Services Commission by rule shall establish insurance requirements and standards to ensure that an owner of a dangerous wild animal that is a predatory animal maintains liability insurance coverage in an amount that protects and enhances the public's health and safety.

(d) An owner of a dangerous wild animal that is a predatory animal shall comply with the insurance requirements and standards established under Subsection (c).

SECTION 8. Section 822.113(c), Health and Safety Code, is amended to read as follows:

(c) An offense under this section is:

(1) a Class C misdemeanor; or

(2) a Class B misdemeanor if the dangerous wild animal with respect to which there is a violation is a predatory animal.

SECTION 9. Section 822.115, Health and Safety Code, is amended to read as follows:

Sec. 822.115. INJUNCTION. (a) Any person who is directly harmed or threatened with harm by a violation of this subchapter or a failure to enforce this subchapter may sue an owner of a dangerous wild animal to enjoin a violation of this subchapter or to enforce this subchapter.

(b) Any person who lives or owns property in the county where a dangerous wild animal that is a predatory animal is kept may sue the owner of the animal to enjoin a violation of this subchapter or to enforce this subchapter.

SECTION 10. (a) The changes in law made by this Act to Sections 822.103, 822.104, and 822.105, Health and Safety Code, apply to an application for an original or renewal certificate of registration for a dangerous wild animal that is a predatory animal filed on or after the effective date of this Act. An application for a certificate of registration for a dangerous wild animal that is a predatory animal filed before the effective date of this Act is governed by the law in effect on the date the application was filed, and the former law is continued in effect for that purpose.

(b) The change in law made by this Act to Section 822.113(c), Health and Safety Code, applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this subsection, an offense was committed before the effective date of this Act if any element 1 of the offense occurred before that date.

SECTION 11. This Act takes effect September 1, 2011.

Amendment No. 3 was adopted.

#### **Amendment No. 4**

Representative T. King offered the following amendment to **CSSB 958**:

Amend **CSSB 958** (house committee printing) in SECTION 2 of the bill, in amended Section 822.102(a), Health and Safety Code (page 4, lines 8-9), by striking Subdivision (13) and substituting the following:

(13) an organization that is an accredited member of:

(A) the Zoological Association of America; or

(B) the Feline Conservation Federation; and

Amendment No. 4 was adopted.

#### **Amendment No. 5**

Representative V. Taylor offered the following amendment to **CSSB 958**:



Amend **CSSB 958** (house committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Section 822.007, Health and Safety Code, is amended to read as follows:

Sec. 822.007. LOCAL REGULATION OF DOGS. (a) Except as provided by Subsection (c), this [This] subchapter does not prohibit a municipality or county from adopting leash or registration requirements applicable to dogs.

(b) A volunteer search and rescue service dog that is a part of a volunteer search and rescue team is not considered a dangerous wild animal for purposes of this chapter.

(c) In this section, "volunteer search and rescue team" means an individual or an organized group of volunteers issued a written document by a law enforcement department that recognizes the individual or group as a person or group that trains dogs to assist in the location of a lost or missing person or for law enforcement purposes. A municipality may not adopt or enforce an ordinance, including a leash law, that restricts the ability of a volunteer search and rescue team to train a service dog for search and rescue or law enforcement purposes.

Amendment No. 5 was adopted.

**CSSB 958**, as amended, was passed to third reading. (Hartnett recorded voting no.)

### **SB 479 - NOTICE GIVEN**

Pursuant to the provisions of Rule 7, Section 37(c) of the House Rules, at 1:44 p.m., Representative Eiland announced his intention to make the motion to reconsider the vote by which **SB 479**, as amended, was passed to third reading earlier today.

### **GENERAL STATE CALENDAR (consideration continued)**

#### **SB 1020 ON SECOND READING (Marquez - House Sponsor)**

**SB 1020**, A bill to be entitled An Act relating to a feasibility study regarding the establishment of a dental school at the Texas Tech University Health Sciences Center at El Paso.

**SB 1020** was passed to third reading. (Landtroop and Perry recorded voting no.)

#### **SB 249 ON SECOND READING (Orr - House Sponsor)**

**SB 249**, A bill to be entitled An Act relating to the composition of the Finance Commission of Texas.

**SB 249** was passed to third reading.

**SB 594 ON SECOND READING**  
**(Zerwas - House Sponsor)**

**SB 594**, A bill to be entitled An Act relating to certain procedures applicable to electronic prescriptions for Schedule II controlled substances.

**Amendment No. 1**

Representative Zerwas offered the following amendment to **SB 594**:

Amend **SB 594** (house committee printing) as follows:

(1) In the recital to SECTION 1 of the bill (page 1, line 6), strike "and (k)" and substitute "(k), and (q)".

(2) In SECTION 1 of the bill, strike Section 481.074(b)(2), Health and Safety Code (page 1, line 21, through page 2, line 5), and substitute the following:

(2) if the person is not a prescribing practitioner or a pharmacist, promptly write the oral or telephonically communicated prescription and include in the written record of the prescription the name, address, ~~[department registration number,]~~ and Federal Drug Enforcement Administration number issued for prescribing a controlled substance in this state of the prescribing practitioner, all information required to be provided by a practitioner under Section 481.075(e)(1), and all information required to be provided by a dispensing pharmacist under Section 481.075(e)(2).

(3) In SECTION 1 of the bill, strike Sections 481.074(k)(7), (8), and (9), Health and Safety Code (page 6, line 21, through page 7, line 2), and substitute the following:

(7) the ~~[legibly printed or stamped]~~ name, address, Federal Drug Enforcement Administration ~~[registration]~~ number, and telephone number of the practitioner at the practitioner's usual place of business, which must be legibly printed or stamped on a written prescription; and

(8) if the prescription is handwritten, the signature of the prescribing practitioner~~;~~ ~~and~~

~~[(9) if the prescribing practitioner is licensed in this state, the practitioner's department registration number].~~

(4) In SECTION 1 of the bill, after amended Section 481.074(k), Health and Safety Code (page 7, between lines 2 and 3), insert the following:

(q) Each dispensing pharmacist shall send all information required by the director, including any information required to complete the Schedule III through V prescription forms, to the director by electronic transfer or another form approved by the director not later than the seventh ~~[15th]~~ day after the date ~~[last day of the month in which]~~ the prescription is completely filled.

(5) In SECTION 2 of the bill, strike Section 481.075(e)(1)(E), Health and Safety Code (page 8, lines 1-3), and substitute the following:

(E) the practitioner's name, address, ~~[department registration number,]~~ and Federal Drug Enforcement Administration number issued for prescribing a controlled substance in this state;

(6) In SECTION 2 of the bill, strike Section 481.075(i)(3), Health and Safety Code (page 10, lines 2-7), and substitute the following:

(3) send all information required by the director, including any information required to complete an official prescription form or electronic prescription record, to the director by electronic transfer or another form approved by the director not later than the seventh [15th] day after the date [last day of the month in which] the prescription is completely filled.

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

SECTION \_\_\_\_\_. Section 481.061, Health and Safety Code, is amended by adding Subsection (d) to read as follows:

(d) A person shall provide the department with the person's Federal Drug Enforcement Administration number not later than the 45th day after the director issues a registration to the person under this subchapter.

SECTION \_\_\_\_\_. Subsections (a) and (i), Section 481.076, Health and Safety Code, are amended to read as follows:

(a) The director may not permit any person to have access to information submitted to the director under Section 481.074(q) or 481.075 except:

(1) an investigator for the Texas Medical Board, the Texas State Board of Podiatric Medical Examiners, the State Board of Dental Examiners, the State Board of Veterinary Medical Examiners, the Texas Board of Nursing, or the Texas State Board of Pharmacy;

(2) an authorized officer or member of the department engaged in the administration, investigation, or enforcement of this chapter or another law governing illicit drugs in this state or another state; or

(3) if the director finds that proper need has been shown to the director:

(A) a law enforcement or prosecutorial official engaged in the administration, investigation, or enforcement of this chapter or another law governing illicit drugs in this state or another state;

(B) a pharmacist or practitioner who is a physician, dentist, veterinarian, podiatrist, or advanced practice nurse or physician assistant described by Section 481.002(39)(D) and is inquiring about a recent Schedule II, III, IV, or V prescription history of a particular patient of the practitioner; or

(C) a pharmacist or practitioner who is inquiring about the person's own dispensing or prescribing activity.

(i) Information submitted to the director under Section 481.074(q) or 481.075 is confidential and remains confidential regardless of whether the director permits access to the information under this section.

