

HOUSE JOURNAL

EIGHTY-SECOND LEGISLATURE, REGULAR SESSION

PROCEEDINGS

EIGHTY-SIXTH DAY — THURSDAY, MAY 26, 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 1516).

Present — Mr. Speaker; Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Burnam; Button; Cain; Callegari; Carter; Castro; Chisum; 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.; 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 — Christian; Howard, D.

The invocation was offered by Reverend T. J. Dolce, pastor, St. Martha Catholic Church, Kingwood.

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

CAPITOL PHYSICIAN

The speaker recognized Representative Kleinschmidt who presented Dr. Jorge Duchicela of Weimar as the "Doctor for the Day."

The house welcomed Dr. Duchicela and thanked him for his participation in the Physician of the Day Program sponsored by the Texas Academy of Family Physicians.

(Harper-Brown in the chair)

HR 1793 - PREVIOUSLY ADOPTED**(by Pitts)**

The chair laid out and had read the following previously adopted resolution:

HR 1793, Congratulating the Texas Department of Licensing and Regulation on being named one of the top workplaces in the Austin area by the Austin American-Statesman.

On motion of Representatives Darby and Geren, the names of all the members of the house were added to **HR 1793** as signers thereof.

INTRODUCTION OF GUESTS

The chair recognized Representative Pitts who introduced representatives of the Texas Department of Licensing and Regulation.

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).

HR 2358 - ADOPTED**(by Elkins)**

Representative Elkins moved to suspend all necessary rules to take up and consider at this time **HR 2358**.

The motion prevailed.

The following resolution was laid before the house:

HR 2358, Congratulating Ashley Williams on placing second at the African American National Spelling Bee Championships.

HR 2358 was adopted.

On motion of Representative Giddings, the names of all the members of the house were added to **HR 2358** as signers thereof.

HR 2359 - ADOPTED**(by Elkins)**

Representative Elkins moved to suspend all necessary rules to take up and consider at this time **HR 2359**.

The motion prevailed.

The following resolution was laid before the house:

HR 2359, Congratulating Niaha Dyson on placing third at the African American National Spelling Bee Championships.

HR 2359 was adopted.

On motion of Representative Giddings, the names of all the members of the house were added to **HR 2359** as signers thereof.

**HR 2360 - ADOPTED
(by Elkins)**

Representative Elkins moved to suspend all necessary rules to take up and consider at this time **HR 2360**.

The motion prevailed.

The following resolution was laid before the house:

HR 2360, Congratulating Mary Bello on winning the African American National Spelling Bee Championships.

HR 2360 was read and was adopted.

On motion of Representative Giddings, the names of all the members of the house were added to **HR 2360** as signers thereof.

**HR 2367 - ADOPTED
(by Elkins)**

Representative Elkins moved to suspend all necessary rules to take up and consider at this time **HR 2367**.

The motion prevailed.

The following resolution was laid before the house:

HR 2367, Commending Robert L. Garner, Jr., founder of the African American National Spelling Bee Championships, Inc.

HR 2367 was read and was adopted.

On motion of Representative Giddings, the names of all the members of the house were added to **HR 2367** as signers thereof.

INTRODUCTION OF GUESTS

The chair recognized Representative Elkins who introduced Mary Bello and students of the Girls and Boys Preparatory Academy.

(D. Howard now present)

**HR 1894 - PREVIOUSLY ADOPTED
(by C. Anderson)**

The chair laid out the following previously adopted resolution:

HR 1894, In memory of Jeremy Pat Pryor of Waco.

**HR 1571 - PREVIOUSLY ADOPTED
(by Muñoz)**

The chair laid out and had read the following previously adopted resolution:

HR 1571, Commemorating 2011 as the Year of the Farmworker Child.

INTRODUCTION OF GUESTS

The chair recognized Representative Muñoz who introduced Noemi Ochoa and representatives of the Association of Farmworker Opportunity Programs.

HR 2143 - ADOPTED**(by Darby)**

Representative Darby moved to suspend all necessary rules to take up and consider at this time **HR 2143**.

The motion prevailed.

The following resolution was laid before the house:

HR 2143, In memory of Hope Wilson Huffman of San Angelo.

HR 2143 was read and was unanimously adopted by a rising vote.

On motion of Representative Chisum, the names of all the members of the house were added to **HR 2143** as signers thereof.

INTRODUCTION OF GUESTS

The chair recognized Representative Darby who introduced family members of Hope Wilson Huffman.

HR 2518 - NOTICE OF INTRODUCTION

Pursuant to the provisions of Rule 13, Section 9(f) of the House Rules, the chair announced the introduction of **HR 2518**, suspending the limitations on the conferees for **SB 1087**.

HR 1994 - ADOPTED**(by Kleinschmidt)**

Representative Kleinschmidt moved to suspend all necessary rules to take up and consider at this time **HR 1994**.

The motion prevailed.

The following resolution was laid before the house:

HR 1994, Congratulating the Round Top-Carmine Cubettes volleyball team on winning the 2010-2011 UIL 1A state championship.

HR 1994 was adopted.

HR 2276 - ADOPTED**(by L. Gonzales)**

Representative L. Gonzales moved to suspend all necessary rules to take up and consider at this time **HR 2276**.

The motion prevailed.

The following resolution was laid before the house:

HR 2276, Honoring the buddies and volunteers of the Miracle League of Austin.

HR 2276 was adopted.

On motion of Representative Strama, the names of all the members of the house were added to **HR 2276** as signers thereof.

**HR 2294 - ADOPTED
(by McClendon)**

Representative McClendon moved to suspend all necessary rules to take up and consider at this time **HR 2294**.

The motion prevailed.

The following resolution was laid before the house:

HR 2294, Honoring the 2011 Class of UTSA Legislative Scholars.

HR 2294 was read and was adopted.

INTRODUCTION OF GUESTS

The chair recognized Representative McClendon who introduced participants in the McClendon Legislative Scholars Program.

**HR 2525 - ADOPTED
(by Dukes)**

Representative Dukes moved to suspend all necessary rules to take up and consider at this time **HR 2525**.

The motion prevailed.

The following resolution was laid before the house:

HR 2525, Honoring State Representative Ruth Jones McClendon for her work in developing the McClendon Legislative Scholars Program.

HR 2525 was read and was adopted.

On motion of Representative Martinez, the names of all the members of the house were added to **HR 2525** as signers thereof.

HR 2482 - NOTICE OF INTRODUCTION

Pursuant to the provisions of Rule 13, Section 9(f) of the House Rules, the chair announced the introduction of **HR 2482**, suspending the limitations on the conferees for **SB 313**.

HR 2546 - NOTICE OF INTRODUCTION

Pursuant to the provisions of Rule 13, Section 9(f) of the House Rules, the chair announced the introduction of **HR 2546**, suspending the limitations on the conferees for **HB 1112**.

(McClendon in the chair)

CONGRATULATORY AND MEMORIAL CALENDAR

The following congratulatory resolutions were laid before the house:

SCR 56 (S. Miller - House Sponsor), Honoring John Cowan on the occasion of his retirement from the Texas Association of Dairymen.

HR 603 (by Price), Commemorating Flag Day on June 14, 2011.

HR 1960 (by V. Gonzales), Congratulating Omar Ochoa of Austin on his graduation from The University of Texas School of Law.

HR 1961 (by V. Gonzales), Congratulating Rolando Castaneda on his appointment as chief of the Edinburg Police Department.

HR 1962 (by Castro), Commending Vice Admiral William H. McRaven for his distinguished service to the United States of America and congratulating him on his nomination to lead U.S. Special Operations Command.

HR 1964 (by D. Miller), Congratulating Amanda Miller on her graduation from Texas A&M University.

HR 1967 (by Perry, et al.), Congratulating Dr. Patrick J. Hanford on the occasion of his installation as president of the Texas Osteopathic Medical Association.

HR 1968 (by Gooden), Commemorating the dedication of the Terrell Veterans Memorial on Memorial Day 2011.

HR 1969 (by Gooden), Congratulating Billie Sue Squires of Terrell on her retirement from American National Bank.

HR 1970 (by Huberty), Congratulating Richard and Maureen Huberty on their 50th wedding anniversary.

HR 1972 (by Craddick), Honoring Baylor University women's golf coach Sylvia Ferdon on her retirement.

HR 1973 (by D. Miller), Commemorating the Gillespie County Fair and Festivals Association Barbecue Cook-off.

HR 1976 (by Branch), Congratulating James B. Bonham Elementary School in Dallas on its selection as a Blue Ribbon School.

HR 1977 (by Button), Commemorating the 51st Biennial Chinese American Citizens Alliance National Convention to be held in Houston on July 27-30, 2011.

HR 1983 (by V. Gonzales), Congratulating Rosendo Hinojosa on his appointment as senior executive chief patrol agent of the U.S. Border Patrol Rio Grande Valley Sector.

HR 1984 (by Reynolds), Congratulating Constable Ruben Davis, who is celebrating 15 years of service with Fort Bend County.

HR 1985 (by Bonnen and Hughes), Congratulating Mike and Dorothy Kight on their 50th wedding anniversary.

HR 1987 (by Truitt), Honoring the boys' soccer team of Carroll High School in Southlake on winning the 2010-2011 UIL 5A state championship.

HR 1992 (by Margo), Congratulating Michelle Holguin, Diana Pahman, and Jarisma Rodriguez of El Paso Community College for having their scientific experiment selected for the final mission of the space shuttle Endeavour.

HR 1993 (by Flynn), Congratulating country star and native Texan Miranda Lambert on her latest awards.

HR 1994 was withdrawn.

HR 1995 (by Hilderbran), Congratulating Clifton Fifer, Jr., on his receipt of an Outstanding Educator Award from the George Bush Presidential Library and Museum.

HR 1996 (by Hochberg), Honoring Beckie Driver of Houston for her longtime service in the field of adult education.

HR 1997 (by McClendon), Honoring Delores Ray Littlejohn George of San Antonio on her 75th birthday.

HR 1998 (by S. King), Commemorating the dedication of the William G. and Shirley Swenson Home in Abilene as a Recorded Texas Historic Landmark.

HR 1999 (by Callegari), Congratulating Michael Callegari on his graduation from Strake Jesuit College Preparatory.

HR 2000 (by Bohac), Congratulating Glad Tidings Assembly of God Church in Houston on its 75th anniversary.

HR 2003 (by Bohac), Congratulating Austin Leighton of Houston on achieving the rank of Eagle Scout.

HR 2006 (by Bohac), Recognizing the Clayton Library Center for Genealogical Research in Houston as a valuable community and state asset.

HR 2015 (by Bohac), Congratulating Janice Gabriel on being named the 2010 Northwest Houston Leader of the Year.

HR 2018 (by Hernandez Luna), Commemorating the rededication of a Texas Centennial Marker at the Lorenzo de Zavala homesite in Harris County.

HR 2019 (by V. Gonzales), Congratulating Cynthia Leon of Mission on her swearing in as a Texas Department of Public Safety commissioner.

HR 2021 (by Schwertner), Commemorating the Hill Country Shoot-Out Barbeque.

HR 2022 (by Dutton), Congratulating Sharon Nowling Perry on the occasion of her retirement as a teacher at Port Houston Elementary School.

HR 2023 (by Dutton), Congratulating Michael W. Ashley of Houston on his induction into the Prairie View Interscholastic League Coaches Association Hall of Fame.

HR 2025 (by Dutton), Honoring Georgia Provost of Houston for her achievements and contributions to the community.

HR 2027 (by Anchia), Congratulating Carina Nicole Ramirez on her graduation from The University of Texas at Austin.

HR 2030 (by Alonzo), Commemorating the 36th annual convention of the Hispanic National Bar Association and honoring the event's host, the Dallas Hispanic Bar Association.

HR 2033 (by Hilderbran), Congratulating George and Mary Virginia Holekamp of Kerrville on their 60th wedding anniversary.

HR 2034 (by Button), Honoring Barbara Powers on earning the Silver Beaver Award from the Circle Ten Council of the Boy Scouts of America.

HR 2035 (by Button), Honoring Thomas Cooper on earning the Silver Beaver Award from the Circle Ten Council of the Boy Scouts of America.

HR 2036 (by Paxton), Congratulating Wester Middle School in Frisco on being named a School to Watch by the Texas Middle School Association.

HR 2037 (by Landtroop), Congratulating David Villarreal-Landtroop of Plainview Christian High School on winning a bronze medal at the 2011 TAPPS State Track and Field Championships.

HR 2039 (by Isaac), Honoring Miss Mae's Bar-B-Que in Wimberley on its participation in "Bar-B-Quesday" during the 82nd Legislative Session.

HR 2041 (by Isaac), Honoring Railroad Bar-B-Que on its participation in "Bar-B-Quesday" during the 82nd Legislative Session.

HR 2043 (by Bohac), Congratulating Lindsay Ann Smith and Bradley Allen Pepper on their engagement.

HR 2046 (by Naishtat), Honoring Robert Nunez for his service as a legislative intern.

HR 2047 (by Naishtat), Honoring Clay Scallan for her service as a legislative intern.

HR 2048 (by Naishtat), Commending Eric Leventhal for his service as an intern in the office of State Representative Elliott Naishtat.

HR 2049 (by Naishtat), Honoring Jessica Hoy for her outstanding service as a legislative aide.

HR 2050 (by Naishtat), Honoring Melanie Wilmoth for her outstanding service as a legislative aide.

HR 2052 (by Orr), Commemorating the 150th anniversary of the founding of the Meridian Blue Lodge Freemasons.

HR 2053 (by Carter), Recognizing the members of the Richardson Independent School District board of trustees for their service.

HR 2054 (by Carter, Branch, Jackson, Button, Burkett, et al.), Congratulating Kimberly Locus on the occasion of her retirement as executive director of the Dallas County Republican Party.

HR 2055 (by Y. Davis), Congratulating Ruth Wyrick on earning an honorary doctor of humane letters degree from Southwestern Christian College.

HR 2056 (by Reynolds), Honoring Missouri City mayor pro tem Brett Kolaja for his public service.

HR 2057 (by Reynolds), Commemorating the 2011 Sugar Land Memorial Day ceremony.

HR 2058 (by Reynolds), Commemorating the 2011 Fort Bend Salutes America Memorial Day event.

HR 2059 (by Naishtat), Honoring CommUnityCare, The University of Texas at Austin School of Nursing, and Central Health for creating a family nurse practitioner residency program.

HR 2061 (by Martinez Fischer), Honoring Tyler Ingraham of San Antonio for his participation in the 2011 Moreno/Rangel Legislative Leadership Program.

HR 2062 (by Martinez Fischer), Honoring Irma Aguirre of Mission for her participation in the 2011 Moreno/Rangel Legislative Leadership Program.

HR 2064 (by Madden), Congratulating Detective Steve Boyd on being named the 2010 Officer of the Year by the Plano Police Department.

HR 2065 (by Madden), Honoring Chief Gregory W. Rushin for his 25 years of service to the Plano Police Department.

HR 2068 (by Harper-Brown), Commemorating the dedication of a historical marker at the Heritage Park depot and honoring the Irving Heritage Society on their work.

HR 2069 (by Thompson), Commending Mark Harris for his service on the board of the Texas Nursery & Landscape Association.

HR 2070 (by Muñoz), Congratulating Victoria Johnson on her selection as the 2011 Mission Consolidated Independent School District Secondary Teacher of the Year.

HR 2071 (by Muñoz), Honoring Christopher Madrid for his participation in the 2011 Moreno/Rangel Legislative Leadership Program.

HR 2073 (by Muñoz), Congratulating Melissa Garza on her selection as the 2011 Mission Consolidated Independent School District Elementary Teacher of the Year.

HR 2074 (by Parker), Honoring Texas Health Presbyterian Hospital in Flower Mound on the occasion of its first anniversary.

HR 2075 (by Parker), Congratulating the Flower Mound Police Department on receiving advanced law enforcement accreditation from the Commission on Accreditation for Law Enforcement Agencies.

HR 2078 (by Madden), Congratulating Officer Scott Kermes. on being named the 2009 Officer of the Year by the Plano Police Department.

HR 2079 (by Madden), Honoring Jay Dalehite for his achievements as president of the Canyon Creek Homeowners Association in Richardson.

HR 2080 (by Ritter), Recognizing Transforming Texas Waterfronts.

HR 2081 (by S. King), Honoring Andy Cleveland on her retirement from the Abilene Independent School District.

HR 2082 (by D. Miller), Congratulating Wyman Meinzer on his induction into the Frontier Times Museum Texas Heroes Hall of Honor.

HR 2083 (by D. Miller), Congratulating Louis M. Pearce, Jr., on his induction into the Frontier Times Museum Texas Heroes Hall of Honor.

HR 2084 (by D. Miller), Congratulating Scooter Fries on his induction into the Frontier Times Museum Texas Heroes Hall of Honor.

HR 2085 (by D. Miller), Congratulating Kinky Friedman on his induction into the Frontier Times Museum Texas Heroes Hall of Honor.

HR 2086 (by D. Miller), Commemorating the posthumous induction of Toots Mansfield into the Frontier Times Museum Texas Heroes Hall of Honor.

HR 2087 (by D. Miller), Congratulating the 2011 inductees of the Frontier Times Museum Texas Heroes Hall of Honor in Bandera.

HR 2088 (by Branch), Congratulating Randall Stephenson, chair and CEO of AT&T, on receiving the 2011 H. Neil Mallon Award.

HR 2090 (by Lozano), Honoring Jose Antonio Ramirez for his participation in the 2011 Moreno/Rangel Legislative Leadership Program.

HR 2094 (by Allen), Congratulating Marivel Holguin on her 2011 graduation from the Texas School for the Deaf.

HR 2095 (by Perry), Commemorating the 100th anniversary of the founding of Slaton.

HR 2096 (by Reynolds), Honoring city council member Don Smith of Missouri City for his public service.

HR 2097 (by Reynolds), Honoring city council member Jerry Wyatt of Missouri City for his public service.

HR 2098 (by Reynolds), Honoring city council member Robin Elackatt of Missouri City for his public service.

HR 2099 (by Reynolds), Honoring city council member Bobby Marshall of Missouri City for his public service.

HR 2100 (by Reynolds), Honoring Mayor Allen Owen of Missouri City for his public service.

HR 2101 (by Reynolds), Honoring city council member Danny Nguyen of Missouri City for his public service.

HR 2102 (by Reynolds), Honoring Mayor Joe M. Gurecky for his many years of service to the citizens of Rosenberg.

HR 2103 (by Reynolds), Honoring Mayor Hilmar Moore of Richmond for his public service.

HR 2104 (by Carter), Honoring Dallas attorney Starlett Carter for her pro bono service.

HR 2105 (by Carter), Commending U.S. Army Private Heather Row for her desire to serve her country.

HR 2106 (by Carter), Congratulating Lanet Greenhaw of Richardson on her new position as director of education for the Dallas Regional Chamber.

HR 2107 (by Carter), Commending Linda Jaresh for serving as a campaign volunteer for the 2010 House District 102 election.

HR 2109 (by Anchia), Honoring Edgar Morales for his participation in the 2011 Moreno/Rangel Legislative Leadership Program.

HR 2110 (by Anchia), Congratulating Roy R. Barrera, Sr., on the 60th anniversary of his State Bar of Texas licensure and his six decades as a practicing lawyer.

HR 2111 was withdrawn.

HR 2112 (by Harper-Brown), Congratulating the City of Irving on its receipt of a 2011 Texas Award for Performance Excellence from the Quality Texas Foundation.

HR 2113 (by Paxton), Congratulating the McKinney Police Department 9-1-1 dispatchers on their receipt of the 2011 Team 9-1-1 Award of Merit.

HR 2114 (by Margo), Congratulating Maddison Kahner Dowdy, Alejandro Marquez, Mariana Villanueva, Natalie Felsen, and Katherine Nielson from Franklin High School in El Paso for placing first in the Stock Market Game Legislative Challenge, sponsored by the Texas Council on Economic Education.

HR 2118 (by Workman), Congratulating J. O. and Nancy Duncan on their 60th wedding anniversary.

HR 2121 (by Reynolds), Honoring Joel F. Fitzgerald, Sr., for his service as chief of police in Missouri City.

HR 2122 (by Strama), Congratulating the Concordia University baseball team on winning the 2011 American Southwest Conference championship.

HR 2123 (by Christian), Commending Jonathon McClellan on his service as chief of staff to State Representative Wayne Christian.

HR 2124 (by Christian), Commending Brady Colby for his service as an intern in the office of State Representative Wayne Christian.

HR 2125 (by Christian), Commending Wesley Luke Bullock on his service as legislative director for State Representative Wayne Christian.

HR 2126 (by Christian), Commending Travis McCormick for his service as a legislative assistant in the office of State Representative Wayne Christian.

HR 2127 (by Christian), Congratulating Christopher Herrington on the occasion of his retirement as a teacher at the Martin School of Choice in Nacogdoches.

HR 2128 (by Christian), Commending Cameron Harley for his service as an intern in the office of State Representative Wayne Christian.

HR 2129 (by Christian), Honoring teacher and coach Kay Butler for her service to the Buna Independent School District.

HR 2130 (by Christian), Commending Gabriele Nestande for her service as an administrative aide in the office of State Representative Wayne Christian.

HR 2131 (by Cain), Recognizing Jarrian Roberts of Clarksville on being chosen for the Texas Association of Basketball Coaches 1A Division 1 All-State Team.

HR 2132 (by Cain), Honoring the fifth-grade choir of Chapel Hill Elementary School in Mount Pleasant on the occasion of its 2011 performance in the Capitol Rotunda.

HR 2134 (by Hilderbran), Honoring Joe Herring, Jr., of Kerrville for his contributions to his community and congratulating him on the publication of his book *Home: Photographs of Kerrville*.

HR 2135 was previously adopted.

HR 2136 (by Rodriguez), Honoring Valerie Lila Danielle Vera for her participation in the 2011 Moreno/Rangel Legislative Leadership Program.

HR 2137 (by Deshotel), Congratulating Lamar University chief of police Dale Fontenot on his retirement.

HR 2138 (by Truitt), Congratulating the boys' swimming and diving team of Carroll High School in Southlake on winning the UIL 5A state championship.

HR 2139 (by W. Smith), Congratulating the Lady Rangers water polo team of Ross S. Sterling High School in Baytown on winning the 2010-2011 TISCA state title.

HR 2141 (by Dukes), Honoring Juan Carlos Garcia of Dallas for his participation in the 2011 Moreno/Rangel Legislative Leadership Program.

HR 2144 (by Isaac), Commending Gregory R. Bentsch for his service as an intern in the office of State Representative Jason Isaac.

HR 2145 (by Isaac), Honoring Brian C. Mitchell for his service as an intern in the office of State Representative Jason Isaac during the 82nd Legislative Session.

HR 2146 (by Harper-Brown), Commemorating the 25th anniversary of FigDesign in Irving.

HR 2148 (by Workman), Congratulating Jacob Hume on attaining the rank of Eagle Scout.

HR 2149 (by Workman), Congratulating Thomas Dunn on attaining the rank of Eagle Scout.

The resolutions were adopted.

HR 2547 - ADOPTED
(by Gutierrez)

Representative Gutierrez moved to suspend all necessary rules to take up and consider at this time **HR 2547**.

The motion prevailed.

The following resolution was laid before the house:

HR 2547, In memory of Herb Carroll of China Grove.

HR 2547 was unanimously adopted by a rising vote.

CONGRATULATORY AND MEMORIAL CALENDAR
(consideration continued)

The following memorial resolutions were laid before the house:

HR 1841 (by S. King), In memory of former state representative David Graves Stubbeman.

HR 1853 (by Naishtat), In memory of Alfred Richard Castello of Austin.

HR 2001 (by Bohac), In memory of Madeline Cleveland Harris of Houston.

HR 2002 (by Bohac), In memory of Olga R. Gomez of Houston.

HR 2004 (by Bohac), In memory of Frank Woodruff Buckles, the last American veteran of World War I.

HR 2005 (by Bohac), In memory of Jean R. Ols of Houston.

HR 2007 (by Bohac), In memory of Camilo R. Gomez of Houston.

HR 2008 (by Bohac), In memory of Clara F. Santikos of Houston.

HR 2009 (by Bohac), In memory of native Texan Edd Kellum Hendee.

HR 2010 (by Bohac), In memory of Louvelle Chafin of Houston.

HR 2011 (by Bohac), In memory of Evelyn Petersen Cernik of Houston.

HR 2012 (by Bohac), In memory of Charles Henry Kadlecek of Houston.

HR 2013 (by Bohac), In memory of Diana Lynn Psencik of Houston.

HR 2014 (by Bohac), In memory of Charles Edward Grubbs of Willis.

HR 2016 (by Bohac), In memory of Gladys Johnson Glenn.

HR 2017 (by Bohac), In memory of Clymer Lewis Wright, Jr., of Houston.

HR 2024 (by Dutton), In memory of Marjorie Banks Ammons of Houston.

HR 2026 (by Solomons, Anchia, and Jackson), In memory of U.S. Army Staff Sergeant Carlos Alonzo Benitez of Carrollton.

HR 2028 (by Anchia), In memory of Anthony A. Hernandez of Dallas.

HR 2029 (by Anchia), In memory of Joel M. Lebovitz of Dallas.

HR 2042 (by Madden), In memory of Diane Price of Richardson.

HR 2044 (by Hunter), In memory of former Aransas County sheriff Bob Hewes of Fulton.

HR 2066 (by Quintanilla), In memory of Matilde Apodaca of Socorro.

HR 2076 (by Hilderbran), In memory of Barbara Esgen Stieren of San Antonio.

HR 2077 (by Orr), In memory of U.S. Army Staff Sergeant Bryan Burgess of Cleburne.

HR 2091 (by Madden), In memory of Rhonda H. Picon of Plano.

HR 2108 (by Dutton), In memory of Charles Edward Cheeks, Sr., of Houston.

HR 2115 (by Hopson), In memory of James Edgar Brown of Jacksonville.

HR 2116 (by Peña), In memory of Jaime J. "Bino" Zapata of Edinburg.

HR 2119 (by Geren), In memory of Colonel Philip J. Kuhl.

HR 2143 was previously adopted.

HR 2147 (by Bohac), In memory of William Arnold McMinn, Jr., of Brookshire.

HR 2150 (by Weber and Bonnen), In memory of Thomas Patton Alexander, Sr., of Pearland.

HR 2152 (by S. Miller), In memory of Michael Cook Walton of Stephenville.

HR 2153 (by S. Miller), In memory of Brack Barnard Jones.

HR 2162 (by Quintanilla), In memory of Alfonso "Poncho" Cardenas of El Paso.

HR 2168 (by V. Gonzales), In memory of Jaime Longoria, Jr., of Edinburg.

HR 2171 (by V. Gonzales), In memory of Stuart Mason Wilkinson of McAllen.

HR 2172 (by V. Gonzales), In memory of Grace Neuhaus Richards of McAllen.

HR 2173 (by V. Gonzales), In memory of Maria Teresa "Terrie" Rabago.

HR 2175 (by Madden, Laubenberg, and V. Taylor), In memory of former Plano mayor James Wyatt Edwards.

HR 2178 (by Truitt), In memory of Clayton Eugene "Gene" Reynolds of North Richland Hills.

HR 2201 (by C. Anderson), In memory of Jo Ann Darden of Waco.

HR 2202 (by C. Anderson), In memory of Ruby Jewel King of Robinson.

HR 2205 (by C. Anderson), In memory of Glidden D. O'Connor, Jr., of Waco.

HR 2206 (by C. Anderson), In memory of Judy Letitia Bales of Waco.

HR 2208 (by C. Anderson), In memory of Bette Pape Skinner of Waco.

HR 2209 (by C. Anderson), In memory of Julius Albert Backus of Waco.

HR 2210 (by C. Anderson), In memory of Laura Lumpkin of Waco.

HR 2211 (by C. Anderson), In memory of Margaret Sugg McNamara of Waco.

HR 2212 (by C. Anderson), In memory of Dr. Albert Ray Niederer of Woodway.

HR 2213 (by C. Anderson), In memory of Bob L. Corbitt of Speegleville.

HR 2214 (by C. Anderson), In memory of Margaret Vandever of Waco.

HR 2215 (by C. Anderson), In memory of Lewis Edwards Champ of Waco.

HR 2216 (by C. Anderson), In memory of Geraldine Howard of Waco.

HR 2217 (by C. Anderson), In memory of Ina Mae Allen of McGregor.

HR 2218 (by C. Anderson), In memory of Maria Emma Castro of Waco.

HR 2219 (by C. Anderson), In memory of James Edward Jones of Waco.

HR 2220 (by C. Anderson), In memory of Esther Hilda Schimschat of Waco.

HR 2221 (by C. Anderson), In memory of Martha Louise "Suzie" Hamilton of Waco.

HR 2222 (by C. Anderson), In memory of Mary Ann McManus of Waco.

HR 2225 (by C. Anderson), In memory of Audrey Ellen Davidson of Waco.

HR 2226 (by C. Anderson), In memory of Ruth Marie Warren of Axtell.

HR 2227 (by C. Anderson), In memory of Marion Herring of Waco.

HR 2228 (by C. Anderson), In memory of Bob Parsons of Waco.

HR 2229 (by C. Anderson), In memory of Betty Jane Dalrymple of Waco.

HR 2230 (by C. Anderson), In memory of Sam Moses of Waco.

HR 2231 (by C. Anderson), In memory of Bridger Wayne Hogan of Eddy.

HR 2232 (by C. Anderson), In memory of Ross S. Tennison of Waco.

HR 2233 (by C. Anderson), In memory of Lawrence James Tanner, Jr., of Waco.

The resolutions were unanimously adopted by a rising vote.

PROVIDING FOR A CONGRATULATORY AND MEMORIAL CALENDAR

Representative McClendon moved to set a congratulatory and memorial calendar for 10 a.m. Sunday, May 29.

The motion prevailed.

(Ritter in the chair)

LEAVE OF ABSENCE GRANTED

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

Gonzalez on motion of Mallory Caraway.

**HB 2779 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

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

HB 2779, A bill to be entitled An Act relating to provisions in the dedicatory instruments of property owners' associations regarding display of flags.

Representative Deshotel moved to concur in the senate amendments to **HB 2779**.

The motion to concur in the senate amendments to **HB 2779** prevailed by (Record 1517): 146 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Burnam; Button; Cain; Callegari; Carter; Castro; Chisum; 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.; 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; 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; Ritter(C).

Absent, Excused — Gonzalez.

Absent — Christian.

Senate Committee Substitute

CSHB 2779, A bill to be entitled An Act relating to provisions in the dedicatory instruments of property owners' associations regarding display of flags.

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

SECTION 1. Chapter 202, Property Code, is amended by adding Section 202.011 to read as follows:

Sec. 202.011. FLAG DISPLAY. (a) A property owners' association may not, except as provided in this section, adopt or enforce a dedicatory instrument provision that prohibits, restricts, or has the effect of prohibiting or restricting an owner from the display of:

(1) the flag of the United States of America;
(2) the flag of the State of Texas; or
(3) an official or replica flag of any branch of the United States armed forces.

(b) A property owners' association may adopt or enforce reasonable dedicatory instrument provisions:

(1) that require:
(A) the flag of the United States be displayed in accordance with 4 U.S.C. Sections 5-10;

(B) the flag of the State of Texas be displayed in accordance with Chapter 3100, Government Code;

(C) a flagpole attached to a dwelling or a freestanding flagpole be constructed of permanent, long-lasting materials, with a finish appropriate to the materials used in the construction of the flagpole and harmonious with the dwelling;

(D) the display of a flag, or the location and construction of the supporting flagpole, to comply with applicable zoning ordinances, easements, and setbacks of record; and

(E) a displayed flag and the flagpole on which it is flown be maintained in good condition and that any deteriorated flag or deteriorated or structurally unsafe flagpole be repaired, replaced, or removed;

(2) that regulate the size, number, and location of flagpoles on which flags are displayed, except that the regulation may not prevent the installation or erection of at least one flagpole per property that is not more than 20 feet in height;

(3) that govern the size of a displayed flag;
(4) that regulate the size, location, and intensity of any lights used to illuminate a displayed flag;

(5) that impose reasonable restrictions to abate noise caused by an external halyard of a flagpole; or

(6) that prohibit a property owner from locating a displayed flag or flagpole on property that is:

(A) owned or maintained by the property owners' association; or

(B) owned in common by the members of the association.

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 2592 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

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

HB 2592, A bill to be entitled An Act relating to notice and disclosure requirements for certain credit services organizations regarding charges and consumer borrowing.

Representative Truitt moved to concur in the senate amendments to **HB 2592**.

The motion to concur in the senate amendments to **HB 2592** prevailed by (Record 1518): 117 Yeas, 28 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Aycock; Beck; Bohac; Bonnen; Branch; Brown; Burkett; Burnam; Callegari; Carter; Castro; Chisum; Coleman; Cook; Crownover; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Farias; Farrar; Fletcher; Gallego; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gooden; Guillen; Gutierrez; Hardcastle; Harless; Harper-Brown; Hartnett; Hernandez Luna; Hilderbran; Hochberg; Hopson; Howard, C.; Howard, D.; Huberty; Hughes; Hunter; Jackson; Johnson; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Larson; 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; Patrick; Pickett; Pitts; Price; Quintanilla; Raymond; Reynolds; Riddle; Rodriguez; Schwertner; Scott; Sheets; Sheffield; Shelton; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Woolley; Workman; Zerwas.

Nays — Aliseda; Anderson, R.; Berman; Button; Cain; Craddick; Creighton; Darby; Flynn; Frullo; Garza; Hamilton; Hancock; Isaac; Landtroop; Laubenberg; Lavender; Parker; Paxton; Peña; Perry; Phillips; Simpson; Smith, T.; Taylor, V.; Weber; White; Zedler.

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

Absent, Excused — Gonzalez.

Absent — Christian; Elkins.

STATEMENTS OF VOTE

I was shown voting no on Record No. 1518. I intended to vote yes.

Hancock

I was shown voting yes on Record No. 1518. I intended to vote no.

Hughes

I was shown voting no on Record No. 1518. I intended to vote yes.

Isaac

I was shown voting yes on Record No. 1518. I intended to vote no.

S. Miller

I was shown voting no on Record No. 1518. I intended to vote yes.

T. Smith

Senate Committee Substitute

CSHB 2592, A bill to be entitled An Act relating to notice and disclosure requirements for certain credit services organizations regarding charges and consumer borrowing; providing an administrative penalty.

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

SECTION 1. Chapter 393, Finance Code, is amended by adding Subchapter C-1 to read as follows:

SUBCHAPTER C-1. NOTICE AND DISCLOSURE REQUIREMENTS FOR CERTAIN CREDIT SERVICES ORGANIZATIONS

Sec. 393.221. DEFINITIONS. In this subchapter:

(1) "Credit access business" means a credit services organization that obtains for a consumer or assists a consumer in obtaining an extension of consumer credit in the form of a deferred presentment transaction or a motor vehicle title loan.

(2) "Deferred presentment transaction" has the meaning assigned by Section 341.001. For purposes of this chapter, this definition does not preclude repayment in more than one installment. The term is also referred to as a payday loan.

(3) "Motor vehicle title loan" or "auto title loan" means a loan in which an unencumbered motor vehicle is given as security for the loan. The term does not include a retail installment transaction under Chapter 348 or another loan made to finance the purchase of a motor vehicle.