SECTION \_\_\_\_\_. Notwithstanding Section 481.061, Health and Safety Code, as amended by this Act, a person who holds a valid registration under Subchapter C, Chapter 481, Health and Safety Code, on the effective date of this Act is not required to submit the person's Federal Drug Enforcement Administration number to the Department of Public Safety of the State of Texas before October 15, 2011.

Amendment No. 1 was adopted.

**SB 594**, as amended, was passed to third reading.

**CSSB 762 ON SECOND READING**  
**(Paxton - House Sponsor)**

**CSSB 762**, A bill to be entitled An Act relating to the transfer of an ad valorem tax lien; providing for the imposition of an administrative penalty.

**Amendment No. 1**

Representative Paxton offered the following amendment to **CSSB 762**:

Amend **CSSB 762** (house committee printing) as follows:

(1) In the recital to SECTION 1 of the bill, between "(a-3)," and "(f-3)" (page 1, line 6), insert "(d-1),".

(2) In SECTION 1 of the bill, in amended Section 32.06, Tax Code, between amended Subsection (a-3) and added Subsection (e-1) of the section (page 1, between lines 13 and 14), insert the following:

(d-1) A right of rescission described by 12 C.F.R. Section 226.23 applies to a ~~[tax lien]~~ transfer under this section of a tax lien on residential property owned and used by the property owner for personal, family, or household purposes.

(3) In SECTION 1 of the bill, in added Section 32.06(e-2), Tax Code (page 2, lines 7 through 9), strike the last sentence of the subsection and substitute the following:

If the lien transferred is on residential property owned and used by the property owner for personal, family, or household purposes, the additional interest may not exceed five cents for each \$1 of a scheduled installment.

(4) In SECTION 3 of the bill, in added Section 351.0021(a)(4), Finance Code, between "required to" and "perform" (page 4, line 5), insert "respond to a suit filed under Chapter 33, Tax Code, or to".

(5) In SECTION 3 of the bill (page 4, lines 19 through 21), strike added Section 351.0021(a)(9), Finance Code, and substitute the following:

(9) a prepayment penalty, unless the lien transferred is on residential property owned and used by the property owner for personal, family, or household purposes;

(6) In SECTION 3 of the bill, in added Section 351.0021(c)(1), Finance Code (page 5, lines 8 through 10), strike "against property owned and used by the property owner for personal, family, or household purposes".

(7) In SECTION 3 of the bill, in added Section 351.0021(d), Finance Code, between "(3)," and "and" (page 5, line 15), insert "(9),".

Amendment No. 1 was adopted.

**Amendment No. 2**

Representative Solomons offered the following amendment to **CSSB 762**:

Amend **CSSB 762** (house committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering the subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. (a) The Finance Commission of Texas shall conduct a study regarding the fees, costs, interest, and other expenses charged to property owners by property tax lenders in conjunction with the transfer of property tax liens and the payoff of loans secured by property tax liens.

(b) Not later than June 1, 2012, the Finance Commission of Texas shall submit to the legislature a report containing the findings of the study conducted under Subsection (a) of this section and any recommendations for legislative changes.

Amendment No. 2 was adopted.

**CSSB 762**, as amended, was passed to third reading.

**SB 898 ON SECOND READING**  
**(Cook - House Sponsor)**

**SB 898**, A bill to be entitled An Act relating to energy efficiency programs in institutions of higher education and certain governmental entities.

**SB 898** was passed to third reading. (Garza, Laubenberg, Landtroop and Perry recorded voting no.)

**SB 924 ON SECOND READING**  
**(Keffer - House Sponsor)**

**SB 924**, A bill to be entitled An Act relating to energy efficiency reports by municipally owned utilities and electric cooperatives.

**SB 924** was passed to third reading. (Garza recorded voting no.)

**SB 1681 ON SECOND READING**  
**(Thompson, Gallego, and Alonzo - House Sponsors)**

**SB 1681**, A bill to be entitled An Act relating to the appointment of counsel and the rights of an accused and other requirements for the purposes of appellate proceedings or community supervision revocation proceedings.

**SB 1681** was passed to third reading. (Cain recorded voting no.)

**SB 901 ON SECOND READING**  
**(Kolkhorst - House Sponsor)**

**SB 901**, A bill to be entitled An Act relating to approval from the Department of State Health Services for disposal of ambulances purchased with certain grant funds.

**SB 901** was passed to third reading.

**SB 1133 ON SECOND READING**  
**(Harless - House Sponsor)**

**SB 1133**, A bill to be entitled An Act relating to a report by the Public Utility Commission of Texas on the ability of electric generators to respond to abnormal weather conditions.

**SB 1133** was passed to third reading.

**SB 19 ON SECOND READING  
(W. Smith - House Sponsor)**

**SB 19**, A bill to be entitled An Act relating to the development, financing, construction, and operation of certain toll projects.

**SB 19** was passed to third reading. (Bohac and Garza recorded voting no.)

**SB 1484 ON SECOND READING  
(Strama - House Sponsor)**

**SB 1484**, A bill to be entitled An Act relating to authorizing open-enrollment charter schools to be awarded academic distinction designations.

**SB 1484** was passed to third reading.

**SB 1342 ON SECOND READING  
(Geren - House Sponsor)**

**SB 1342**, A bill to be entitled An Act relating to the use of bingo proceeds by licensed authorized organizations, including the use of proceeds to provide health insurance or health insurance benefits to certain employees.

**SB 1342** was passed to third reading. (Cain recorded voting no.)

**SB 1368 ON SECOND READING  
(Deshotel - House Sponsor)**

**SB 1368**, A bill to be entitled An Act relating to the authority of a co-owner of residential property to encumber the property.

**SB 1368** was passed to third reading.

**SB 738 ON SECOND READING  
(Villarreal - House Sponsor)**

**SB 738**, A bill to be entitled An Act relating to a parental role in determining sanctions applied to a public school campus under certain circumstances.

**Amendment No. 1**

Representative Villarreal offered the following amendment to **SB 738**:

Amend **SB 738** (house committee report) as follows:

(1) Insert into the bill the following appropriately numbered SECTIONS and renumber subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_ . Subchapter C, Chapter 12, Education Code, is amended by adding Section 12.0522 to read as follows:

Sec. 12.0522. AUTHORIZATION FOR CAMPUS IDENTIFIED AS UNACCEPTABLE. (a) This section applies only to a school district campus that:

(1) has been identified as unacceptable under Section 39.054 for two consecutive school years or is located in a school district that has been identified as unacceptable under Section 39.054 for two consecutive school years; and

(2) is located in a county that:

(A) has a population of one million or more; or

(B) is contiguous to a county that has a population of one million or more.

(b) Notwithstanding Section 12.052, in accordance with this subchapter, the board of trustees of a school district shall, with the approval of the commissioner, grant a charter for a campus to an entity that is a charter holder under Subchapter D or E and is eligible under Subsection (c), if the board is presented with a petition signed by the parents of a majority of the students at the campus. Such an entity granted a charter for a campus under this subsection has the same authority over the operations of the campus for which the charter is granted as a charter holder has under Subchapter D or E, as applicable. For purposes of this subsection, the signature of only one parent of a student is required.

(c) An entity that holds a charter under Subchapter D or E is eligible under this section to be granted a charter for a campus if:

(1) the charter holder:

(A) is evaluated for purposes of Chapter 39 under the agency's standard accountability procedures;

(B) has an accreditation status of accredited under Subchapter C, Chapter 39; and

(C) has been assigned an acceptable performance rating as provided by Subchapter C, Chapter 39, for each of the preceding three school years;

(2) either no campus operating under the charter has been assigned an unacceptable performance rating as provided by Subchapter C, Chapter 39, for any of the three preceding school years or such a campus has been closed;

(3) the charter holder has been assigned a financial accountability rating under Subchapter D, Chapter 39, indicating financial performance that is satisfactory or better;

(4) the charter holder meets generally accepted accounting standards;  
and

(5) at least 30 percent of students enrolled in charter schools operating under the charter met commended performance standards or equivalent or higher standards as determined by the commissioner on reading and mathematics assessment instruments under Chapter 39 during the preceding two school years.

(c-1) This subsection expires January 1, 2015. For purposes of Subsection (c):

(1) a charter holder or charter school rated as academically acceptable or higher under Subchapter D or E, Chapter 39, as that subchapter existed January 1, 2009, for the 2008-2009, 2009-2010, or 2010-2011 school year is considered to have been assigned an acceptable performance rating for the applicable school year; and

(2) a charter school rated as academically unacceptable under Subchapter D or E, Chapter 39, as that subchapter existed January 1, 2009, for the 2008-2009, 2009-2010, or 2010-2011 school year is considered to have been assigned an unacceptable performance rating for the applicable school year.