Sec. 393.222. POSTING OF FEE SCHEDULE; NOTICES. (a) A credit access business shall post, in a conspicuous location in an area of the business accessible to consumers and on any Internet website, including a social media site, maintained by the credit access business:

(1) a schedule of all fees to be charged for services performed by the credit access business in connection with deferred presentment transactions and motor vehicle title loans, as applicable;

(2) a notice of the name and address of the Office of Consumer Credit Commissioner and the telephone number of the office's consumer helpline; and

(3) a notice that reads as follows:

"An advance of money obtained through a payday loan or auto title loan is not intended to meet long-term financial needs. A payday loan or auto title loan should only be used to meet immediate short-term cash needs. Refinancing the loan rather than paying the debt in full when due will require the payment of additional charges."

(b) The Finance Commission of Texas may adopt rules to implement this section.

Sec. 393.223. CONSUMER TRANSACTION INFORMATION. (a) Before performing services described by Section 393.221(1), a credit access business must provide to a consumer a disclosure adopted by rule of the Finance Commission of Texas that discloses the following in a form prescribed by the commission:

(1) the interest, fees, and annual percentage rates, as applicable, to be charged on a deferred presentment transaction or on a motor vehicle title loan, as applicable, in comparison to interest, fees, and annual percentage rates to be charged on other alternative forms of consumer debt;

(2) the amount of accumulated fees a consumer would incur by renewing or refinancing a deferred presentment transaction or motor vehicle title loan that remains outstanding for a period of two weeks, one month, two months, and three months; and

(3) information regarding the typical pattern of repayment of deferred presentment transactions and motor vehicle title loans.

(b) If a credit access business obtains or assists a consumer in obtaining a motor vehicle title loan, the credit access business shall provide to the consumer a notice warning the consumer that in the event of default the consumer may be required to surrender possession of the motor vehicle to the lender or other person to satisfy the consumer's outstanding obligations under the loan.

(c) The Finance Commission of Texas shall adopt rules to implement this section.

Sec. 393.224. ADMINISTRATIVE PENALTY. The consumer credit commissioner, in accordance with rules adopted by the Finance Commission of Texas, may assess an administrative penalty against a credit access business that knowingly and wilfully violates this subchapter or a rule adopted under this subchapter in the manner provided by Subchapter F, Chapter 14.

SECTION 2. Notwithstanding Section 393.223(a), Finance Code, as added by this Act, a credit access business is not required to comply with that section until the Finance Commission of Texas prescribes the form required by that section.

SECTION 3. This Act takes effect January 1, 2012.

**HB 3268 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

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

HB 3268, A bill to be entitled An Act relating to permits for air contaminant emissions of stationary natural gas engines used in combined heating and power systems.

Representative Lyne 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 3268**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 3268**: Lyne, chair; Geren, Hancock, Hardcastle, and T. King.

LEAVE OF ABSENCE GRANTED

The following member was granted leave of absence temporarily for today to attend a conference committee meeting:

Crownover on motion of McClendon.

**HB 2380 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

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

HB 2380, A bill to be entitled An Act relating to employment by school districts of certain persons under probationary contracts.

Representative Shelton 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 2380**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 2380**: Shelton, chair; Frullo, Patrick, Reynolds, and Villarreal.

**HB 628 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

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

HB 628, A bill to be entitled An Act relating to contracts by governmental entities and related professional services and to public works performance and payment bonds.

Representative Callegari 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 628**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 628**: Callegari, chair; Hunter, P. King, Lucio, and W. Smith.

**HB 2357 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

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

HB 2357, A bill to be entitled An Act relating to motor vehicles; providing penalties.

Representative Pickett 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 2357**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 2357**: Pickett, chair; Phillips, Bonnen, Lavender, and Hunter.

**HB 1768 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

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

HB 1768, A bill to be entitled An Act relating to the regulation of roadside vendors and solicitors.

Representative Muñoz moved to concur in the senate amendments to **HB 1768**.

The motion to concur in the senate amendments to **HB 1768** prevailed by (Record 1519): 141 Yeas, 1 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Bohac; Bonnen; Branch; Brown; Burkett; Burnam; Button; Cain; Callegari; Carter; Castro; Chisum; 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.; Gooden; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hernandez Luna; Hilderbran; 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; 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.

Nays — Hochberg.

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

Absent, Excused — Crownover; Gonzalez.

Absent — Berman; Christian; Coleman; Flynn.

STATEMENTS OF VOTE

When Record No. 1519 was taken, I was temporarily out of the house chamber. I would have voted yes.

Berman

When Record No. 1519 was taken, I was temporarily out of the house chamber. I would have voted yes.

Flynn

Senate Committee Substitute

CSHB 1768, A bill to be entitled An Act relating to the regulation of roadside vendors and solicitors in certain counties.

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

SECTION 1. Section 285.001, Transportation Code, is amended to read as follows:

Sec. 285.001. REGULATION OF ROADSIDE VENDOR AND SOLICITOR. (a) To promote the public safety, the commissioners court of a county with a population of more than 450,000 [~~1.3 million~~] by order may regulate the following in the unincorporated area of the county if they occur on a public highway or road, in the right-of-way of a public highway or road, or in a parking lot:

(1) the sale of items by a vendor of food or merchandise, including live animals except as provided by Subsection (b);

(2) the erection, maintenance, or placement of a structure by a vendor of food or merchandise, including live animals; and

(3) the solicitation of money.

(b) An order under Subsection (a) adopted by the commissioners court of a county with a population of less than 3.3 million may not prohibit the sale of livestock.

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 2449 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

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

HB 2449, A bill to be entitled An Act relating to the illegal possession of another person's ballot to be voted by mail.

Representative Aliseda moved to concur in the senate amendments to **HB 449**.

The motion to concur in the senate amendments to **HB 2449** prevailed by (Record 1520): 140 Yeas, 1 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Bohac; Bonnen; Branch; Brown; Burkett; Burnam; Button; Cain; Carter; Castro; Chisum; Coleman; 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.; 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; Pitts; Price; Quintanilla; Raymond; Reynolds; Riddle; 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.

Nays — Alvarado.

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

Absent, Excused — Crownover; Gonzalez.

Absent — Berman; Callegari; Christian; Flynn; Pickett.

STATEMENTS OF VOTE

When Record No. 1520 was taken, I was temporarily out of the house chamber. I would have voted yes.

Berman

When Record No. 1520 was taken, I was in the house but away from my desk. I would have voted yes.

Flynn

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

Amend **HB 2449** (senate committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Section 86.014(a), Election Code, is amended to read as follows:

(a) A copy of an application for a ballot to be voted by mail is not available for public inspection, except to the voter seeking to verify that the information pertaining to the voter is accurate, until the first business day after ~~may be obtained from the early voting clerk:~~

~~[(1) 72 hours after the time a ballot is mailed to the voter; or~~

~~[(2) 48 hours after the time a ballot is mailed to the voter if the mailing occurs on the fourth day before] election day.~~

**HB 3828 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

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

HB 3828, A bill to be entitled An Act relating to the creation of the Gulfton Area Municipal Management District; providing authority to impose a tax, levy an assessment, and issue bonds.

Representative Hochberg moved to concur in the senate amendments to **HB 3828**.

The motion to concur in the senate amendments to **HB 3828** prevailed by (Record 1521): 137 Yeas, 2 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Bohac; Bonnen; Branch; Brown; Burkett; Burnam; Button; Cain; Callegari; Castro; Chisum; Coleman; Cook; Craddick; Creighton; Darby; Davis, J.; Davis, S.; Davis, Y.; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Frullo; Gallego; Garza; Geren; Giddings; Gonzales, L.; Gonzales, V.; 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; Perry; Phillips; Pickett; Pitts; Price; Quintanilla; Raymond; Reynolds; Riddle; Rodriguez; Schwertner; Scott; Sheets; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zedler.

Nays — Carter; Taylor, V.

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

Absent, Excused — Crownover; Gonzalez.

Absent — Berman; Christian; Deshotel; Flynn; Peña; Simpson; Zerwas.

STATEMENTS OF VOTE

When Record No. 1521 was taken, I was temporarily out of the house chamber. I would have voted yes.

Berman

When Record No. 1521 was taken, I was temporarily out of the house chamber. I would have voted no.

Flynn

Senate Committee Substitute

CSHB 3828, A bill to be entitled An Act relating to the creation of the Gulfton Area Municipal Management District; providing authority to impose a tax, levy an assessment, and issue bonds.

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

SECTION 1. Subtitle C, Title 4, Special District Local Laws Code, is amended by adding Chapter 3889 to read as follows:

CHAPTER 3889. GULFTON AREA MUNICIPAL MANAGEMENT

DISTRICT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 3889.001. DEFINITIONS. In this chapter:

(1) "Board" means the district's board of directors.

(2) "City" means the City of Houston, Texas.

(3) "Director" means a board member.

(4) "District" means the Gulfton Area Municipal Management District.

Sec. 3889.002. CREATION AND NATURE OF DISTRICT. The district is a special district created under Section 59, Article XVI, Texas Constitution.

Sec. 3889.003. PURPOSE; LEGISLATIVE FINDINGS. (a) The creation of the district is essential to accomplish the purposes of Sections 52 and 52-a, Article III, and Section 59, Article XVI, Texas Constitution, and other public purposes stated in this chapter. By creating the district and in authorizing the city and other political subdivisions to contract with the district, the legislature has established a program to accomplish the public purposes set out in Section 52-a, Article III, Texas Constitution.

(b) The creation of the district is necessary to promote, develop, encourage, and maintain employment, commerce, transportation, housing, tourism, recreation, the arts, entertainment, economic development, safety, and the public welfare in the district.

(c) The district is created to supplement and not to supplant city services provided in the district.

Sec. 3889.004. FINDINGS OF BENEFIT AND PUBLIC PURPOSE. (a) The district is created to serve a public use and benefit.

(b) All land and other property included in the district will benefit from the improvements and services to be provided by the district under powers conferred by Sections 52 and 52-a, Article III, and Section 59, Article XVI, Texas Constitution, and other powers granted under this chapter.

(c) The creation of the district is in the public interest and is essential to further the public purposes of:

(1) developing and diversifying the economy of the state;

(2) eliminating unemployment and underemployment;

(3) developing or expanding transportation and commerce; and

(4) providing quality residential housing.

(d) The district will:

(1) promote the health, safety, and general welfare of residents, employers, potential employees, employees, visitors, and consumers in the district, and of the public;

(2) provide needed funding for the district to preserve, maintain, and enhance the economic health and vitality of the district territory as a residential community and business center; and

(3) promote the health, safety, welfare, and enjoyment of the public by providing pedestrian ways and by landscaping, removing graffiti, and developing certain areas in the district, which are necessary for the restoration, preservation, and enhancement of scenic beauty.

(e) Pedestrian ways along or across a street, whether at grade or above or below the surface, and street lighting, street landscaping, vehicle parking, and street art objects are parts of and necessary components of a street and are considered to be an improvement project that includes a street or road improvement.

(f) The district will not act as the agent or instrumentality of any private interest even though the district will benefit many private interests as well as the public.

Sec. 3889.005. DISTRICT TERRITORY. (a) The district is initially composed of the territory described by Section 2 of the Act enacting this chapter.

(b) The boundaries and field notes contained in Section 2 of the Act enacting this chapter form a closure. A mistake in the field notes or in copying the field notes in the legislative process does not affect the district's:

(1) organization, existence, or validity;

(2) right to issue any type of bond for the purposes for which the district is created or to pay the principal of and interest on the bond;

(3) right to impose or collect an assessment or tax; or

(4) legality or operation.

Sec. 3889.006. ELIGIBILITY FOR INCLUSION IN SPECIAL ZONES.

(a) All or any part of the area of the district is eligible to be included in:

(1) a tax increment reinvestment zone created under Chapter 311, Tax Code;

(2) a tax abatement reinvestment zone created under Chapter 312, Tax Code;

(3) an enterprise zone created under Chapter 2303, Government Code;

or
(4) an industrial district created under Chapter 42, Local Government Code.

(b) If the city creates a tax increment reinvestment zone described by Subsection (a), the city and the board of directors of the zone, by contract with the district, may grant money deposited in the tax increment fund to the district to be used by the district for the purposes permitted for money granted to a corporation under Section 380.002(b), Local Government Code, including the right to pledge the money as security for any bonds issued by the district for an improvement project. A project may not receive public funds under Section 380.002(b), Local Government Code, unless the project has been approved by the governing body of the city.

(c) A tax increment reinvestment zone created by the city in the district is not subject to the limitations provided by Section 311.006(b), Tax Code.

Sec. 3889.007. APPLICABILITY OF MUNICIPAL MANAGEMENT DISTRICTS LAW. Except as otherwise provided by this chapter, Chapter 375, Local Government Code, applies to the district.

Sec. 3889.008. LIBERAL CONSTRUCTION OF CHAPTER. This chapter shall be liberally construed in conformity with the findings and purposes stated in this chapter.

[Sections 3889.009-3889.050 reserved for expansion]

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 3889.051. GOVERNING BODY; TERMS. The district is governed by a board of seven directors who serve staggered terms of four years expiring June 1 of each even-numbered year.

Sec. 3889.052. QUALIFICATIONS OF DIRECTORS APPOINTED BY CITY. (a) To be qualified to serve as a director appointed by the governing body of the city, a person must be:

- (1) a resident of the district who is also a registered voter of the district;
- (2) an owner of property in the district;
- (3) an owner of stock or a partnership or membership interest, whether beneficial or otherwise, of a corporate partnership, limited liability company, or other entity owner of a direct or indirect interest in property in the district;
- (4) an owner of a beneficial interest in a trust, or a trustee in a trust, that directly or indirectly owns property in the district; or
- (5) an agent, employee, or tenant of a person described by Subdivision (2), (3), or (4).

(b) Section 49.052, Water Code, does not apply to the district.

Sec. 3889.053. APPOINTMENT OF DIRECTORS. The governing body of the city shall appoint directors from persons recommended by the board.

Sec. 3889.054. VACANCY. If a vacancy occurs on the board, the remaining directors shall appoint a director for the remainder of the unexpired term.

Sec. 3889.055. DIRECTOR'S OATH OR AFFIRMATION. (a) A director shall file the director's oath or affirmation of office with the district, and the district shall retain the oath or affirmation in the district records.

(b) A director shall file a copy of the director's oath or affirmation with the secretary of the city.

Sec. 3889.056. QUORUM. A vacant director position is not counted for purposes of establishing a quorum.

Sec. 3889.057. OFFICERS. The board shall elect from among the directors a chair, a vice chair, and a secretary. The offices of chair and secretary may not be held by the same person.

Sec. 3889.058. COMPENSATION; EXPENSES. (a) The district may compensate each director in an amount not to exceed \$50 for each board meeting. The total amount of compensation for each director in one year may not exceed \$2,000.

(b) A director is entitled to reimbursement for necessary and reasonable expenses incurred in carrying out the duties and responsibilities of the board.

Sec. 3889.059. LIABILITY INSURANCE. The district may obtain and pay for comprehensive general liability insurance coverage from a commercial insurance company or other source that protects and insures a director against personal liability and from all claims relating to:

- (1) actions taken by the director in the director's capacity as a member of the board;
- (2) actions and activities taken by the district; or
- (3) the actions of others acting on behalf of the district.

Sec. 3889.060. NO EXECUTIVE COMMITTEE. The board may not create an executive committee to exercise the powers of the board.

Sec. 3889.061. BOARD MEETINGS. The board shall hold meetings at a place accessible to the public.

Sec. 3889.062. INITIAL DIRECTORS. (a) The initial board consists of:

| <u>Pos. No.</u> | <u>Name of Director</u> |
|-----------------|-----------------------------|
| <u>1</u> | <u>Shelly E. Richardson</u> |
| <u>2</u> | <u>Paul Rafferty</u> |
| <u>3</u> | <u>Tammy Rodriguez</u> |
| <u>4</u> | <u>Mike Irwin</u> |
| <u>5</u> | <u>Richard Rodriguez</u> |
| <u>6</u> | <u>Joy Rice</u> |
| <u>7</u> | <u>Patrick Horton</u> |

(b) The terms of the initial directors expire June 1, 2012.

(c) Of the directors who replace an initial director, the terms of directors serving in positions 1, 2, 3, and 4 expire June 1, 2014, and the terms of directors serving in positions 5, 6, and 7 expire June 1, 2016.

(d) Section 3889.052 does not apply to this section.

(e) This section expires September 1, 2012.

[Sections 3889.063-3889.100 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

Sec. 3889.101. GENERAL POWERS AND DUTIES. The district has the powers and duties necessary to accomplish the purposes for which the district is created.

Sec. 3889.102. IMPROVEMENT PROJECTS AND SERVICES. (a) The district may provide, design, construct, acquire, improve, relocate, operate, maintain, or finance an improvement project or service using money available to the district, or contract with a governmental or private entity to provide, design, construct, acquire, improve, relocate, operate, maintain, or finance an improvement project or service authorized under this chapter or Chapter 375, Local Government Code.

(b) An improvement project described by Subsection (a) may be located:

- (1) in the district; or
- (2) in an area outside but adjacent to the district if the project is for the purpose of extending a public infrastructure improvement beyond the district's boundaries to a logical terminus.

Sec. 3889.103. DEVELOPMENT CORPORATION POWERS. The district, using money available to the district, may exercise the powers given to a development corporation under Chapter 505, Local Government Code, including the power to own, operate, acquire, construct, lease, improve, or maintain a project under that chapter.

Sec. 3889.104. NONPROFIT CORPORATION. (a) The board by resolution may authorize the creation of a nonprofit corporation to assist and act for the district in implementing a project or providing a service authorized by this chapter.

(b) The nonprofit corporation:

(1) has each power of and is considered to be a local government corporation created under Subchapter D, Chapter 431, Transportation Code; and

(2) may implement any project and provide any service authorized by this chapter.

(c) The board shall appoint the board of directors of the nonprofit corporation. The board of directors of the nonprofit corporation shall serve in the same manner as the board of directors of a local government corporation created under Subchapter D, Chapter 431, Transportation Code, except that a board member is not required to reside in the district.

Sec. 3889.105. AGREEMENTS; GRANTS. (a) As provided by Chapter 375, Local Government Code, the district may make an agreement with or accept a gift, grant, or loan from any person.

(b) The implementation of a project is a governmental function or service for the purposes of Chapter 791, Government Code.

Sec. 3889.106. LAW ENFORCEMENT SERVICES. To protect the public interest, the district may contract with a qualified party, including Harris County or the city, to provide law enforcement services in the district for a fee.

Sec. 3889.107. MEMBERSHIP IN CHARITABLE ORGANIZATIONS. The district may join and pay dues to a charitable or nonprofit organization that performs a service or provides an activity consistent with the furtherance of a district purpose.

Sec. 3889.108. ECONOMIC DEVELOPMENT. (a) The district may engage in activities that accomplish the economic development purposes of the district.

(b) The district may establish and provide for the administration of one or more programs to promote state or local economic development and to stimulate business and commercial activity in the district, including programs to:

(1) make loans and grants of public money; and

(2) provide district personnel and services.

(c) The district may create economic development programs and exercise the economic development powers that:

(1) Chapter 380, Local Government Code, provides to a municipality;

and

(2) Subchapter A, Chapter 1509, Government Code, provides to a municipality.

Sec. 3889.109. PARKING FACILITIES. (a) The district may acquire, lease as lessor or lessee, construct, develop, own, operate, and maintain parking facilities or a system of parking facilities, including lots, garages, parking terminals, or other structures or accommodations for parking motor vehicles off the streets and related appurtenances.

(b) The district's parking facilities serve the public purposes of the district and are owned, used, and held for a public purpose even if leased or operated by a private entity for a term of years.

(c) The district's parking facilities are necessary components of a street and are considered to be a street or road improvement.

(d) The development and operation of the district's parking facilities may be considered an economic development program.

Sec. 3889.110. NO EMINENT DOMAIN POWER. The district may not exercise the power of eminent domain.

[Sections 3889.111-3889.150 reserved for expansion]

SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS; ASSESSMENTS

Sec. 3889.151. DISBURSEMENTS AND TRANSFERS OF MONEY. The board by resolution shall establish the number of signatures and the procedure required for a disbursement or transfer of the district's money.

Sec. 3889.152. MONEY USED FOR IMPROVEMENTS OR SERVICES. The district may acquire, construct, finance, operate, or maintain an improvement project or service authorized under this chapter or Chapter 375, Local Government Code, using any money available to the district.

Sec. 3889.153. PETITION REQUIRED FOR FINANCING SERVICES AND IMPROVEMENTS WITH ASSESSMENTS. (a) The board may not finance a service or improvement project with assessments under this chapter unless a written petition requesting that service or improvement has been filed with the board.

(b) The petition must be signed by:

(1) the owners of a majority of the assessed value of real property in the district subject to assessment according to the most recent certified tax appraisal roll for Harris County; or

(2) at least 25 persons who own real property in the district subject to assessment, if more than 25 persons own real property in the district subject to assessment as determined by the most recent certified tax appraisal roll for Harris County.

Sec. 3889.154. METHOD OF NOTICE FOR HEARING. The district may mail the notice required by Section 375.115(c), Local Government Code, by certified or first class United States mail. The board shall determine the method of notice.

Sec. 3889.155. ASSESSMENTS; LIENS FOR ASSESSMENTS. (a) The board by resolution may impose and collect an assessment for any purpose authorized by this chapter in all or any part of the district.

(b) An assessment, a reassessment, or an assessment resulting from an addition to or correction of the assessment roll by the district, penalties and interest on an assessment or reassessment, an expense of collection, and reasonable attorney's fees incurred by the district:

(1) are a first and prior lien against the property assessed;

(2) are superior to any other lien or claim other than a lien or claim for county, school district, or municipal ad valorem taxes; and

(3) are the personal liability of and a charge against the owners of the property even if the owners are not named in the assessment proceedings.

(c) The lien is effective from the date of the board's resolution imposing the assessment until the date the assessment is paid. The board may enforce the lien in the same manner that the board may enforce an ad valorem tax lien against real property.

(d) The board may make a correction to or deletion from the assessment roll that does not increase the amount of assessment of any parcel of land without providing notice and holding a hearing in the manner required for additional assessments.

Sec. 3889.156. LIMITATION ON AMOUNT OF CERTAIN ASSESSMENTS. An assessment based on the taxable value of real property may not exceed 12 cents per \$100 of assessed valuation of taxable property in the district, according to the most recent certified tax appraisal roll for Harris County.

Sec. 3889.157. TAX AND ASSESSMENT ABATEMENTS. The district may designate reinvestment zones and may grant abatements of a tax or assessment on property in the zones.

[Sections 3889.158-3889.200 reserved for expansion]

SUBCHAPTER E. TAXES AND BONDS

Sec. 3889.201. BONDS AND OTHER OBLIGATIONS. (a) The district may issue, by public or private sale, bonds, notes, or other obligations payable wholly or partly from ad valorem taxes or assessments in the manner provided by Subchapter A, Chapter 372, or Subchapter J, Chapter 375, Local Government Code.

(b) In exercising the district's borrowing power, the district may issue a bond or other obligation in the form of a bond, note, certificate of participation or other instrument evidencing a proportionate interest in payments to be made by the district, or other type of obligation.

(c) In addition to the sources of money described by Subchapter A, Chapter 372, and Subchapter J, Chapter 375, Local Government Code, district bonds may be secured and made payable wholly or partly by a pledge of any part of the money the district receives from improvement revenue or from any other source.

Sec. 3889.202. BOND MATURITY. Bonds may mature not more than 40 years from their date of issue.

Sec. 3889.203. TAXES FOR BONDS AND OTHER OBLIGATIONS. At the time bonds or other obligations payable wholly or partly from ad valorem taxes are issued:

(1) the board shall impose a continuing direct annual ad valorem tax for each year that all or part of the bonds are outstanding; and

(2) the district annually shall impose an ad valorem tax on all taxable property in the district in an amount sufficient to:

(A) pay the interest on the bonds or other obligations as the interest becomes due; and

(B) create a sinking fund for the payment of the principal of the bonds or other obligations when due or the redemption price at any earlier required redemption date.

Sec. 3889.204. ELECTIONS REGARDING TAXES. The district must hold an election in the manner provided by Chapters 49 and 54, Water Code, to obtain voter approval before the district may impose an ad valorem tax.

[Sections 3889.205-3889.250 reserved for expansion]

SUBCHAPTER F. DISSOLUTION

Sec. 3889.251. DISSOLUTION BY CITY ORDINANCE. (a) The city by ordinance may dissolve the district.

(b) The city may not dissolve the district until the district's outstanding debt or contractual obligations that are payable from ad valorem taxes have been repaid or discharged, or the city has affirmatively assumed the obligation to pay the outstanding debt from city revenue.

Sec. 3889.252. COLLECTION OF ASSESSMENTS AND OTHER REVENUE. (a) If the dissolved district has bonds or other obligations outstanding secured by and payable from assessments or other revenue, other than ad valorem taxes, the city shall succeed to the rights and obligations of the district regarding enforcement and collection of the assessments or other revenue.

(b) The city shall have and exercise all district powers to enforce and collect the assessments or other revenue to pay:

(1) the bonds or other obligations when due and payable according to their terms; or

(2) special revenue or assessment bonds or other obligations issued by the city to refund the outstanding bonds or obligations.

Sec. 3889.253. CONCURRENCE ON ADDITIONAL POWERS. If the legislature grants the district a power that is in addition to the powers approved by the initial resolution of the governing body of the city consenting to the creation of the district, the district may not exercise that power unless the governing body of the city consents to that change by resolution.

Sec. 3889.254. ASSUMPTION OF ASSETS AND LIABILITIES. (a) After the city dissolves the district, the city assumes, subject to the appropriation and availability of funds, the obligations of the district, including any bonds or other debt payable from assessments or other district revenue.

(b) If the city dissolves the district, the board shall transfer ownership of all district property to the city.

SECTION 2. The Gulfton Area Municipal Management District initially includes all the territory contained in the following area:

The District will include the right-of-way of the Toll Road at West Park Toll road, Beginning at that point, and travelling westerly along the US Hwy 59 corridor to Hilcroft, heading southerly along the eastern boundary of the Greater Sharpstown Management District, to Bissonnet Street, then heading easterly

along Bissonnet, and including the right-of-way of Bissonnet to Rampart, then south to Pine, then East to Renwick, then North to Bissonnet, then east along Bissonnet to Jassmine, east to Otto, then following the City of Bellaire western city limit line northerly until the point of Beginning.

SAVE AND EXCEPT:

A PARCEL OF LAND CONTAINING 7.1117 ACRES (309,787 SQUARE FEET) MORE OR LESS BEING LOTS 33, 34, 35, 36, 53, 54, 55, 56 AND 57, BLOCK 23, WESTMORELAND FARMS, AMENDED FIRST SUBDIVISION, AS RECORDED IN VOLUME 3, PAGE 60, HARRIS COUNTY MAP RECORDS, AND BEING TRACT ONE AND TRACT TWO, CONVEYED FROM BELLAIRE RENWICK SQUARE, LTD. TO I.M.C.S. OF TEXAS, INC., AS RECORDED IN COUNTY CLERK'S FILE NO. M893430, OFFICIAL PUBLIC RECORDS OF REAL PROPERTY, HARRIS COUNTY, TEXAS, O.P.R.R.P.H.C.T., SAID 7.1117 ACRE TRACT BEING SITUATED IN THE DAY LAND CATTLE CO. SURVEY, ABSTRACT NO.1167 AND W. TWIST SURVEY, ABSTRACT NO. 765, IN HARRIS COUNTY, TEXAS, AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING, AT A FOUND 5/8 INCH IRON ROD AT THE INTERSECTION OF THE NORTH END OF BELLAIRE BOULEVARD, 120 FOOT RIGHT-OF-WAY, AS SHOWN IN SAID VOLUME 3, PAGE 60, HARRIS COUNTY MAP RECORDS, WITH THE WEST END OF ATWELL STREET, RIGHT-OF-WAY VARIES, FOR THE SOUTHEAST CORNER OF SAID LOT 57, AND THE SOUTHEAST CORNER OF SAID TRACT TWO;

THENCE, S 87° 36' 04" W, WITH THE SAID NORTH END OF BELLAIRE BOULEVARD, SAME BEING THE SOUTH END OF SAID LOTS 57, 56, 55, 54 AND 53, AND THE SOUTH END OF SAID TRACT TWO, A DISTANCE OF 585.00 FEET TO A SET 5/8 INCH IRON ROD WITH CAP STAMPED CIVIL-SURV, FOR THE MOST EASTERLY CUTBACK CORNER IN THE SAID NORTH END OF BELLAIRE BOULEVARD, WITH THE EAST END OF RENWICK DRIVE, 90 FOOT RIGHT-OF-WAY, SAME BEING THE MOST EASTERLY CORNER OF THAT CERTAIN 0.0026 OF AN ACRE TRACT AWARDED TO THE CITY OF HOUSTON IN AN EMINENT DOMAIN PROCEEDING, CITY OF HOUSTON VS. BELLAIRE RENWICK SQUARE, LTD., AS RECORDED IN CAUSE NO. 561577 OF THE COUNTY CIVIL COURT AT LAW NO. 2 OF HARRIS COUNTY, TEXAS: FROM WHICH THE SOUTHWEST CORNER OF SAID LOT 53, AND THE SOUTHWEST CORNER OF SAID TRACT TWO, AND ALSO THE SOUTHWEST CORNER OF THE SAID 0.0026 ACRE TRACT, BEARS, N 87° 36' 04" W, 15.00 FEET;

THENCE, N 47° 23' 56" W. CROSSING A PORTION OF SAID LOT 53, AND CROSSING A PORTION OF SAID TRACT TWO, WITH THE NORTHEAST END OF THE SAID 0.0026 ACRE TRACT, A DISTANCE OF 21.21 FEET, TO A SET 5/8 INCH IRON ROD WITH CAP STAMPED CIVIL-SURV, IN THE WEST END OF SAID LOT 53, AND THE WEST END OF SAID TRACT TWO, FOR THE MOST NORTHERLY CUTBACK CORNER IN THE SAID

EAST END OF RENWICK DRIVE, WITH THE SAID NORTH END OF BELLAIRE BOULEVARD, SAME BEING THE MOST NORTHERLY CORNER OF THE SAID 0.0026 ACRE TRACT,

THENCE, N 02° 23' 56" W, WITH THE SAID EAST END OF RENWICK DRIVE, SAME BEING THE SAID WEST END OF SAID LOT 53, AND THE WEST END OF SAID TRACT TWO. AT A DISTANCE OF 255.00 FEET, PASS THE SOUTHWEST CORNER OF SAID LOT 33, AND THE SOUTHWEST CORNER OF SAID TRACT ONE, SAME BEING THE NORTHWEST CORNER OF SAID LOT 53, AND THE NORTHWEST CORNER OF SAID TRACT TWO, AND WITH THE WEST END OF SAID LOT 33, AND THE WEST END OF SAID TRACT ONE, A TOTAL DISTANCE OF 555.00 FEET, TO A FOUND 5/8 INCH IRON ROD WITH CAP, AT THE INTERSECTION OF THE SAID EAST END OF RENWICK DRIVE, WITH THE SOUTH END OF DASHWOOD STREET, 60 FOOT RIGHT-OF-WAY, AS SHOWN IN SAID VOLUME 3, PAGE 60, HARRIS COUNTY MAP RECORDS, FOR THE NORTHWEST CORNER OF SAID LOT 33, AND THE NORTHWEST CORNER OF SAID TRACT ONE;

THENCE, N 87° 36' 04" E, WITH THE SAID SOUTH END OF DASHWOOD STREET, SAME BEING THE NORTH END OF SAID LOTS 33, 34, 35, AND 36, AND THE NORTH END OF SAID TRACT ONE, A DISTANCE OF 493.00 FEET, TO A FOUND "X" CUT IN CONCRETE, FOR THE NORTHWEST CORNER OF LOT 37, OF SAID BLOCK 23, AND THE NORTHWEST CORNER OF THAT CERTAIN TRACT CONVEYED FROM EUGENE R. CRAN TO DEBBIE CRAN, AS RECORDED IN COUNTY CLERK'S FILE NO. N243327, O.P.R.R.P.R.C.T., SAME BEING THE NORTHEAST CORNER OF SAID LOT 36, AND THE NORTHEAST CORNER OF SAID TRACT ONE, FROM WHICH A FOUND 5/8 INCH IRON ROD, AT THE INTERSECTION OF THE SAID SOUTH END OF DASHWOOD STREET, WITH THE SAID WEST END OF ATWELL STREET. FOR THE NORTHEAST CORNER OF SAID LOT 37, AND THE NORTHEAST CORNER OF THE SAID CRAN TRACT, BEARS, N 87° 36' 04" E, 107.00 FEET;

THENCE, S 02° 23' 56" E, WITH THE WEST END OF SAID LOT 37, AND THE WEST END OF THE SAID CRAN TRACT, SAME BEING THE EAST END OF SAID LOT 36, AND THE EAST END OF SAID TRACT ONE, A DISTANCE OF 300.00 FEET, TO A FOUND 5/8 INCH IRON ROD WITH CAP, IN THE NORTH END OF SAID TRACT TWO, FOR THE SOUTHWEST CORNER OF SAID LOT 37, AND THE SOUTHWEST CORNER OF THE SAID CRAN TRACT, SAME BEING THE SOUTHEAST CORNER OF SAID LOT 36, AND THE SOUTHEAST CORNER OF SAID TRACT ONE, SAME ALSO BEING THE NORTHEAST CORNER OF SAID LOT 56, AND ALSO BEING THE NORTHWEST CORNER OF SAID LOT 57;

THENCE, N 87° 36' 04" E, WITH THE SOUTH END OF SAID LOT 37, AND THE SOUTH END OF THE SAID CRAN TRACT, SAME BEING THE NORTH END OF SAID LOT 57, AND THE SAID NORTH END OF TRACT TWO, A DISTANCE OF 107.00 FEET, TO A POINT IN THE SAID WEST

END OF ATWELL STREET, FOR THE SOUTHEAST CORNER OF SAID LOT 37, AND THE SOUTHEAST CORNER OF THE SAID CRAN TRACT, SAME BEING THE NORTHEAST CORNER OF SAID LOT 57, AND THE NORTHEAST CORNER OF SAID TRACT TWO, FROM WHICH A FOUND 5/8 INCH IRON ROD WITH CAP, BEARS. S 02° 23' 56" E, 1.09 FEET; THENCE, S 02° 23' 56" E, WITH THE SAID WEST END OF ATWELL STREET, SAME BEING THE EAST END OF SAID LOT 57, AND THE EAST END OF SAID TRACT TWO, A DISTANCE OF 270.00 FEET, TO THE POINT OF BEGINNING AND CONTAINING 7.1117 ACRES (309,787 SQUARE FEET) OF LAND MORE OR LESS.

SECTION 3. (a) The legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published as provided by law, and the notice and a copy of this Act have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished under Section 59, Article XVI, Texas Constitution, and Chapter 313, Government Code.

(b) The governor, one of the required recipients, has submitted the notice and Act to the Texas Commission on Environmental Quality.

(c) The Texas Commission on Environmental Quality has filed its recommendations relating to this Act with the governor, lieutenant governor, and speaker of the house of representatives within the required time.

(d) The general law relating to consent by political subdivisions to the creation of districts with conservation, reclamation, and road powers and the inclusion of land in those districts has been complied with.

(e) All requirements of the constitution and laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this Act have been fulfilled and accomplished.

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 968 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

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

HB 968, A bill to be entitled An Act relating to expulsion from school or placement in a disciplinary alternative education program.

Representative Strama moved to concur in the senate amendments to **HB 968**.

The motion to concur in the senate amendments to **HB 968** prevailed by (Record 1522): 143 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Bohac; Bonnen; Branch; Brown; Burkett; Burnam; Button; Cain; Callegari; Carter; Castro; Chisum; Coleman; 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.; 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; 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; Ritter(C).

Absent, Excused — Crownover; Gonzalez.

Absent — Berman; Christian; Flynn.

STATEMENTS OF VOTE

When Record No. 1522 was taken, I was temporarily out of the house chamber. I would have voted yes.

Berman

When Record No. 1522 was taken, I was temporarily out of the house chamber. I would have voted yes.

Flynn

Senate Committee Substitute

CSHB 968, A bill to be entitled An Act relating to expulsion from school or placement in a disciplinary alternative education program.

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

SECTION 1. Sections 37.006(c) and (d), Education Code, are amended to read as follows:

(c) In addition to Subsections (a) and (b), a student shall be removed from class and placed in a disciplinary alternative education program under Section 37.008 based on conduct occurring off campus and while the student is not in attendance at a school-sponsored or school-related activity if:

(1) the student receives deferred prosecution under Section 53.03, Family Code, for conduct defined as:

(A) a felony offense in Title 5, Penal Code; or

(B) the felony offense of aggravated robbery under Section 29.03,

Penal Code;

(2) a court or jury finds that the student has engaged in delinquent conduct under Section 54.03, Family Code, for conduct defined as:

(A) a felony offense in Title 5, Penal Code; or

(B) the felony offense of aggravated robbery under Section 29.03, Penal Code; or

(3) the superintendent or the superintendent's designee has a reasonable belief that the student has engaged in a conduct defined as:

(A) a felony offense in Title 5, Penal Code; or

(B) the felony offense of aggravated robbery under Section 29.03, Penal Code.

(d) In addition to Subsections (a), (b), and (c), a student may be removed from class and placed in a disciplinary alternative education program under Section 37.008 based on conduct occurring off campus and while the student is not in attendance at a school-sponsored or school-related activity if:

(1) the superintendent or the superintendent's designee has a reasonable belief that the student has engaged in conduct defined as a felony offense other than aggravated robbery under Section 29.03, Penal Code, or those offenses defined in Title 5, Penal Code; and

(2) the continued presence of the student in the regular classroom threatens the safety of other students or teachers or will be detrimental to the educational process.

SECTION 2. Section 37.007(c), Education Code, is amended to read as follows:

(c) A student may be expelled if the student, while placed in a disciplinary [an] alternative education program, engages [for disciplinary reasons, continues to engage] in documented serious [or persistent] misbehavior while on the program campus despite documented behavioral interventions [that violates the district's student code of conduct]. For purposes of this subsection, "serious misbehavior" means:

(1) deliberate violent behavior that poses a direct threat to the health or safety of others;

(2) extortion, meaning the gaining of money or other property by force or threat;

(3) conduct that constitutes coercion, as defined by Section 1.07, Penal Code; or

(4) conduct that constitutes the offense of:

(A) public lewdness under Section 21.07, Penal Code;

(B) indecent exposure under Section 21.08, Penal Code;

(C) criminal mischief under Section 28.03, Penal Code;

(D) personal hazing under Section 37.152; or

(E) harassment under Section 42.07(a)(1), Penal Code, of a student or district employee.

SECTION 3. Section 37.0081(a), Education Code, is amended to read as follows:

(a) Subject to Subsection (h), but notwithstanding any other provision of this subchapter, the board of trustees of a school district, or the board's designee, after an opportunity for a hearing may expel a student and elect to place the student in an alternative setting as provided by Subsection (a-1) if:

(1) the student:

(A) has received deferred prosecution under Section 53.03, Family Code, for conduct defined as:

(i) a felony offense in Title 5, Penal Code; or

(ii) the felony offense of aggravated robbery under Section 29.03, Penal Code;

(B) has been found by a court or jury to have engaged in delinquent conduct under Section 54.03, Family Code, for conduct defined as:

(i) a felony offense in Title 5, Penal Code; or

(ii) the felony offense of aggravated robbery under Section 29.03, Penal Code;

(C) is charged with engaging in conduct defined as:

(i) a felony offense in Title 5, Penal Code; or

(ii) the felony offense of aggravated robbery under Section 29.03, Penal Code;

(D) has been referred to a juvenile court for allegedly engaging in delinquent conduct under Section 54.03, Family Code, for conduct defined as:

(i) a felony offense in Title 5, Penal Code; or

(ii) the felony offense of aggravated robbery under Section 29.03, Penal Code;

(E) has received probation or deferred adjudication for a felony offense under Title 5, Penal Code, or the felony offense of aggravated robbery under Section 29.03, Penal Code;

(F) has been convicted of a felony offense under Title 5, Penal Code, or the felony offense of aggravated robbery under Section 29.03, Penal Code; or

(G) has been arrested for or charged with a felony offense under Title 5, Penal Code, or the felony offense of aggravated robbery under Section 29.03, Penal Code; and

(2) the board or the board's designee determines that the student's presence in the regular classroom:

(A) threatens the safety of other students or teachers;

(B) will be detrimental to the educational process; or

(C) is not in the best interests of the district's students.

SECTION 4. Sections 37.011(k) and (l), Education Code, are amended to read as follows:

(k) Each school district in a county with a population greater than 125,000 and the county juvenile board shall annually enter into a joint memorandum of understanding that:

(1) outlines the responsibilities of the juvenile board concerning the establishment and operation of a juvenile justice alternative education program under this section;

(2) defines the amount and conditions on payments from the school district to the juvenile board for students of the school district served in the juvenile justice alternative education program whose placement was not made on the basis of an expulsion required under Section 37.007(a), (d), or (e);

(3) establishes [~~identifies those categories of conduct~~] that [~~the school district has defined in its student code of conduct as constituting serious or persistent misbehavior for which~~] a student may be placed in the juvenile justice alternative education program if the student engages in serious misbehavior, as defined by Section 37.007(c);

(4) identifies and requires a timely placement and specifies a term of placement for expelled students for whom the school district has received a notice under Section 52.041(d), Family Code;

(5) establishes services for the transitioning of expelled students to the school district prior to the completion of the student's placement in the juvenile justice alternative education program;

(6) establishes a plan that provides transportation services for students placed in the juvenile justice alternative education program;

(7) establishes the circumstances and conditions under which a juvenile may be allowed to remain in the juvenile justice alternative education program setting once the juvenile is no longer under juvenile court jurisdiction; and

(8) establishes a plan to address special education services required by law.

(l) The school district shall be responsible for providing an immediate educational program to students who engage in behavior resulting in expulsion under Section 37.007(b)[~~;~~-(e);] and (f) but who are not eligible for admission into the juvenile justice alternative education program in accordance with the memorandum of understanding required under this section. The school district may provide the program or the school district may contract with a county juvenile board, a private provider, or one or more other school districts to provide the program. The memorandum of understanding shall address the circumstances under which such students who continue to engage in serious [~~or persistent~~] misbehavior, as defined by Section 37.007(c), shall be admitted into the juvenile justice alternative education program.

SECTION 5. (a) Except as provided by Subsection (b) of this section, this Act applies beginning with the 2011-2012 school year.

(b) Sections 37.007(c) and 37.011(k) and (l), Education Code, as amended by this Act, apply beginning with the 2012-2013 school year.

SECTION 6. 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 1103 - MOTION TO CONCUR IN SENATE AMENDMENTS

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

HB 1103, A bill to be entitled An Act relating to payment of a fee as a required condition of community supervision for certain criminal offenses involving animal cruelty.

Representative Lucio moved to concur in the senate amendments to **HB 1103**.

The motion to concur in the senate amendments to **HB 1103** was lost by (Record 1523): 63 Yeas, 78 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alvarado; Anchia; Branch; Burnam; Castro; Coleman; Craddick; Creighton; Davis, S.; Davis, Y.; Deshotel; Dukes; Dutton; Eiland; Farias; Farrar; Fletcher; Garza; Giddings; Gonzales, V.; Gooden; Gutierrez; Hernandez Luna; Howard, C.; Howard, D.; Isaac; Johnson; Keffer; Kuempel; Larson; Lozano; Lucio; Margo; Marquez; Martinez Fischer; McClendon; Menendez; Miles; Muñoz; Murphy; Naishtat; Oliveira; Patrick; Peña; Pickett; Quintanilla; Raymond; Reynolds; Riddle; Rodriguez; Sheffield; Smith, W.; Strama; Taylor, V.; Thompson; Torres; Turner; Veasey; Villarreal; Walle; Woolley.

Nays — Alonzo; Anderson, C.; Anderson, R.; Aycocock; Beck; Berman; Bohac; Bonnen; Brown; Burkett; Button; Cain; Callegari; Carter; Chisum; Cook; Darby; Davis, J.; Driver; Eissler; Elkins; Flynn; Frullo; Gallego; Geren; Gonzales, L.; Guillen; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hilderbran; Hochberg; Hopson; Huberty; Hunter; Jackson; King, P.; King, T.; Kleinschmidt; Kolkhorst; Landroop; Laubenberg; Lavender; Legler; Lewis; Lyne; Madden; Martinez; Miller, D.; Miller, S.; Morrison; Nash; Orr; Otto; Parker; Paxton; Perry; Phillips; Pitts; Price; Schwertner; Scott; Sheets; Shelton; Simpson; Smith, T.; Smithee; Solomons; Taylor, L.; Truitt; Weber; White; Workman; Zedler; Zerwas.

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

Absent, Excused — Crownover; Gonzalez.

Absent — Christian; Hughes; King, S.; Mallory Caraway; Vo.

STATEMENTS OF VOTE

I was shown voting no on Record No. 1523. I intended to vote yes.

Bohac

I was shown voting yes on Record No. 1523. I intended to vote no.

Creighton

When Record No. 1523 was taken, I was in the house but away from my desk. I would have voted no.

S. King

I was shown voting yes on Record No. 1523. I intended to vote no.

Kuempel

**HB 1103 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE INSTRUCTED**

Representative Lucio 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 1103**.

The motion prevailed.

Representative S. Miller moved to instruct the Conference Committee on **HB 1103** to remove the language establishing an animal cruelty registry.

The motion to instruct conferees prevailed.

**HB 2466 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

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

HB 2466, A bill to be entitled An Act relating to the licensing and operation of motor vehicles by minors.

Representative Phillips moved to concur in the senate amendments to **HB 2466**.

The motion to concur in the senate amendments to **HB 2466** prevailed by (Record 1524): 140 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Bohac; Bonnen; Branch; Brown; Burkett; Burnam; Button; Cain; Callegari; Carter; Castro; Chisum; Coleman; Cook; Craddick; Creighton; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Frullo; Gallego; Geren; Giddings; Gonzales, L.; Gonzales, V.; 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; Rodriguez; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Taylor, V.; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

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

Absent, Excused — Crownover; Gonzalez.

Absent — Alonzo; Berman; Christian; Flynn; Garza; Thompson.

STATEMENTS OF VOTE

When Record No. 1524 was taken, I was temporarily out of the house chamber. I would have voted yes.

Berman

When Record No. 1524 was taken, I was temporarily out of the house chamber. I would have voted yes.

Flynn

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

Amend **HB 2466** (senate committee printing) as follows:

(1) In SECTION 2 of the bill, in Section 521.296, Transportation Code (page 1, line 54), strike "or 521.2965".

(2) Strike SECTION 4 of the bill and renumber subsequent sections accordingly.

**HB 2277 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

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

HB 2277, A bill to be entitled An Act relating to the sale, exchange, or replacement of life insurance and annuity contracts.

HB 2277 - STATEMENT OF LEGISLATIVE INTENT

REPRESENTATIVE EILAND: Mr. Speaker, members, **HB 2277**—in the senate, they added a bill that passed out of Insurance Committee two times nine to zero—with Mr. Smithee, Mr. Taylor, Mr. Hancock, and myself. This passed the senate two other times and out of committee by Mr. Carona. And so, what the amendment does is, it deals with regulation of the life settlement industry. And so, a brief explanation of that—if you're a life insurance policy holder, and you are elderly, you are chronically ill, and you're going to die, as opposed to waiting until you die to cash in on your life insurance policy, you might want to settle it or sell it early. A lot of this really started happening back when the AIDS epidemic hit, and people bought those life insurance policies. But it's a nationwide industry. And so, what this bill does is regulate between the policy owner and the life settlement company that buys that policy. It regulates that transaction. You have received some information being passed out by some unnamed sources that is critical of this bill. However, this bill does not regulate them. We had a two-hour meeting with TDI, the life insurance company associations, both the national and the state association, as well as a life settlement company. We met with them and tried to explain to them this does not apply to them. So this bill involves a transaction between the policy owner, the individual, and a life settlement company. What happens after that, oftentimes those life settlement companies will then go out to investors and try to sell fraction shares of these policies. And that was the subject of this very unflattering front page article from the *Austin American Statesmen* on May 1.

And if you want to read about that part of the industry, the side unregulated by the Insurance Commissioner, you can get a pretty good feeling of what that is. This bill does not regulate that. Somebody needs to regulate it—the state's security board and the national securities people are working on regulating that. This bill does not regulate it. This portion of the bill is based upon the NAIC, the National Association of Insurance Commissioners, updated model act, and the National Conference of Insurance Legislators updated model act of 2007 and 2010. It's been adopted by 32 states, and this bill is modeled on that. So, this is a national model, and most life insurance trade associations support it, as well as the life settlement industry representatives.

REPRESENTATIVE CHISUM: Mr. Eiland, we've been dealing with this issue for more than 10 years in this legislature. This is what they used to call viatical settlements.

EILAND: Correct, viatical settlements.

CHISUM: Now they call it life settlements, which is basically the same product with some changes. And there's always been some bad actors, and I guess you're going after the bad actors that are in the business under this national model to make us comply with other states, and successfully address this?

EILAND: Yes. And one thing we have to be particularly careful about in Texas is that the laws changed several years ago that dealt with whether or not you had to have an insurable interest. Most states have a very strong insurable interest, which means if you are going to buy a life insurance policy on an individual you have to have an insurable interest in their life, and a reason to buy it, even if you are not the individual. So you might buy T-man life insurance, if you are a business partner. But Texas has a very loose definition, which kind of makes Texas an open market for some of these people, especially on the unregulated side.

CHISUM: And hasn't the court long held that an insurance policy is personal property, and so they actually have a right to sell them, an individual does? So they have the right to get into the market, but this makes sure they are treated fairly in the market and to not be traded as a stock dividend?

EILAND: Right, we are trying to protect property rights that you have, as a life insurance policy holder, that you have the right to transact it, and we're regulating that to some extent—setting up standards, because the people that are selling the policies are either very elderly or critically ill.

REPRESENTATIVE D. MILLER: Craig, you're familiar with Retirement Value, aren't you?

EILAND: Yes.

D. MILLER: And they're one of those bad actors, aren't they?

EILAND: Retirement Value is the subject of a lawsuit by the State Securities Board. It's been in the papers here locally quite a bit. And they may be one of the bad actors.

D. MILLER: And your bill, as I understand it, is to address bad actors like the folks over at Retirement Value?

EILAND: To the extent that we can regulate the life insurance policy, as it exists, between when the owner has it, and goes to a life settlement company. That is what we're regulating in life insurance policies. What we're not regulating in this bill, once the life settlement company has it, that security transaction to investors, and that's where somebody needs to regulate that. Somebody needs to keep an eye on that very closely, because that's when individual investors come along and buy a piece of that policy. And they can be taken advantage of, especially if the life expectancy is wrong, and you think somebody's going to die in four years, and they actually are going to die in 10, and you buy an investment in that. That's not a good investment.

D. MILLER: And we do that through the state's securities commission, don't we?

EILAND: That's correct.

D. MILLER: And those are the people going after Retirement Value, aren't they?

EILAND: Correct.

D. MILLER: Now, I heard you mention in the conversation with Representative Chisum the part about the life insurance. And I think you would agree there are good actors out there. People do the right thing by people here in Texas, isn't that right?

EILAND: That is correct. There are good actors, and those are the people that register with the Texas Department of Insurance. They want to have the laws, and they just want to make sure they're updated and a national norm.

D. MILLER: All right. I used to be in life insurance, or do a lot more life insurance than I do today, and the fact is, I heard you comment about the life insurance, that Texas is unique. But the fact that there are sometimes—that other options should be available, and I agree with you that they need to be highly regulated. Thank you for your bill.

Representative Eiland moved to concur in the senate amendments to **HB 2277**.

The motion to concur in the senate amendments to **HB 2277** prevailed by (Record 1525): 134 Yeas, 7 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Burnam; Button; Cain; Callegari; Carter; Castro; Chisum; Cook; Craddock; Creighton; 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.; Gooden; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Hartnett; Hernandez Luna; Hilderbran; Hochberg; Hopson; Howard, C.; Howard, D.; Huberty; Hughes; Hunter; Isaac; Jackson; Johnson; Keffer; 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; Patrick; Peña; Perry; Phillips; Pickett; Pitts; Price; Quintanilla; Raymond; Reynolds; Riddle; Rodriguez; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Woolley; Workman.

Nays — Anderson, R.; Harper-Brown; King, P.; Parker; Paxton; Taylor, V.; Zedler.

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

Absent, Excused — Crownover; Gonzalez.

Absent — Aycock; Christian; Coleman; Taylor, L.; Zerwas.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 1525. I intended to vote no.

Huberty

When Record No. 1525 was taken, I was in the house but away from my desk. I would have voted yes.

L. Taylor

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

Amend **HB 2277** (senate committee printing) by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Subtitle A, Title 7, Insurance Code, is amended by adding Chapter 1111A to read as follows:

CHAPTER 1111A. LIFE SETTLEMENT CONTRACTS

Sec. 1111A.001. SHORT TITLE. This Act may be cited as the Life Settlements Act.

Sec. 1111A.002. DEFINITIONS. In this chapter:

(1) "Advertisement" means a written, electronic, or printed communication or a communication by means of a recorded telephone message or transmitted on radio, television, the Internet, or similar communications media, including film strips, motion pictures, and videos, published, disseminated, circulated, or placed directly before the public for the purpose of creating an interest in or inducing a person to purchase or sell, assign, devise, bequest, or transfer the death benefit or ownership of a life insurance policy or an interest in a life insurance policy under a life settlement contract.

(2) "Broker" means a person who, on behalf of an owner and for a fee, commission, or other valuable consideration, offers or attempts to negotiate a life settlement contract between an owner and a provider or estimates life expectancies for a life settlement contract. A broker who offers or attempts to negotiate a life settlement contract represents only the owner and owes a fiduciary

duty to the owner to act according to the owner's instructions, and in the best interest of the owner, notwithstanding the manner in which the broker is compensated. A broker does not include an attorney, certified public accountant, or financial planner retained in the type of practice customarily performed in a professional capacity to represent the owner whose compensation is not paid directly or indirectly by the provider or any other person, except the owner.

(3) "Business of life settlements" means an activity involved in, but not limited to, offering to enter into, soliciting, negotiating, procuring, effectuating, monitoring, or tracking, of life settlement contracts.

(4) "Chronically ill" means:

(A) being unable to perform at least two activities of daily living such as eating, toileting, transferring, bathing, dressing, or continence;

(B) requiring substantial supervision to protect the individual from threats to health and safety due to severe cognitive impairment; or

(C) having a level of disability similar to that described in Paragraph (A) as determined under rules adopted by the commissioner after consideration of any applicable regulation, guideline, or determination of the United States Secretary of Health and Human Services.

(5) "Financing entity" means an underwriter, placement agent, lender, purchaser of securities, purchaser of a policy or certificate from a provider, credit enhancer, or any entity that has a direct ownership in a policy or certificate that is the subject of a life settlement contract whose principal activity related to the transaction is providing funds to effect the life settlement contract or purchase of a policy, and who has an agreement in writing with a provider to finance the acquisition of a life settlement contract. The term does not include a non-accredited investor or purchaser.

(6) "Financing transaction" means a transaction in which a licensed provider obtains financing from a financing entity including secured or unsecured financing, a securitization transaction, or a securities offering that is either registered or exempt from registration under federal and state securities law.

(7) "Fraudulent life settlement act" includes:

(A) an act or omission committed by a person who, knowingly and with intent to defraud, for the purpose of depriving another of property or for pecuniary gain, commits, or permits an employee or an agent to engage in, acts including:

(i) presenting, causing to be presented, or preparing with knowledge and belief that it will be presented to or by a provider, premium finance lender, broker, insurer, insurance agent, or any other person, false material information, or concealing material information, as part of, in support of, or concerning a fact material to one or more of the following:

(a) an application for the issuance of a life settlement contract or an insurance policy;

(b) the underwriting of a life settlement contract or an insurance policy;

(c) a claim for payment or benefit pursuant to a life settlement contract or an insurance policy;

(d) premium paid on an insurance policy;
(e) payment for and changes in ownership or beneficiary
made in accordance with the terms of a life settlement contract or an insurance
policy;

(f) the reinstatement or conversion of an insurance policy;
(g) in the solicitation, offer to enter into, or effectuation of
a life settlement contract, or an insurance policy;

(h) the issuance of written evidence of life settlement
contracts or insurance; or

(i) an application for or the existence of or any payment
related to a loan secured directly or indirectly by an interest in a life insurance
policy;

(ii) failing to disclose to the insurer, if the insurer has requested
the disclosure, that the prospective insured has undergone a life expectancy
evaluation by any person or entity other than the insurer or its authorized
representatives in connection with the issuance of the policy; or

(iii) employing a device, scheme, or artifice to defraud in the
business of life settlements; and

(B) acts or omissions in the furtherance of a fraud or to prevent the
detection of a fraud, or acts or omissions that permit an employee or an agent to:

(i) remove, conceal, alter, destroy, or sequester from the
commissioner the assets or records of a license holder or another person engaged
in the business of life settlements;

(ii) misrepresent or conceal the financial condition of a license
holder, financing entity, insurer, or other person;

(iii) transact the business of life settlements in violation of laws
requiring a license, certificate of authority, or other legal authority for the
transaction of the business of life settlements;

(iv) file with the commissioner or the chief insurance
regulatory official of another jurisdiction a document containing false information
or concealing information about a material fact;

(v) engage in embezzlement, theft, misappropriation, or
conversion of monies, funds, premiums, credits, or other property of a provider,
insurer, insured, owner, insurance policy owner, or any other person engaged in
the business of life settlements or insurance;

(vi) knowingly and with intent to defraud, enter into, broker, or
otherwise deal in a life settlement contract, the subject of which is a life insurance
policy that was obtained by presenting false information concerning any fact
material to the policy or by concealing that fact, for the purpose of misleading
another, or providing information concerning any fact material to the policy, if the
owner or the owner's agent intended to defraud the policy's issuer;

(vii) attempt to commit, assist, aid or abet in the commission
of, or engage in conspiracy to commit the acts or omissions specified in this
paragraph; or

(viii) misrepresent the state of residence of an owner to be a state or jurisdiction that does not have a law substantially similar to this chapter for the purpose of evading or avoiding the provisions of this chapter.

(8) "Insured" means a person covered under the policy being considered for sale in a life settlement contract.

(9) "Life expectancy" means the arithmetic mean of the number of months the insured under the life insurance policy to be settled can be expected to live as determined by a life expectancy company or provider considering medical records and appropriate experiential data.

(10) "Life insurance agent" means a person licensed in this state as a resident or nonresident insurance agent who has received qualification or authority to write life insurance coverage under this code.

(11) "Life settlement contract" means a written agreement entered into between a provider and an owner establishing the terms under which compensation or anything of value will be paid and is less than the expected death benefit of the insurance policy or certificate, in return for the owner's assignment, transfer, sale, devise, or bequest of the death benefit or a portion of an insurance policy or certificate of insurance for compensation; provided, however, that the minimum value for a life settlement contract must be greater than a cash surrender value or accelerated death benefit available at the time of an application for a life settlement contract. The term also includes the transfer for compensation or value of ownership or beneficial interest in a trust or other entity that owns the policy if the trust or other entity was formed or used for the principal purpose of acquiring one or more life insurance contracts that insure the life of an individual residing in this state. The term also includes:

(A) a written agreement for a loan or other lending transaction, secured primarily by an individual or group life insurance policy; and

(B) a premium finance loan made for a policy on or before the date of issuance of the policy if:

(i) the loan proceeds are not used solely to pay premiums for the policy and any costs or expenses incurred by the lender or the borrower in connection with the financing;

(ii) the owner receives on the date of the premium finance loan a guarantee of the future life settlement value of the policy; or

(iii) the owner agrees on the date of the premium finance loan to sell the policy or any portion of its death benefit on a date following the issuance of the policy.

(11-A) "Life settlement contract" does not include:

(A) a policy loan by a life insurance company under the terms of a life insurance policy or accelerated death provision contained in the life insurance policy, whether issued with the original policy or as a rider;

(B) a premium finance loan or any loan made by a bank or other licensed financial institution, provided that neither default on the loan nor the transfer of the policy in connection with the default is under an agreement or understanding with any other person for the purpose of evading regulation under this chapter;

(C) a collateral assignment of a life insurance policy by an owner;

(D) a loan made by a lender that does not violate Chapter 651, provided that the loan is not described in Subdivision (11) and is not otherwise within the definition of life settlement contract;

(E) an agreement with respect to which all the parties are closely related to the insured by blood or law or have a lawful substantial economic interest in the continued life, health, and bodily safety of the person insured, or are trusts established primarily for the benefit of the parties;

(F) a designation, consent, or agreement by an insured who is an employee of an employer in connection with the purchase by the employer, or trust established by the employer, of life insurance on the life of the employee;

(G) a bona fide business succession planning arrangement:

(i) between one or more shareholders in a corporation or between a corporation and one or more of its shareholders or one or more trusts established by its shareholders;

(ii) between one or more partners in a partnership or between a partnership and one or more of its partners or one or more trusts established by its partners; or

(iii) between one or more members in a limited liability company or between a limited liability company and one or more of its members or one or more trusts established by its members;

(H) an agreement entered into by a service recipient, or a trust established by the service recipient, and a service provider, or a trust established by the service provider, who performs significant services for the service recipient's trade or business; or

(I) any other contract, transaction, or arrangement from the definition of life settlement contract that the commissioner determines is not of the type intended to be regulated by this chapter.

(12) "Net death benefit" means the amount of the life insurance policy or certificate to be settled less any outstanding debts or liens.

(13) "Owner" means the owner of a life insurance policy or a certificate holder under a group policy, with or without a terminal illness, who enters or seeks to enter into a life settlement contract. In this chapter, the term "owner" is not limited to an owner of a life insurance policy or a certificate holder under a group policy that insures the life of an individual with a terminal or chronic illness or condition except as specifically provided. The term does not include:

(A) a provider or other license holder under this chapter;

(B) a qualified institutional buyer as defined by 17 C.F.R. Section 230.144A, as amended;

(C) a financing entity;

(D) a special purpose entity; or

(E) a related provider trust.

(14) "Patient identifying information" means an insured's address, telephone number, facsimile number, e-mail address, photograph or likeness, employer, employment status, social security number, or any other information that is likely to lead to the identification of the insured.

(15) "Policy" means an individual or group policy, group certificate, contract, or arrangement of life insurance owned by a resident of this state, regardless of whether delivered or issued for delivery in this state.

(16) "Premium finance loan" is a loan made primarily for the purposes of making premium payments on a life insurance policy that is secured by an interest in the life insurance policy.

(17) "Person" means an individual or legal entity, including a partnership, limited liability company, association, trust, or corporation.

(18) "Provider" means a person, other than an owner, who enters into or effectuates a life settlement contract with an owner. The term does not include:

(A) a bank, savings bank, savings and loan association, or credit union;

(B) a licensed lending institution or creditor or secured party pursuant to a premium finance loan agreement that takes an assignment of a life insurance policy or certificate issued pursuant to a group life insurance policy as collateral for a loan;

(C) the insurer of a life insurance policy or rider to the extent of providing accelerated death benefits or riders under Subchapter B, Chapter 1111, or cash surrender value;

(D) an individual who enters into or effectuates not more than one agreement in a calendar year for the transfer of a life insurance policy or certificate issued pursuant to a group life insurance policy, for compensation or anything of value less than the expected death benefit payable under the policy;

(E) a purchaser;

(F) any authorized or eligible insurer that provides stop loss coverage to a provider, purchaser, financing entity, special purpose entity, or related provider trust;

(G) a financing entity;

(H) a special purpose entity;

(I) a related provider trust;

(J) a broker; or

(K) an accredited investor or qualified institutional buyer as those terms are defined by 17 C.F.R. Section 230.144A, as amended, who purchases a life settlement policy from a provider.

(19) "Purchased policy" means a policy or group certificate that has been acquired by a provider pursuant to a life settlement contract.

(20) "Purchaser" means a person who pays compensation or anything of value as consideration for a beneficial interest in a trust that is vested with, or for the assignment, transfer, or sale of, an ownership or other interest in a life insurance policy or a certificate issued pursuant to a group life insurance policy that has been the subject of a life settlement contract.

(21) "Related provider trust" means a titling trust or other trust established by a licensed provider or a financing entity for the sole purpose of holding the ownership or beneficial interest in purchased policies in connection with a financing transaction. In order to qualify as a related provider trust, the trust must have a written agreement with the licensed provider under which the

licensed provider is responsible for ensuring compliance with all statutory and regulatory requirements and under which the trust agrees to make all records and files relating to life settlement transactions available to the department as if those records and files were maintained directly by the licensed provider.

(22) "Settled policy" means a life insurance policy or certificate that has been acquired by a provider pursuant to a life settlement contract.

(23) "Special purpose entity" means a corporation, partnership, trust, limited liability company, or other legal entity formed solely to provide either directly or indirectly access to institutional capital markets:

(A) for a financing entity or provider; or

(B) in connection with a transaction in which:

(i) the securities in the special purpose entity are acquired by the owner or by a qualified institutional buyer as defined by 17 C.F.R. Section 230.144A, as amended; or

(ii) the securities pay a fixed rate of return commensurate with established asset-backed institutional capital markets.

(24) "Terminally ill" means having an illness or sickness that can reasonably be expected to result in death not later than 24 months after the date of diagnosis.

Sec. 1111A.003. LICENSING REQUIREMENTS; EXEMPTION. (a) A person, wherever located, may not act as a provider or broker with an owner who is a resident of this state, unless the person holds a license from the department.

(b) An application for a provider or broker license must be made to the department by the applicant on a form prescribed by the commissioner. The application must be accompanied by a fee in an amount established by the commissioner by rule. The license and renewal fees for a provider license must be reasonable and the license and renewal fees for a broker license may not exceed those established for an insurance agent, as otherwise provided by this chapter.

(c) A person who has been licensed as a life insurance agent in this state or the person's home state for at least one year and is licensed as a nonresident agent in this state meets the licensing requirements of this section and may operate as a broker.

(d) Not later than the 30th day after the first date of operating as a broker, a life insurance agent shall notify the commissioner on a form prescribed by the commissioner that the agent is acting as a broker and shall pay any applicable fee to be determined by the commissioner by rule. Notification must include an acknowledgement by the life insurance agent that the agent will operate as a broker in accordance with this chapter.

(e) An insurer that issued a policy that is the subject of a life settlement contract is not responsible for any act or omission of a broker or provider or purchaser arising out of or in connection with the life settlement transaction, unless the insurer receives compensation for the placement of a life settlement contract from the provider, purchaser, or broker in connection with the life settlement contract.

(f) A person licensed as an attorney, certified public accountant, or financial planner accredited by a nationally recognized accreditation agency, who is retained to represent the owner and whose compensation is not paid directly or indirectly by the provider or purchaser, may negotiate life settlement contracts for the owner without having to obtain a license as a broker.

(g) A license expires on the second anniversary of the date of issuance. A license holder may renew the license on payment of a renewal fee. As specified by Subsection (b), the renewal fee for a provider license may not exceed a reasonable fee.

(h) An applicant shall provide the information that the commissioner requires on forms adopted by the commissioner. The commissioner may, at any time, require an applicant to fully disclose the identity of the applicant's stockholders that own at least 10 percent of the shares of an applicant the shares of which are publicly traded, partners, officers and employees, and the commissioner may, in the exercise of the commissioner's sole discretion, refuse to issue a license in the name of any person if the commissioner is not satisfied that an officer, an employee, a stockholder, or a partner of the applicant who may materially influence the applicant's conduct meets the standards of Sections 1111A.001 to 1111A.018.

(i) A license issued to a partnership, corporation, or other entity authorizes each member, officer, and designated employee named in the application and any supplement to the application to act as a license holder under the license.

(j) After the filing of an application and the payment of the license fee, the commissioner shall investigate each applicant and may issue a license if the commissioner finds that the applicant:

- (1) if a provider, has provided a detailed plan of operation;
- (2) is competent and trustworthy and intends to transact business in good faith;
- (3) has a good business reputation and has had experience, training, or education to qualify in the business for which the license is applied;
- (4) if the applicant is a legal entity, is formed or organized under the laws of this state or is a foreign legal entity authorized to transact business in this state, or provides a certificate of good standing from the state of its domicile; and
- (5) has provided to the commissioner an antifraud plan that meets the requirements of Section 1111A.022 and includes:

(A) a description of the procedures for detecting and investigating possible fraudulent acts and procedures for resolving material inconsistencies between medical records and insurance applications;

(B) a description of the procedures for reporting fraudulent insurance acts to the commissioner;

(C) a description of the plan for antifraud education and training of its underwriters and other personnel; and

(D) a written description or chart outlining the arrangement of the antifraud personnel who are responsible for the investigation and reporting of possible fraudulent insurance acts and the investigation of unresolved material inconsistencies between medical records and insurance applications.

(k) The commissioner may not issue a license to a nonresident applicant unless a written designation of an agent for service of process is filed and maintained with the department or unless the applicant has filed with the department the applicant's written irrevocable consent that any action against the applicant may be commenced by service of process on the commissioner.

(l) A license holder shall file with the department not later than March 1 of each year an annual statement containing the information as the commissioner by rule prescribes.

(m) A provider may not allow any person to perform the functions of a broker unless the person holds a current, valid license as a broker, and as provided in this section.

(n) A broker may not allow any person to perform the functions of a provider unless the person holds a current, valid license as a provider, and as provided in this section.

(o) A provider or broker shall provide to the commissioner new or revised information about officers, stockholders described by Subsection (h), partners, directors, members, or designated employees within 30 days of the change.

(p) An individual licensed as a broker shall complete on a biennial basis 15 hours of training related to life settlements and life settlement transactions, as required by the commissioner. A life insurance agent who is operating as a broker under this section is not subject to the requirements of this subsection.

(q) The business of life settlements constitutes the business of insurance.

Sec. 1111A.004. LICENSE SUSPENSION, REVOCATION, OR REFUSAL TO RENEW. (a) The commissioner may suspend, revoke, or refuse to renew the license of a license holder if the commissioner finds that:

(1) there was a material misrepresentation in the application for the license;

(2) the license holder or an officer, partner, member, or director of the license holder has been guilty of fraudulent or dishonest practices, is subject to a final administrative action, or is otherwise shown to be untrustworthy or incompetent to act as a license holder;

(3) the license holder is a provider and demonstrates a pattern of unreasonably withholding payments to policy owners;

(4) the license holder no longer meets the requirements for initial licensure;

(5) the license holder or any officer, partner, member, or director of the license holder has been convicted of a felony, or of any misdemeanor with respect to which criminal fraud is an element, or has pleaded guilty or nolo contendere with respect to a felony or a misdemeanor with respect to which criminal fraud or moral turpitude is an element, regardless of whether a judgment of conviction has been entered by the court;

(6) the license holder is a provider and has entered into a life settlement contract using a form that has not been approved under this chapter;

(7) the license holder is a provider and has failed to honor contractual obligations in a life settlement contract;

(8) the license holder is a provider and has assigned, transferred, or pledged a settled policy to a person other than a provider licensed in this state, a purchaser, an accredited investor or qualified institutional buyer as defined respectively in 17 C.F.R. Section 230.144A, as amended, a financing entity, a special purpose entity, or a related provider trust; or

(9) the license holder or any officer, partner, member, or key management personnel of the license holder has violated this chapter.