(d) If the commissioner is presented with a petition that has at least 30 percent of the total number of signatures required under Subsection (b), the school district in which the campus is located shall provide contact information for all parents of students enrolled at the campus in a manner available to those persons.

(e) A committee shall be appointed by the commissioner to advise and make recommendations concerning granting a charter under this section to the board of trustees of a school district that is presented with a petition described by Subsection (b). The committee must be:

(1) appointed by the commissioner from a list of nominees recommended by the board of trustees and the parents of students enrolled at the campus; and

(2) composed of district teachers, including teachers at the campus for which the petition is submitted, other district personnel, campus parents, and local business and community members.

(f) In addition to satisfying requirements under Section 12.059, a charter granted under this section must describe the respective responsibilities of the school district granting the charter and charter holder concerning funding, operation and maintenance of facilities, transportation, personnel, instructional materials, and other matters as determined by the board of trustees of the district and the charter holder. A charter under this section must be for a term of at least three years. Agreements between the district and the charter holder shall not limit a charter holder's ability to make decisions in the best interest of students attending the campus. District shall renew or modify contract with charter holder exclusively based on the best interest of the students attending the campus.

(g) The amount of operations and maintenance funding provided each year to a campus granted a charter under this section must equal the product of the total amount of operations and maintenance funding for that school year for the school district in which the campus is located, multiplied by the quotient of the campus weighted average daily attendance divided by the total district weighted average daily attendance. The charter may purchase services from the school district at an agreed price that does not exceed the actual cost to the district to provide those services.

(h) A dispute arising under this section may not be appealed to the commissioner under Section 7.057 or any other provision. If a person files suit to dispute a provision of this section, the court in which the suit is filed shall refer the dispute to alternative dispute resolution by the procedures provided by Section 154.024 or 154.027, Civil Practice and Remedies Code. If a party to such a dispute does not prevail in the alternative dispute resolution process, proceeds to trial, and does not prevail at trial, the party is responsible for the payment of the opposing party's attorney's fees incurred after the conclusion of the alternative dispute resolution.

(i) Notwithstanding any other provision of this title, a school district shall permit a student who is assigned to attend a campus for which a charter is granted under this section to transfer to another district campus.



(j) The commissioner may not approve more than five charters under this section.

(k) The commissioner shall adopt rules as necessary for the administration of this section.

SECTION \_\_\_\_ . Section 12.057(c), Education Code, is amended to read as follows:

(c) A campus or program granted a charter under Section 12.052, 12.0521(a)(1), 12.0522, or 12.053 is immune from liability to the same extent as a school district, and its employees and volunteers are immune from liability to the same extent as school district employees and volunteers.

(2) In existing SECTION 1 of the bill, strike the recital (page 1, lines 5-7), and substitute the following:

Section 39.107, Education Code, is amended by amending Subsections (a), (c), and (e) and adding Subsections (a-2), (b-3), (e-2), and (e-3) to read as follows:

(3) In existing SECTION 1 of the bill, between the recital and amended Section 39.107(e), Education Code (page 1, between lines 7 and 8), insert the following:

(a) After a campus has been identified as unacceptable for two consecutive school years, the commissioner shall order the reconstitution of the campus unless the board of trustees of the school district in which the campus is located grants a charter for the campus under Section 12.0522.

(a-2) If a charter is granted for a campus under Section 12.0522, the board of trustees of the school district and appropriate district administrators may assist the campus in:

(1) developing an updated targeted improvement plan;

(2) presenting the plan in a public hearing, in the manner provided by Section 39.106(e-1);

(3) obtaining approval of the updated plan from the commissioner; and

(4) executing the plan on approval by the commissioner.

(b-3) Subsections (b), (b-1), and (b-2) do not apply to a campus granted a charter under Section 12.0522.

(c) A campus that is reconstituted under this section or to which the board of trustees of a school district grants a charter under Section 12.0522 ~~[subject to Subsection (a)]~~ shall implement the updated targeted improvement plan as approved by the commissioner. The commissioner may appoint a monitor, conservator, management team, or board of managers to the district to ensure and oversee district-level support to low-performing campuses and the implementation of the updated targeted improvement plan. In making appointments under this subsection, the commissioner shall consider individuals who have demonstrated success in managing campuses with student populations similar to the campus at which the individual appointed will serve.

(4) In existing SECTION 1 of the bill, in amended Section 39.107(e), Education Code (page 1, line 10), between "Subsection (a)" and ", the commissioner", insert "or granted a charter under Section 12.0522".

Amendment No. 1 was adopted.

**SB 738**, as amended, was passed to third reading.

### **POSTPONED BUSINESS**

The following bills were laid before the house as postponed business:

#### **CSSB 425 ON SECOND READING**

**(Hancock - House Sponsor)**

**CSSB 425**, A bill to be entitled An Act relating to property and casualty certificates of insurance and approval of property and casualty certificate of insurance forms by the Texas Department of Insurance; providing penalties.

**CSSB 425** was read second time earlier today and was postponed until this time.

#### **CSSB 425 - STATEMENT OF LEGISLATIVE INTENT**

**REPRESENTATIVE P. KING:** On page 1, lines 19-25 of the bill is the definition for a "certificate of insurance." Is any type of communication between an insurer or agent and a third party considered to be a "certificate of insurance" for purposes of this chapter?

**REPRESENTATIVE HANCOCK:** Not necessarily. An e-mail asking to clarify information provided on an approved certificate would not be considered a certificate.

**P. KING:** On page 2, line 2 of the bill is the definition of "electronic record." Is it your intent that an e-mail inquiry/answer between an agent and a third party regarding insurance coverage be considered a certificate of insurance?

**HANCOCK:** No.

**P. KING:** On page 3, lines 10-14, the applicability section of the bill mentions "a risk located in this state." Is it the author's intent that the word "risk" also means "exposure?"

**HANCOCK:** Yes.

**P. KING:** On page 4, lines 19-20, the bill adds a new Section 1811.051 to the Insurance Code, which covers altering terms of an insurance policy. Is it the author's intent that any specific documents be included in the definition of "any other type of document purporting to be a certificate of insurance," as referenced in this section?

**HANCOCK:** No.

**P. KING:** There are many references to "requiring" a certificate in this bill. If a request is made for a certificate, that may not have been approved or disapproved by TDI, does this action fall under the definition of "requiring" a certificate for purposes of this chapter?

**HANCOCK:** No, it does not. As long as a person does not require the execution of an unapproved or disapproved certificate, they have not violated this chapter.

P. KING: On page 5, lines 6-9, in Subsection (b) of the new Section 1811.052, it states, "A person may not execute, issue, or require the issuance of a certificate of insurance for risks located in this state." Is it the author's intent that in that section "risks" means "exposures" located in this state?

HANCOCK: Yes.

P. KING: On page 5, lines 10-13 of the bill it prohibits the alteration or modification of approved certificate of insurance forms. Does modify or alter refer specifically to the format and verbiage as shown on the approved certificate?

HANCOCK: Yes. Modify or alter refers to the format and verbiage of the approved certificate.

P. KING: On page 5, lines 20-25 of the bill it prohibits the request for documents in lieu of a certificate of insurance. What is the intended scope of this section? Is it your intent that a copy of an endorsement or policy be included in the scope of this section?

HANCOCK: No, a copy of an endorsement or policy is not considered a request for any other document under this section. Any other document that would be used as evidence of coverage and not approved by the commissioner would be prohibited.

P. KING: On page 9, lines 17-21 of the bill, it prohibits the reference to a contractual insurance requirement. In commonly used terms, the certificate holder is an additional insured as required by written contract (or as provided by the policy). Is it the intent of this section to prohibit the reference to a specific contract or agreement between the policy holder and the certificate holder?

HANCOCK: No. This section is not intended to prohibit the reference to a specific contract or agreement between the policy holder and the certificate holder, but rather is intended to prohibit the extension of coverage in the certificate beyond the scope of the policy if the referenced contract or agreement has broader requirements than the policy and the policy is not endorsed to such coverage.

#### **REMARKS ORDERED PRINTED**

Representative P. King moved to print remarks between Representative Hancock and Representative P. King.

The motion prevailed.

REPRESENTATIVE WORKMAN: Mr. Hancock, is it your intent with this bill to reduce in any way the reliance by a certificate holder upon the information contained under the certificate of insurance?