(b) The commissioner may deny a license application or suspend, revoke, or refuse to renew the license of a license holder in accordance with Chapter 2001, Government Code.

Sec. 1111A.005. REQUIREMENTS FOR CONTRACT FORMS, DISCLOSURE FORMS, AND ADVERTISEMENTS. (a) A person may not use any form of life settlement contract in this state unless the form has been filed with and approved, if required, by the commissioner in a manner that conforms with the filing procedures and any time restrictions or deeming provisions for life insurance forms, policies, and contracts.

(b) An insurer may not, as a condition of responding to a request for verification of coverage or in connection with the transfer of a policy pursuant to a life settlement contract, require that the owner, insured, provider, or broker sign any form, disclosure, consent, waiver, or acknowledgment that has not been expressly approved by the commissioner for use in connection with life settlement contracts.

(c) A person may not use a life settlement contract form or provide to an owner a disclosure statement form unless the form is first filed with and approved by the commissioner. The commissioner shall disapprove a life settlement contract form or disclosure statement form if, in the commissioner's opinion, the contract or contract provisions fail to meet the requirements of Sections 1111A.011, 1111A.012, 1111A.014, and 1111A.023(b), or are unreasonable, contrary to the interests of the public, or otherwise misleading or unfair to the owner.

(d) At the commissioner's discretion, the commissioner may require the submission of advertisements.

Sec. 1111A.006. REPORTING REQUIREMENTS AND PRIVACY. (a) For a policy settled not later than the fifth anniversary of the date of policy issuance, each provider shall file with the commissioner not later than March 1 of each year an annual statement containing the information that the commissioner prescribes by rule. In addition to any other requirements, the annual statement must specify the total number, aggregate face amount, and life settlement proceeds of policies settled during the immediately preceding calendar year, together with a breakdown of the information by policy issue year. The annual statement must also include the names of each insurance company whose policies have been settled and the brokers that have settled the policies.

(b) The information required under Subsection (a) is limited to only those transactions in which the insured is a resident of this state and may not include individual transaction data regarding the business of life settlements or information if there is a reasonable basis to find that the information could be used to identify the owner or the insured.

(c) A provider that wilfully fails to file an annual statement as required in this section, or wilfully fails to reply not later than the 30th day after the date the provider receives a written inquiry from the department about the filing of the annual statement, shall, in addition to other penalties provided by this chapter, after notice and opportunity for hearing be subject to a penalty of up to \$250 for each day of delay, not to exceed \$25,000 in the aggregate, for the failure to file or respond.

(d) Except as otherwise allowed or required by law, a provider, broker, insurance company, insurance agent, information bureau, rating agency or company, or any other person with actual knowledge of an insured's identity, may not disclose the identity of an insured or information that there is a reasonable basis to believe could be used to identify the insured or the insured's financial or medical information to any other person unless the disclosure is:

(1) necessary to effect a life settlement contract between the owner and a provider and the owner and insured have provided prior written consent to the disclosure;

(2) necessary to effectuate the sale of a life settlement contract, or interests in the contract, as an investment, provided the sale is conducted in accordance with applicable state and federal securities law and provided further that the owner and the insured have both provided prior written consent to the disclosure;

(3) provided in response to an investigation or examination by the commissioner or another governmental officer or agency or under Section 1111A.018;

(4) a term or condition of the transfer of a policy by one provider to another licensed provider, in which case the receiving provider shall comply with the confidentiality requirements of this subsection;

(5) necessary to allow the provider or broker or the provider's or broker's authorized representative to make contact for the purpose of determining health status provided that in this subdivision, authorized representative does not include a person who has or may have a financial interest in the settlement contract other than a provider, licensed broker, financing entity, related provider trust, or special purpose entity and that the provider or broker requires the authorized representative to agree in writing to adhere to the privacy provisions of this chapter; or

(6) required to purchase stop loss coverage.

(e) Nonpublic personal information solicited or obtained in connection with a proposed or actual life settlement contract is subject to the provisions applicable to financial institutions under the federal Gramm-Leach-Bliley Act (Pub. L. No. 106-102), and any other state and federal laws relating to confidentiality of nonpublic personal information.

Sec. 1111A.007. EXAMINATION. Subchapter B, Chapter 401, applies to a person engaged in the business of life settlements.

Sec. 1111A.008. IMMUNITY FROM LIABILITY. (a) No cause of action shall arise nor shall any liability be imposed against the commissioner, the commissioner's authorized representatives, or any examiner appointed by the commissioner for a statement made or conduct performed in good faith while carrying out this chapter.

(b) No cause of action shall arise, nor shall any liability be imposed against any person for the act of communicating or delivering information to the commissioner or the commissioner's authorized representative or examiner pursuant to an examination made under this chapter, if the act of communication or delivery was performed in good faith and without fraudulent intent or the intent to deceive. This subsection does not abrogate or modify in any way any common law or statutory privilege or immunity enjoyed by any person identified in Subsection (a).

Sec. 1111A.009. INVESTIGATIVE AUTHORITY OF THE COMMISSIONER. The commissioner may investigate a suspected fraudulent life settlement act and a person engaged in the business of life settlements.

Sec. 1111A.010. COST OF EXAMINATIONS. The reasonable and necessary cost of an examination under this chapter is to be assessed against the person being examined in accordance with Section 751.208.

Sec. 1111A.011. ADVERTISING. (a) A broker or provider licensed pursuant to this chapter may conduct or participate in an advertisement in this state. The advertisement must comply with all advertising and marketing laws under Chapter 541 and rules adopted by the commissioner that are applicable to life insurers or to license holders under this chapter.

(b) Advertisements shall be accurate, truthful, and not misleading in fact or by implication.

(c) A person may not:

(1) market, advertise, solicit, or otherwise promote the purchase of a policy for the sole purpose of or with an emphasis on settling the policy; or

(2) use the words "free," "no cost," or words of similar import in the marketing, advertising, or soliciting of, or otherwise promoting, the purchase of a policy.

Sec. 1111A.012. DISCLOSURES TO OWNERS. (a) Not later than the fifth day after the date a provider receives the application for a life settlement contract, the provider shall provide, in a separate written document, the following information to the owner:

(1) the fact that possible alternatives to life settlement contracts exist, including accelerated benefits offered by the issuer of the life insurance policy;

(2) the fact that some or all of the proceeds of a life settlement contract may be taxable and that assistance should be sought from a professional tax advisor;

(3) the fact that the proceeds from a life settlement contract could be subject to the claims of creditors;

(4) the fact that receipt of proceeds from a life settlement contract may adversely affect the recipients' eligibility for public assistance or other government benefits or entitlements and that advice should be obtained from the appropriate agency;

(5) the fact that the owner has a right to terminate a life settlement contract within 15 days of the date the contract is executed by all parties and the owner has received the disclosures described in this section, that rescission, if exercised by the owner, is effective only if both notice of the rescission is given and the owner repays all proceeds and any premiums, loans, and loan interest paid on account of the provider during the rescission period, and that if the insured dies during the rescission period, the contract is considered rescinded subject to repayment by the owner or the owner's estate of all proceeds and any premiums, loans, and loan interest to the provider;

(6) the fact that proceeds will be sent to the owner within three business days after the provider has received the insurer or group administrator's acknowledgement that ownership of the policy or interest in the certificate has been transferred and the beneficiary has been designated in accordance with the terms of the life settlement contract;

(7) the fact that entering into a life settlement contract may cause the owner to forfeit other rights or benefits, including conversion rights and waiver of premium benefits that may exist under the policy or certificate of a group policy, and that assistance should be sought from a professional financial advisor;

(8) the amount and method of calculating the compensation, including anything of value, paid or given, or to be paid or given, to the broker, or any other person acting for the owner in connection with the transaction;

(9) the date by which the funds will be available to the owner and the identity of the transmitter of the funds;

(10) the fact that the commissioner requires delivery of a buyer's guide or a similar consumer advisory package in the form prescribed by the commissioner to owners during the solicitation process;

(11) the following language: "All medical, financial, or personal information solicited or obtained by a provider or broker about an insured, including the insured's identity or the identity of family members or a spouse or a significant other, may be disclosed as necessary to effect the life settlement contract between the owner and provider. If you are asked to provide this information, you will be asked to consent to the disclosure. The information may be provided to someone who buys the policy or provides funds for the purchase. You may be asked to renew your permission to share information every two years.";

(12) the fact that the commissioner requires providers and brokers to print separate signed fraud warnings on the applications and on the life settlement contracts as follows: "Any person who knowingly presents false information in an application for insurance or a life settlement contract is guilty of a crime and may be subject to fines and confinement in prison.";

(13) the fact that the insured may be contacted by either the provider or broker or an authorized representative of the provider or broker for the purpose of determining the insured's health status or to verify the insured's address and that this contact is limited to once every three months if the insured has a life expectancy of more than one year, and not more than once per month if the insured has a life expectancy of one year or less;

(14) the affiliation, if any, between the provider and the issuer of the insurance policy to be settled;

(15) that a broker represents exclusively the owner, and not the insurer or the provider or any other person, and owes a fiduciary duty to the owner, including a duty to act according to the owner's instructions and in the best interest of the owner;

(16) the name, address, and telephone number of the provider;

(17) the name, business address, and telephone number of the independent third party escrow agent, and the fact that the owner may inspect or receive copies of the relevant escrow or trust agreements or documents; and

(18) the fact that a change of ownership could in the future limit the insured's ability to purchase future insurance on the insured's life because there is a limit to how much coverage insurers will issue on one life.

(b) The written disclosures described by Subsection (a) must be conspicuously displayed in a life settlement contract furnished to the owner by a provider, including any affiliations or contractual arrangements between the provider and the broker.

(c) A broker shall provide the owner and the provider with at least the following disclosures not later than the date on which the life settlement contract is signed by all parties and which must be conspicuously displayed in the life settlement contract or in a separate document signed by the owner:

(1) the name, business address, and telephone number of the broker;

(2) a full, complete, and accurate description of all the offers, counter-offers, acceptances, and rejections relating to the proposed life settlement contract;

(3) a written disclosure of any affiliations or contractual arrangements between the broker and any person making an offer in connection with the proposed life settlement contract;

(4) the name of each broker who receives compensation and the amount of compensation, including anything of value, paid or given to the broker in connection with the life settlement contract; and

(5) a complete reconciliation of the gross offer or bid by the provider to the net amount of proceeds or value to be received by the owner.

(d) For the purpose of this section, "gross offer or bid" means the total amount or value offered by the provider for the purchase of one or more life insurance policies, inclusive of commissions and fees.

(e) The failure to provide the disclosures or rights described in this section is an unfair method of competition or an unfair or deceptive act or practice.

Sec. 1111A.013. DISCLOSURE TO INSURER. (a) Without limiting the ability of an insurer to assess the insurability of a policy applicant and to determine whether to issue the policy, and in addition to other questions an insurance carrier may lawfully pose to a life insurance applicant, an insurer may inquire in the application for insurance whether the proposed owner intends to pay premiums with the assistance of financing from a lender that will use the policy as collateral to support the financing.

(b) If, as described in Sections 1111A.002(11) and (11-A), the loan provides funds that can be used for a purpose other than paying for the premiums, costs, and expenses associated with obtaining and maintaining the life insurance policy and loan, and notwithstanding any other law, the application must be rejected as a violation of Section 1111A.017.

(c) If the financing does not violate Section 1111A.017, the insurance carrier:

(1) may make disclosures, not later than the date of the delivery of the policy, to the applicant and the insured, either on the application or on an amendment to the application that include the following or substantially similar statements:

"If you have entered into a loan arrangement in which the policy is used as collateral, and the policy does change ownership at some point in the future in satisfaction of the loan, the following may be true:

(A) a change of ownership could lead to a stranger owning an interest in the insured's life;

(B) a change of ownership could in the future limit your ability to purchase future insurance on the insured's life because there is a limit to how much coverage insurers will issue on one life;

(C) should there be a change of ownership and you wish to obtain more insurance coverage on the insured's life in the future, the insured's higher issue age, a change in health status, or other factors may reduce the ability to obtain coverage or may result in significantly higher premiums; and

(D) you should consult a professional advisor, since a change in ownership in satisfaction of the loan may result in tax consequences to the owner, depending on the structure of the loan.";

(2) may require certifications, such as the following, from the applicant or the insured:

(A) "I have not entered into any agreement or arrangement providing for the future sale of this life insurance policy";

(B) "My loan arrangement for this policy provides funds sufficient to pay for some or all of the premiums, costs, and expenses associated with obtaining and maintaining my life insurance policy, but I have not entered into any agreement by which I am to receive consideration in exchange for procuring this policy"; and

(C) "The borrower has an insurable interest in the insured."

Sec. 1111A.014. GENERAL RULES. (a) Before entering into a life settlement contract with an owner of a policy with respect to which the insured is terminally or chronically ill, the provider must obtain:

(1) if the owner is the insured, a written statement from a licensed attending physician that the owner is of sound mind and under no constraint or undue influence to enter into a settlement contract; and

(2) a document in which the insured consents to the release of medical records to a provider, settlement broker, or insurance agent and, if the policy was issued less than two years after the date of application for a settlement contract, to the insurance company that issued the policy.

(b) An insurer shall respond to a request for verification of coverage submitted by a provider, settlement broker, or life insurance agent not later than the 30th calendar day after the date the request is received. The request for verification of coverage must be made on a form approved by the commissioner. The insurer shall complete and issue the verification of coverage or indicate in which respects the insurer is unable to respond. In the response, the insurer shall indicate whether at the time of the response, based on the medical evidence and documents provided, the insurer intends to pursue an investigation about the validity of the insurance contract.

(c) On or before the date of execution of the life settlement contract, the provider shall obtain a witnessed document in which the owner consents to the settlement contract, represents that the owner has a full and complete understanding of the settlement contract and of the benefits of the policy, acknowledges that the owner is entering into the settlement contract freely and voluntarily, and, for persons with a terminal or chronic illness or condition, acknowledges that the insured has a terminal or chronic illness and that the terminal or chronic illness or condition was diagnosed after the policy was issued.

(d) The insurer may not unreasonably delay effecting change of ownership or beneficiary with any life settlement contract lawfully entered into in this state or with a resident of this state.

(e) If a settlement broker or life insurance agent performs any of these activities required of the provider, the provider is deemed to have fulfilled the requirements of this section.

(f) If a broker performs the verification of coverage activities required of the provider, the provider is deemed to have fulfilled the requirements of Section 1111A.012.

(g) Not later than the 20th day after the date that an owner executes the life settlement contract, the provider shall give written notice to the insurer that issued that insurance policy that the policy has become subject to a life settlement contract. The notice shall be accompanied by the documents required by Section 1111A.013(c).

(h) Medical information solicited or obtained by a license holder is subject to the applicable provision of state law relating to confidentiality of medical information, if not otherwise provided in this chapter.

(i) A life settlement contract entered into in this state must provide that the owner may rescind the contract on or before 15 days after the date the contract is executed by all parties to the contract. Rescission, if exercised by the owner, is effective only if notice of the rescission is given and the owner repays all proceeds and any premiums, loans, and loan interest paid on account of the

provider within the rescission period. If the insured dies during the rescission period, the contract is rescinded subject to repayment by the owner or the owner's estate of all proceeds and any premiums, loans, and loan interest to the provider.

(j) Not later than the third business day after the date the provider receives from the owner the documents to effect the transfer of the insurance policy, the provider shall pay the proceeds of the settlement into an escrow or trust account managed by a trustee or escrow agent in a state or federally chartered financial institution pending acknowledgement of the transfer by the issuer of the policy. The trustee or escrow agent shall transfer to the owner the proceeds due to the owner not later than the third business day after the date the trustee or escrow officer receives from the insurer acknowledgment of the transfer of the insurance policy.

(k) Failure to tender the life settlement contract proceeds to the owner on or before the date disclosed to the owner renders the contract voidable by the owner for lack of consideration until the time the proceeds are tendered to and accepted by the owner. A failure to give written notice of the right of rescission under this subsection tolls the right of rescission for 30 days after the date the written notice of the right of rescission has been given.

(l) A fee paid by a provider, an owner, or other person to a broker in exchange for services provided to the owner pertaining to a life settlement contract must be computed as a percentage of the offer obtained, not the face value of the policy. Nothing in this section prohibits a broker from voluntarily reducing the broker's fee to less than a percentage of the offer obtained.

(m) A broker shall disclose to the owner anything of value paid or given to a broker that relates to a life settlement contract.

(n) A person, at any time prior to or at the time of the application for, or issuance of, a policy, or during a two-year period beginning on the date of issuance of the policy, may not enter into a life settlement contract regardless of the date the compensation is to be provided and regardless of the date the assignment, transfer, sale, devise, bequest, or surrender of the policy is to occur. This prohibition does not apply if:

(1) the owner certifies to the provider that the policy was issued on the owner's exercise of conversion rights arising out of a group or individual policy, provided the total of the time covered under the conversion policy plus the time covered under the prior policy is at least 24 months; or

(2) the owner submits independent evidence to the provider that one or more of the following conditions have been met during the two-year period described by this subsection:

(A) the owner or insured is terminally or chronically ill;

(B) the owner or insured disposes of the owner's or insured's ownership interests in a closely held corporation, pursuant to the terms of a buyout or other similar agreement in effect at the time the insurance policy was initially issued;

(C) the owner's spouse dies;

(D) the owner divorces the owner's spouse;

(E) the owner retires from full-time employment;

(F) the owner becomes physically or mentally disabled and a physician determines that the disability prevents the owner from maintaining full-time employment; or

(G) a final order, judgment, or decree is entered by a court of competent jurisdiction, on the application of a creditor of the owner, adjudicating the owner bankrupt or insolvent, or approving a petition seeking reorganization of the owner or appointing a receiver, trustee, or liquidator to all or a substantial part of the owner's assets.

(o) For the purposes of Subsection (n)(1), time covered under a group policy must be calculated without regard to a change in insurance carriers, provided the coverage has been continuous and under the same group sponsorship.

(p) Copies of the independent evidence described by Subsection (n)(2) must be submitted to the insurer at the time the provider submits a request to the insurer for verification of coverage. The copies must be accompanied by a letter of attestation from the provider that the copies are true and correct copies of the documents received by the provider. This section does not prohibit an insurer from exercising its right to contest the validity of a policy.

(q) If the provider submits to the insurer a copy of independent evidence provided for Subsection (n)(2)(A) at the time the provider submits a request to the insurer to effect the transfer of the policy to the provider, the copy is deemed to establish that the settlement contract satisfies the requirements of this section.

Sec. 1111A.015. AUTHORITY TO ADOPT RULES. (a) The commissioner may adopt rules implementing this chapter and regulating the activities and relationships of providers, brokers, insurers, and their authorized representatives.

(b) The commissioner may not adopt a rule establishing a price or fee for the sale or purchase of a life settlement contract. This subsection does not prohibit the commissioner from adopting a rule relating to an unjust price or fee for the sale or purchase of a life settlement contract.

(c) The commissioner may not adopt a rule that regulates the actions of an investor providing money to a life or viatical settlement company.

Sec. 1111A.016. CONFLICT OF LAWS. (a) If there is more than one owner on a single policy, and the owners are residents of different states, the life settlement contract is governed by the law of the state in which the owner having the largest percentage ownership resides or, if the owners hold equal ownership, the state of residence of one owner agreed on in writing by all of the owners. The law of the state of the insured shall govern in the event that equal owners fail to agree in writing on a state of residence for jurisdictional purposes.

(b) A provider licensed in this state who enters into a life settlement contract with an owner who is a resident of another state that has enacted statutes or adopted rules governing life settlement contracts is governed in the effectuation of that life settlement contract by the statutes and rules of the owner's state of residence. If the state in which the owner is a resident has not enacted statutes or adopted rules governing life settlement contracts, the provider shall give the owner notice that neither state regulates the transaction on which the

owner is entering. For transactions in those states, however, the provider shall maintain all records required by this chapter if the transactions were executed in this state. The forms used in those states need not be approved by the department.

(c) If there is a conflict in the laws that apply to an owner and a purchaser in any individual transaction, the laws of the state that apply to the owner shall take precedence and the provider shall comply with those laws.

Sec. 1111A.017. PROHIBITED PRACTICES. (a) A person may not:

(1) enter into a life settlement contract if the person knows or reasonably should have known that the life insurance policy was obtained by means of a false, deceptive, or misleading application for the policy;

(2) engage in a transaction, practice, or course of business if the person knows or reasonably should have known that the intent of engaging in the transaction, practice, or course of business is to avoid the notice requirements of this chapter;

(3) engage in a fraudulent act or practice in connection with a transaction relating to any settlement involving an owner who is a resident of this state;

(4) issue, solicit, market, or otherwise promote the purchase of an insurance policy for the purpose of, or with an emphasis on, settling the policy;

(5) if providing premium financing, receive any proceeds, fee, or other consideration from the policy or owner in addition to the amounts required to pay principal, interest, and any reasonable costs or expenses incurred by the lender or borrower in connection with the premium finance agreement, except in event of a default, unless either the default on the loan or transfer of the policy occurs pursuant to an agreement or understanding with any other person for the purpose of evading regulation under this chapter;

(6) with respect to any settlement contract or insurance policy and to a broker, knowingly solicit an offer from, effectuate a life settlement contract with, or make a sale to any provider, financing entity, or related provider trust that is controlling, controlled by, or under common control with the broker unless the relationship is fully disclosed to the owner;

(7) with respect to any life settlement contract or insurance policy and a provider, knowingly enter into a life settlement contract with an owner if, in connection with the life settlement contract, anything of value will be paid to a broker that is controlling, controlled by, or under common control with the provider or the financing entity or related provider trust that is involved in such settlement contract, unless the relationship is fully disclosed to the owner;

(8) with respect to a provider, enter into a life settlement contract unless the life settlement promotional, advertising, and marketing materials, as may be prescribed by rule, have been filed with the commissioner, provided that in no event may any marketing materials expressly reference that the insurance is free for any period of time; or

(9) with respect to any life insurance agent, insurance company, broker, or provider, make any statement or representation to the applicant or policyholder in connection with the sale or financing of a life insurance policy to the effect that the insurance is free or without cost to the policyholder for any period of time unless provided in the policy.

(b) A violation of this section is a fraudulent life settlement act.

Sec. 1111A.018. FRAUD PREVENTION AND CONTROL. (a) A person may not commit a fraudulent life settlement act.

(b) A person may not interfere with the enforcement of this chapter or an investigation of a suspected or actual violation of this chapter.

(c) A person in the business of life settlements may not knowingly or intentionally permit a person convicted of a felony involving dishonesty or breach of trust to participate in the business of life settlements.

(d) A life settlement contract and an application for a life settlement contract, regardless of the form of transmission, must contain the following, or a substantially similar, statement: "Any person who knowingly presents false information in an application for insurance or a life settlement contract is guilty of a crime and may be subject to fines and confinement in prison."

(e) The failure to include a statement as required in Subsection (d) is not a defense in any prosecution for a fraudulent life settlement act.

Sec. 1111A.019. MANDATORY REPORTING OF FRAUDULENT LIFE SETTLEMENT ACTS. A person engaged in the business of life settlements has a duty under Section 701.051 to report a fraudulent life settlement act.

Sec. 1111A.020. CONFIDENTIALITY. (a) The documents and evidence obtained by the commissioner in an investigation of a suspected or an actual fraudulent life settlement act are privileged and confidential, are not a public record, and are not subject to discovery or subpoena in a civil or criminal action.

(b) Subsection (a) does not prohibit release by the commissioner of documents and evidence obtained in an investigation of a suspected or an actual fraudulent life settlement act:

(1) in an administrative or judicial proceeding to enforce a provision of this code or another insurance law of this state;

(2) to a federal, state, or local law enforcement or regulatory agency, to an organization established for the purpose of detecting and preventing a fraudulent life settlement act, or to the National Association of Insurance Commissioners; or

(3) at the discretion of the commissioner, to a person in the business of life settlements that is aggrieved by a fraudulent life settlement act.

(c) Release of documents and evidence under Subsection (b) does not abrogate or modify the privilege granted in Subsection (a).

Sec. 1111A.021. OTHER LAW ENFORCEMENT OR REGULATORY AUTHORITY. This chapter does not:

(1) preempt the authority or relieve the duty of another law enforcement or regulatory agency to investigate, examine, and prosecute a suspected violation of law;

(2) preempt, supersede, or limit any provision of any state securities law or any rule, order, or notice issued under the law;

(3) prevent or prohibit a person from disclosing voluntarily information concerning life settlement fraud to a law enforcement or regulatory agency other than the department; or

(4) limit the powers granted by the laws of this state to the commissioner or an insurance fraud unit to investigate and examine a possible violation of law and to take appropriate action against wrongdoers.

Sec. 1111A.022. LIFE SETTLEMENT ANTIFRAUD INITIATIVES.

(a) A provider or broker shall implement antifraud initiatives reasonably calculated to detect, prosecute, and prevent fraudulent life settlement acts. At the discretion of the commissioner, the commissioner may order, or a license holder may request and the commissioner may grant, a modification of the following required initiatives as necessary to ensure an effective antifraud program. A modification granted under this section may be more or less restrictive than the required initiatives so long as the modification may reasonably be expected to accomplish the purpose of this section. Antifraud initiatives must include:

(1) fraud investigators, who may be provider or broker employees or independent contractors; and

(2) an antifraud plan, which must be submitted to the commissioner and must include:

(A) a description of the procedures for detecting and investigating possible fraudulent life settlement acts and procedures for resolving material inconsistencies between medical records and insurance applications;

(B) a description of the procedures for reporting possible fraudulent life settlement acts to the commissioner;

(C) a description of the plan for antifraud education and training of underwriters and other personnel; and

(D) a description or chart outlining the organizational arrangement of the antifraud personnel who are responsible for the investigation and reporting of possible fraudulent life settlement acts and investigating unresolved material inconsistencies between medical records and insurance applications.

(b) An antifraud plan submitted to the commissioner is privileged and confidential, is not subject to disclosure under Chapter 552, Government Code, and is not subject to discovery or subpoena in a civil action.

Sec. 1111A.023. INJUNCTION; CIVIL REMEDIES; CEASE AND DESIST ORDERS. (a) In addition to the penalties and other enforcement provisions of this chapter, if any person violates this chapter or any rule implementing this chapter, the commissioner may seek an injunction in a court in the county where the person resides or has a principal place of business and may apply for temporary and permanent orders that the commissioner determines necessary to restrain the person from further committing the violation.

(b) The commissioner may issue a cease and desist order against a person who violates any provision of this chapter, any rule or order adopted by the commissioner, or any written agreement entered into with the commissioner, in accordance with Chapter 82.

(c) If the commissioner finds that an action in violation of this chapter presents an immediate danger to the public and requires an immediate final order, the commissioner may issue an emergency cease and desist order under Chapter 83.

(d) The provisions of this chapter may not be waived by agreement. No choice of law provision may prevent the application of this chapter to any settlement.

Sec. 1111A.024. PENALTIES. (a) It is a violation of this chapter for any person, provider, broker, or any other party related to the business of life settlements to commit a fraudulent life settlement act.

(b) A person who knowingly, recklessly, or intentionally commits a fraudulent life settlement act commits a criminal offense and is subject to penalties under Chapter 35, Penal Code.

(c) Subtitle B, Title 2, applies to a violation of this chapter.

Sec. 1111A.025. APPLICABILITY OF OTHER INSURANCE LAWS. The following laws apply to a person engaged in the business of life settlements:

(1) Chapters 82, 83, 84, 101, 481, 541, and 701;
(2) Sections 31.002, 32.021, 32.023, 32.041, 38.001, 81.004, 86.001, 86.051, 86.052, 201.004, 401.051, 401.054, 401.151(a), 521.003, 521.004, 543.001(c), 801.056, and 862.052;

(3) Subchapter A, Chapter 32;

(4) Subchapter C, Chapter 36;

(5) Subchapter B, Chapter 404; and

(6) Subchapter B, Chapter 491.

SECTION _____. (a) A provider lawfully transacting business in this state before the effective date of this Act may continue to do so pending approval or disapproval of the person's application for a license as long as the application is filed with the commissioner of insurance not later than 30 days after the date of the publication by the commissioner of an application form and instructions for licensure of providers. If the publication of the application form and instructions is before the effective date of this Act, then the filing of the application may not be later than 30 days after the effective date of this Act and the applicant may use any form of life settlement contract that has been filed with the commissioner pending approval, provided that the form is otherwise in compliance with the provisions of this Act. A person transacting business in this state under this provision shall comply with all other requirements of this Act.

(b) A person who has lawfully negotiated a life settlement contract between an owner residing in this state and one or more providers for at least one year immediately before the effective date of this Act may continue to do so pending approval or disapproval of the person's application for a license provided that the application is filed with the commissioner of insurance not later than the 30th day after the date of publication by the commissioner of an application form and instructions for licensure of brokers. If the publication of the application form and instructions is before the effective date of this Act, then the filing of the

application may not be later than the 30th day after the effective date of this Act. Any person transacting business in this state under this provision shall comply with all other requirements of this Act.

SECTION _____. The heading to Chapter 1111, Insurance Code, is amended to read as follows:

CHAPTER 1111. [~~LIFE AND VIATICAL SETTLEMENTS AND~~
ACCELERATED TERM LIFE INSURANCE BENEFITS

SECTION _____. Subsection (a), Section 1551.255, Insurance Code, is amended to read as follows:

(a) In this section, "viatical settlement" has the meaning assigned to "life settlement contract" by Section 1111A.002 [~~1111.001~~].

SECTION _____. Subchapter A, Chapter 1111, Insurance Code, is repealed.

Senate Amendment No. 2 (Senate Floor Amendment No. 2)

Amend Floor Amendment No. 1 by Carona to **HB 2277** as follows:

(1) In added Section 1111A.003(h), Insurance Code (page 13, lines 5 - 6), strike "disclose the identity of the applicant's stockholders that own at least 10 percent of the shares of an applicant the shares of which" and substitute "disclose the identity of its stockholders, except stockholders owning fewer than ten percent of the shares of an applicant whose shares".

(2) In added Section 1111A.012(a), Insurance Code (page 20, lines 26 - 29), strike "Not later than the fifth day after the date a provider receives the application for a life settlement contract, the provider shall provide, in a separate written document, the following information to the owner:" and substitute "The broker, or the provider if no broker is involved in the application, shall provide in writing, in a separate document that is signed by the owner, the following information to the owner not later than the date of application for a life settlement contract:".

(3) In added Chapter 1111A, Insurance Code, immediately following added Section 1111A.025 (between page 37 and 38), add the following:

Sec. 1111A.026. APPLICABILITY OF CERTAIN PROVISIONS TO LIFE EXPECTANCY ESTIMATORS. (a) The following provisions do not apply to a broker who acts solely as a life expectancy estimator:

(1) Section 1111A.003(p);

(2) Section 1111A.012; and

(3) Sections 1111A.014(l) and (m).

(b) The commissioner may exempt a broker who acts only as a life expectancy estimator from other provisions of this chapter if the commissioner finds that the application of those provisions to the broker are not necessary for the public welfare.

Senate Amendment No. 3 (Senate Floor Amendment No. 1 - Third Reading)

Amend **HB 2277** on third reading as follows:

(1) In the SECTION that adds Chapter 1111A, Insurance Code, in added Section 1111A.002(18)(K), Insurance Code (Senate Floor Amendment No. 1, by Carona, page 10, lines 13-14), strike "Section 230.144A," and the substitute "Sections 230.501 and 230.144A, respectively,".

(2) In the SECTION that adds Chapter 1111A, Insurance Code, in added Section 1111A.025(1), Insurance Code (Senate Floor Amendment No. 1, by Carona, page 37, line 24), strike "541".

LEAVE OF ABSENCE GRANTED

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

Christian on motion of Huberty.

HB 2663 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

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

HB 2663, A bill to be entitled An Act relating to the effect of rules and standards adopted by the Railroad Commission of Texas relating to the liquefied petroleum gas industry on ordinances, orders, or rules adopted by political subdivisions relating to that industry.

Representative Chisum moved to concur in the senate amendments to **HB 2663**.

The motion to concur in the senate amendments to **HB 2663** prevailed by (Record 1526): 144 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Burnam; Button; Cain; Callegari; Carter; Castro; Chisum; Coleman; Cook; Craddick; Creighton; 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.; 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; 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; Ritter(C).

Absent, Excused — Christian; Crownover; Gonzalez.

Absent — Alonzo.

Senate Committee Substitute

CSHB 2663, A bill to be entitled An Act relating to the effect of rules and standards adopted by the Railroad Commission of Texas relating to the liquefied petroleum gas industry on ordinances, orders, or rules adopted by political subdivisions relating to that industry.

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

SECTION 1. Subchapter C, Chapter 113, Natural Resources Code, is amended by adding Section 113.054 to read as follows:

Sec. 113.054. EFFECT ON OTHER LAW. The rules and standards promulgated and adopted by the commission under Section 113.051 preempt and supersede any ordinance, order, or rule adopted by a political subdivision of this state relating to any aspect or phase of the liquefied petroleum gas industry. A political subdivision may petition the commission's executive director for permission to promulgate more restrictive rules and standards only if the political subdivision can prove that the more restrictive rules and standards enhance public safety.

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

HB 3647 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

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

HB 3647, A bill to be entitled An Act relating to directing payment, after approval, of certain miscellaneous claims and judgments against the state out of funds designated by this Act; making appropriations.

Representative Turner moved to concur in the senate amendments to **HB 3647**.

The motion to concur in the senate amendments to **HB 3647** prevailed by (Record 1527): 139 Yeas, 1 Nays, 2 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycok; Beck; Bohac; Bonnen; Branch; Brown; Burkett; Burnam; Button; Cain; Callegari; Castro; Chisum; Coleman; Cook; Craddick; Creighton; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farrar; Fletcher; Frullo; Gallego; Garza; Geren; Giddings; Gonzales, L.; Gonzales, V.; 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; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pickett; Pitts; Price; Quintanilla; Raymond; Reynolds; Riddle; 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.

Nays — Carter.

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

Absent, Excused — Christian; Crownover; Gonzalez.

Absent — Aliseda; Berman; Farias; Flynn; Naishtat.

The chair stated that **HB 3647** was passed subject to the provisions of Article III, Section 49a of the Texas Constitution.

STATEMENTS OF VOTE

When Record No. 1527 was taken, I was temporarily out of the house chamber. I would have voted yes.

Berman

When Record No. 1527 was taken, I was temporarily out of the house chamber. I would have voted yes.

Flynn

When Record No. 1527 was taken, I was in the house but away from my desk. I would have voted yes.

Naishtat

Senate Committee Substitute

CSHB 3647, A bill to be entitled An Act relating to directing payment, after approval, of certain miscellaneous claims and judgments against the state out of funds designated by this Act; making appropriations.