HANCOCK: I think a lot of questions—we addressed a lot of those concerns. I don't know what other issues you may have in that regard.

WORKMAN: Well, as a contractor, we get certificates of insurance and we need to be able to rely on that. And my question to you is, does the bill in any way reduce my ability to rely on the information that's on the certificate of insurance?

HANCOCK: No, it clarifies the information on the insurance. In fact, let me help you out. AGC has actually vetted this bill. They have testified for the bill, so I don't know if there is any personal issues with it, but they have already looked at this, and we have addressed their concerns.

WORKMAN: I understand that AGC has looked at it, but I still have some questions about it.

HANCOCK: Right, I know that you may have some issues that weren't addressed by the AGC.

WORKMAN: Yes. Second question—is it your intent by this bill to reduce the fiduciary responsibility of an agent or insurer as it relates to the issuance of a certificate of insurance?

HANCOCK: No, I don't believe so, and I think that's clear in the bill, as well.

WORKMAN: Is it your intent with this bill to reduce in any way the responsibility of the insurer to notify certificate holders of a change or cancellation of a policy?

HANCOCK: I don't think the bill does anything in that regard.

WORKMAN: Is it your intent with this bill to reduce in any way a penalty that can be assessed against an agent or insurer who willfully issues a false or fraudulent certificate of insurance?

HANCOCK: We don't address that issue at all in this bill.

### REMARKS ORDERED PRINTED

Representative Workman moved to print remarks between Representative Hancock and Representative Workman.

The motion prevailed.

#### Amendment No. 1

Representative Hancock offered the following amendment to **CSSB 425**:

Amend **CSSB 425** (house committee printing) in SECTION 1 of the bill as follows:

(1) In added Section 1811.102, Insurance Code, strike proposed Subsection (d) (page 8, lines 8-12) and substitute:

(d) An order disapproving a form or withdrawing approval of a form takes effect on the date prescribed by the commissioner in the order. An order withdrawing approval of a form may not become effective until the 30th day after the date of the order.

(2) In added Section 1811.153, Insurance Code (page 9, line 13), strike "does" and substitute "shall".

Amendment No. 1 was adopted.

**CSSB 425**, as amended, was passed to third reading.

**CSSB 341 ON SECOND READING**  
**(Menendez and Larson - House Sponsors)**

**CSSB 341**, A bill to be entitled An Act relating to authorizing the dissolution of the Bexar Metropolitan Water District; providing a penalty.

**CSSB 341** was read second time earlier today, amendments were offered and disposed of, and **CSSB 341** was postponed until this time. Amendment No. 3 was pending at the time of postponement.

Amendment No. 3 failed of adoption.

(Speaker in the chair)

**CSSB 341 - AMENDMENTS ADOPTED**

Representative Menendez moved to adopt all remaining amendments to **CSSB 341** (Amendment Nos. 4-11).

The motion prevailed.

**Amendment No. 4 (by D. Miller)**

Amend **CSSB 341** (house committee report) as follows:

(1) In the recital to SECTION 4.01 of the bill (page 22, line 24), between "52," and "53," insert "52B,".

(2) In SECTION 4.01 of the bill, after added Section 52, Chapter 306, Acts of the 49th Legislature, Regular Session, 1945 (page 25, between lines 26 and 27), insert the following:

Sec. 52B. (a) The rural contracts review board consists of three members appointed as follows:

(1) one member appointed by the Commissioners Court of Bexar County;

(2) one member appointed by the Commissioners Court of Medina County; and

(3) one member appointed by the Commissioners Court of Atascosa County.

(b) The System shall renew a contract with a water supply company, water district, or municipal water utility for emergency water supply or interconnect fees that was transferred or assigned to the System as a result of the dissolution of the District on the same terms as the original contract, unless a change in the terms of the contract is approved by the rural contracts review board. The rural contracts review board may not approve a change in the terms of a renewal contract that is unfair to the water supply company, water district, or municipal water utility.

**Amendment No. 5 (by Menendez and Larson)**

Amend Amendment No. 4 by D. Miller to **CSSB 341** as follows:

(1) In added Section 52B, Chapter 306, Acts of the 49th Legislature, Regular Session, 1945 (page 1, lines 7-14), strike Subsection (a).

(2) In added Section 52B, Chapter 306, Acts of the 49th Legislature, Regular Session, 1945 (page 1, lines 15-23), strike Subsection (b) and substitute the following:

The System shall honor all existing contracts transferred or assigned to the System as a result of the dissolution of the District. The System may not arbitrarily terminate or change the terms of a contract transferred or assigned to the System as a result of the dissolution of the District.

**Amendment No. 6 (by Garza)**

Amend **CSSB 341** (house committee report) as follows:

(1) In the recital to SECTION 4.01 of the bill (page 22, line 25), strike "and 55" and substitute "55, and 56".

(2) In SECTION 4.01 of the bill, after added Section 55, Chapter 306, Acts of the 49th Legislature, Regular Session, 1945 (page 27, between lines 25 and 26), insert the following:

Sec. 56. The System shall create a rural infrastructure investment fund with an initial funding equal to 44 percent of the value of District assets as they existed on the effective date of the Act enacting this section, as determined by an entity with no financial ties to the District or a municipality located in the District. The System shall spend the money in the fund in a manner to guarantee continued investment in the areas of the former District not located in the largest municipality in the former District.

**Amendment No. 7 (by Beck)**

Amend **CSSB 341** (house committee printing) as follows:

(1) In the recital to SECTION 4.01 of the bill (page 22, line 25), strike "and 55" and substitute "55, and 57".

(2) In ARTICLE 4 of the bill, in Chapter 306, Acts of the 49th Legislature, Regular Session, 1945 (page 27, between lines 25 and 26), insert the following new Section 57:

Sec. 57. (a) Any former ratepayer of the District who resides outside the boundary of the largest municipality served by the former District may petition the commission if the ratepayer does not receive the benefit of adequate infrastructure investment by the System. The commission shall conduct a hearing on the petition and determine if the System has adequately invested in infrastructure improvements in the area affecting the ratepayer.

(b) In a petition under Subsection (a) of this section, each person receiving a separate bill is considered a ratepayer, but one person may not be considered more than one ratepayer regardless of the number of bills the person receives. The petition is considered properly signed if signed by a person, or the spouse of a person, in whose name utility service is received.

(c) If the commission finds that the System has not adequately invested in infrastructure affecting the ratepayer, the commission may impose an administrative penalty against the System under Section 13.4151, Water Code.

(d) Not later than the 30th day after the date of a final decision on a petition under this section, the commission shall provide written notice to each ratepayer eligible to petition. The notice must include the decision on the petition regarding infrastructure and the location where additional information on infrastructure may be obtained.

**Amendment No. 8 (by Aliseda)**

Amend **CSSB 341** (house committee report) as follows:

(1) In SECTION 2.01 of the bill (page 9, line 27, through page 10, line 9), strike Subsections (e) and (f) and substitute the following:

(e) The ballot for an election under this section must be printed to permit voting:

(1) for or against the proposition: "The dissolution of the Bexar Metropolitan Water District."; and

(2) for one of the following propositions:

(A) "In the event the Bexar Metropolitan Water District is dissolved, the district's assets, obligations, and duties shall be transferred to the water utility owned by the municipality with the largest population in the area served by the district."; or

(B) "In the event the Bexar Metropolitan Water District is dissolved, the district's assets, obligations, and duties shall be transferred to a new water district called the Alamo Water District."

(f) The board shall certify:

(1) that a majority of the voters voting in the district have voted under Subsection (e)(1):

(A) in favor of dissolution; or

(B) not in favor of dissolution; and

(2) whether the proposition under Subsection (e)(2)(A) or (B) received the most votes, or if a tie exists.

(f-1) If a tie exists under Subsection (f)(2), the board shall certify the proposition under Subsection (e)(2)(B) as receiving the most votes.

(2) Strike SECTION 2.02 of the bill (page 10, lines 15-27) and substitute the following:

SECTION 2.02. (a) Not later than the 20th day after the date on which the election results are officially declared, the board shall certify the results to the secretary of state.

(b) If the proposition under Section 2.01(e)(1) is approved by a majority of the voters voting in the election, Article 3 of this Act does not take effect and:

(1) if the board certifies the proposition under Section 2.01(e)(2)(A) as receiving the most votes, Article 4 of this Act takes effect on the date the results are certified; or

(2) if the board certifies the proposition under Section 2.01(e)(2)(B) as receiving the most votes, Article 4A of this Act takes effect on the date the results are certified.

(c) If a majority of the voters voting in the election do not approve the proposition under Section 2.01(e)(1):

(1) Article 3 of this Act takes effect on the date the results are certified;  
and

(2) Article 4 or 4A of this Act does not take effect.

(3) Strike ARTICLE 2A of the bill (page 11, line 1, through page 13, line 25).

(4) In the heading to ARTICLE 4 of the bill (page 22, line 21), between "LIABILITIES" and "IF", insert "TO AN EXISTING WATER UTILITY".

(5) On page 27, between lines 25 and 26, insert ARTICLE 4A to the bill as follows:

ARTICLE 4A. TRANSFER OF DISTRICT ASSETS AND LIABILITIES TO,  
AND CREATION OF, THE ALAMO WATER DISTRICT IF VOTERS  
DISSOLVE THE BEXAR METROPOLITAN WATER DISTRICT UNDER  
ARTICLE 2

SECTION 4A.01. (a) The Bexar Metropolitan Water District is dissolved. The district shall stay in effect to complete the transfer under Section 4A.05 of this article.

(b) The Texas Commission on Environmental Quality shall enter an order dissolving the Bexar Metropolitan Water District.

SECTION 4A.02. Sections 1 and 8, Chapter 306, Acts of the 49th Legislature, Regular Session, 1945, are amended to read as follows:

Sec. 1. Under ~~[In obedience to the provisions of]~~ Article 16, Section 59 of the Constitution of Texas, there is ~~[hereby]~~ created the Alamo Water District. ~~[Bexar Metropolitan Water District, hereinafter in this Act sometimes called the "District."]~~

Sec. 8. (a) ~~[The seven [five (5)] members of the Board of Directors are [shall hereafter be] elected to staggered two-year terms in an election held on the uniform election date in November. Directors are elected from numbered single-member districts established by the Board. The Board shall revise each single-member district after each decennial census to reflect population changes and to conform with state law, the federal Voting Rights Act of 1965 (42 U.S.C. Section 1973 et seq.), and any applicable court order [for a term of six (6) years each, provided that an election for two (2) Directors for a term of six (6) years shall be held on the first Tuesday in April, 1954; the terms of three (3) members of the present Board shall be, and are, hereby, extended to the first Tuesday in April, 1957; and the present Directors shall determine such three (3) by lot. Three (3) Directors shall be elected on the first Tuesday in April, 1957, and two (2) Directors and three (3) Directors, alternately, shall be elected each three (3) years thereafter on the first Tuesday in April as the six-year terms expire]. At an election of Directors, the candidate from each single-member district who receives [The two (2) or three (3) persons, respectively, receiving] the greatest number of votes is [shall be declared] elected to represent that single-member district. Each Director shall hold office until his successor is [shall have been] elected or appointed and has [shall have] qualified.~~

(a-1) A person is not eligible to serve as a Director for more than three terms or for more than a total of seven years of service.[:]



(b) Such ~~[such]~~ elections shall be called, conducted and canvassed in the manner provided by the Election Code. ~~[Chapter 25, General Laws of the Thirty-ninth Legislature, Regular Session, 1925, and any amendments thereto;]~~

(c) The ~~[the]~~ Board of Directors shall fill all vacancies on the Board by appointment and such appointees shall hold office until a successor elected at the next scheduled election date has qualified. ~~[for the unexpired term for which they were appointed;]~~

(d) Any four ~~[any three]~~ members of the Board are ~~[shall constitute]~~ a quorum for the adoption or ~~[of]~~ passage of any resolution or order or the transaction of any business of the District.~~;~~

(e) A Director must ~~[Directors succeeding the first Board, whether now or hereafter elected, shall]~~ be a qualified voter of the single-member district from which the Director is elected ~~[resident electors of Bexar County, Texas, and owners of taxable property within the area comprising said District, and shall organize in like manner].~~

(f) A payment to a Director for fees of office under Section 49.060, Water Code, may not be made for a meeting that occurs in a different fiscal year from the one in which the payment is made.

SECTION 4A.03. Chapter 306, Acts of the 49th Legislature, Regular Session, 1945, is amended by adding Sections 1A, 8A, 8B, 8C, 10A, and 10B to read as follows:

Sec. 1A. In this Act:

(1) "Board" means the District's Board of Directors.

(2) "Commission" means the Texas Commission on Environmental Quality.

(3) "Director" means a Board member.

(4) "District" means the Alamo Water District.

Sec. 8A. (a) To be eligible to be a candidate for or to be elected or appointed as a Director, a person must have:

(1) resided continuously in the single-member district that the person seeks to represent for 12 months immediately preceding the date of the regular filing deadline for the candidate's application for a place on the ballot;

(2) viewed the open government training video provided by the attorney general and provided to the Board a signed affidavit stating that the candidate viewed the video;

(3) obtained 200 signatures from individuals living in the District; and

(4) paid a filing fee of \$250 or filed a petition in lieu of the filing fee that satisfies the requirements prescribed by Section 141.062, Election Code.

(b) In this subsection, "political contribution" and "specific-purpose committee" have the meanings assigned by Section 251.001, Election Code. A Director or a candidate for the office of Director may not knowingly accept political contributions from a person that in the aggregate exceed \$500 in connection with each election in which the person is involved. For purposes of this subsection, a contribution to a specific-purpose committee for the purpose of

supporting a candidate for the office of Director, opposing the candidate's opponent, or assisting the candidate as an officeholder is considered to be a contribution to the candidate.

Sec. 8B. (a) A person who is elected or appointed to and qualifies for office as a Director may not vote, deliberate, or be counted as a member in attendance at a meeting of the Board until the person completes a training program on District management issues. The training program must provide information to the person regarding:

- (1) the enabling legislation that created the District;
- (2) the operation of the District;
- (3) the role and functions of the Board;
- (4) the rules of the Board;
- (5) the current budget for the Board;
- (6) the results of the most recent formal audit of the Board;
- (7) the requirements of the:
  - (A) open meetings law, Chapter 551, Government Code;
  - (B) open records law, Chapter 552, Government Code; and
  - (C) administrative procedure law, Chapter 2001, Government

Code;

(8) the requirements of the conflict of interest laws and other laws relating to public officials; and

(9) any applicable ethics policies adopted by the Board or the Texas Ethics Commission.

(b) The Texas Commission on Environmental Quality may create an advanced training program designed for a person who has previously completed a training program described by Subsection (a) of this section. If the commission creates an advanced training program under this subsection, a person who completes that advanced training program is considered to have met the person's obligation under Subsection (a) of this section.

(c) Each Director who is elected or appointed shall complete a training program described by Subsection (a) or (b) of this section at least once in each term the Director serves.

(d) The Board shall adopt rules regarding the completion of the training program described by Subsection (a) or (b) of this section by a person who is elected or appointed to and qualifies for office as a Director. A Director described by this subsection who does not comply with Board rules is considered incompetent as to the performance of the duties of a Director in any action to remove the Director from office.

(e) A Director may not:

(1) accept or solicit a gift, favor, or service, the value of which exceeds \$25 per gift, favor, or service, that:

(A) might reasonably influence the Director in the discharge of an official duty; or

(B) the Director knows or should know is being offered with the intent to influence the Director's official conduct;

(2) accept other employment or engage in a business or professional activity that the Director might reasonably expect would require or induce the Director to disclose confidential information acquired by reason of the official position;

(3) accept other employment or compensation that could reasonably be expected to impair the Director's independence of judgment in the performance of the Director's official duties;

(4) make personal investments that could reasonably be expected to create a substantial conflict between the Director's private interest and the interest of the District;

(5) intentionally or knowingly solicit, accept, or agree to accept any benefit for having exercised the Director's official powers or performed the Director's official duties in favor of another; or

(6) have a personal interest in an agreement executed by the District.

(f) Not later than April 30 each year, a Director shall file with the Bexar County clerk a verified financial statement complying with Sections 572.022, 572.023, 572.024, and 572.0252, Government Code. The District shall keep a copy of a financial statement filed under this section in the main office of the District.

Sec. 8C. (a) A Director may be recalled for:

(1) incompetency or official misconduct as defined by Section 21.022, Local Government Code;

(2) conviction of a felony;

(3) incapacity;

(4) failure to file a financial statement as required by Section 8B(f) of this Act;

(5) failure to complete a training program described by Section 8B(a) or (b) of this Act; or

(6) failure to maintain residency in the District.