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

SECTION 1. The following sums of money are appropriated from money derived from the settlement of the following lawsuits and held in the suspense account established by the comptroller and the attorney general in the General Revenue Fund Account No. 0001 for payment of itemized claims and judgments plus interest, if any, against the State of Texas:

To pay Wright & Greenhill, P.C. the following amounts payable under the outside counsel contract OCC No. 2007-302-0012 in connection with the settlement of claims in State of Texas ex rel. Ven-A-Care of the Florida Keys, Inc. v. Mylan Pharmaceuticals USA, et al., Cause No. D-1-GV-07-001259, District Court of Travis County, 201st Judicial District—the amount of \$5,750,000.00 for legal fees and the amount of \$174,222.32 for expenses for a total appropriation of

\$5,924,222.32

To pay Wright & Greenhill, P.C. the following amounts payable under the outside counsel contract OCC No. 2007-302-0012 in connection with the settlement of claims in State of Texas ex rel. Ven-A-Care of the Florida Keys, Inc.

v. *TEVA*, et al., Cause No. D-1-GV-07-001259, District Court of Travis County, 201st Judicial District—the amount of \$11,230,010.00 for legal fees and the amount of \$157,093.62 for expenses for a total appropriation of \$11,387,103.62

SECTION 2. The following sums of money are appropriated out of the General Revenue Fund Account No. 0001 for payment of itemized claims and judgments plus interest, if any, against the State of Texas:

To pay Securities America Advisors, Inc. for replacement of a void warrant issued on March 9, 2000, for reimbursement of professional fees \$1,760.00

To pay Community Healthcare Services, Inc. for home and community services provided from February 2005 through August 2005 \$142,000.29

To pay Robert S. Kittredge for replacement of a void warrant issued May 14, 1982 \$10.00

To pay Cable Com, Inc. for replacement of a void warrant issued April 24, 1995 \$8,202.44

To pay Linda Clay for replacement of a void warrant issued November 7, 1994 \$77.35

To pay confidential payee for claim 93M90481 for replacement of a void payroll warrant issued November 10, 1994 \$565.56

To pay AT&T for telephone services provided from November 2000 to February 2002 \$7,978.41

To pay Young County-District Attorney, 90th District, for attorney's fees for a fraud case August 13, 1999 \$280.00

To pay Young County-District Attorney, 90th District, for attorney's fees for a fraud case January 11, 2001 \$280.00

To pay confidential payee for claim 94M00566 for void payroll warrants issued from January 1986 to March 1992 \$29,776.42

To pay confidential payee for claim 94M00581 for replacement of a void warrant issued December 17, 1997 \$65.55

To pay BHR Lodging Tenant Company for replacement of a void warrant issued March 16, 2007 \$167,323.45

To pay confidential payee for claim 94M00716 for replacement of a void warrant issued July 21, 1999 \$1,298.39

To pay confidential payee for claim 94M00753 for replacement of a void warrant issued July 2, 2001 \$348.54

To pay confidential payee for claim 94M00977 for replacement of a void warrant issued May 7, 2001 \$576.72

To pay confidential payee for claim 94M01069 for replacement of a void warrant issued October 2, 2001 \$112.00

To pay The Children's Shelter for foster care provided from March 15, 2006, to November 9, 2006 \$26,529.00

To pay The Children's Shelter for foster care provided from November 3, 2006, to July 31, 2007 \$14,601.60

To pay The Children's Shelter for foster care provided from December 7, 2006, to August 31, 2007 \$12,728.00

To pay The Children's Shelter for foster care provided from November 1, 2006, to February 1, 2007 \$11,979.64

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|--|--------------|
| To pay The Children's Shelter for foster care provided from March 3, 2007, to August 31, 2007 | \$10,144.05 |
| To pay The Children's Shelter for foster care provided from June 27, 2006, to May 3, 2007 | \$9,564.39 |
| To pay The Children's Shelter for foster care provided from January 21, 2007, to July 31, 2007 | \$6,512.00 |
| To pay the Bexar County Auditor for reimbursement for appointment under Article 11.071, Code of Criminal Procedure, of counsel Robin Norris in case #2004CR1613-W1-Defendant Ramon Hernandez May 2006 to August 2007 | \$3,149.31 |
| To pay JP Morgan Chase Bank for procurement card purchases for May 2008 to August 2008 for the account ending in "4258" for payment to vendors for goods and services provided for the benefit of children and adults in protective care | \$391.13 |
| To pay JP Morgan Chase Bank for procurement card purchases for March 2008 to August 2008 for the account ending in "4324" for payment for goods and services provided for the benefit of children and adults in protective care | \$964.09 |
| To pay confidential payee for claim 94M01169 for replacement of a void payroll warrant issued September 17, 2001 | \$384.79 |
| To pay confidential payee for claim 94M10076 for replacement of a void warrant issued June 28, 1995 | \$500.00 |
| To pay Christopher Patrick Cotter for replacement of a void warrant issued November 16, 2001 | \$100.00 |
| To pay confidential payee for claim 94M10209 for replacement of a void payroll warrant issued November 1, 1996 | \$593.20 |
| SECTION 3. The following sums of money are appropriated out of the State Highway Fund No. 0006 for payment of itemized claims and judgments plus interest, if any, against the State of Texas: | |
| To pay Thomas Williams for attorney's fees and court costs plus interest per judgment Cause No. GN-503758 in claim No. 90T00005 | \$992,555.50 |
| To pay City of Corpus Christi 80 percent reimbursement for engineering services provided from September 1, 2006, to August 31, 2007 | \$192,680.95 |
| To pay AT&T for utility adjustment for widening project September 1, 2003, to August 31, 2004 | \$329,376.20 |
| To pay City of Lewisville for Timber Creek Bike Trail Project October 2003 to August 2004 | \$4,445.14 |
| To pay Paline Pipeline Company, a subsidiary of Lion Oil Company, for utility adjustment on IH-10/Dewitt Road to KCS Railroad February 2006 to June 2006 | \$116,032.06 |
| To pay City of Garland for design construction completed February 9, 2001 | \$7,956.00 |
| To pay U.S. Customs and Border Protection for replacement warrant issued June 13, 2007 | \$281,659.00 |
| To pay Gaston Water Supply Corp for relocation of water line along proposed Loop 571 completed March 12, 1999 | \$27,437.22 |

To pay City of Hurst for engineering services provided from September 1, 2003, to August 31, 2004 \$32,452.93

To pay American Electric Power for utility adjustment on FM899, Titus County from February 2007 to August 2007 \$212,824.88

To pay City of El Paso for cost incurred on project No. 2552-012-035 for December 1, 2006, to August 31, 2007 \$168,021.69

To pay Bexar Metropolitan Water District for engineering and inspection services for utility relocation, Loop 410 at Zarzamora and Highway 16, San Antonio, February 22, 2006 \$121,656.80

To pay Florida Gas Transmission Company for utility adjustment relocation completed May 2004 \$116,397.75

To pay the County of Dallas Public Works Department for engineering services provided from March 26, 1999, to May 16, 2005 \$9,700.65

To pay the County of Dallas Public Works Department for engineering services provided from May 26, 1999, to June 25, 1999 \$644.93

To pay Montgomery County for preliminary engineering study for FM 2978 in Montgomery County from December 30, 2006, through February 28, 2007 \$17,826.75

To pay Montgomery County for preliminary engineering study for FM 2978 in Montgomery County from March 1, 2007, through March 31, 2007 \$25,205.05

To pay Montgomery County for preliminary engineering study for FM 2978 in Montgomery County from April 1, 2007, through April 21, 2007 \$16,182.19

To pay Montgomery County for preliminary engineering study for FM 2978 in Montgomery County from October 1, 2007, through December 1, 2007 \$25,398.62

To pay Montgomery County for preliminary engineering study for FM 2978 in Montgomery County from December 2, 2007, through January 26, 2008 \$7,648.80

To pay confidential payee for claim 94M10306 for replacement of a void warrant issued August 1, 1994 \$2,592.34

SECTION 4. The following sums of money are appropriated out of the General Revenue-Vital Statistics Fund Account No. 0019 for payment of itemized claims and judgments plus interest, if any, against the State of Texas:

To pay J. D. Gaona for replacement of a void warrant issued August 1, 2000 \$202.05

SECTION 5. The following sums of money are appropriated out of the General Revenue-Hazardous and Solid Waste Remediation Fees Account, No. 0550 for payment of itemized claims and judgments plus interest, if any, against the State of Texas:

To pay Weston Solutions, Inc. for engineering and remediation services provided from August 11, 2006, to February 2, 2007 \$185,000.00

SECTION 6. The following sums of money are appropriated out of the Veterans Land Bond Series 1986 Refunding Fund No. 0571 for payment of itemized claims and judgments plus interest, if any, against the State of Texas:

To pay Fannin County Title Company for replacement of a void warrant issued July 21, 1999 \$237.33

SECTION 7. The following sums of money are appropriated out of the General Revenue-Petroleum Storage Tank Remediation Fund Account No. 0655 for payment of itemized claims and judgments plus interest, if any, against the State of Texas:

To pay Wells Fargo Bank NA Unclaimed Property for replacement of a void warrant issued December 5, 2008 \$123,774.23

SECTION 8. The following sums of money are appropriated out of the Unemployment Compensation Clearance Account No. 0936 for payment of itemized claims and judgments plus interest, if any, against the State of Texas:

To pay Leila Elias Fanous for replacement of a void surplus tax credit warrant issued October 19, 2001 \$20.02

To pay The Seideman Law Firm for replacement of a void surplus tax credit warrant issued March 19, 2001 \$26.73

To pay The Seideman Law Firm for replacement of a void surplus tax credit warrant issued May 8, 2000 \$19.24

SECTION 9. (a) Before any claim or judgment may be paid from money appropriated by this Act, the claim or judgment must be verified and substantiated by the administrator of the special fund or account against which the claim or judgment is to be charged and be approved by the attorney general and the comptroller of public accounts. Any claim or judgment itemized in this Act that has not been verified and substantiated by the administrator of the special fund or account and approved by the attorney general and the comptroller by August 31, 2012, may not be paid from money appropriated by this Act.

(b) Each claim or judgment paid from money appropriated by this Act must contain such information as the comptroller of public accounts requires but at a minimum must contain the specific reason for the claim or judgment. If the claim is for a void warrant, the claim must include a specific identification of the goods, services, refunds, or other items for which the warrant was originally issued. In addition, it must include a certification by the original payee or the original payee's successors, heirs, or assigns that the debt is still outstanding. If the claim or judgment is for unpaid goods or services, it must be accompanied by an invoice or other acceptable documentation of the unpaid account and any other information that may be required by the comptroller.

SECTION 10. Subject to the conditions and restrictions in this Act and provisions stated in the judgments, the comptroller of public accounts is authorized and directed to issue one or more warrants on the state treasury, as soon as possible following the effective date of this Act, in favor of each of the individuals, firms, or corporations named or claim numbers identified in this Act, in an amount not to exceed the amount set opposite their respective names or claim numbers and shall mail or deliver to each of the individuals, firms, or corporations associated with each claim one or more warrants in payment of all claims included in this Act.

SECTION 11. This Act takes effect September 1, 2011.

(Speaker in the chair)

**SB 316 - HOUSE REFUSES TO ADOPT
CONFERENCE COMMITTEE REPORT**

Representative Gallego submitted the conference committee report on **SB 316**.

(Christian now present)

Representative Gallego moved to not adopt the conference committee report on **SB 316**.

The motion to not adopt the conference committee report on **SB 316** prevailed by (Record 1528): 146 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; 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; 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.; Gooden; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hernandez Luna; Hilderbran; Hochberg; Hopson; Howard, C.; Howard, D.; Huberty; Hughes; Hunter; Isaac; Jackson; 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.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Crownover; Gonzalez.

Absent — Johnson.

STATEMENT OF VOTE

When Record No. 1528 was taken, I was in the house but away from my desk. I would have voted yes.

Johnson

SB 316 - RECOMMITTED

Representative Gallego moved to recommit **SB 316** to the Conference Committee on **SB 316**.

The motion prevailed.

SB 316 - CONFERENCE COMMITTEE INSTRUCTED

Representative Fletcher moved to instruct the Conference Committee on **SB 316** to keep all house amendments on the bill.

The motion to instruct conferees prevailed.

(Crownover now present)

**HB 3819 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

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

HB 3819, A bill to be entitled An Act relating to the creation of the Valencia Municipal Management District No. 1; providing authority to levy an assessment and issue bonds.

Representative Crownover moved to concur in the senate amendments to **HB 3819**.

The motion to concur in the senate amendments to **HB 3819** prevailed by (Record 1529): 146 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; 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; Geren; Giddings; Gonzales, L.; Gonzales, V.; 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; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Gonzalez.

Absent — Garza; Veasey.

Senate Committee Substitute

CSHB 3819, A bill to be entitled An Act relating to the creation of the Valencia Municipal Management District No. 1; providing authority to levy an assessment and issue bonds.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
SECTION 1. Subtitle C, Title 4, Special District Local Laws Code, is amended by adding Chapter 3868 to read as follows:

CHAPTER 3868. VALENCIA MUNICIPAL MANAGEMENT DISTRICT

NO. 1

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 3868.001. DEFINITIONS. In this chapter:

(1) "Board" means the district's board of directors.

(2) "County" means Denton County, Texas.

(3) "Development agreement" means the "Valencia on the Lake Pre-Annexation Agreement, Development Agreement, Public Improvement District Agreement and Tax Increment Reinvestment Zone Agreement," effective December 16, 2008, as recorded on January 5, 2009, in the real property records of Denton County, Texas, as Instrument Number 2009-499, as amended by the "First Amendment to the Valencia on the Lake Pre-Annexation Agreement, Development Agreement, Public Improvement District Agreement and Tax Increment Reinvestment Zone Agreement," effective December 1, 2009, as recorded on January 12, 2010, in the real property records of Denton County, Texas, as Instrument Number 2010-2983, between the town and Valencia on the Lake, L.P., a Texas limited partnership, as may be amended.

(4) "Director" means a board member.

(5) "District" means the Valencia Municipal Management District

No. 1.

(6) "Town" means the Town of Little Elm, Texas.

Sec. 3868.002. CREATION AND NATURE OF DISTRICT. The district is a special district created under Sections 52 and 52-a, Article III, and Section 59, Article XVI, Texas Constitution.

Sec. 3868.003. PURPOSE; LEGISLATIVE FINDINGS. (a) The creation of the district is essential to accomplish the purposes of Sections 52 and 52-a, Article III, and Section 59, Article XVI, Texas Constitution, and other public purposes stated in this chapter. By creating the district and in authorizing the town and other political subdivisions to contract with the district, the legislature has established a program to accomplish the public purposes set out in Section 52-a, Article III, Texas Constitution.

(b) The creation of the district is necessary to promote, develop, encourage, and maintain employment, commerce, transportation, housing, tourism, recreation, the arts, entertainment, economic development, safety, and the public welfare in the district.

(c) This chapter and the creation of the district may not be interpreted to relieve the town or county from providing the level of services provided to the area in the district as of the effective date of the Act enacting this chapter. The district is created to supplement and not to supplant the town and county services provided in the district.

Sec. 3868.004. FINDINGS OF BENEFIT AND PUBLIC PURPOSE. (a) The district is created to serve a public use and benefit.

(b) All land and other property included in the district will benefit from the improvements and services to be provided by the district under powers conferred by Sections 52 and 52-a, Article III, and Section 59, Article XVI, Texas Constitution, and other powers granted under this chapter.

(c) The district is created to accomplish the purposes of a municipal management district as provided by general law and Sections 52 and 52-a, Article III, and Section 59, Article XVI, Texas Constitution.

(d) The creation of the district is in the public interest and is essential to:

(1) further the public purposes of developing and diversifying the economy of the state;

(2) eliminate unemployment and underemployment; and

(3) develop or expand transportation and commerce.

(e) The district will:

(1) promote the health, safety, and general welfare of residents, employers, potential employees, employees, visitors, and consumers in the district, and of the public;

(2) provide needed funding for the district to preserve, maintain, and enhance the economic health and vitality of the district territory as a community and business center; and

(3) promote the health, safety, welfare, and enjoyment of the public by providing pedestrian ways and by landscaping and developing certain areas in the district, which are necessary for the restoration, preservation, and enhancement of scenic beauty.

(f) Pedestrian ways along or across a street, whether at grade or above or below the surface, and street lighting, street landscaping, parking, and street art objects are parts of and necessary components of a street and are considered to be a street or road improvement.

(g) The district will not act as the agent or instrumentality of any private interest even though the district will benefit many private interests as well as the public.

Sec. 3868.005. DISTRICT TERRITORY. (a) The district is composed of the territory described by Section 2 of the Act enacting this chapter, as that territory may have been modified under Section 3868.113 or other law.

(b) The boundaries and field notes contained in Section 2 of the Act enacting this chapter form a closure. A mistake in the field notes or in copying the field notes in the legislative process does not affect the district's:

(1) organization, existence, or validity;

(2) right to contract;

(3) authority to borrow money or issue bonds or other obligations described by Section 3868.201 or to pay the principal and interest of the bonds or other obligations;

(4) right to impose or collect an assessment, or collect other revenue; or

(5) legality or operation.

Sec. 3868.006. ELIGIBILITY FOR INCLUSION IN SPECIAL ZONES.

(a) All or any part of the area of the district is eligible to be included in:

- (1) a tax increment reinvestment zone created under Chapter 311, Tax Code;
(2) a tax abatement reinvestment zone created under Chapter 312, Tax Code;
(3) an enterprise zone created under Chapter 2303, Government Code;
 or
(4) an industrial district created under Chapter 42, Local Government Code.

(b) If the town creates a tax increment reinvestment zone described by Subsection (a), the town and the board of directors of the zone, by contract with the district, may grant money deposited in the tax increment fund to the district to be used by the district for:

- (1) the purposes permitted for money granted to a corporation under Section 380.002(b), Local Government Code; and
(2) any other district purpose, including the right to pledge the money as security for any bonds issued by the district under Section 3868.201.

(c) A tax increment reinvestment zone created by the town in the district is not subject to the limitations provided by Section 311.006, Tax Code.

Sec. 3868.007. LIBERAL CONSTRUCTION OF CHAPTER. This chapter shall be liberally construed in conformity with the findings and purposes stated in this chapter.

[Sections 3868.008-3868.050 reserved for expansion]

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 3868.051. GOVERNING BODY; TERMS. (a) The district is governed by a board of three directors composed of:

- (1) one director appointed by the governing body of the town who meets the qualifications prescribed by Section 3868.052(a);
(2) the town manager; and
(3) the finance director of the town.

(b) An appointed director serves a term of four years.

Sec. 3868.052. QUALIFICATIONS OF APPOINTED DIRECTOR. (a) To be qualified to serve as an appointed director under Section 3868.051(a)(1), a person must:

- (1) meet the qualifications of Section 375.063, Local Government Code;
(2) be a partner of a partnership that owns property in the district;
(3) be an officer of a corporation that owns property in the district;
(4) be a member or officer of a limited liability company that owns property in the district; or
(5) be a member or officer of a limited liability company that is a partner of a partnership that owns property in the district.

(b) Section 49.052, Water Code, does not apply to the district.

Sec. 3868.053. COMPLETE DISCRETION OF TOWN REGARDING APPOINTMENT OF DIRECTOR. The governing body of the town may refuse to appoint a person who is nominated to be a director and meets the qualifications prescribed by Section 3868.052(a). The governing body has complete discretion in the appointment of a director.

Sec. 3868.054. VACANCY. (a) The remaining directors shall fill a vacancy on the board by appointing a person who meets the qualifications prescribed by Section 3868.052(a).

(b) If there are fewer than three directors, the governing body of the town shall appoint the necessary number of directors to fill all board vacancies.

Sec. 3868.055. DIRECTOR'S OATH OR AFFIRMATION. A director shall file the director's oath or affirmation of office with the district, and the district shall retain the oath or affirmation in the district records.

Sec. 3868.056. OFFICERS. The board shall elect from among the directors a chair, a vice chair, and a secretary.

Sec. 3868.057. COMPENSATION; EXPENSES. (a) The district may compensate each director in an amount not to exceed \$150 for each board meeting. The total amount of compensation a director may receive each year may not exceed \$6,000. A director who is an employee of the town may not receive compensation under this subsection.

(b) A director is entitled to reimbursement for necessary and reasonable expenses incurred in carrying out the duties and responsibilities of a director.

Sec. 3868.058. LIABILITY INSURANCE. The district may obtain and pay for comprehensive general liability insurance coverage from commercial insurance companies or other sources that protect and insure the directors against personal liability and from all claims for actions taken as directors or actions and activities taken by the district or by others acting on its behalf.

Sec. 3868.059. INITIAL DIRECTORS. (a) The initial board consists of the following directors:

| <u>Pos. No.</u> | <u>Name of Director</u> |
|-----------------|--|
| <u>1</u> | <u>Ivan Langford, Town Manager</u> |
| <u>2</u> | <u>Alan Dickerson, Town Finance Director</u> |
| <u>3</u> | <u>Ross Calhoun</u> |

(b) Of the initial directors, the term of the director appointed for position 3 expires May 31, 2014.

(c) This section expires September 1, 2014.

[Sections 3868.060-3868.100 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

Sec. 3868.101. GENERAL POWERS AND DUTIES. The district has the powers and duties necessary to accomplish the purposes for which the district is created.

Sec. 3868.102. IMPROVEMENT PROJECTS. The district may provide, or it may enter into contracts with a governmental or private entity to provide, the improvement projects described by Subchapter C-1 or activities in support of or incidental to those projects.

Sec. 3868.103. WATER DISTRICT POWERS. The district has the powers provided by the general laws relating to conservation and reclamation districts created under Section 59, Article XVI, Texas Constitution, including Chapters 49 and 54, Water Code.

Sec. 3868.104. ROAD DISTRICT POWERS. The district has the powers provided by the general laws relating to road districts and road utility districts created under Section 52(b), Article III, Texas Constitution, including Chapter 441, Transportation Code.

Sec. 3868.105. PUBLIC IMPROVEMENT DISTRICT POWERS. The district has the powers provided by Chapter 372, Local Government Code, to a municipality or county.

Sec. 3868.106. MUNICIPAL MANAGEMENT DISTRICT POWERS. The district has the powers provided by Chapter 375, Local Government Code.

Sec. 3868.107. CONTRACT POWERS. The district may contract with a governmental or private entity, on terms determined by the board, to carry out a power or duty authorized by this chapter or to accomplish a purpose for which the district is created.

Sec. 3868.108. DEVELOPMENT CORPORATION POWERS. The district, using money available to the district, may exercise the powers given to a development corporation under Chapter 505, Local Government Code, including the power to own, operate, acquire, construct, lease, improve, or maintain a project under that chapter.

Sec. 3868.109. NONPROFIT CORPORATION. (a) The board by resolution may authorize the creation of a nonprofit corporation to assist and act for the district in implementing a project or providing a service authorized by this chapter.

(b) The nonprofit corporation:

(1) has each power of and is considered to be a local government corporation created under Subchapter D, Chapter 431, Transportation Code; and

(2) may implement any project and provide any service authorized by this chapter.

(c) The board shall appoint the board of directors of the nonprofit corporation. The board of directors of the nonprofit corporation shall serve in the same manner as the board of directors of a local government corporation created under Subchapter D, Chapter 431, Transportation Code, except that a board member is not required to reside in the district.

Sec. 3868.110. AGREEMENTS; GRANTS. (a) As provided by Chapter 375, Local Government Code, the district may make an agreement with or accept a gift, grant, or loan from any person.

(b) The implementation of a project is a governmental function or service for the purposes of Chapter 791, Government Code.

Sec. 3868.111. MEMBERSHIP IN CHARITABLE ORGANIZATIONS. The district may join and pay dues to a charitable or nonprofit organization that performs a service or provides an activity consistent with the furtherance of a district purpose.

Sec. 3868.112. ECONOMIC DEVELOPMENT. (a) The district may engage in activities that accomplish the economic development purposes of the district.

(b) The district may establish and provide for the administration of one or more programs to promote state or local economic development and to stimulate business and commercial activity in the district, including programs to:

- (1) make loans and grants of public money; and
- (2) provide district personnel and services.

(c) The district may create economic development programs and exercise the economic development powers that:

- (1) Chapter 380, Local Government Code, provides to a municipality; and
- (2) Subchapter A, Chapter 1509, Government Code, provides to a municipality.

Sec. 3868.113. ADDING OR REMOVING TERRITORY. As provided by Subchapter J, Chapter 49, Water Code, the board may add territory to the district, subject to Section 54.016, Water Code, or remove territory from the district, except that:

- (1) the addition or removal of the territory must be approved by:
 - (A) the governing body of the town; and
 - (B) the owners of the territory being added or removed; and
- (2) territory may not be removed from the district if bonds or other obligations of the district payable wholly or partly from assessments levied or assessed on the territory are outstanding.

Sec. 3868.114. NO EMINENT DOMAIN POWER. The district may not exercise the power of eminent domain.

Sec. 3868.115. NO AD VALOREM TAX. The district may not impose an ad valorem tax.

Sec. 3868.116. NO TOLL ROADS. The district may not construct, acquire, maintain, or operate a toll road.

[Sections 3868.117-3868.150 reserved for expansion]

SUBCHAPTER C-1. IMPROVEMENT PROJECTS AND SERVICES

Sec. 3868.151. IMPROVEMENT PROJECTS AND SERVICES. The district may provide, design, construct, acquire, improve, relocate, operate, maintain, or finance an improvement project or service using money available to the district, or contract with a governmental or private entity to provide, design, construct, acquire, improve, relocate, operate, maintain, or finance an improvement project or service authorized under this chapter or Chapter 375, Local Government Code.

Sec. 3868.152. BOARD DETERMINATION REQUIRED. The district may not undertake an improvement project unless the board determines the project:

- (1) is necessary to accomplish a public purpose of the district; and
- (2) complies with the development agreement or the parties to the development agreement agree to the project, in writing.

Sec. 3868.153. LOCATION OF IMPROVEMENT PROJECT. An improvement project may be inside or outside the district.

Sec. 3868.154. TOWN REQUIREMENTS. (a) An improvement project in the town must comply with any applicable requirements of the town, including codes and ordinances, that are consistent with the development agreement.

(b) The district may not provide, conduct, or authorize any improvement project on the town's streets, highways, rights-of-way, or easements without the consent of the governing body of the town.

Sec. 3868.155. IMPROVEMENT PROJECT AND SERVICE IN DEFINABLE AREA. The district may undertake an improvement project or service that confers a special benefit on a definable area in the district and levy and collect a special assessment on benefited property in the district in accordance with:

(1) Chapter 372, Local Government Code; or

(2) Chapter 375, Local Government Code.

Sec. 3868.156. CONTRACTS. A contract to design, construct, acquire, improve, relocate, operate, maintain, or finance an improvement project is considered a contract for a good or service under Subchapter I, Chapter 271, Local Government Code.

[Sections 3868.157-3868.200 reserved for expansion]

SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

Sec. 3868.201. BORROWING MONEY; OBLIGATIONS. (a) The district may borrow money for a district purpose by issuing bonds, notes, time warrants, or other obligations, or by entering into a contract payable wholly or partly from an assessment, a contract payment, a grant, revenue from a zone created under Chapter 311 or 312, Tax Code, other district revenue, or a combination of these sources.

(b) An obligation described by Subsection (a):

(1) may bear interest at a rate determined by the board; and

(2) may include a term or condition as determined by the board.

Sec. 3868.202. DEVELOPMENT AGREEMENT. Before the district borrows money or issues an obligation under Section 3868.201, the town must provide written notice to the district that no party to the development agreement is in default as of the date the district is authorized to borrow the money or enter the obligation.

Sec. 3868.203. ASSESSMENTS. The district may impose an assessment on property in the district to pay for an obligation described by Section 3868.201 in the manner provided for:

(1) a district under Subchapters A, E, and F, Chapter 375, Local Government Code; or

(2) a municipality or county under Subchapter A, Chapter 372, Local Government Code.

Sec. 3868.204. DISBURSEMENTS AND TRANSFERS OF MONEY. The board by resolution shall establish the number of directors' signatures and the procedure required for a disbursement or transfer of the district's money.

Sec. 3868.205. RESIDENTIAL PROPERTY NOT EXEMPT. Section 375.161, Local Government Code, does not apply to the district.

[Sections 3868.206-3868.250 reserved for expansion]

SUBCHAPTER E. DISSOLUTION

Sec. 3868.251. DISSOLUTION BY TOWN ORDINANCE. (a) The town may dissolve the district by ordinance.

(b) The town may not dissolve the district until:

(1) the district's outstanding indebtedness or contractual obligations have been repaid or discharged; or

(2) the town agrees to succeed to the rights and obligations of the district.

(c) The town may not dissolve the district until:

(1) each party to the development agreement fulfills the party's obligations under the agreement; and

(2) the district fulfills the district's obligation to pay or reimburse a developer or owner for the costs of improvement projects and services undertaken by the district.

Sec. 3868.252. COLLECTION OF ASSESSMENTS AND OTHER REVENUE. (a) If the dissolved district has bonds or other obligations outstanding secured by and payable from assessments or other revenue, the town succeeds to the rights and obligations of the district regarding enforcement and collection of the assessments or other revenue.

(b) The town shall have and exercise all district powers to enforce and collect the assessments or other revenue to pay:

(1) the bonds or other obligations when due and payable according to their terms; or

(2) special revenue or assessment bonds or other obligations issued by the town to refund the outstanding bonds or obligations of the district.

Sec. 3868.253. ASSUMPTION OF ASSETS AND LIABILITIES. (a) After the town dissolves the district, the town assumes the obligations of the district, including any bonds or other indebtedness payable from assessments or other district revenue.

(b) If the town dissolves the district, the board shall transfer ownership of all district property to the town.

SECTION 2. The Valencia Municipal Management District No. 1 initially includes all territory contained in the following area:

Being a 448.005 acre tract of land situated in the S. Guarrara Survey, Abstract No. 456 and the T. Rodriguez Survey, Abstract No. 1068, and the A. Cooper Survey, Abstract No. 250, in Denton County, Texas, and being all of a called 448.136 acre tract of land conveyed to Sassanid Arcady Holdings, L.P., by deed recorded in Document Number 2006-326, Real Property Records, Denton County, Texas. Said 448.005 acre tract, with bearing basis being Grid North, Texas State Plane Coordinates, North Central Zone, NAD83. Being more particularly described by metes and bounds as follows:

Beginning at a Corps of Engineers monument stamped "J-818-1/1" (TXNC-4202, N-7125809.07083, E-235639.61099, grid coordinates) found for the northeast corner of aforesaid 448.136 acre tract and being on the west line of a called 34.4606 acre tract of land conveyed to David J. Kirch by deed recorded in Volume 3060, Page 706, Denton County, Texas;

Thence South 00 degrees 17 minutes 50 seconds West, along the east line of aforesaid 448.136 acre tract and the common west lines of a aforesaid 34.4606 acre tract and a called 123.243 acre tract of land conveyed to Thomas James George and Robert Joseph George by deed recorded in Volume 853, Page 138, Deed Records, Denton County, Texas, a Distance of 2121.00 feet to a point for corner;

Thence South 01 degrees 54 minutes 55 seconds West, continuing along the east line of aforesaid 448.136 acre tract and the common west lines of aforesaid 123.243 acre tract, a distance of 616.18 feet to a Corps of Engineers concrete monument with a brass disc stamped "J-819-9" (disturbed) found for the southwest corner of said 123.243 acre tract;

Thence along the common property lines of aforesaid 448.136 acre tract and Garza-Little Elm Reservoir (Lake Lewisville) the following courses and distances:

South 05 degrees 05 minutes 39 seconds West, a distance of 973.12 feet to a Corps of Engineers concrete monument with a brass disc stamped "J-819-7B" found for corner;

South 05 degrees 47 minutes 18 seconds West, a distance of 188.48 feet to a Corps of Engineers metal fence corner post stamped "JP-5A" found for corner;

South 89 degrees 33 minutes 02 seconds West, a distance of 201.77 feet to a Corps of Engineers metal fence corner post stamped "JP-5J" found for corner;

South 01 degrees 10 minutes 59 seconds East, a distance of 197.53 feet to a Corps of Engineers metal fence corner post stamped "JP-5K" found for corner;

South 59 degrees 49 minutes 02 seconds west, a distance of 157.90 feet to a Corps of Engineers metal fence corner post stamped "JP-5L" found for corner;

North 53 degrees 19 minutes 52 seconds West, a distance of 309.93 feet to a Corps of Engineers metal fence corner post stamped "JP-5M" found for corner;

South 66 degrees 04 minutes 16 seconds West, a distance of 446.47 feet to a Corps of Engineers metal fence corner post stamped "JP-5C" found for corner;

North 89 degrees 51 minutes 07 seconds West, a distance of 730.36 feet to a Corps of Engineers metal fence corner post stamped "JP-5D" found for corner;

South 62 degrees 27 minutes 46 seconds West, a distance of 369.89 feet to a Corps of Engineers metal fence corner post stamped "JP-5E" found for corner;

North 30 degrees 01 minutes 04 seconds West, a distance of 182.06 feet to a Corps of Engineers metal fence corner post stamped "JP-5F" found for corner;

North 77 degrees 59 minutes 54 seconds West, a distance of 203.73 feet to a Corps of Engineers metal fence corner post stamped "JP-5G" found for corner;

South 67 degrees 53 minutes 42 seconds West, a distance of 253.97 feet to a Corps of Engineers concrete monument with a brass disc stamped "J-809-2-3" found for corner;

South 85 degrees 20 minutes 33 seconds, West, a distance of 1000.06 feet to a Corps of Engineers concrete monument with a brass disc stamped "J-809-2-2" found for corner;

South 60 degrees 03 minutes 52 seconds West, a distance of 742.15 feet to a Corps of Engineers concrete monument with a brass disc stamped "J-809-2-1" found for corner;

Thence North 88 degrees 47 minutes 14 seconds West, a distance of 900.19 feet to a 1/2" iron rod found for a northwest corner of a tract of land conveyed to Robert Sparks by deed recorded in Volume 820, Page 541, Deed Records, Denton County, Texas;

Thence South 25 degrees 56 minutes 04 seconds West, along the west line of aforesaid Robert Sparks Tract, a distance of 400.69 feet to a point for the southwest corner of said Robert Sparks Tract and being the northwest corner of The Shores at Lake Lewisville, an Addition to Denton County, Texas by plat recorded in Cabinet I., Page 386, Plat Records, Denton County, Texas;

Thence South 25 degrees 47 minutes 13 seconds West, along the west line of aforesaid The Shores at Lake Lewisville, a distance of 678.25 feet to a point for the southwest corner of the said Shores at Lake Lewisville and being the northwest corner of a called 2.4796 acre tract of land conveyed to Robert Eric Seitz and Wife, Christy L. Seitz by deed recorded in County Clerk's File No. 2001-R0084339, Real Property Records, Denton County, Texas;

Thence South 26 degrees 32 minutes 44 seconds West, along the west line of aforesaid 2.4796 acre tract, a distance of 163.19 feet to a 3/4 inch iron rod found for the southwest corner of said 2.4796 acre tract and being the northeast corner of a tract of land conveyed to Clifford E. Burgert and wife, Norma J. Burgert by deed recorded in Volume 603, page 591, Deed Records, Denton County, Texas;

Thence North 53 degrees 24 minutes 02 seconds West, along the northeast line of aforesaid Burgert Tract, a distance of 613.52 feet to a point for corner;

Thence South 00 degrees 14 minutes 27 seconds West, along the west line of aforesaid Burgert Tract, a distance of 1204.38 feet to a point for the southwest corner of said Burgert Tract;

Thence along the common property lines of aforesaid 448.136 acre tract and Garza-Little Elm Reservoir (Lake Lewisville) the following courses and distances:

South 88 degrees 47 minutes 31 seconds West, a distance of 852.62 feet to a Corps of Engineers concrete monument with a brass disc stamped "H-723-1A" found for corner;

South 01 degrees 35 minutes 41 seconds West, a distance of 224.05 feet to a 1/2" iron rod found for corner;

South 41 degrees 04 minutes 06 seconds West, a distance of 1034.72 feet to a 1/2" iron rod found for corner;

South 31 degrees 38 minutes 08 seconds East, a distance of 43.78 feet to a Corps of Engineers concrete monument with a brass disc stamped "H-725-6" found for corner;

South 67 degrees 00 minutes 25 seconds West, a distance of 339.76 feet to a Corps of Engineers concrete monument with a brass disc stamped "H-725-5" found for corner;

North 03 degrees 41 minutes 10 seconds East, a distance of 799.90 feet to a Corps of Engineers concrete monument with a brass disc stamped "H-725-4" found for corner;

North 54 degrees 21 minutes 53 seconds West, a distance of 880.37 feet to a Corps of Engineers concrete monument with a brass disc stamped "H-725-3" (TXNC-4202, N-7119284.86086, E-2447700.74262, Grid Coordinates) found for corner;

North 43 degrees 52 minutes 25 seconds East, passing at a distance 470.45 feet a Corps of Engineers concrete monument with a brass disc stamped "H-725-2B" found for witness, continuing a total distance of 1470.92 feet to a point for corner;

North 00 degrees 16 minutes 40 seconds East, a distance of 841.00 feet to a Corps of Engineers concrete monument with a brass disc stamped "H-725-1" found for corner;

South 89 degrees 24 minutes 13 seconds East, a distance of 124.81 feet to a Corps of Engineers concrete monument with a brass disc stamped "J-802-1" found for corner;

North 11 degrees 07 minutes 21 seconds East, a distance of 189.76 feet to a Corps of Engineers concrete monument with a brass disc stamped "J-802-1A" found for corner;

North 11 degrees 09 minutes 34 seconds East, a distance of 1139.40 feet to a Corps of Engineers concrete monument with a brass disc stamped "J-802-1B" found for corner;

North 11 degrees 07 minutes 01 seconds East, a distance of 206.42 feet to a Corps of Engineers concrete monument with a brass disc stamped "J-802-2" found for corner;

South 67 degrees 02 minutes 47 seconds East, a distance of 300.01 feet to a 1/2" iron rod found for corner;

North 74 degrees 49 minutes 11 seconds East, a distance of 490.87 feet to a Corps of Engineers concrete monument with a brass disc stamped "J-807-1/1" found for corner;

South 61 degrees 15 minutes 26 seconds East, a distance of 373.27 feet to a Corps of Engineers concrete monument with a brass disc stamped "J-807-1/2" found for corner;

South 26 degrees 49 minutes 05 seconds East, a distance of 699.90 feet to a 1/2: iron rod found for corner;

South 81 degrees 28 minutes 29 seconds East, a distance of 666.26 feet to a point for corner;

North 66 degrees 13 minute 24 seconds East, a distance of 1797.71 feet to a Corps of Engineers concrete monument with a brass disc stamped "J-809-1/2" found for corner;

North 41 degrees 17 minutes 12 seconds East, a distance of 667.01 feet to a Corps of Engineers concrete monument with a brass disc stamped "J-809-1/3" found for corner;

North 31 degrees 23 minutes 34 seconds East, a distance of 700.27 feet to a Corps of Engineers concrete monument with a brass disc stamped "J-809-1/4" found for corner;

North 63 degrees 23 minutes 49 seconds East, a distance of 273.07 feet to a Corps of Engineers concrete monument with a brass disc stamped "J-840-1" found for corner;

South 89 degrees 29 minutes 46 seconds East, a distance of 229.83 feet to a point for corner;

North 38 degrees 34 minutes 35 seconds East, a distance of 1360.52 feet to a Corps of Engineers concrete monument with a brass disc stamped "J-812-1" found for corner;

North 80 degrees 39 minutes 19 seconds East, a distance of 243.94 feet to a Corps of Engineers concrete monument with a brass disc stamped "J-812-3" found for corner;

North 59 degrees 22 minutes 33 seconds East, a distance of 168.45 feet to a Corps of Engineers concrete monument with a brass disc stamped "J-812-4" found for corner;

North 44 degrees 29 minutes 05 seconds East, a distance of 399.34 feet to a 1/2" iron rod found for corner;

North 28 degrees 23 minutes 26 seconds East, a distance of 199.91 feet to a Corps of Engineers concrete monument with a brass disc stamped "J-812-6" found for corner;

North 49 degrees 33 minutes 37 seconds East, a distance of 500.13 feet to a Corps of Engineers concrete monument with a brass disc stamped "J-812-7" found for corner;

North 77 degrees 57 minutes 14 seconds East, a distance of 439.11 feet to the POINT OF BEGINNING, and containing 448.005 acres of land, more or less.