(b) If at least 10 percent of the voters in the District submit a petition to the Board requesting the recall of a Director, the Board, not later than the 10th day after the date the petition is submitted, shall mail a written notice of the petition and the date of its submission to each registered voter in the District.

(c) Not later than the 30th day after the date a petition requesting the recall of a Director is submitted, the Board shall order an election on the question of recalling the Director.

(d) A recall election under this section may be held on any uniform election date.

(e) If a majority of the District voters voting at an election held under this section favor the recall of the Director, the Director is recalled and ceases to be a Director.

Sec. 10A. All Board reimbursements and expenditures must be approved by the Board in a regularly scheduled meeting.

Sec. 10B. The Board may not select the same auditor to conduct an audit required by Section 49.191, Water Code, for more than three consecutive annual audits.

SECTION 4A.04. Sections 7, 27A, 27D, 27F, 27G, and 33A, Chapter 306, Acts of the 49th Legislature, Regular Session, 1945, are repealed.

SECTION 4A.05. Not later than one month after the effective date of this article under Section 2.02 of this Act:

(1) all functions and activities performed immediately before that date by the Bexar Metropolitan Water District are transferred to the Alamo Water District;

(2) a rule, form, policy, procedure, or decision of the Bexar Metropolitan Water District continues in effect as a rule, form, policy, procedure, or decision of the Alamo Water District and remains in effect until amended or replaced by the Alamo Water District;

(3) a reference in law or administrative rule to the Bexar Metropolitan Water District means the Alamo Water District;

(4) all money, contracts, leases, rights, property, records, and bonds and other obligations of the Bexar Metropolitan Water District are transferred to the Alamo Water District;

(5) a court case, administrative proceeding, contract negotiation, or other proceeding involving the Bexar Metropolitan Water District is transferred without change in status to the Alamo Water District, and the Alamo Water District assumes, without a change in status, the position of the Bexar Metropolitan Water District in a negotiation or proceeding relating to an activity transferred by this article to the Alamo Water District to which the Bexar Metropolitan Water District is a party; and

(6) an employee of the Bexar Metropolitan Water District who earns less than \$50,000 per year becomes an employee of the Alamo Water District.

SECTION 4A.06. (a) Not later than the transfer under Section 4A.05 of this article, commissioners courts shall appoint the initial board of the Alamo Water District as follows:

(1) five members appointed by the Commissioners Court of Bexar County;

(2) one member appointed by the Commissioners Court of Atascosa County; and

(3) one member appointed by the Commissioners Court of Medina County.

(b) The initial board serves until directors are elected as provided by Section 8, Chapter 306, Acts of the 49th Legislature, Regular Session, 1945, as amended by this article, on the first uniform election date in November following the date the district is created that allows compliance with that section.

(c) The initial board may not include a person serving as a director on the day before the effective date of this article.

(d) Sections 8B(a)(1), 8A(a)(3), 8A(a)(4), 8A(b), 8B(a), 8B(c), and 8B(f), Chapter 306, Acts of the 49th Legislature, Regular Session, 1945, as added by this article, do not apply to an initial director.

(e) The initial board shall draw seven single-member voting districts in the district according to Section 8(a), Chapter 306, Acts of the 49th Legislature, Regular Session, 1945, as amended by this article.

SECTION 4A.07. The first members of the board of directors of the Alamo Water District elected under the changes in law made by this article shall agree on, or draw lots to determine, which member's term expires one year from the date the term began, and which member's term expires two years from the date the term began.

SECTION 4A.08. The boundaries of the Alamo Water District are coterminous with the boundaries of the Bexar Metropolitan Water District as they existed immediately before the effective date of this article under Section 2.02 of this Act.

**Amendment No. 9 (by Aliseda)**

Amend **CSSB 341** (senate committee report) as follows:

(1) In SECTION 4.01 of the bill in added Section 55, Chapter 306, Acts of the 49th Legislature, Regular Session, 1945 (page 27, line 11) between "System" and "." insert "; after integration described by Section 52 of this Act, the advisory committee shall continue to advise the System on the planning, development and expansion of services and infrastructure in the area outside the corporate boundaries of the largest municipality served by the System."

(2) In SECTION 4.01 of the bill in added Section 55, Chapter 306, Acts of the 49th Legislature, Regular Session, 1945 (page 27, line 16 and 17) strike "Until the integration described by Section 52 of this Act is complete, the" and substitute "The".

**Amendment No. 10 (by Garza)**

Amend **CSSB 341** (house committee report) as follows:

(1) In SECTION 2.01(e) of the bill (page 10, line 5), after the quotation mark, insert "The ballot proposition must also include a valuation of District assets and liabilities as determined by an entity with no financial ties to the District or a municipality located in the District."

(2) In SECTION 2A.02(e) of the bill (page 12, line 24), after the quotation mark, insert "The ballot proposition must also include a valuation of District assets and liabilities as determined by an entity with no financial ties to the District or a municipality located in the District."

**Amendment No. 11 (by Garza)**

Amend **CSSB 341** (house committee report) as follows:

(1) In the recital to SECTION 4.01 of the bill (page 22, line 24), between "52," and "53," insert "52B,".

(2) In SECTION 4.01 of the bill, after added Section 52, Chapter 306, Acts of the 49th Legislature, Regular Session, 1945 (page 25, between lines 26 and 27), insert the following:

Sec. 52B. (a) The rural contracts review board consists of three members appointed as follows:

(1) one member appointed by the Commissioners Court of Bexar County;

(2) one member appointed by the Commissioners Court of Medina County; and

(3) one member appointed by the Commissioners Court of Atascosa County.

(b) The System shall renew a contract with a water supply company, water district, or municipal water utility for emergency water supply or interconnect fees that was transferred or assigned to the System as a result of the dissolution of the District on the same terms as the original contract, unless a change in the terms of the contract is approved by the rural contracts review board. The rural contracts review board may not approve a change in the terms of a renewal contract that is unfair to the water supply company, water district, or municipal water utility.

**CSSB 341**, as amended, was passed to third reading by (Record 1260): 102 Yeas, 29 Nays, 7 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Aycock; Bonnen; Branch; Brown; Burkett; Burnam; Button; Carter; Castro; Christian; Coleman; Cook; Craddick; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Frullo; Gallego; Geren; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Guillen; Gutierrez; Hamilton; Hancock; Harless; Hochberg; Hopson; Howard, C.; Howard, D.; Huberty; Hunter; Jackson; Johnson; King, T.; Kuempel; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lucio; Lyne; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Miller, D.; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pitts; Price; Raymond; Ritter; Rodriguez; Schwertner; Scott; Sheets; Shelton; Smith, T.; Smith, W.; Solomons; Strama; Thompson; Torres; Truitt; Veasey; Villarreal; Vo; Walle; Workman; Zerwas.

Nays — Aliseda; Anderson, C.; Anderson, R.; Beck; Bohac; Cain; Callegari; Creighton; Crownover; Fletcher; Hardcastle; Hilderbran; Hughes; King, P.; King, S.; Kleinschmidt; Kolkhorst; Landtroop; Madden; Miller, S.; Morrison; Perry; Riddle; Sheffield; Simpson; Smithee; Weber; White; Zedler.

Present, not voting — Mr. Speaker(C); Chisum; Isaac; Keffer; Otto; Reynolds; Taylor, V.

Absent, Excused — Farrar; Flynn; Hernandez Luna; Woolley.

Absent — Berman; Garza; Giddings; Harper-Brown; Hartnett; Quintanilla; Taylor, L.; Turner.

#### STATEMENTS OF VOTE

I was shown voting no on Record No. 1260. I intended to vote yes.

Creighton

When Record No. 1260 was taken, I was in the house but away from my desk. I would have voted no.

Garza

**BILLS AND RESOLUTIONS SIGNED BY THE SPEAKER**

Notice was given at this time that the speaker had signed bills and resolutions in the presence of the house (see the addendum to the daily journal, Signed by the Speaker, Senate List No. 31).

**SB 377 ON SECOND READING**

**(Riddle, Gallego, Burkett, Hartnett, and Carter - House Sponsors)**

**SB 377**, A bill to be entitled An Act relating to the murder of a child as a capital offense.

**SB 377** was read second time earlier today and was postponed until this time.

**LEAVE OF ABSENCE GRANTED**

The following member was granted leave of absence for the remainder of today because of illness in the family:

Villarreal on motion of Menendez.

**SB 377 - (consideration continued)****SB 377 - POINT OF ORDER**

Representative Marquez raised a point of order against further consideration of **SB 377**.