SECTION 3. (a) The legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published as provided by law, and the notice and a copy of this Act have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished under Section 59, Article XVI, Texas Constitution, and Chapter 313, Government Code.

(b) The governor, one of the required recipients, has submitted the notice and Act to the Texas Commission on Environmental Quality.

(c) The Texas Commission on Environmental Quality has filed its recommendations relating to this Act with the governor, lieutenant governor, and speaker of the house of representatives within the required time.

(d) All requirements of the constitution and laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this Act have been fulfilled and accomplished.

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

HR 2550 - NOTICE OF INTRODUCTION

Pursuant to the provisions of Rule 13, Section 9(f) of the House Rules, the speaker announced the introduction of **HR 2550**, suspending the limitations on the conferees for **HB 1517**.

LEAVE OF ABSENCE GRANTED

The following member was granted leave of absence temporarily for the remainder of today to attend a conference committee meeting:

Crownover on motion of McClendon.

SB 89 - REQUEST OF SENATE GRANTED CONFERENCE COMMITTEE APPOINTED

On motion of Representative Rodriguez, the house granted the request of the senate for the appointment of a Conference Committee on **SB 89**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 89**: Rodriguez, chair; Hughes, Miles, Isaac, and Lozano.

SB 156 - REQUEST OF SENATE GRANTED CONFERENCE COMMITTEE APPOINTED

On motion of Representative V. Gonzales, the house granted the request of the senate for the appointment of a Conference Committee on **SB 156**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 156**: V. Gonzales, chair; Coleman, J. Davis, Kolkhorst, and Zerwas.

SB 249 - REQUEST OF SENATE GRANTED CONFERENCE COMMITTEE APPOINTED

On motion of Representative Orr, the house granted the request of the senate for the appointment of a Conference Committee on **SB 249**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 249**: Orr, chair; Anchia, Flynn, Legler, and Truitt.

SB 958 - REQUEST OF SENATE GRANTED CONFERENCE COMMITTEE APPOINTED

On motion of Representative Larson, the house granted the request of the senate for the appointment of a Conference Committee on **SB 958**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 958**: Larson, chair; Guillen, Kuempel, Price, and Rodriguez.

RECESS

At 1:05 p.m., the speaker announced that the house would stand recessed until 3 p.m. today.

AFTERNOON SESSION

The house met at 3 p.m. and was called to order by the speaker.

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. 38 and Senate List No. 34).

LEAVE OF ABSENCE GRANTED

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

Castro on motion of Quintanilla.

HR 2558 - NOTICE OF INTRODUCTION

Pursuant to the provisions of Rule 13, Section 9(f) of the House Rules, the speaker announced the introduction of **HR 2558**, suspending the limitations on the conferees for **HB 1**.

HB 2594 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

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

HB 2594, A bill to be entitled An Act relating to the licensing and regulation of certain credit services organizations and the regulation of certain extensions of consumer credit obtained by those organizations or with regard to which the organizations provide assistance; providing an administrative penalty.

Representative Truitt moved to concur in the senate amendments to **HB 2594**.

The motion to concur in the senate amendments to **HB 2594** prevailed by (Record 1530): 103 Yeas, 35 Nays, 1 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Aycock; Bohac; Branch; Burnam; Callegari; Chisum; Coleman; Cook; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Farias; Farrar; Gallego; Garza; Geren; Giddings; Gonzales, L.; Gonzales, V.; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hernandez Luna; Hilderbran; Hopson; Howard, D.; Huberty; Hughes; Hunter; Jackson; Keffer; King, P.; Kleinschmidt; Kolkhorst; Kuempel; Larson; Legler; Lozano; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer;

McClendon; Menendez; Miles; Miller, D.; Miller, S.; Muñoz; Murphy; Nash; Oliveira; Orr; Otto; Patrick; Peña; Pickett; Price; Quintanilla; Raymond; Reynolds; Ritter; Rodriguez; Schwertner; Scott; Sheets; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Workman; Zerwas.

Nays — Anderson, R.; Beck; Berman; Bonnen; Brown; Burkett; Button; Cain; Carter; Christian; Craddick; Creighton; Darby; Davis, S.; Elkins; Fletcher; Flynn; Frullo; Gooden; Howard, C.; Isaac; Landtroop; Laubenberg; Lavender; Lewis; Morrison; Parker; Paxton; Perry; Phillips; Riddle; Sheffield; Taylor, V.; White; Zedler.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Castro; Crownover; Gonzalez.

Absent — Hochberg; Johnson; King, S.; King, T.; Lucio; Naishtat; Pitts; Simpson.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 1530. I intended to vote no.

C. Anderson

I was shown voting yes on Record No. 1530. I intended to vote no.

Huberty

When Record No. 1530 was taken, I was in the house but away from my desk. I would have voted yes.

Johnson

I was shown voting yes on Record No. 1530. I intended to vote no.

P. King

When Record No. 1530 was taken, I was in the house but away from my desk. I would have voted yes.

T. King

Senate Amendment No. 1 (Senate Committee Amendment No. 1)

Amend **HB 2594** (engrossed version) as follows:

(1) On page 13, line 24, strike "license holder" and substitute "credit access business or license holder".

Senate Amendment No. 2 (Senate Floor Amendment No. 1)

Amend Senate Committee Amendment No. 1 to **HB 2594** (senate committee printing, page 1, between lines 9 and 10) by adding the following item:

(2) In SECTION 2 of the bill, after added Section 393.628(a), Finance Code (page 6, between lines 27 and 28), insert the following subsection and reletter subsequent subsections of Section 393.628, Finance Code, appropriately:

(b) The commissioner shall remit to the comptroller amounts received under Subsection (a) for deposit in an interest-bearing deposit account in the Texas Treasury Safekeeping Trust Company. Money in the account may be spent by the finance commission only for the purposes provided by this section. Amounts in the account may be invested and reinvested in the same manner as funds of the Employees Retirement System of Texas, and the interest from those investments shall be deposited to the credit of the account.

Senate Amendment No. 3 (Senate Committee Amendment No. 2)

Amend **HB 2594** (engrossed version) as follows:

(1) On page 2, line 27, add after the underlined period "For purposes of this chapter, this definition does not preclude repayment in more than one installment."

Senate Amendment No. 4 (Senate Floor Amendment No. 3)

Amend **HB 2594** (senate committee printing) as follows:

(1) In SECTION 2 of the bill, strike added Section 393.602(b), Finance Code (page 2, lines 21-25), and substitute the following:

(b) A credit access business may assess fees for its services as agreed to between the parties. A credit access business fee may be calculated daily, biweekly, monthly, or on another periodic basis. A credit access business is permitted to charge amounts allowed by other laws, as applicable. A fee may not be charged unless it is disclosed.

(2) In SECTION 2 of the bill, strike added Section 393.622(c), Finance Code (page 5, lines 32-35), and substitute the following:

(c) Nothing in Section 393.201(c) or Sections 393.601-393.628 grants authority to the finance commission or the Office of Consumer Credit Commissioner to establish a limit on the fees charged by a credit access business.

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).

**HB 1517 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

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

HB 1517, A bill to be entitled An Act relating to the disposition of fines for traffic violations collected by certain municipalities.

Representative Isaac 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 1517**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 1517**: Isaac, chair; Kleinschmidt, Lozano, Phillips, and Rodriguez.

HB 2761 - MOTION TO CONCUR IN SENATE AMENDMENTS

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

HB 2761, A bill to be entitled An Act relating to meetings and records of certain property owners' associations.

Representative Solomons moved to concur in the senate amendments to **HB 2761** earlier today.

The motion to concur in the senate amendments to **HB 2761** was lost by (Record 1531): 62 Yeas, 77 Nays, 1 Present, not voting. (The vote was reconsidered later today, and the house concurred in the senate amendments to **HB 2761** by Record No. 1535.)

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Burnam; Coleman; Davis, Y.; Deshotel; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Gallego; Geren; Gonzales, L.; Gonzales, V.; Guillen; Gutierrez; Hernandez Luna; Howard, D.; Huberty; Hunter; Jackson; Johnson; King, S.; King, T.; Kolkhorst; Lozano; Lucio; Lyne; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Muñoz; Naishtat; Oliveira; Otto; Peña; Pickett; Quintanilla; Raymond; Reynolds; Rodriguez; Scott; Solomons; Strama; Torres; Turner; Veasey; Villarreal; Vo; Walle; Workman; Zerwas.

Nays — Anderson, C.; Anderson, R.; Aycocock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Button; Cain; Callegari; Carter; Chisum; Christian; Cook; Craddock; Creighton; Darby; Davis, J.; Davis, S.; Driver; Fletcher; Flynn; Frullo; Gooden; Hamilton; Hancock; Hardcastle; Harless; Hartnett; Hilderbran; Hochberg; Hopson; Hughes; Isaac; Keffer; King, P.; Kleinschmidt; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Madden; Margo; Miller, D.; Miller, S.; Morrison; Murphy; Nash; Orr; Parker; Patrick; Paxton; Perry; Phillips; Pitts; Price; Riddle; Ritter; Schwertner; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smithee; Taylor, V.; Truitt; Weber; White; Woolley; Zedler.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Castro; Crownover; Gonzalez.

Absent — Garza; Giddings; Harper-Brown; Howard, C.; Smith, W.; Taylor, L.; Thompson.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 1531. I intended to vote no.

Hunter

I was shown voting yes on Record No. 1531. I intended to vote no.

Kolkhorst

HR 2569 - ADOPTED
(by Bonnen)

Representative Bonnen moved to suspend all necessary rules to take up and consider at this time **HR 2569**.

The motion prevailed.

The following resolution was laid before the house:

HR 2569, Congratulating Tabbetha DuBois and Austin Powers on their wedding.

HR 2569 was adopted.

HR 2570 - ADOPTED
(by Bonnen)

Representative Bonnen moved to suspend all necessary rules to take up and consider at this time **HR 2570**.

The motion prevailed.

The following resolution was laid before the house:

HR 2570, In memory of Dr. J. H. Bertheau of Lake Jackson.

HR 2570 was unanimously adopted by a rising vote.

HB 3 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS

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

HB 3, A bill to be entitled An Act relating to the imposition of a sentence of life without parole on certain defendants who commit certain sexual offenses.

Representative Thompson moved to concur in the senate amendments to **HB 3**.

The motion to concur in the senate amendments to **HB 3** prevailed by (Record 1532): 140 Yeas, 2 Nays, 1 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Burnam; Button; Cain; Callegari; Chisum; Christian; Coleman; Cook; Craddick; Creighton; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Flynn; Frullo; Gallego; Geren; Giddings; Gonzales, L.; Gonzales, V.; 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; 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; 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; Woolley; Workman; Zedler; Zerwas.

Nays — Carter; Kolkhorst.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Castro; Crownover; Gonzalez.

Absent — Garza; Quintanilla; Raymond; Schwertner.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 1532. I intended to vote no.

Fletcher

I was shown voting yes on Record No. 1532. I intended to vote no.

Lewis

I was shown voting yes on Record No. 1532. I intended to vote no.

Phillips

When Record No. 1532 was taken, my vote failed to register. I would have voted yes.

Schwertner

Senate Committee Substitute

CSHB 3, A bill to be entitled An Act relating to the imposition of a sentence of life without parole on certain defendants who commit certain sexual offenses.

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

SECTION 1. Section 5(d), Article 42.12, Code of Criminal Procedure, is amended to read as follows:

(d) In all other cases the judge may grant deferred adjudication unless:

(1) the defendant is charged with an offense:

(A) under Sections 49.04-49.08, Penal Code; or

(B) for which punishment may be increased under Section 481.134(c), (d), (e), or (f), Health and Safety Code, if it is shown that the defendant has been previously convicted of an offense for which punishment was increased under any one of those subsections;

(2) the defendant:

(A) is charged with an offense under Section 21.11, 22.011, or 22.021, Penal Code, regardless of the age of the victim, or a felony described by Section 13B(b) of this article; and

(B) has previously been placed on community supervision for any offense under Paragraph (A) of this subdivision; or

(3) the defendant is charged with an offense under:

(A) Section 21.02, Penal Code; or

(B) Section 22.021, Penal Code, that is punishable under Subsection (f) of that section or under Section 12.42(c)(3) or (4), Penal Code.

SECTION 2. Section 508.145(d), Government Code, is amended to read as follows:

(d)(1) An inmate serving a sentence for an offense described by Section 3g(a)(1)(A), (C), (D), (E), (F), (G), (H), (I), (J), or (K), Article 42.12, Code of Criminal Procedure, or for an offense for which the judgment contains an affirmative finding under Section 3g(a)(2) of that article, is not eligible for release on parole until the inmate's actual calendar time served, without consideration of good conduct time, equals one-half of the sentence or 30 calendar years, whichever is less, but in no event is the inmate eligible for release on parole in less than two calendar years.

(2) Notwithstanding Subdivision (1), an inmate serving a sentence for an offense described by Section 3g(a)(1)(E), Article 42.12, Code of Criminal Procedure, is not eligible for release on parole if the inmate is serving a sentence for an offense for which punishment was enhanced under Section 12.42(c)(4), Penal Code.

SECTION 3. Sections 12.42(b) and (d), Penal Code, are amended to read as follows:

(b) Except as provided by Subsection (c)(2) or (c)(4), if it is shown on the trial of a second-degree felony that the defendant has been once before convicted of a felony, on conviction he shall be punished for a first-degree felony.

(d) Except as provided by Subsection (c)(2) or (c)(4), if it is shown on the trial of a felony offense other than a state jail felony punishable under Section 12.35(a) that the defendant has previously been finally convicted of two felony offenses, and the second previous felony conviction is for an offense that occurred subsequent to the first previous conviction having become final, on conviction he shall be punished by imprisonment in the Texas Department of Criminal Justice for life, or for any term of not more than 99 years or less than 25 years.

SECTION 4. Section 12.42(c)(4), Penal Code, is amended to read as follows:

(4) Notwithstanding Subdivision (1) or (2), a defendant shall be punished by imprisonment in the Texas Department of Criminal Justice for life without parole if it is shown on the trial of an offense under Section 21.02 or 22.021 that the defendant has previously been finally convicted of:

(A) an offense under Section 21.02 or 22.021; or

(B) an offense that was committed under the laws of another state and that contains elements that are substantially similar to the elements of an offense under Section 21.02 or 22.021.

SECTION 5. The change in law made by this Act applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is 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 section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 6. This Act takes effect September 1, 2011.

**HB 2207 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

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

HB 2207, A bill to be entitled An Act relating to the authority of the board of trustees to set rates for certain municipal utility systems.

Representative Oliveira moved to concur in the senate amendments to **HB 2207**.

The motion to concur in the senate amendments to **HB 2207** prevailed by (Record 1533): 142 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Burnam; Button; Cain; Callegari; Carter; Chisum; Christian; Coleman; Cook; Craddick; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Flynn; Frullo; Gallego; Geren; Giddings; Gonzales, V.; Gooden; Guillen; 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.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Castro; Crownover; Gonzalez.

Absent — Creighton; Garza; Gonzales, L.; Gutierrez.

Senate Committee Substitute

CSHB 2207, A bill to be entitled An Act relating to the authority of the board of trustees to set rates for certain municipal utility systems.

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

SECTION 1. Section 552.141, Local Government Code, is amended to read as follows:

Sec. 552.141. APPLICABILITY OF SUBCHAPTER. This subchapter applies only to a home-rule municipality that owns or may own a water, wastewater, storm water, or drainage utility system, by ordinance or charter elects to have the management and control of two or more of those utility systems governed by this subchapter, and:

(1) has outstanding obligations payable solely from and secured by a lien on and pledge of the net revenue of one or more of those systems; or

(2) issues obligations that are payable solely from and secured by a lien on and pledge of the net revenue of one or more of those systems.

SECTION 2. Section 552.142(a), Local Government Code, is amended to read as follows:

(a) A municipality by ordinance may transfer management and control of two or more of its water, wastewater, storm water, or drainage systems to a board of trustees. A municipality by ordinance may grant the board authority to set rates and related terms for the systems.

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.

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

Amend **HB 2207** by adding the following appropriately numbered SECTION to the bill and renumbering the remaining SECTIONS of the bill accordingly:

SECTION _____. (a) Subsection (a), Section 1502.056, Government Code, is amended to read as follows:

(a) If the revenue of a utility system, park, or swimming pool secures the payment of public securities issued or obligations incurred under this chapter, each expense of operation and maintenance, including all salaries, labor, materials, interest, repairs and extensions necessary to provide efficient service, and each proper item of expense, is a first lien against that revenue. For a municipality with a population of more than one million but less than two million, the first lien against the revenue of a municipally owned ~~[electric or gas]~~ utility system that secures the payment of public securities issued or obligations incurred under this chapter also applies to funding, as a necessary operations expense, for a bill payment assistance program for utility system customers who have been threatened with disconnection from service for nonpayment of bills and who have been determined by the municipality to be low-income customers.

(b) Notwithstanding any other provision of this Act, this section takes effect immediately if this Act receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this section takes effect September 1, 2011.

**HB 1386 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

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

HB 1386, A bill to be entitled An Act relating to the public health threat presented by youth suicide.

HB 1386 - STATEMENT OF LEGISLATIVE INTENT

REPRESENTATIVE KOLKHORST: My questions are on the amendment, which is really **SB 1349**, I believe.

REPRESENTATIVE COLEMAN: That's correct.

KOLKHORST: Just to clarify—what she added in those lists—does this apply to private institutions, as well?

COLEMAN: No, it does not.

KOLKHORST: Okay. And then the question I had just from rural school districts—you know, sometimes we have folks, like pastors or other staff members, that counsel the students. This bill, as I understand it, the amendment adds to the list the licensed marriage and family therapists. And it has a grandfather clause, but in the future could other volunteers help—

COLEMAN: Yes.

KOLKHORST: —in that role?

COLEMAN: They're not subject to this, and I think the confusion is that licensed marriage and family therapists are a class of "provider" just like a psychologist, a doctor, an APN. This is not saying others are excluded from providing those volunteer services wherever they may come from if that school district wants that. But it says that this professional therapist or counselor is included to be able to serve in those capacities in the school district. So nothing in this mandates that a school district hire a licensed marriage and family therapist, nor does it stop them, and should not, from having community volunteers that may do the same work in their church.

REMARKS ORDERED PRINTED

Representative Kolkhorst moved to print remarks between Representative Coleman and Representative Kolkhorst.

The motion prevailed.

Representative Coleman moved to concur in the senate amendments to **HB 1386**.

The motion to concur in the senate amendments to **HB 1386** prevailed by (Record 1534): 111 Yeas, 32 Nays, 1 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Branch; Brown; Burnam; Cain; Carter; Chisum; Christian; Coleman; Cook; Craddick; Davis, J.; Davis, S.; Davis, Y.; Deshotel;

Driver; Dukes; Dutton; Eiland; Eissler; Farias; Farrar; Fletcher; Frullo; Gallego; Geren; Giddings; Gonzales, L.; Gonzales, V.; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hernandez Luna; Hochberg; Hopson; Howard, C.; Howard, D.; Huberty; Hunter; Isaac; Jackson; Johnson; Keffer; King, P.; King, S.; King, T.; Kolkhorst; Kuempel; Larson; Lavender; Lewis; Lozano; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Patrick; Peña; Pickett; Pitts; Quintanilla; Raymond; Reynolds; Riddle; Ritter; Rodriguez; Scott; Sheets; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Zerwas.

Nays — Berman; Bonnen; Burkett; Button; Callegari; Creighton; Darby; Elkins; Flynn; Gooden; Hilderbran; Hughes; Kleinschmidt; Landtroop; Laubenberg; Legler; Miller, D.; Miller, S.; Parker; Paxton; Perry; Phillips; Price; Schwertner; Sheffield; Simpson; Taylor, V.; Weber; White; Woolley; Workman; Zedler.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Castro; Crownover; Gonzalez.

Absent — Bohac; Garza; Taylor, L.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 1534. I intended to vote no.

C. Anderson

I was shown voting yes on Record No. 1534. I intended to vote no.

Orr

I was shown voting no on Record No. 1534. I intended to vote yes.

Parker

Senate Committee Substitute

CSHB 1386, A bill to be entitled An Act relating to the public health threat presented by youth suicide.

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

SECTION 1. This Act is dedicated to every child who has fallen victim to severe emotional trauma.

SECTION 2. The legislature finds that:

(1) the United States Surgeon General's Report on Children's Mental Health estimates that one in five children and adolescents will experience a significant mental health problem during their school years;

(2) during elementary school years, children are in an ongoing developmental process where it is crucial that healthy mental and behavioral development be promoted and that a solid foundation in social-emotional skills and capacities be built;

(3) adolescence is a period of significant change, during which youth are faced with a myriad of pressures;

(4) the pressures facing youth during adolescence include pressures relating to adapting to bodily changes, succeeding academically, making college and career decisions, being accepted by peers, including pressure to engage in drugs, alcohol, and sex, measuring up to expectations of others, and coping with family and peer conflicts;

(5) increased levels of victimization also lead to increased levels of depression and anxiety and decreased levels of self-esteem;

(6) emotional trauma and mental health issues, if left unaddressed, can lead and have led to life-threatening violence and suicide;

(7) suicide committed by youth continues to present a public health threat that endangers the well-being of the youth of the state;

(8) suicide is the third leading cause of death for persons who are at least 15 years of age but younger than 25 years of age and the sixth leading cause of death for persons who are at least 5 years of age but younger than 15 years of age; and

(9) it is of the utmost importance to keep children and adolescents mentally healthy and on a course to become mentally healthy adults.

SECTION 3. Chapter 161, Health and Safety Code, is amended by adding Subchapter O-1 to read as follows:

SUBCHAPTER O-1. EARLY MENTAL HEALTH INTERVENTION AND
PREVENTION OF YOUTH SUICIDE

Sec. 161.325. EARLY MENTAL HEALTH INTERVENTION AND SUICIDE PREVENTION. (a) The department, in coordination with the Texas Education Agency, shall provide and annually update a list of recommended best practice-based early mental health intervention and suicide prevention programs for implementation in public elementary, junior high, middle, and high schools within the general education setting. Each school district may select from the list a program or programs appropriate for implementation in the district.

(b) The programs on the list must include components that provide for training counselors, teachers, nurses, administrators, and other staff, as well as law enforcement officers and social workers who regularly interact with students, to:

(1) recognize students at risk of committing suicide, including students who are or may be the victims of or who engage in bullying;

(2) recognize students displaying early warning signs and a possible need for early mental health intervention, which warning signs may include declining academic performance, depression, anxiety, isolation, unexplained changes in sleep or eating habits, and destructive behavior toward self and others; and

(3) intervene effectively with students described by Subdivision (1) or (2) by providing notice and referral to a parent or guardian so appropriate action, such as seeking mental health services, may be taken by a parent or guardian.

(c) In developing the list of programs, the department and the Texas Education Agency shall consider:

(1) any existing suicide prevention method developed by a school district; and

(2) any Internet or online course or program developed in this state or another state that is based on best practices recognized by the Substance Abuse and Mental Health Services Administration or the Suicide Prevention Resource Center.

(d) The board of trustees of each school district may adopt a policy concerning early mental health intervention and suicide prevention that:

(1) establishes a procedure for providing notice of a recommendation for early mental health intervention regarding a student to a parent or guardian of the student within a reasonable amount of time after the identification of early warning signs as described by Subsection (b)(2);

(2) establishes a procedure for providing notice of a student identified as at risk of committing suicide to a parent or guardian of the student within a reasonable amount of time after the identification of early warning signs as described by Subsection (b)(2);

(3) establishes that the district may develop a reporting mechanism and may designate at least one person to act as a liaison officer in the district for the purposes of identifying students in need of early mental health intervention or suicide prevention; and

(4) sets out available counseling alternatives for a parent or guardian to consider when their child is identified as possibly being in need of early mental health intervention or suicide prevention.

(e) The policy must prohibit the use without the prior consent of a student's parent or guardian of a medical screening of the student as part of the process of identifying whether the student is possibly in need of early mental health intervention or suicide prevention.

(f) The policy and any necessary procedures adopted under Subsection (d) must be included in:

(1) the annual student handbook; and

(2) the district improvement plan under Section 11.252, Education

Code.

(g) The department may accept donations for purposes of this section from sources without a conflict of interest. The department may not accept donations for purposes of this section from an anonymous source.

(h) Not later than January 1, 2013, the department shall submit a report to the legislature relating to the development of the list of programs and the implementation in school districts of selected programs by school districts that choose to implement programs. This subsection expires September 1, 2013.

(i) Nothing in this section is intended to interfere with the rights of parents or guardians and the decision-making regarding the best interest of the child. Policy and procedures adopted in accordance with this section are intended to notify a parent or guardian of a need for mental health intervention so that a parent or guardian may take appropriate action. Nothing in this section shall be construed as giving school districts the authority to prescribe medications. Any and all medical decisions are to be made by a parent or guardian of a student.

SECTION 4. Section 11.252(a), Education Code, is amended to read as follows:

(a) Each school district shall have a district improvement plan that is developed, evaluated, and revised annually, in accordance with district policy, by the superintendent with the assistance of the district-level committee established under Section 11.251. The purpose of the district improvement plan is to guide district and campus staff in the improvement of student performance for all student groups in order to attain state standards in respect to the student achievement indicators adopted under Section 39.053. The district improvement plan must include provisions for:

(1) a comprehensive needs assessment addressing district student performance on the student achievement indicators, and other appropriate measures of performance, that are disaggregated by all student groups served by the district, including categories of ethnicity, socioeconomic status, sex, and populations served by special programs, including students in special education programs under Subchapter A, Chapter 29;

(2) measurable district performance objectives for all appropriate student achievement indicators for all student populations, including students in special education programs under Subchapter A, Chapter 29, and other measures of student performance that may be identified through the comprehensive needs assessment;

(3) strategies for improvement of student performance that include:

(A) instructional methods for addressing the needs of student groups not achieving their full potential;

(B) methods for addressing the needs of students for special programs, including:

(i) [~~such as~~] suicide prevention programs, in accordance with Subchapter O-1, Chapter 161, Health and Safety Code, which includes a parental or guardian notification procedure;

(ii) [~~]~~ conflict resolution programs;

(iii) [~~]~~ violence prevention programs; and

(iv) [~~or~~] dyslexia treatment programs;

(C) dropout reduction;

(D) integration of technology in instructional and administrative programs;

(E) discipline management;

(F) staff development for professional staff of the district;

(G) career education to assist students in developing the knowledge, skills, and competencies necessary for a broad range of career opportunities; and

(H) accelerated education;

(4) strategies for providing to middle school, junior high school, and high school students, those students' teachers and counselors, and those students' parents information about:

(A) higher education admissions and financial aid opportunities;

(B) the TEXAS grant program and the Teach for Texas grant program established under Chapter 56;

(C) the need for students to make informed curriculum choices to be prepared for success beyond high school; and

(D) sources of information on higher education admissions and financial aid;

(5) resources needed to implement identified strategies;

(6) staff responsible for ensuring the accomplishment of each strategy;

(7) timelines for ongoing monitoring of the implementation of each improvement strategy; and

(8) formative evaluation criteria for determining periodically whether strategies are resulting in intended improvement of student performance.

SECTION 5. This Act applies beginning with the 2012-2013 school year.

SECTION 6. 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 **HB 1386** by adding to the bill the following appropriately numbered SECTIONS and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Subsection (b), Section 21.003, Education Code, is amended to read as follows:

(b) Except as otherwise provided by this subsection, a [A] person may not be employed by a school district as an audiologist, occupational therapist, physical therapist, physician, nurse, school psychologist, associate school psychologist, marriage and family therapist, social worker, or speech language pathologist unless the person is licensed by the state agency that licenses that profession and [A person] may perform specific services within those professions for a school district only if the person holds the appropriate credential from the appropriate state agency. As long as a person employed by a district before September 1, 2011, to perform marriage and family therapy, as defined by Section 502.002, Occupations Code, is employed by the same district, the person is not required to hold a license as a marriage and family therapist to perform marriage and family therapy with that district.

SECTION _____. Section 502.004, Occupations Code, is amended to read as follows:

Sec. 502.004. APPLICATION OF CHAPTER. This chapter does not apply to:

(1) the activities, within the scope of a person's employment, of a person employed to perform marriage and family therapy by a federal, state, county, or municipal agency or, except as provided by Section 21.003(b), Education Code, by a public or private educational institution, if the activities are within the scope of the person's employment];

(2) the activities of a student, intern, or trainee in marriage and family therapy in a recognized course of study in marriage and family therapy at an accredited institution of higher education or other training institution, if:

(A) the activities constitute a part of the course of study; and

(B) the person is called a "marriage and family therapist intern" or similar title;

(3) the activities and services of a person licensed to practice another profession, including a physician, attorney, registered nurse, occupational therapist, psychologist, social worker, or licensed professional counselor; or

(4) the activities and services of a recognized religious practitioner, including a pastoral counselor or Christian Science practitioner recognized by the Church of Christ Scientist as registered and published in the Christian Science Journal, if the practitioner practices marriage and family therapy in a manner consistent with the laws of this state.

SECTION _____. As soon as practicable after the effective date of this Act, the State Board for Educator Certification shall propose rules for the administration of Subsection (b), Section 21.003, Education Code, as amended by this Act.

HB 2761 - VOTE RECONSIDERED

Representative Simpson moved to reconsider the vote by which the motion to concur in the senate amendments to **HB 2761** was lost.

The motion to reconsider prevailed.

HB 2761 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

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

HB 2761, A bill to be entitled An Act relating to meetings and records of certain property owners' associations.

Representative Solomons moved to concur in the senate amendments to **HB 2761**.

The motion to concur in the senate amendments to **HB 2761** prevailed by (Record 1535): 122 Yeas, 16 Nays, 1 Present, not voting.

Yeas — Aliseda; Allen; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Bohac; Bonnen; Branch; Brown; Burkett; Burnam; Button; Cain; Callegari; Chisum; Coleman; Cook; Craddick; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Frullo; Gallego; Geren; Giddings; Gonzales, L.; Gonzales, V.; Guillen; Gutierrez; Hamilton; Hancock; Harless; Harper-Brown; Hartnett; Hernandez Luna; Hilderbran; Hochberg; Hopson; Howard, D.; Huberty; Hughes; Hunter; Johnson; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Laubenberger; Lavender; Legler; 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; Peña; Perry; Pickett; Quintanilla; Raymond; Reynolds; Riddle; Ritter; Rodriguez; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smithee; Solomons; Strama; Taylor, L.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Workman; Zedler; Zerwas.

Nays — Berman; Carter; Christian; Creighton; Davis, S.; Flynn; Gooden; Hardcastle; Isaac; Landtroop; Larson; Lewis; Paxton; Price; Taylor, V.; White.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Castro; Crownover; Gonzalez.

Absent — Alonzo; Garza; Howard, C.; Jackson; Murphy; Phillips; Pitts; Smith, W.

STATEMENT OF VOTE

I was shown voting yes on Record No. 1535. I intended to vote no.

Hochberg

Senate Committee Substitute

CSHB 2761, A bill to be entitled An Act relating to meetings, elections, and records of certain property owners' associations.

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

SECTION 1. Section 209.005, Property Code, is amended to read as follows:

Sec. 209.005. ASSOCIATION RECORDS. (a) Except as provided by Subsection (b), this section applies to all property owners' associations and controls over other law not specifically applicable to a property owners' association.

(b) This section does not apply to a property owners' association that is subject to Chapter 552, Government Code, by application of Section 552.0036, Government Code.

(c) Notwithstanding a provision in a dedicatory instrument, a [A] property owners' association shall make the books and records of the association, including financial records, open to and reasonably available for examination by [te] an owner, or a person designated in a writing signed by the owner as the owner's agent, attorney, or certified public accountant, in accordance with this section. An owner is entitled to obtain from the association copies of information contained in the books and records [Section B, Article 2.23, Texas Non Profit Corporation Act (Article 1396 2.23, Vernon's Texas Civil Statutes)].

(d) Except as provided by this subsection, an [(a 1) A property owners' association described by Section 552.0036(2), Government Code, shall make the books and records of the association, including financial records, reasonably available to any person requesting access to the books or records in accordance with Chapter 552, Government Code. Subsection (a) does not apply to a property owners' association to which this subsection applies.

[(b) An] attorney's files and records relating to the property owners' association, excluding invoices requested by an owner under Section 209.008(d), are not[;

[(+) records of the association and are not[;

[(2) subject to inspection by the owner[;] or

~~[(3) subject to]~~ production in a legal proceeding. If a document in an attorney's files and records relating to the association would be responsive to a legally authorized request to inspect or copy association documents, the document shall be produced by using the copy from the attorney's files and records if the association has not maintained a separate copy of the document. This subsection does not require production of a document that constitutes attorney work product or that is privileged as an attorney-client communication.

(e) An owner or the owner's authorized representative described by Subsection (c) must submit a written request for access or information under Subsection (c) by certified mail, with sufficient detail describing the property owners' association's books and records requested, to the mailing address of the association or authorized representative as reflected on the most current management certificate filed under Section 209.004. The request must contain an election either to inspect the books and records before obtaining copies or to have the property owners' association forward copies of the requested books and records and:

(1) if an inspection is requested, the association, on or before the 10th business day after the date the association receives the request, shall send written notice of dates during normal business hours that the owner may inspect the requested books and records to the extent those books and records are in the possession, custody, or control of the association; or

(2) if copies of identified books and records are requested, the association shall, to the extent those books and records are in the possession, custody, or control of the association, produce the requested books and records for the requesting party on or before the 10th business day after the date the association receives the request, except as otherwise provided by this section.

(f) If the property owners' association is unable to produce the books or records requested under Subsection (e) on or before the 10th business day after the date the association receives the request, the association must provide to the requestor written notice that:

(1) informs the requestor that the association is unable to produce the information on or before the 10th business day after the date the association received the request; and

(2) states a date by which the information will be sent or made available for inspection to the requesting party that is not later than the 15th business day after the date notice under this subsection is given.

(g) If an inspection is requested or required, the inspection shall take place at a mutually agreed on time during normal business hours, and the requesting party shall identify the books and records for the property owners' association to copy and forward to the requesting party.

(h) A property owners' association may produce books and records requested under this section in hard copy, electronic, or other format reasonably available to the association.

(i) A property owners' association board must adopt a records production and copying policy that prescribes the costs the association will charge for the compilation, production, and reproduction of information requested under this

section. The prescribed charges may include all reasonable costs of materials, labor, and overhead but may not exceed costs that would be applicable for an item under I T.A.C. Section 70.3. The policy required by this subsection must be recorded as a dedicatory instrument in accordance with Section 202.006. An association may not charge an owner for the compilation, production, or reproduction of information requested under this section unless the policy prescribing those costs has been recorded as required by this subsection. An owner is responsible for costs related to the compilation, production, and reproduction of the requested information in the amounts prescribed by the policy adopted under this subsection. The association may require advance payment of the estimated costs of compilation, production, and reproduction of the requested information. If the estimated costs are lesser or greater than the actual costs, the association shall submit a final invoice to the owner on or before the 30th business day after the date the information is delivered. If the final invoice includes additional amounts due from the owner, the additional amounts, if not reimbursed to the association before the 30th business day after the date the invoice is sent to the owner, may be added to the owner's account as an assessment. If the estimated costs exceeded the final invoice amount, the owner is entitled to a refund, and the refund shall be issued to the owner not later than the 30th business day after the date the invoice is sent to the owner.

(j) A property owners' association must estimate costs under this section using amounts prescribed by the policy adopted under Subsection (i).

(k) Except as provided by Subsection (l) and to the extent the information is provided in the meeting minutes, the property owners' association is not required to release or allow inspection of any books or records that identify the dedicatory instrument violation history of an individual owner of an association, an owner's personal financial information, including records of payment or nonpayment of amounts due the association, an owner's contact information, other than the owner's address, or information related to an employee of the association, including personnel files. Information may be released in an aggregate or summary manner that would not identify an individual property owner.

(l) The books and records described by Subsection (k) shall be released or made available for inspection if:

(1) the express written approval of the owner whose records are the subject of the request for inspection is provided to the property owners' association; or

(2) a court orders the release of the books and records or orders that the books and records be made available for inspection.

(m) A property owners' association composed of more than 14 lots shall adopt and comply with a document retention policy that includes, at a minimum, the following requirements:

(1) certificates of formation, bylaws, restrictive covenants, and all amendments to the certificates of formation, bylaws, and covenants shall be retained permanently;

(2) financial books and records shall be retained for seven years;

(3) account records of current owners shall be retained for five years;

(4) contracts with a term of one year or more shall be retained for four years after the expiration of the contract term;

(5) minutes of meetings of the owners and the board shall be retained for seven years; and

(6) tax returns and audit records shall be retained for seven years.

(n) A member of a property owners' association who is denied access to or copies of association books or records to which the member is entitled under this section may file a petition with the justice of the peace of a justice precinct in which all or part of the property that is governed by the association is located requesting relief in accordance with this subsection. If the justice of the peace finds that the member is entitled to access to or copies of the records, the justice of the peace may grant one or more of the following remedies:

(1) a judgment ordering the property owners' association to release or allow access to the books or records;

(2) a judgment against the property owners' association for court costs and attorney's fees incurred in connection with seeking a remedy under this section; or

(3) a judgment authorizing the owner or the owner's assignee to deduct the amounts awarded under Subdivision (2) from any future regular or special assessments payable to the property owners' association.

(o) If the property owners' association prevails in an action under Subsection (n), the association is entitled to a judgment for court costs and attorney's fees incurred by the association in connection with the action.

(p) On or before the 10th business day before the date a person brings an action against a property owners' association under this section, the person must send written notice to the association of the person's intent to bring the action. The notice must:

(1) be sent certified mail, return receipt requested, or delivered by the United States Postal Service with signature confirmation service to the mailing address of the association or authorized representative as reflected on the most current management certificate filed under Section 209.004; and

(2) describe with sufficient detail the books and records being requested.

(q) For the purposes of this section, "business day" means a day other than Saturday, Sunday, or a state or federal holiday.

SECTION 2. Chapter 209, Property Code, is amended by adding Sections 209.0051 and 209.0056 to read as follows:

Sec. 209.0051. OPEN BOARD MEETINGS. (a) This section does not apply to a property owners' association that is subject to Chapter 551, Government Code, by application of Section 551.0015, Government Code.

(b) In this section:

(1) "Board meeting":

(A) means a deliberation between a quorum of the voting board of the property owners' association, or between a quorum of the voting board and another person, during which property owners' association business is considered and the board takes formal action; and

(B) does not include the gathering of a quorum of the board at a social function unrelated to the business of the association or the attendance by a quorum of the board at a regional, state, or national convention, ceremonial event, or press conference, if formal action is not taken and any discussion of association business is incidental to the social function, convention, ceremonial event, or press conference.

(2) "Development period" means a period stated in a declaration during which a declarant reserves:

(A) a right to facilitate the development, construction, and marketing of the subdivision; and

(B) a right to direct the size, shape, and composition of the subdivision.

(c) Regular and special board meetings must be open to owners, subject to the right of the board to adjourn a board meeting and reconvene in closed executive session to consider actions involving personnel, pending or threatened litigation, contract negotiations, enforcement actions, confidential communications with the property owners' association's attorney, matters involving the invasion of privacy of individual owners, or matters that are to remain confidential by request of the affected parties and agreement of the board. Following an executive session, any decision made in the executive session must be summarized orally and placed in the minutes, in general terms, without breaching the privacy of individual owners, violating any privilege, or disclosing information that was to remain confidential at the request of the affected parties. The oral summary must include a general explanation of expenditures approved in executive session.

(c-1) Except for a meeting held by electronic or telephonic means under Subsection (h), a board meeting must be held in a county in which all or part of the property in the subdivision is located or in a county adjacent to that county.

(d) The board shall keep a record of each regular or special board meeting in the form of written minutes of the meeting. The board shall make meeting records, including approved minutes, available to a member for inspection and copying on the member's written request to the property owners' association's managing agent at the address appearing on the most recently filed management certificate or, if there is not a managing agent, to the board.

(e) Members shall be given notice of the date, hour, place, and general subject of a regular or special board meeting, including a general description of any matter to be brought up for deliberation in executive session. The notice shall be:

(1) mailed to each property owner not later than the 10th day or earlier than the 60th day before the date of the meeting; or

(2) provided at least 72 hours before the start of the meeting by:

(A) posting the notice in a conspicuous manner reasonably designed to provide notice to property owners' association members:

(i) in a place located on the association's common property or, with the property owner's consent, on other conspicuously located privately owned property within the subdivision; or

(ii) on any Internet website maintained by the association or other Internet media; and

(B) sending the notice by e-mail to each owner who has registered an e-mail address with the association.

(f) It is an owner's duty to keep an updated e-mail address registered with the property owners' association under Subsection (e)(2)(B).

(g) If the board recesses a regular or special board meeting to continue the following regular business day, the board is not required to post notice of the continued meeting if the recess is taken in good faith and not to circumvent this section. If a regular or special board meeting is continued to the following regular business day, and on that following day the board continues the meeting to another day, the board shall give notice of the continuation in at least one manner prescribed by Subsection (e)(2)(A) within two hours after adjourning the meeting being continued.

(h) A board may meet by any method of communication, including electronic and telephonic, without prior notice to owners under Subsection (e), if each director may hear and be heard by every other director, or the board may take action by unanimous written consent to consider routine and administrative matters or a reasonably unforeseen emergency or urgent necessity that requires immediate board action. Any action taken without notice to owners under Subsection (e) must be summarized orally, including an explanation of any known actual or estimated expenditures approved at the meeting, and documented in the minutes of the next regular or special board meeting. The board may not, without prior notice to owners under Subsection (e), consider or vote on:

- (1) fines;
- (2) damage assessments;
- (3) initiation of foreclosure actions;
- (4) initiation of enforcement actions, excluding temporary restraining orders or violations involving a threat to health or safety;
- (5) increases in assessments;
- (6) levying of special assessments;
- (7) appeals from a denial of architectural control approval; or
- (8) a suspension of a right of a particular owner before the owner has an opportunity to attend a board meeting to present the owner's position, including any defense, on the issue.

(i) This section applies to a meeting of a property owners' association board during the development period only if the meeting is conducted for the purpose of:

- (1) adopting or amending the governing documents, including declarations, bylaws, rules, and regulations of the association;
- (2) increasing the amount of regular assessments of the association or adopting or increasing a special assessment;
- (3) electing non-developer board members of the association or establishing a process by which those members are elected; or
- (4) changing the voting rights of members of the association.

Sec. 209.0056. NOTICE OF ELECTION OR ASSOCIATION VOTE. (a) Not later than the 10th day or earlier than the 60th day before the date of an election or vote, a property owners' association shall give written notice of the election or vote to:

(1) each owner of property in the property owners' association, for purposes of an association-wide election or vote; or

(2) each owner of property in the property owners' association entitled under the dedicatory instruments to vote in a particular representative election, for purposes of a vote that involves election of representatives of the association who are vested under the dedicatory instruments of the property owners' association with the authority to elect or appoint board members of the property owners' association.

(b) This section supersedes any contrary requirement in a dedicatory instrument.

(c) This section does not apply to a property owners' association that is subject to Chapter 552, Government Code, by application of Section 552.0036, Government Code.

SECTION 3. Section 209.009, Property Code, is amended to read as follows:

Sec. 209.009. FORECLOSURE SALE PROHIBITED IN CERTAIN CIRCUMSTANCES. A property owners' association may not foreclose a property owners' association's assessment lien if the debt securing the lien consists solely of:

(1) fines assessed by the association; ~~or~~

(2) attorney's fees incurred by the association solely associated with fines assessed by the association; or

(3) amounts added to the owner's account as an assessment under Section 209.005(i).

SECTION 4. Chapter 209, Property Code, is amended by adding Section 209.014 to read as follows:

Sec. 209.014. MANDATORY ELECTION REQUIRED AFTER FAILURE TO CALL REGULAR MEETING. (a) Notwithstanding any provision in a dedicatory instrument, a board of a property owners' association shall call an annual meeting of the members of the association.

(b) If a board of a property owners' association does not call an annual meeting of the association members, an owner may demand that a meeting of the association members be called not later than the 30th day after the date of the owner's demand. The owner's demand must be made in writing and sent by certified mail, return receipt requested, to the registered agent of the property owners' association and to the association at the address for the association according to the most recently filed management certificate. A copy of the notice must be sent to each property owner who is a member of the association.

(c) If the board does not call a meeting of the members of the property owners' association on or before the 30th day after the date of a demand under Subsection (b), three or more owners may form an election committee. The election committee shall file written notice of the committee's formation with the county clerk of each county in which the subdivision is located.

(d) A notice filed by an election committee must contain:

(1) a statement that an election committee has been formed to call a meeting of owners who are members of the property owners' association for the sole purpose of electing board members;

(2) the name and residential address of each committee member; and

(3) the name of the subdivision over which the property owners' association has jurisdiction under a dedicatory instrument.

(e) Each committee member must sign and acknowledge the notice before a notary or other official authorized to take acknowledgments.

(f) The county clerk shall enter on the notice the date the notice is filed and record the notice in the county's real property records.

(g) Only one committee in a subdivision may operate under this section at one time. If more than one committee in a subdivision files a notice, the first committee that files a notice, after having complied with all other requirements of this section, is the committee with the power to act under this section. A committee that does not hold or conduct a successful election within four months after the date the notice is filed with the county clerk is dissolved by operation of law. An election held or conducted by a dissolved committee is ineffective for any purpose under this section.

(h) The election committee may call meetings of the owners who are members of the property owners' association for the sole purpose of electing board members. Notice, quorum, and voting provisions contained in the bylaws of the property owners' association apply to any meeting called by the election committee.

SECTION 5. (a) Section 209.005, Property Code, as amended by this Act, applies only to a request for information received by a property owners' association on or after the effective date of this Act. A request for information received by a property owners' association 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.

(b) Subsection (m), Section 209.005, Property Code, as added by this Act, applies only with respect to books and records generated on or after the effective date of this Act. Books and records generated before the effective date of this Act are governed by the law in effect immediately before the effective date of this Act, and that law is continued in effect for that purpose.

(c) Section 209.014, Property Code, as added by this Act, applies to a property owners' association created before, on, or after the effective date of this Act.

SECTION 6. This Act takes effect January 1, 2012.

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

Amend **CSHB 2761** (senate committee printing) as follows:

(1) In SECTION 2 of the bill, in the recital (page 3, line 68), strike "Sections 209.0051 and 209.0056" and substitute "Sections 209.0051, 209.0056, 209.0057, 209.0058, 209.0059, 209.00591, 209.00592, and 209.00593".

(2) In SECTION 2 of the bill, following added Section 209.0056, Property Code (page 6, between lines 2 and 3), insert the following:

Sec. 209.0057. RECOUNT OF VOTES. (a) This section does not apply to a property owners' association that is subject to Chapter 552, Government Code, by application of Section 552.0036, Government Code.

(b) Any owner may, not later than the 15th day after the date of the meeting at which the election was held, require a recount of the votes. A demand for a recount must be submitted in writing either:

(1) by certified mail, return receipt requested, or by delivery by the United States Postal Service with signature confirmation service to the property owners' association's mailing address as reflected on the latest management certificate filed under Section 209.004; or

(2) in person to the property owners' association's managing agent as reflected on the latest management certificate filed under Section 209.004 or to the address to which absentee and proxy ballots are mailed.

(c) The property owners' association shall, at the expense of the owner requesting the recount, retain for the purpose of performing the recount, the services of a person qualified to tabulate votes under this subsection. The association shall enter into a contract for the services of a person who:

(1) is not a member of the association or related to a member of the association board within the third degree by consanguinity or affinity, as determined under Chapter 573, Government Code; and

(2) is:

(A) a current or former:

(i) county judge;

(ii) county elections administrator;

(iii) justice of the peace; or

(iv) county voter registrar; or

(B) a person agreed on by the association and the persons requesting the recount.

(d) Any recount under Subsection (b) must be performed on or before the 30th day after the date of receipt of a request and payment for a recount in accordance with Subsections (b) and (c). If the recount changes the results of the election, the property owners' association shall reimburse the requesting owner for the cost of the recount. The property owners' association shall provide the results of the recount to each owner who requested the recount. Any action taken by the board in the period between the initial election vote tally and the completion of the recount is not affected by any recount.

Sec. 209.0058. BALLOTS. (a) Any vote cast in an election or vote by a member of a property owners' association must be in writing and signed by the member.

(b) Electronic votes cast under Section 209.00592 constitute written and signed ballots.

(c) In an association-wide election, written and signed ballots are not required for uncontested races.

Sec. 209.0059. RIGHT TO VOTE. (a) A provision in a dedicatory instrument that would disqualify a property owner from voting in a property owners' association election of board members or on any matter concerning the rights or responsibilities of the owner is void.

(b) This section does not apply to a property owners' association that is subject to Chapter 552, Government Code, by application of Section 552.0036, Government Code.

Sec. 209.0051. BOARD MEMBERSHIP. (a) Except as provided by this section, a provision in a dedicatory instrument that restricts a property owner's right to run for a position on the board of the property owners' association is void.

(b) If a board is presented with written, documented evidence from a database or other record maintained by a governmental law enforcement authority that a board member has been convicted of a felony or crime involving moral turpitude, the board member is immediately ineligible to serve on the board of the property owners' association, automatically considered removed from the board, and prohibited from future service on the board.

(c) The declaration may provide for a period of declarant control of the association during which a declarant, or persons designated by the declarant, may appoint and remove board members and the officers of the association, other than board members or officers elected by members of the property owners' association. Regardless of the period of declarant control provided by the declaration, on or before the 120th day after the date 75 percent of the lots that may be created and made subject to the declaration are conveyed to owners other than a declarant, at least one-third of the board members must be elected by owners other than the declarant. If the declaration does not include the number of lots that may be created and made subject to the declaration, at least one-third of the board members must be elected by owners other than the declarant not later than the 10th anniversary of the date the declaration was recorded.

Sec. 209.0052. VOTING; QUORUM. (a) The voting rights of an owner may be cast or given:

(1) in person or by proxy at a meeting of the property owners' association;

(2) by absentee ballot in accordance with this section;

(3) by electronic ballot in accordance with this section; or

(4) by any method of representative or delegated voting provided by a dedicatory instrument.

(b) An absentee or electronic ballot:

(1) may be counted as an owner present and voting for the purpose of establishing a quorum only for items appearing on the ballot;

(2) may not be counted, even if properly delivered, if the owner attends any meeting to vote in person, so that any vote cast at a meeting by a property owner supersedes any vote submitted by absentee or electronic ballot previously submitted for that proposal; and

(3) may not be counted on the final vote of a proposal if the motion was amended at the meeting to be different from the exact language on the absentee or electronic ballot.

(c) A solicitation for votes by absentee ballot must include:

(1) an absentee ballot that contains each proposed action and provides an opportunity to vote for or against each proposed action;

(2) instructions for delivery of the completed absentee ballot, including the delivery location; and

(3) the following language: "By casting your vote via absentee ballot you will forgo the opportunity to consider and vote on any action from the floor on these proposals, if a meeting is held. This means that if there are amendments to these proposals your votes will not be counted on the final vote on these measures. If you desire to retain this ability, please attend any meeting in person. You may submit an absentee ballot and later choose to attend any meeting in person, in which case any in-person vote will prevail."

(d) For the purposes of this section, "electronic ballot" means a ballot:

(1) given by:

(A) e-mail;

(B) facsimile; or

(C) posting on an Internet website;

(2) for which the identity of the property owner submitting the ballot can be confirmed; and

(3) for which the property owner may receive a receipt of the electronic transmission and receipt of the owner's ballot.

(e) If an electronic ballot is posted on an Internet website, a notice of the posting shall be sent to each owner that contains instructions on obtaining access to the posting on the website.

(f) This section supersedes any contrary provision in a dedicatory instrument.

(g) This section does not apply to a property owners' association that is subject to Chapter 552, Government Code, by application of Section 552.0036, Government Code.

Sec. 209.00593. ELECTION OF BOARD MEMBERS.

(a) Notwithstanding any provision in a dedicatory instrument, any board member whose term has expired must be elected by owners who are members of the property owners' association. A board member may be appointed by the board only to fill a vacancy caused by a resignation, death, or disability. A board member appointed to fill a vacant position shall serve the unexpired term of the predecessor board member.

(b) The board of a property owners' association may amend the bylaws of the property owners' association to provide for elections to be held as required by Subsection (a).

(c) The appointment of a board member in violation of this section is void.

(d) This section does not apply to the appointment of a board member during a development period. In this subsection, "development period" means a period stated in a declaration during which a declarant reserves:

(1) a right to facilitate the development, construction, and marketing of the subdivision; and

(2) a right to direct the size, shape, and composition of the subdivision.

(e) This section does not apply to a representative board whose members or delegates are elected or appointed by representatives of a property owners' association who are elected by owner members of a property owners' association.

(3) In SECTION 5 of the bill, insert the following appropriately designated subsection and redesignate subsections of the SECTION accordingly:

() Section 209.0059 and Subsection (a), Section 209.00591, Property Code, as added by this Act, apply to a provision in a dedicatory instrument or a restrictive covenant enacted before, on, or after the effective date of this Act.

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

SECTION _____. Section 209.003, Property Code, is amended by adding Subsection (e) to read as follows:

(e) The following provisions of this chapter do not apply to a property owners' association that is a mixed-use master association that existed before January 1, 1974, and that does not have the authority under a dedicatory instrument or other governing document to impose fines:

(1) Section 209.005(c);

(2) Section 209.0056;

(3) Section 209.0057;

(4) Section 209.0058; and

(5) Section 209.00592.

HB 1043 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

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

HB 1043, A bill to be entitled An Act relating to creating an offense for engaging in certain conduct relating to cockfighting.

Representative Christian moved to concur in the senate amendments to **HB 1043**.

The motion to concur in the senate amendments to **HB 1043** prevailed by (Record 1536): 129 Yeas, 12 Nays, 1 Present, not voting.

Yeas — Aliseda; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Burnam; Button; Cain; Callegari; Carter; Chisum; Christian; Coleman; Cook; Craddick; Creighton; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Flynn; Frullo; Gallego; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gooden; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hernandez Luna; Hilderbran; Hochberg; Hopson; Howard, D.; Huberty; Hughes; Hunter; Jackson; Johnson; Keffer; King, P.; King, S.; Kleinschmidt; Kolkhorst; Larson; Laubenberg; Legler; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez;

Martinez; Martinez Fischer; McClendon; Menendez; Miles; Miller, D.; Miller, S.; Morrison; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Phillips; Pickett; Pitts; Price; Quintanilla; Raymond; Reynolds; Riddle; Ritter; Rodriguez; Schwertner; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smithee; Solomons; Strama; Taylor, L.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; Woolley; Workman; Zedler; Zerwas.

Nays — Isaac; King, T.; Kuempel; Landtroop; Lavender; Lewis; Lozano; Muñoz; Perry; Scott; Taylor, V.; White.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Castro; Crownover; Gonzalez.

Absent — Allen; Garza; Guillen; Howard, C.; Smith, W.

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

Amend **HB 1043** (senate committee printing) as follows:

(1) In added Section 42.105, Penal Code (page 1, lines 27-28), strike "or operates a facility used for cockfighting" and substitute "a cockfight".

(2) In added Section 42.105, Penal Code (page 1, line 56), strike "(b)(1), (2), (3), or (5)" and substitute "(b)(1) or (2)".

(3) In added Section 42.105, Penal Code (page 1, line 57), strike "(b)(4)" and substitute "(b)(3), (4), or (5)".

(4) In added Section 42.105, Penal Code (page 1, between lines 55 and 56), insert the following new Subsection (f) and renumber the subsequent subsections of added Section 42.105, Penal Code, accordingly:

(f) It is an exception to the application of Subsection (b)(6) that the actor is 15 years of age or younger at the time of the offense.

HB 1728 - HOUSE CONCURS IN SENATE AMENDMENTS

TEXT OF SENATE AMENDMENTS

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

HB 1728, A bill to be entitled An Act relating to energy savings performance contracts and energy efficiency planning.

Representative Keffer moved to concur in the senate amendments to **HB 1728**.

The motion to concur in the senate amendments to **HB 1728** prevailed by (Record 1537): 143 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Burnam; Button; Cain; Callegari; Carter; Chisum; Christian; Coleman; Cook; Craddock; Creighton; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Fletcher; Flynn; Frullo; Gallego; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gooden; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; 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.

Present, not voting — Mr. Speaker(C); Harper-Brown.

Absent, Excused — Castro; Crownover; Gonzalez.

Absent — Farrar; Garza.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 1537. I intended to vote no.

Guillen

I was shown voting yes on Record No. 1537. I intended to vote no.

Peña

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

Amend **HB 1728** (senate committee printing) as follows:

(1) In SECTION 1 of the bill, strike proposed Section 44.901(f-1), Education Code (page, 1 line 62, through page 2, line 6), and substitute the following:

(f-1) Notwithstanding other law, the board may use any available money, other than money borrowed from this state, to pay the provider of the energy or water conservation measures under this section, and the board is not required to pay for such costs solely out of the savings realized by the school district under an energy savings performance contract. The board may contract with the provider to perform work that is related to, connected with, or otherwise ancillary to the measures identified in the scope of an energy savings performance contract.

(2) In SECTION 3 of the bill, strike proposed Section 51.927(g-1), Education Code (page 3, lines 1 through 9), and substitute the following:

(g-1) Notwithstanding other law, the board may use any available money, other than money borrowed from this state, to pay the provider of the energy or water conservation measures under this section, and the board is not required to pay for such costs solely out of the savings realized by the institution of higher education under an energy savings performance contract. The board may contract with the provider to perform work that is related to, connected with, or otherwise ancillary to the measures identified in the scope of an energy savings performance contract.

(3) In SECTION 4 of the bill, strike proposed Section 2166.406(f-1), Government Code (page 3, line 61, through page 4, line 1), and substitute the following:

(f-1) Notwithstanding other law, the state agency may use any available money, other than money borrowed from this state, to pay the provider of the energy or water conservation measures under this section, and the state agency is not required to pay for such costs solely out of the savings realized by the state agency under an energy savings performance contract. The state agency may contract with the provider to perform work that is related to, connected with, or otherwise ancillary to the measures identified in the scope of an energy savings performance contract.

(4) In SECTION 6 of the bill, strike proposed Section 302.004(a-1), Local Government Code (page 4, line 69, through page 5, line 9), and substitute the following:

(a-1) Notwithstanding other law, the governing body of a local government may use any available money, other than money borrowed from this state, to pay the provider of the energy or water conservation measures under this section, and the governing body is not required to pay for such costs solely out of the savings realized by the local government under an energy savings performance contract. The governing body may contract with the provider to perform work that is related to, connected with, or otherwise ancillary to the measures identified in the scope of an energy savings performance contract.

HB 1788 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

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

HB 1788, A bill to be entitled An Act relating to capturing reptiles and amphibians by nonlethal means; providing a penalty.

Representative Farias moved to concur in the senate amendments to **HB 1788**.

The motion to concur in the senate amendments to **HB 1788** prevailed by (Record 1538): 96 Yeas, 47 Nays, 1 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Beck; Bohac; Branch; Burnam; Cain; Chisum; Christian; Coleman; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Dukes; Dutton; Eiland; Eissler; Farias; Fletcher; Gallego; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gooden; Guillen; Gutierrez; Hardcastle; Harper-Brown; Hartnett; Hernandez Luna; Hilderbran; Hochberg; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isaac; Jackson; Johnson; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Larson; Lozano; Lucio; Lyne; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Morrison; Muñoz; Murphy; Naishtat; Oliveira; Orr; Phillips; Pickett; Pitts; Price; Quintanilla; Raymond; Reynolds; Riddle; Rodriguez; Scott; Simpson; Smith, W.; Smithee; Strama; Taylor, L.; Taylor, V.; Thompson; Torres; Turner; Veasey; Villarreal; Vo; Walle; Woolley; Workman; Zerwas.

Nays — Anderson, C.; Anderson, R.; Aycock; Berman; Bonnen; Brown; Burkett; Button; Callegari; Carter; Cook; Craddick; Creighton; Darby; Driver; Elkins; Flynn; Frullo; Hamilton; Hancock; Harless; Huberty; Landtroop; Laubenberg; Lavender; Legler; Lewis; Madden; Miller, D.; Miller, S.; Nash; Parker; Patrick; Paxton; Peña; Perry; Ritter; Schwertner; Sheets; Sheffield; Shelton; Smith, T.; Solomons; Truitt; Weber; White; Zedler.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Castro; Crownover; Gonzalez.

Absent — Farrar; Garza; Otto.

STATEMENT OF VOTE

I was shown voting yes on Record No. 1538. I intended to vote no.

Orr

Senate Committee Substitute

CSHB 1788, A bill to be entitled An Act relating to capturing reptiles and amphibians by nonlethal means; providing a penalty.

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

SECTION 1. Chapter 43, Parks and Wildlife Code, is amended by adding Subchapter W to read as follows:

SUBCHAPTER W. REPTILE AND AMPHIBIAN STAMP

Sec. 43.901. REPTILE AND AMPHIBIAN STAMP REQUIRED.

(a) Except as provided by Section 43.905, a person may capture by nonlethal means an indigenous reptile or amphibian on the shoulder of a road, as defined by Section 541.302, Transportation Code, or the unpaved area of a public right-of-way only if the person possesses a reptile and amphibian stamp issued to the person by the department.

(b) The commission by rule shall prescribe the form, design, and manner of issuance of a stamp under this subchapter.

(c) The stamp is not valid unless the person to whom the stamp is issued has signed the stamp on its face.

(d) The commission by rule may prescribe alternate requirements for identifying the purchaser of a stamp issued in an automated manner.

(e) A stamp issued under this subchapter is valid only during the yearly period for which the stamp is issued without regard to the date on which the stamp is acquired. Each yearly period begins on September 1 or another date set by the commission and extends through August 31 of the next year or another date set by the commission.

Sec. 43.902. FEE. The fee for a reptile and amphibian stamp is \$10. The department may issue other editions of the stamp that are not valid for capturing by nonlethal means a species covered by this subchapter for a fee set by the commission.

Sec. 43.903. HUNTING LICENSE REQUIRED. The possession of a reptile and amphibian stamp does not authorize a person to capture by nonlethal means an indigenous reptile or amphibian:

(1) without possessing a hunting license required by Section 42.002 or 42.005; or

(2) at a time or by means not otherwise authorized by this code.

Sec. 43.904. STAMP SALE RECEIPTS. The net revenue derived from the sale of reptile and amphibian stamps shall be credited to the game, fish, and water safety account.

Sec. 43.905. EXEMPTIONS. A person is not required to have a hunting license or reptile and amphibian stamp to capture by nonlethal means and subsequently release in another location an indigenous reptile or amphibian if the person is:

(1) performing activities related to the operation and maintenance of pipelines and related facilities or to oil or gas exploration or production;

(2) an employee of the state, a utility, as defined by Section 203.091, Transportation Code, or a power generation company, as defined by Section 31.002, Utilities Code, and is acting in the course and scope of the person's employment with the state, the utility, or the power generation company; or

(3) performing activities related to surface coal mining and reclamation operations as defined by Section 134.004, Natural Resources Code.

Sec. 43.906. PENALTY. (a) A person who violates Section 43.901 commits an offense that is a Class C Parks and Wildlife Code misdemeanor.

(b) A person, other than a person described by Section 43.905, in an area described by Section 43.901 who is engaged in capturing by nonlethal means a species covered by this subchapter and fails or refuses on the demand of any game warden or other peace officer to show a reptile and amphibian stamp is presumed to be in violation of Section 43.901.

SECTION 2. Section 62.0031, Parks and Wildlife Code, is amended by amending Subsection (a) and adding Subsections (c), (d), and (e) to read as follows:

(a) Except as provided by Subsections [Subsection] (b) and (c), a person may not hunt a wild animal or bird when the person is on a public road or right-of-way.

(c) A person may capture by nonlethal means reptiles and amphibians on the shoulder of a road, as defined by Section 541.302, Transportation Code, or the unpaved area of a public right-of-way if the person:

(1) possesses a reptile and amphibian stamp issued to the person by the department and does not use a trap; or

(2) is described by Section 43.905.

(d) A person must wear reflective clothing when engaging in the capture by nonlethal means of a reptile or amphibian under a stamp issued by the department. The clothing must have at least 144 square inches of reflective material on both the front and back of the clothing.

(e) A person may not use a spotlight from a motor vehicle in capturing a reptile or amphibian under Subsection (c).

SECTION 3. (a) Not later than March 1, 2012, the Parks and Wildlife Commission shall adopt:

(1) rules to implement the changes in law made by this Act; and

(2) the form, design, and manner of issuance of, and the fee for, a reptile and amphibian stamp under Subchapter W, Chapter 43, Parks and Wildlife Code, as added by this Act.

(b) Notwithstanding Sections 43.901(e) and 43.902, Parks and Wildlife Code, as added by this Act, the initial reptile and amphibian stamps issued under Subchapter W, Chapter 43, Parks and Wildlife Code:

(1) are valid for the period beginning the date the stamps first become available and ending on the expiration of the first yearly period set by the Parks and Wildlife Commission under Section 43.901(e); and

(2) shall be issued for a fee equal to the yearly fee, plus a prorated amount for the period beginning the date the stamps first become available and ending on the day preceding the date the first yearly period begins.

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.

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

Amend **CSHB 1788** (senate committee printing) in SECTION 2 of the bill, in amended Section 62.0031, Parks and Wildlife Code (page 2, lines 30-31), by striking Subsection (e) and substituting the following:

(e) A person may not use an artificial light from a motor vehicle in locating, capturing, or attempting to capture a reptile or amphibian under Subsection (c).