The speaker overruled the point of order.

**Amendment No. 1**

Representative Dutton offered the following amendment to **SB 377**:

Amend **SB 377** (house committee printing) in SECTION 1 of the bill, in amended Subsection (a), Section 19.03, Penal Code, as follows:

(1) On page 2, line 15, strike "or" and substitute "[~~or~~]".

(2) On page 2, line 21, between "court" and the period, insert the following:

; or

(10) the person murders a disabled person, as defined by Section 29.03(c), who is under 18 years of age

Representative Riddle moved to table Amendment No. 1.

The motion to table was lost by (Record 1261): 54 Yeas, 75 Nays, 1 Present, not voting.

Yeas — Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Burkett; Button; Callegari; Carter; Christian; Craddick; Creighton; Darby; Davis, S.; Eissler; Elkins; Fletcher; Frullo; Gonzales, L.; Gooden; Hamilton; Harless; Harper-Brown; Hilderbran; Howard, D.; Huberty; Hunter; King, P.; King, S.; Kleinschmidt; Kolkhorst; Larson; Lavender; Margo; Miller, S.; Morrison; Otto; Parker; Patrick; Paxton; Peña; Price; Riddle; Schwertner; Scott; Sheffield; Shelton; Smithee; Torres; Weber; White; Workman; Zedler; Zerwas.

Nays — Allen; Alonzo; Alvarado; Bonnen; Branch; Brown; Burnam; Cain; Chisum; Coleman; Cook; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Farias; Gallego; Garza; Geren; Giddings; Gonzales, V.; Gonzalez; Guillen; Gutierrez; Hardcastle; Hartnett; Hochberg; Howard, C.; Hughes; Isaac; Jackson; Johnson; Keffer; King, T.; Kuempel; Landtroop; Legler; Lewis; Lozano; Lucio; Lyne; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Miller, D.; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Perry; Phillips; Pickett; Pitts; Quintanilla; Raymond; Reynolds; Ritter; Rodriguez; Simpson; Smith, T.; Smith, W.; Solomons; Taylor, L.; Taylor, V.; Truitt; Turner; Veasey; Vo.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Farrar; Flynn; Hernandez Luna; Villarreal; Woolley.

Absent — Aliseda; Anchia; Bohac; Castro; Crownover; Davis, J.; Eiland; Hancock; Hopson; Laubenberg; Madden; Sheets; Strama; Thompson; Walle.

#### STATEMENTS OF VOTE

I was shown voting yes on Record No. 1261. I intended to vote no.

R. Anderson

I was shown voting yes on Record No. 1261. I intended to vote no.

Carter

I was shown voting yes on Record No. 1261. I intended to vote no.

Christian

I was shown voting yes on Record No. 1261. I intended to vote no.

Hilderbran

I was shown voting yes on Record No. 1261. I intended to vote no.

Huberty

I was shown voting yes on Record No. 1261. I intended to vote no.

P. King

I was shown voting yes on Record No. 1261. I intended to vote no.

Larson

I was shown voting yes on Record No. 1261. I intended to vote no.

Morrison

I was shown voting yes on Record No. 1261. I intended to vote no.

Otto

I was shown voting yes on Record No. 1261. I intended to vote no.

Patrick

I was shown voting yes on Record No. 1261. I intended to vote no.

Peña



I was shown voting yes on Record No. 1261. I intended to vote no.

Price

I was shown voting yes on Record No. 1261. I intended to vote no.

Schwertner

I was shown voting yes on Record No. 1261. I intended to vote no.

Workman

I was shown voting yes on Record No. 1261. I intended to vote no.

Zedler

Amendment No. 1 was adopted.

**SB 377**, as amended, was passed to third reading. (Burnam, D. Howard, and Pickett recorded voting no.)

(Flynn now present)

#### **COMMITTEE MEETING ANNOUNCEMENTS**

The following committee meetings were announced:

Culture, Recreation, and Tourism, upon final adjournment today, Desk 16, for a formal meeting, to consider **HCR 156** and **HCR 165**.

Calendars, 3:30 p.m. today, 3W.15, for a formal meeting, to set a calendar.

#### **BILLS AND JOINT RESOLUTIONS ON FIRST READING AND REFERRAL TO COMMITTEES**

Bills and joint resolutions were at this time laid before the house, read first time, and referred to committees. (See the addendum to the daily journal, Referred to Committees, List No. 1.)

#### **ADJOURNMENT**

Representative Morrison moved that the house adjourn until 11 a.m. Monday, May 23 in honor of Vesta Williams.

The motion prevailed.

The house accordingly, at 3:04 p.m., adjourned until 11 a.m. Monday, May 23.

---

#### **ADDENDUM**

---

#### **REFERRED TO COMMITTEES**

The following bills and joint resolutions were today laid before the house, read first time, and referred to committees, and the following resolutions were today laid before the house and referred to committees. If indicated, the chair today corrected the referral of the following measures:

**List No. 1**

**SB 1837** to Insurance.

**SIGNED BY THE SPEAKER**

The following bills and resolutions were today signed in the presence of the house by the speaker:

**House List No. 34**

**HB 34, HB 114, HB 123, HB 253, HB 282, HB 345, HB 399, HB 413, HB 451, HB 533, HB 549, HB 627, HB 649, HB 824, HB 930, HB 942, HB 962, HB 1123, HB 1128, HB 1135, HB 1136, HB 1146, HB 1245, HB 1381, HB 1529, HB 1559, HB 1643, HB 1694, HB 1772, HB 1774, HB 1840, HB 1841, HB 1908, HB 1965, HB 1983, HB 2061, HB 2069, HB 2108, HB 2162, HB 2189, HB 2245, HB 2258, HB 2312, HB 2354, HB 2727, HB 2759, HB 2793, HB 2859, HB 2908, HB 2928, HB 3065, HB 3272, HB 3547, HB 3814, HCR 18, HCR 63, HCR 68, HCR 90, HCR 133, HCR 164**

**Senate List No. 31**

**SB 27, SB 82, SB 101, SB 179, SB 191, SB 199, SB 227, SB 283, SB 324, SB 373, SB 412, SB 434, SB 470, SB 485, SB 490, SB 493, SB 508, SB 510, SB 524, SB 543, SB 579, SB 580, SB 587, SB 613, SB 633, SB 710, SB 778, SB 866, SB 880, SB 888, SB 990, SB 1008, SB 1065, SB 1100, SB 1132, SB 1184, SB 1197, SB 1243, SB 1291, SB 1378, SB 1518, SB 1618, SB 1630, SB 1635, SB 1661, SB 1739, SB 1882, SB 1895, SB 1922, SCR 5, SCR 10, SCR 18, SCR 39, SCR 55**

**MESSAGES FROM THE SENATE**

The following messages from the senate were today received by the house:

**Message No. 1****MESSAGE FROM THE SENATE**

**SENATE CHAMBER**

Austin, Texas

Saturday, May 21, 2011

The Honorable Speaker of the House  
House Chamber  
Austin, Texas

Mr. Speaker:

I am directed by the senate to inform the house that the senate has taken the following action:

**THE SENATE HAS PASSED THE FOLLOWING MEASURES:**

**HB 91** Cook SPONSOR: Birdwell  
Relating to the extent of extraterritorial jurisdiction for certain municipalities.

**HB 150** Solomons SPONSOR: Seliger

Relating to the composition of the districts for the election of members of the Texas House of Representatives.

**HB 397** Gonzales, Veronica SPONSOR: Uresti  
Relating to the creation of the Bureau for Economic Development of the Border Region.  
(Committee Substitute/Amended)

**HB 442** Guillen SPONSOR: Williams  
Relating to the establishment of an emergency radio infrastructure account.

**HB 499** Rodriguez, Eddie SPONSOR: Watson  
Relating to the additional penalty for collection costs for certain delinquent ad valorem taxes.

**HB 534** Phillips SPONSOR: Estes  
Relating to the powers and duties of the Gunter Municipal Utility Districts Nos. 1 and 2.  
(Amended)

**HB 592** Pitts SPONSOR: Birdwell  
Relating to certain counties that are not required to operate a juvenile justice alternative education program.  
(Committee Substitute/Amended)

**HB 1137** Darby SPONSOR: Estes  
Relating to the transmission of records regarding over-the-counter sales of ephedrine, pseudoephedrine, and norpseudoephedrine and a person's civil liability for certain acts arising from the sale of those products.

**HB 1422** Truitt SPONSOR: Watson  
Relating to the issuance of titles for certain motor vehicles that are the subject of insurance claims.  
(Amended)

**HB 2118** Coleman SPONSOR: Estes  
Relating to adding certain synthetic compounds to Penalty Group 2 of the Texas Controlled Substances Act.

**HB 2160** Coleman SPONSOR: West  
Relating to the governing bodies of certain local planning organizations.  
(Committee Substitute)

**HB 2417** Flynn SPONSOR: Rodriguez  
Relating to the Texas Code of Military Justice.

**HB 2971** Smith, Todd SPONSOR: Davis  
Relating to the confidentiality of documents evaluating the performance of public school teachers and administrators.  
(Amended)

**HB 3616** Naishtat SPONSOR: Ellis  
Relating to designating October as Persons with Disabilities History and Awareness Month.  
(Committee Substitute)

Respectfully,

Patsy Spaw  
Secretary of the Senate

**Message No. 2**

MESSAGE FROM THE SENATE  
SENATE CHAMBER  
Austin, Texas  
Saturday, May 21, 2011 - 2

The Honorable Speaker of the House  
House Chamber  
Austin, Texas

Mr. Speaker:

I am directed by the senate to inform the house that the senate has taken the following action:

THE SENATE HAS PASSED THE FOLLOWING MEASURES:

**SCR 57** Williams  
Recalling **HB 2277** from the house for further consideration.

Respectfully,  
Patsy Spaw  
Secretary of the Senate

**Message No. 3**

MESSAGE FROM THE SENATE  
SENATE CHAMBER  
Austin, Texas  
Saturday, May 21, 2011 - 3

The Honorable Speaker of the House  
House Chamber  
Austin, Texas

Mr. Speaker:

I am directed by the senate to inform the house that the senate has taken the following action:

THE SENATE HAS PASSED THE FOLLOWING MEASURES:

**HB 441** Guillen SPONSOR: Williams  
Relating to the fees for certain commercial vehicles.

**HB 1075** Anderson, Rodney SPONSOR: Davis  
Relating to an alert for a missing person with an intellectual disability.

**HB 1201** Kolkhorst SPONSOR: Hegar  
Relating to repeal of authority for the establishment and operation of the Trans-Texas Corridor.  
(Committee Substitute/Amended)

**HB 1278** Coleman SPONSOR: Seliger

Relating to regulation by a property owners' association of certain religious displays.

(Amended)

**HB 1964** Villarreal SPONSOR: Van de Putte  
Relating to discharging fines and costs assessed against certain juvenile defendants through community service.  
(Committee Substitute/Amended)

**HB 2017** McClendon SPONSOR: Williams  
Relating to the organization, governance, duties, and functions of the Texas Department of Motor Vehicles.  
(Committee Substitute/Amended)

**HB 2080** King, Tracy O. SPONSOR: Uresti  
Relating to certification of a person as eligible for disabled parking privileges.

**HB 2135** Hochberg SPONSOR: Patrick  
Relating to the administration of end-of-course and other assessment instruments to certain public school students enrolled below the high school level.  
(Committee Substitute)

**HB 2383** Geren SPONSOR: Harris  
Relating to a study regarding the reenactment of the franchise tax credit or providing other incentives for certain research and development activities.

**HB 2518** Kolkhorst SPONSOR: Ogden  
Relating to the transfer of certain state property from the Texas Board of Criminal Justice to the board of regents of The Texas A&M University System for the use and benefit of the Texas Forest Service.

**HB 2603** Smithee SPONSOR: Hegar  
Relating to the distribution of universal service funds to certain small and rural local exchange companies.  
(Committee Substitute)

**HB 3803** Phillips SPONSOR: Estes  
Relating to the creation of the Cottonwood Municipal Utility District No. 2 of Grayson County; providing authority to impose a tax and issue bonds; granting a limited power of eminent domain.

**HJR 109** Orr SPONSOR: Ogden  
Proposing a constitutional amendment to clarify references to the permanent school fund, to allow the General Land Office to distribute revenue derived from permanent school fund land or other properties to the available school fund, and to provide for an increase in the market value of the permanent school fund for the purpose of allowing increased distributions from the available school fund.  
(Committee Substitute)

**SB 1837** Van de Putte  
Relating to exemptions to persons required to hold a limited property and casualty license.

Respectfully,  
Patsy Spaw

Secretary of the Senate

---

**APPENDIX**

---

**STANDING COMMITTEE REPORTS**

Favorable reports have been filed by committees as follows:

**May 20**

Appropriations - **SB 1588, SJR 5**

County Affairs - **SB 917**

Criminal Jurisprudence - **SB 462, SB 578, SB 623, SB 838, SB 844, SB 905, SB 1059, SB 1116, SB 1273, SB 1521, SB 1522, SB 1616, SB 1682, SB 1695, SB 1752, SB 1843**

Culture, Recreation, and Tourism - **HCR 159, SCR 35**

Economic and Small Business Development - **SB 824**

Elections - **SB 792, SB 997, SB 1046, SB 1302, SB 1443, SJR 37**

Energy Resources - **SB 1293, SB 1294**

Environmental Regulation - **SB 1003**

Government Efficiency and Reform - **SB 1698**

Higher Education - **SB 38, SB 40, SB 282, SB 1304, SB 1726, SB 1729**

Homeland Security and Public Safety - **SB 288, SB 687, SB 947, SB 1600, SB 1636, SB 1697**

House Administration - **SB 1928, SCR 51**

Human Services - **SB 220, SB 1449**

Insurance - **SB 1300, SB 1656**

Judiciary and Civil Jurisprudence - **SB 120, SB 789, SB 1026, SB 1198, SB 1216, SB 1271, SB 1322, SB 1417, SB 1807**

Land and Resource Management - **SB 1760, SB 1816**

Licensing and Administrative Procedures - **SB 1169, SB 1244, SB 1812**

Natural Resources - **SB 1058, SB 1875, SB 1877, SB 1880, SB 1881, SB 1899, SB 1913, SB 1914, SB 1915, SB 1916**

Public Education - **SB 4, SB 290, SB 346, SB 471**

Public Health - **SB 187, SB 192, SB 193, SB 229, SB 240, SB 717, SB 969, SB 1177, SB 1206, SB 1220, SB 1231, SB 1265, SB 1301, SB 1421, SB 1424, SB 1438, SB 1926**

State Affairs - **SB 661, SB 760, SB 1068, SB 1270, SJR 26**

Technology - SB 631, SB 701

Transportation - SB 197, SB 730, SB 1307, SB 1610, SB 1925

Ways and Means - SB 516, SB 1546, SB 1927, SJR 14

**ENGROSSED**

**May 20 - HCR 21**

**ENROLLED**

**May 20 - HB 34, HB 215, HB 282, HB 345, HB 399, HB 413, HB 423, HB 555, HB 591, HB 901, HB 930, HB 1123, HB 1136, HB 1146, HB 1550, HB 1770, HB 1840, HB 1841, HB 2007, HB 2014, HB 2342, HB 2759, HB 2793, HB 2851, HB 2859, HB 3051, HB 3234, HB 3272, HCR 18, HCR 63, HCR 68, HCR 90, HCR 133, HCR 164**

**SENT TO THE GOVERNOR**

**May 20 - HB 27, HB 35, HB 118, HB 184, HB 266, HB 315, HB 434, HB 460, HB 479, HB 563, HB 625, HB 650, HB 679, HB 699, HB 716, HB 726, HB 843, HB 848, HB 885, HB 908, HB 988, HB 989, HB 993, HB 1028, HB 1061, HB 1106, HB 1130, HB 1174, HB 1263, HB 1344, HB 1380, HB 1390, HB 1401, HB 1405, HB 1449, HB 1488, HB 1503, HB 1545, HB 1566, HB 1567, HB 1570, HB 1674, HB 1779, HB 1829, HB 1861, HB 1862, HB 1869, HB 1956, HB 2033, HB 2035, HB 2144, HB 2229, HB 2251, HB 2271, HB 2351, HB 2360, HB 2376, HB 2495, HB 2615, HB 2631, HB 2670, HB 2699, HB 2866, HB 2920, HB 2935, HB 3000, HB 3004, HB 3141, HB 3255, HB 3389, HB 3487, HB 3570, HB 3847, HCR 33, HCR 69, HCR 100, HCR 143**

**RECOMMENDATIONS FILED WITH THE SPEAKER**

**May 20 - HB 3830, HB 3859, HB 3860, HB 3861, HB 3862, HB 3864, HB 3865, HB 3866**

**SIGNED BY THE GOVERNOR**

**May 20 - HB 74**