**HB 1616 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

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

HB 1616, A bill to be entitled An Act relating to the reporting or providing of information, including information relating to political contributions, political expenditures, and personal financial information, by public servants, political candidates and committees, and persons required to register under the lobby registration law, and to complaints filed with and the functions of the Texas Ethics Commission.

Representative Geren 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 1616**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 1616**: Geren, chair; Hamilton, P. King, Kolkhorst, and Ritter.

**SB 144 - REQUEST OF SENATE GRANTED
CONFERENCE COMMITTEE APPOINTED**

On motion of Representative Thompson, the house granted the request of the senate for the appointment of a Conference Committee on **SB 144**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 144**: Thompson, chair; Alonzo, Y. Davis, Dutton, and Gallego.

**SB 747 - REQUEST OF SENATE GRANTED
CONFERENCE COMMITTEE APPOINTED**

On motion of Representative Hamilton, the house granted the request of the senate for the appointment of a Conference Committee on **SB 747**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 747**: Hamilton, chair; Driver, Kuempel, Quintanilla, and Thompson.

(Harper-Brown in the chair)

**HB 2439 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

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

HB 2439, A bill to be entitled An Act relating to posting suggestions and ideas on cost-efficiency and certain budget documents on certain state agency websites.

Representative Gallego 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 2439**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 2439**: Gallego, chair; Harless, Hilderbran, Martinez, and Menendez.

HB 1754 - HOUSE CONCURS IN SENATE AMENDMENTS

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

HB 1754, A bill to be entitled An Act relating to the reorganization of powers and duties among agencies in this state that provide representation to indigent defendants in criminal cases and to the reorganization of funding sources for indigent defense.

Representative Gallego moved to concur in the senate amendments to **HB 1754**.

The motion to concur in the senate amendments to **HB 1754** prevailed by (Record 1539): 71 Yeas, 68 Nays, 2 Present, not voting. (The vote was reconsidered later today, and the house concurred in the senate amendments to **HB 1754** by Record No. 1547.)

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, R.; Branch; Burnam; Christian; Coleman; Cook; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Farias; Farrar; Gallego; Geren; Giddings; Gonzales, V.; Guillen; Gutierrez; Hardcastle; Hernandez Luna; Hilderbran; Hochberg; Howard, C.; Howard, D.; Hunter; Jackson; Johnson; King, S.; King, T.; Kuempel; Laubenberg; Lozano; Lucio; Lyne; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Muñoz; Murphy; Naishtat; Oliveira; Pickett; Quintanilla; Raymond; Reynolds; Rodriguez; Scott; Sheets; Smith, W.; Smithee; Solomons; Strama; Thompson; Torres; Turner; Veasey; Villarreal; Vo; Walle; Workman.

Nays — Anderson, C.; Aycock; Beck; Berman; Bohac; Bonnen; Brown; Burkett; Button; Cain; Callegari; Carter; Chisum; Craddick; Creighton; Darby; Davis, J.; Davis, S.; Elkins; Fletcher; Flynn; Frullo; Gonzales, L.; Gooden; Hamilton; Hancock; Harless; Hartnett; Hopson; Huberty; Hughes; Isaac; Keffer; King, P.; Kleinschmidt; Landtroop; Lavender; Legler; Lewis; Madden; Margo; Miller, D.; Miller, S.; Morrison; Nash; Orr; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pitts; Price; Riddle; Ritter; Schwertner; Sheffield; Shelton; Simpson; Smith, T.; Taylor, L.; Taylor, V.; Weber; White; Woolley; Zedler; Zerwas.

Present, not voting — Mr. Speaker; Harper-Brown(C).

Absent, Excused — Castro; Crownover; Gonzalez.

Absent — Eissler; Garza; Kolkhorst; Larson; Otto; Truitt.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 1539. I intended to vote no.

Driver

I was shown voting yes on Record No. 1539. I intended to vote no.

Hunter

I was shown voting yes on Record No. 1539. I intended to vote no.

Solomons

When Record No. 1539 was taken, my vote failed to register. I would have voted no.

Truitt

SB 341 - REQUEST OF SENATE GRANTED CONFERENCE COMMITTEE APPOINTED

On motion of Representative Menendez, the house granted the request of the senate for the appointment of a Conference Committee on **SB 341**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 341**: Menendez, chair; Farias, Larson, Martinez Fischer, and Ritter.

HB 1754 - VOTE RECONSIDERED

Representative Gallego moved to reconsider the vote by which the house concurred in the senate amendments to **HB 1754** earlier today.

The motion to reconsider prevailed. (The vote to concur in the senate amendments to **HB 1754** was taken later today, and the motion prevailed by Record No. 1547.)

HB 3396 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

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

HB 3396, A bill to be entitled An Act relating to the prosecution of and punishment for the offense of breach of computer security.

Representative Hernandez Luna moved to concur in the senate amendments to **HB 3396**.

The motion to concur in the senate amendments to **HB 3396** prevailed by (Record 1540): 142 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Burnam; Button; Cain; Callegari; Carter; Chisum; Christian; Coleman; Cook; Craddick; Creighton; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Flynn; Frullo; Gallego; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gooden; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; 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.; Thompson; Torres; Truitt; Turner; Veasey; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

Present, not voting — Mr. Speaker; Harper-Brown(C).

Absent, Excused — Castro; Crownover; Gonzalez.

Absent — Garza; Taylor, V.; Villarreal.

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

Amend **HB 3396** (senate committee report) as follows:

(1) In SECTION 2 of the bill, in proposed Section 33.02(b-1), Penal Code, on page 1, strike lines 48 and 49 and substitute the following:

~~defraud [unless in committing the offense the actor knowingly obtains a benefit, defrauds] or harm [harms] another[;] or~~

(2) In SECTION 2 of the bill, in proposed Section 33.02(b-2), Penal Code, strike page 1, line 55, through page 2, line 11, and substitute the following:

(1) ~~[a Class A misdemeanor if the aggregate amount involved is less than \$1,500;~~

~~[(2)] a state jail felony if [;~~

~~[(A)] the aggregate amount involved is [\$1,500 or more but] less than \$20,000[; or~~

~~[(B) the aggregate amount involved is less than \$1,500 and the defendant has been previously convicted two or more times of an offense under this chapter];~~

~~(2) [(3)] a felony of the third degree if the aggregate amount involved is \$20,000 or more but less than \$100,000;~~

~~(3) [(4)] a felony of the second degree if:~~

~~(A) the aggregate amount involved is \$100,000 or more but less than \$200,000;~~

~~(B) the aggregate amount involved is any amount less than \$200,000 and the computer, computer network, or computer system is owned by the government or a critical infrastructure facility; or~~

~~(C) the actor obtains the identifying information of another by accessing only one computer, computer network, or computer system; or~~

~~(4) [(5)] a felony of the first degree if:~~

REMARKS ORDERED PRINTED

Representative P. King moved to print remarks on **HB 2277**.

The motion prevailed.

**SB 1198 - REQUEST OF SENATE GRANTED
CONFERENCE COMMITTEE APPOINTED**

On motion of Representative Gallego, the house granted the request of the senate for the appointment of a Conference Committee on **SB 1198**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 1198**: Hartnett, chair; Bohac, Madden, Muñoz, and Thompson.

**HR 2406 - ADOPTED
(by Kleinschmidt)**

The following privileged resolution was laid before the house:

HR 2406

BE IT RESOLVED by the House of Representatives of the State of Texas, 82nd Legislature, Regular Session, 2011, That House Rule 13, Section 9(a), be suspended in part as provided by House Rule 13, Section 9(f), to enable the conference committee appointed to resolve the differences on **SB 321** (employee's transportation and storage of certain firearms or ammunition while on certain property owned or controlled by the employee's employer) to consider and take action on the following matter:

House Rule 13, Section 9(a)(1), is suspended to permit the committee to change text not in disagreement in proposed SECTION 1 of the bill, in added Section 52.063, Labor Code, to read as follows:

Sec. 52.063. IMMUNITY FROM CIVIL LIABILITY. (a) Except in cases of gross negligence, a public or private employer, or the employer's principal, officer, director, employee, or agent, is not liable in a civil action for personal injury, death, property damage, or any other damages resulting from or arising out of an occurrence involving a firearm or ammunition that the employer is required to allow on the employer's property under this subchapter.

(b) The presence of a firearm or ammunition on an employer's property under the authority of this subchapter does not by itself constitute a failure by the employer to provide a safe workplace.

(c) For purposes of this section, a public or private employer, or the employer's principal, officer, director, employee, or agent, does not have a duty:

(1) to patrol, inspect, or secure:

(A) any parking lot, parking garage, or other parking area the employer provides for employees; or

(B) any privately owned motor vehicle located in a parking lot, parking garage, or other parking area described by Paragraph (A); or

(2) to investigate, confirm, or determine an employee's compliance with laws related to the ownership or possession of a firearm or ammunition or the transportation and storage of a firearm or ammunition.

Explanation: This change is necessary to clarify the responsibilities and immunity from civil liability of persons under this Act.

HR 2406 was adopted by (Record 1541): 141 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Burnam; Button; Cain; Callegari; Carter; Chisum; Christian; Coleman; Craddick; Creighton; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Flynn; Frullo; Gallego; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gooden; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; 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; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Woolley; Zedler; Zerwas.

Present, not voting — Mr. Speaker; Harper-Brown(C).

Absent, Excused — Castro; Crownover; Gonzalez.

Absent — Cook; Garza; Hernandez Luna; Workman.

SB 321 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Kleinschmidt submitted the conference committee report on **SB 321**.

Representative Kleinschmidt moved to adopt the conference committee report on **SB 321**.

The motion to adopt the conference committee report on **SB 321** prevailed by (Record 1542): 130 Yeas, 11 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Button; Cain; Carter; Chisum; Christian; Cook; Craddick; Creighton; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Fletcher; Flynn; Frullo; Gallego; Geren; Giddings; Gonzales, L.; Gooden; Guillen; Hamilton; Hancock; Hardcastle; Harless; Hartnett; Hernandez Luna; Hilderbran; Hochberg; Hopson; Howard, C.; Huberty; Hughes; Hunter; Isaac; Jackson; Johnson; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Laubenberg; Lavender; Legler; Lewis; Lozano; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; 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; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

Nays — Alvarado; Burnam; Coleman; Farrar; Gonzales, V.; Gutierrez; Howard, D.; Martinez; Martinez Fischer; McClendon; Veasey.

Present, not voting — Mr. Speaker; Harper-Brown(C).

Absent, Excused — Castro; Crownover; Gonzalez.

Absent — Callegari; Garza; Larson; Taylor, V.

STATEMENTS OF VOTE

When Record No. 1542 was taken, my vote failed to register. I would have voted yes.

Larson

I was shown voting no on Record No. 1542. I intended to vote yes.

Martinez

I was shown voting yes on Record No. 1542. I intended to vote no.

Naishtat

**HB 3859 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

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

HB 3859, A bill to be entitled An Act relating to the creation of the Club Municipal Management District No. 1; providing authority to levy an assessment and issue bonds.

Representative Laubenberg moved to concur in the senate amendments to **HB 3859**.

The motion to concur in the senate amendments to **HB 3859** prevailed by (Record 1543): 141 Yeas, 0 Nays, 2 Present, not voting.

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

Absent, Excused — Castro; Crownover; Gonzalez.

Absent — Chisum; Garza; Margo; Miles.

Senate Amendment No. 1 (Senate Committee Amendment No. 1)

Amend **HB 3859** (engrossed) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION ____ . NO TOLL ROADS. The district may not construct, acquire, maintain, or operate a toll road.

**HB 1400 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

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

HB 1400, A bill to be entitled An Act relating to payment of costs of improvements of a public improvement district designated by a municipality or county.

Representative Elkins 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 1400**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 1400**: Elkins, chair; Anchia, Bonnen, T. King, and Martinez Fischer.

LEAVE OF ABSENCE GRANTED

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

Villarreal on motion of Eiland.

**HB 3090 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

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

HB 3090, A bill to be entitled An Act relating to the frequency of water audits by certain retail public utilities.

Representative Creighton moved to concur in the senate amendments to **HB 3090**.

The motion to concur in the senate amendments to **HB 3090** prevailed by (Record 1544): 138 Yeas, 1 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Burnam; Button; Cain; Callegari; Carter; Chisum; Christian; Coleman; Cook; Craddock; Creighton; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Eiland; Eissler; Elkins; Farias; Fletcher; Flynn; Frullo; Gallego; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gooden; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; 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; 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.; Smith; Solomons; Strama; Taylor, L.; Taylor, V.; Thompson; Torres; Truitt; Turner; Veasey; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

Nays — Phillips.

Present, not voting — Mr. Speaker; Harper-Brown(C).

Absent, Excused — Castro; Crownover; Gonzalez; Villarreal.

Absent — Dukes; Dutton; Farrar; Garza; Miles.

Senate Committee Substitute

CSHB 3090, A bill to be entitled An Act relating to the frequency of water audits by certain retail public utilities.

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

SECTION 1. Section 16.0121, Water Code, is amended by amending Subsections (b), (c), and (f) and adding Subsection (b-1) to read as follows:

(b) Except as provided by Subsection (b-1) [Every five years], a retail public utility providing potable water that receives from the board financial assistance shall perform and file with the board an annual [a] water audit computing the utility's [most recent annual] system water loss during the preceding year.

(b-1) A retail public utility providing potable water that does not receive from the board financial assistance shall perform and file with the board every five years a water audit computing the utility's most recent annual system water loss.

(c) The board shall develop appropriate methodologies and submission dates for a water audit required under Subsection (b) or (b-1) for the following categories of retail public utilities:

- (1) retail public utilities serving populations of 100,000 or more;
- (2) retail public utilities serving populations of 50,000 or more but less than 100,000;
- (3) retail public utilities serving populations of more than 10,000 [3,300] but less than 50,000; and
- (4) retail public utilities serving populations of 10,000 [3,300] or less.

(f) The board shall compile the information included in the water audits required by Subsections [Subsection] (b) and (b-1) according to category of retail public utility and according to regional water planning area. The regional planning group for a regional planning area shall use the information to identify appropriate water management strategies in the development of a regional water plan under Section 16.053.

SECTION 2. Not later than May 1, 2013, a retail public utility that receives financial assistance from the Texas Water Development Board, or a retail public utility that serves a population of more than 10,000, shall submit the first annual

report required by Section 16.0121, Water Code, as amended by this Act. The initial water audit report submitted by a retail public utility under that section shall compute the utility's most recent annual system water loss.

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

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).

HB 1228 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

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

HB 1228, A bill to be entitled An Act relating to foreclosure of a property owners' association assessment lien.

Representative Dutton moved to concur in the senate amendments to **HB 1228**.

The motion to concur in the senate amendments to **HB 1228** prevailed by (Record 1545): 133 Yeas, 7 Nays, 3 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Burnam; Button; Cain; Callegari; Chisum; Christian; Coleman; Cook; Craddick; Creighton; Darby; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Farias; Farrar; Fletcher; Flynn; Frullo; Gallego; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gooden; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; 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; 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; Parker; Patrick; Paxton; Peña; Perry; Pickett; Pitts; Price; Quintanilla; Raymond; Reynolds; Ritter; Rodriguez; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Strama; Taylor, L.; Taylor, V.; Thompson; Torres; Turner; Veasey; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

Nays — Carter; Davis, S.; Elkins; Larson; Otto; Phillips; Riddle.

Present, not voting — Mr. Speaker; Harper-Brown(C); Truitt.

Absent, Excused — Castro; Crownover; Gonzalez; Villarreal.

Absent — Beck; Garza; Solomons.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 1545. I intended to vote no.

Harless

I was shown voting yes on Record No. 1545. I intended to vote no.

Hilderbran

Senate Committee Substitute

CSHB 1228, A bill to be entitled An Act relating to payment and collection of assessments and other charges owed to a property owners' association and foreclosure of a property owners' association assessment lien.

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

SECTION 1. Section 209.003, Property Code, is amended by adding Subsection (e) to read as follows:

(e) Section 209.0062 does not apply to a property owners' association that is a mixed-use master association that existed before January 1, 1974, and that does not have the authority under a dedicatory instrument or other governing document to impose fines.

SECTION 2. Chapter 209, Property Code, is amended by adding Sections 209.0062, 209.0063, 209.0064, 209.0091, 209.0092, 209.0093, and 209.0094 to read as follows:

Sec. 209.0062. ALTERNATIVE PAYMENT SCHEDULE FOR CERTAIN ASSESSMENTS. (a) A property owners' association composed of more than 14 lots shall adopt reasonable guidelines to establish an alternative payment schedule by which an owner may make partial payments to the property owners' association for delinquent regular or special assessments or any other amount owed to the association without accruing additional monetary penalties. For purposes of this section, monetary penalties do not include reasonable costs associated with administering the payment plan or interest.

(b) The minimum term for a payment plan offered by a property owners' association is three months.

(c) A property owners' association is not required to allow a payment plan for any amount that extends more than 18 months from the date of the owner's request for a payment plan or to enter into a payment plan with an owner who failed to honor the terms of a previous payment plan during the two years following the owner's default under the previous payment plan.

(d) A property owners' association shall file the association's guidelines under this section in the real property records of each county in which the subdivision is located.

(e) A property owners' association's failure to file as required by this section the association's guidelines in the real property records of each county in which the subdivision is located does not prohibit a property owner from receiving an alternative payment schedule by which the owner may make partial payments to the property owners' association for delinquent regular or special assessments or any other amount owed to the association without accruing additional monetary penalties, as defined by Subsection (a).

Sec. 209.0063. PRIORITY OF PAYMENTS. (a) Except as provided by Subsection (b), a payment received by a property owners' association from the owner shall be applied to the owner's debt in the following order of priority:

(1) any delinquent assessment;

(2) any current assessment;

(3) any attorney's fees or third party collection costs incurred by the association associated solely with assessments or any other charge that could provide the basis for foreclosure;

(4) any attorney's fees incurred by the association that are not subject to Subdivision (3);

(5) any fines assessed by the association; and

(6) any other amount owed to the association.

(b) If, at the time the property owners' association receives a payment from a property owner, the owner is in default under a payment plan entered into with the association:

(1) the association is not required to apply the payment in the order of priority specified by Subsection (a); and

(2) in applying the payment, a fine assessed by the association may not be given priority over any other amount owed to the association.

Sec. 209.0064. THIRD PARTY COLLECTIONS. (a) In this section, "collection agent" means a debt collector, as defined by Section 803 of the federal Fair Debt Collection Practices Act (15 U.S.C. Section 1692a).

(b) A property owners' association may not hold an owner liable for fees of a collection agent retained by the property owners' association unless the association first provides written notice to the owner by certified mail, return receipt requested, that:

(1) specifies each delinquent amount and the total amount of the payment required to make the account current;

(2) describes the options the owner has to avoid having the account turned over to a collection agent, including information regarding availability of a payment plan through the association; and

(3) provides a period of at least 30 days for the owner to cure the delinquency before further collection action is taken.

(c) An owner is not liable for fees of a collection agent retained by the property owners' association if:

(1) the obligation for payment by the association to the association's collection agent for fees or costs associated with a collection action is in any way dependent or contingent on amounts recovered; or

(2) the payment agreement between the association and the association's collection agent does not require payment by the association of all fees to a collection agent for the action undertaken by the collection agent.

(d) The agreement between the property owners' association and the association's collection agent may not prohibit the owner from contacting the association board or the association's managing agent regarding the owner's delinquency.

(e) A property owners' association may not sell or otherwise transfer any interest in the association's accounts receivables for a purpose other than as collateral for a loan.

Sec. 209.0091. PREREQUISITES TO FORECLOSURE: NOTICE AND OPPORTUNITY TO CURE FOR CERTAIN OTHER LIENHOLDERS. (a) A property owners' association may not foreclose a property owners' association assessment lien on real property by giving notice of sale under Section 51.002 or commencing a judicial foreclosure action unless the association has:

(1) provided written notice of the total amount of the delinquency giving rise to the foreclosure to any other holder of a lien of record on the property whose lien is inferior or subordinate to the association's lien and is evidenced by a deed of trust; and

(2) provided the recipient of the notice an opportunity to cure the delinquency before the 61st day after the date the recipient receives the notice.

(b) Notice under this section must be sent by certified mail, return receipt requested, to the address for the lienholder shown in the deed records relating to the property that is subject to the property owners' association assessment lien.

Sec. 209.0092. JUDICIAL FORECLOSURE REQUIRED. (a) Except as provided by Subsection (c) and subject to Section 209.009, a property owners' association may not foreclose a property owners' association assessment lien unless the association first obtains a court order in an application for expedited foreclosure under the rules adopted by the supreme court under Subsection (b). A property owners' association may use the procedure described by this subsection to foreclose any lien described by the association's dedicatory instruments.

(b) The supreme court, as an exercise of the court's authority under Section 74.024, Government Code, shall adopt rules establishing expedited foreclosure proceedings for use by a property owners' association in foreclosing an assessment lien of the association. The rules adopted under this subsection must be substantially similar to the rules adopted by the supreme court under Section 50(r), Article XVI, Texas Constitution.

(c) Expedited foreclosure is not required under this section if the owner of the property that is subject to foreclosure agrees in writing at the time the foreclosure is sought to waive expedited foreclosure under this section. A waiver under this subsection may not be required as a condition of the transfer of title to real property.

Sec. 209.0093. REMOVAL OR ADOPTION OF FORECLOSURE AUTHORITY. A provision granting a right to foreclose a lien on real property for unpaid amounts due to a property owners' association may be removed from a dedicatory instrument or adopted in a dedicatory instrument by a vote of at least 67 percent of the total votes allocated to property owners in the property owners' association. Owners holding at least 10 percent of all voting interests in the property owners' association may petition the association and require a special meeting to be called for the purposes of taking a vote for the purposes of this section.

Sec. 209.0094. ASSESSMENT LIEN FILING. A lien, lien affidavit, or other instrument evidencing the nonpayment of assessments or other charges owed to a property owners' association and filed in the official public records of a county is a legal instrument affecting title to real property.

SECTION 3. (a) Section 209.0062, Property Code, as added by this Act, applies only to an assessment or other debt that becomes due on or after the effective date of this Act. An assessment or other debt that becomes due 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.

(b) Section 209.0063, Property Code, as added by this Act, applies only to a payment received by a property owners' association on or after the effective date of this Act. A payment received by a property owners' association 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.

(c) Section 209.0091, Property Code, as added by this Act, applies only to a notice of sale given under Section 51.002, Property Code, on or after the effective date of this Act or a judicial foreclosure action commenced on or after the effective date of this Act.

(d) Section 209.0092, Property Code, as added by this Act, applies only to a foreclosure sale conducted on or after the effective date of this Act. A foreclosure sale conducted 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.

(e) Section 209.0094, Property Code, as added by this Act, applies only to an instrument filed on or after January 1, 2012. An instrument filed before January 1, 2012, is governed by the law in effect on the date the instrument was filed, and that law is continued in effect for that purpose.

SECTION 4. Not later than January 1, 2012, the Supreme Court of Texas shall adopt rules of civil procedure under Section 209.0092, Property Code, as added by this Act.

SECTION 5. (a) Except as provided by Subsection (b) of this section, this Act takes effect January 1, 2012.

(b) Subsection (b), Section 209.0092, Property Code, as added by this Act, takes effect September 1, 2011.

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

Amend **CSHB 1228** (senate committee printing) as follows:

(1) In SECTION 2 of the bill, in added Section 209.0062(c), Property Code (page 1, line 34), strike "is not required to" and substitute "may not".

(2) In SECTION 2 of the bill, in added Section 209.0062(c), Property Code (page 1, line 36), strike "plan or" and substitute "plan. The association is not required".

ADDRESS BY REPRESENTATIVE THOMPSON ON A MATTER OF PERSONAL PRIVILEGE

The chair recognized Representative Thompson who addressed the house on a matter of personal privilege, speaking as follows:

Madam Speaker, and members, during this legislative session we've spent about 30 or 40 percent of our time kicking the reproductive organs of women down the road, and I thought that was an issue that we had finished and we had

completed. I want to attest to the fact that kicking the women's can down the road, they're still being kicked. To my surprise, I became aware of two despicable flyers. I know some of you may have seen one flyer talking about **HB 2093**, and it depicts a child's pacifier. This bill is a bill that deals with insurance. And the other one that we have had a lot of controversy on: a child nursing a mother's breast, and this is talking about **HB 2093**, and this bill is about insurance.

I'm going to tell you that I am really disgusted, and I'm really ashamed that there's nothing better that some organizations find than kicking women. God made me a woman. And thank God that he made your mother a woman because you men wouldn't be here. Lawmakers, as we are, have an opportunity to shape the attitudes of the public, and those attitudes can be positive toward women, they can be negative to women, or they could be both. That's all within the ambit of all our abilities. But I find these flyers—some of you may find them funny, but I find them despicable. I find them distasteful, I find them hateful, and I find them to give thoughts of violence and disrespect toward women.

I am appalled today that the Texas Civil Justice League would go so low that they would put out this kind of hate: resentful, bitter, despicable, despicable, violent flyers toward women, just to get at a piece of legislation. They could have come and talked to me. Tuffy knows that I have an open door policy. They could have come and saw me in my office. And we know, all of us, we win some, we lose some, but kicking women down the road as an old tin can, and thoughts on disrespect and violence and hate—it may not be important to you, but some of you have mothers, and I know many of you have wives, and you have daughters and sisters, nieces—and this ought to embitter you. It ought to make you angry that somebody is this disrespectful that they have to put out this sort of thing just to get at a bill. We go up in arms about women having the ability to nurse their children in certain public places, and some of you all lose it because you don't want to allow that in certain places.

We cannot sit here and tolerate this kind of attitude. This is wrong. It cannot exist. And, I want to ask you, if you have any test in fortitude, and I believe you do, to stand up and tell this organization that this is not acceptable conduct for the members of this house. It is not acceptable conduct to put women down like this, and this is not the kind of can that they need to be kicking in the Texas Legislature.

It is an all time low, and I'll personally tell you this is not a tactic to get this passed or to concur. I don't care if you kill this bill, but I want you to remember one thing that I'm saying today. I don't appreciate this attack on women. I don't appreciate this flyer. I'm going to tell you something. I don't perpetrate violence against somebody, but if they were here, I'd probably bloody their nose right here on this floor. I guarantee you that. And, Dr. Zerwas, I'll have to call you to the aid, and I'm not joking. I would bloody their nose because they have no right to do women this way, and we have not earned this disrespect in this house. We fight here, we get elected just like you do, and we have not earned this kind of disrespect. And I don't want to tolerate it by anybody. And, men, if you don't stand up for us today, don't you walk in this chamber tomorrow.

REMARKS ORDERED PRINTED

Representative Rodriguez moved to print remarks by Representative Thompson.

The motion prevailed.

(Speaker in the chair)

**HB 300 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

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

HB 300, A bill to be entitled An Act relating to the privacy of protected health information; providing administrative and civil penalties.

Representative Kolkhorst 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 300**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 300**: Kolkhorst, chair; Flynn, Laubenberg, Naishtat, and Truitt.

**HB 3691 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

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

HB 3691, A bill to be entitled An Act relating to the provision by certain judges or community supervision and corrections departments of certain programs and services, including certain pretrial programs and services, and to the imposition of certain sanctions against defendants supervised by those departments.

Representative Gallego 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 3691**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 3691**: Gallego, chair; Christian, Y. Davis, Martinez, and Zedler.

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. 4).

HB 3302 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Reynolds submitted the following conference committee report on **HB 3302**:

Austin, Texas, May 24, 2011

The Honorable David Dewhurst
President of the Senate

The Honorable Joe Straus
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 3302** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

| | |
|---------------------------|--------------------------|
| Eltife | R. Anderson |
| Hinojosa | Miles |
| Jackson | Murphy |
| Patrick | Vo |
| Hegar | Reynolds |
| On the part of the senate | On the part of the house |

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.

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

SECTION 1. Subchapter D, Chapter 504, Local Government Code, is amended by adding Section 504.171 to read as follows:

Sec. 504.171. AUTHORITY OF CERTAIN CORPORATIONS TO UNDERTAKE TYPE B PROJECTS. (a) This section applies only to a Type A corporation the creation of which was authorized by a municipality:

- (1) that has also authorized the creation of a Type B corporation; and
- (2) that has a population of 7,500 or less.

(b) Notwithstanding Section 504.152, if permitted by ordinance of the authorizing municipality, a Type A corporation to which this section applies may undertake any project that a Type B corporation, the creation of which was authorized by the same municipality, may undertake under Chapter 505.

(c) The governing body of an authorizing municipality may by ordinance revoke any authority granted to a Type A corporation under Subsection (b). A revocation under this subsection does not affect the authority of a corporation to complete a project already undertaken or the obligation to repay any debt incurred in connection with a project under Subsection (b).

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.

Representative Reynolds moved to adopt the conference committee report on **HB 3302**.

The motion to adopt the conference committee report on **HB 3302** prevailed by (Record 1546): 144 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Burnam; Button; Cain; Callegari; Carter; Chisum; Christian; Coleman; Cook; Craddick; Creighton; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Flynn; Frullo; Gallego; Geren; Giddings; Gonzales, L.; Gonzales, V.; 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; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Castro; Crownover; Gonzalez; Villarreal.

Absent — Garza.

STATEMENT OF VOTE

I was shown voting yes on Record No. 1546. I intended to vote no.

Hughes

(L. Taylor in the chair)

HB 1754 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

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

HB 1754, A bill to be entitled An Act relating to the reorganization of powers and duties among agencies in this state that provide representation to indigent defendants in criminal cases and to the reorganization of funding sources for indigent defense.

The house concurred in senate amendments earlier today by Record No. 1539, and the vote was reconsidered.

Representative Gallego moved to concur in the senate amendments to **HB 1754**.

The motion to concur in the senate amendments to **HB 1754** prevailed by (Record 1547): 83 Yeas, 58 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, R.; Bohac; Burkett; Burnam; Chisum; Christian; Coleman; Davis, J.; Davis, Y.; Deshotel; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Frullo; Gallego; Geren; Giddings; Gonzales, L.; Gonzales, V.; Guillen; Gutierrez; Hancock; Harless; Hernandez Luna; Hilderbran; Hochberg; Hopson; Howard, D.; Hunter; Isaac; Jackson; Johnson; Keffer; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Lewis; Lozano; Lucio; Lyne; Madden; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Muñoz; Naishtat; Oliveira; Otto; Paxton; Perry; Pickett; Pitts; Quintanilla; Raymond; Reynolds; Rodriguez; Scott; Sheets; Simpson; Solomons; Strama; Thompson; Torres; Truitt; Turner; Veasey; Vo; Walle; Woolley.

Nays — Anderson, C.; Aycock; Beck; Berman; Branch; Brown; Button; Cain; Callegari; Carter; Cook; Craddick; Creighton; Darby; Davis, S.; Driver; Fletcher; Flynn; Gooden; Hamilton; Hardcastle; Harper-Brown; Hartnett; Howard, C.; Huberty; Hughes; King, P.; King, S.; Landtroop; Larson; Laubenberg; Lavender; Legler; Margo; Miller, D.; Miller, S.; Morrison; Murphy; Nash; Orr; Parker; Patrick; Peña; Phillips; Price; Riddle; Schwertner; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Taylor, V.; Weber; White; Workman; Zedler; Zerwas.

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

Absent, Excused — Castro; Crownover; Gonzalez; Villarreal.

Absent — Bonnen; Garza; Ritter.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 1547. I intended to vote no.

L. Gonzales

I was shown voting yes on Record No. 1547. I intended to vote no.

Harless

I was shown voting yes on Record No. 1547. I intended to vote no.

Otto

I was shown voting yes on Record No. 1547. I intended to vote no.

Truitt

Senate Committee Substitute

CSHB 1754, A bill to be entitled An Act relating to the reorganization of powers and duties among agencies in this state that provide representation to indigent defendants in criminal cases and to the reorganization of funding sources for indigent defense.

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

SECTION 1. Subtitle F, Title 2, Government Code, is amended by adding Chapter 79 to read as follows:

CHAPTER 79. TEXAS INDIGENT DEFENSE COMMISSION
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 79.001. DEFINITIONS. In this chapter:

(1) "Assigned counsel program" means a system under which private attorneys, acting as independent contractors and compensated with public funds, are individually appointed to provide legal representation and services to a particular indigent defendant accused of a crime or juvenile offense.

(2) "Board" means the governing board of the Texas Indigent Defense Commission.

(3) "Commission" means the agency known as the Texas Indigent Defense Commission.

(4) "Contract defender program" means a system under which private attorneys, acting as independent contractors and compensated with public funds, are engaged to provide legal representation and services to a group of unspecified indigent defendants who appear before a particular court or group of courts.

(5) "Council" means the Texas Judicial Council.

(6) "Crime" means:

(A) a misdemeanor punishable by confinement; or

(B) a felony.

(7) "Defendant" means a person accused of a crime or a juvenile offense.

(8) "Executive director" means the executive director of the Texas Indigent Defense Commission.

(9) "Indigent defense support services" means criminal defense services that:

(A) are provided by licensed investigators, experts, or other similar specialists, including forensic experts and mental health experts; and

(B) are reasonable and necessary for appointed counsel to provide adequate representation to indigent defendants.

(10) "Juvenile offense" means conduct committed by a person while younger than 17 years of age that constitutes:

(A) a misdemeanor punishable by confinement; or

(B) a felony.

(11) "Managed assigned counsel program" has the meaning assigned by Article 26.047, Code of Criminal Procedure.

(12) "Office of capital writs" means the office of capital writs established under Subchapter B, Chapter 78.

(13) "Public defender's office" has the meaning assigned by Article 26.044(a), Code of Criminal Procedure.

Sec. 79.002. ESTABLISHMENT OF COMMISSION. (a) The Texas Indigent Defense Commission is established. The commission is an agency in the judicial branch of this state.

(b) The commission operates under the direction and supervision of a governing board.

Sec. 79.003. SUNSET PROVISION. The commission is subject to Chapter 325 (Texas Sunset Act). Unless continued in existence as provided by that chapter, the commission is abolished and this chapter expires September 1, 2023.

[Sections 79.004-79.010 reserved for expansion]

SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

Sec. 79.011. ESTABLISHMENT OF BOARD; COMPOSITION. (a) The commission is governed by a board consisting of eight ex officio members and five appointive members.

(b) Except as provided by Section 79.038, the board shall exercise the powers and perform the duties under this chapter independently of the council.

Sec. 79.012. EXECUTIVE DIRECTOR. (a) The executive director is appointed by the board.

(b) The executive director:

- (1) must be a licensed attorney;
- (2) must demonstrate an interest in the standards for and provision of criminal defense services to indigent individuals;
- (3) may not engage in the private practice of law; and
- (4) may not accept money, property, or any other thing of value not authorized by law for services rendered under this chapter.

Sec. 79.013. EX OFFICIO MEMBERS. The ex officio members of the board are:

- (1) the following six members of the council:
 - (A) the chief justice of the supreme court;
 - (B) the presiding judge of the court of criminal appeals;
 - (C) one of the members of the senate serving on the council who is designated by the lieutenant governor;
 - (D) the member of the house of representatives appointed by the speaker of the house;
 - (E) one of the courts of appeals justices serving on the council who is designated by the governor; and
 - (F) one of the county court or statutory county court judges serving on the council who is designated by the governor or, if a county court or statutory county court judge is not serving on the council, one of the statutory probate court judges serving on the council who is designated by the governor;

(2) one other member of the senate appointed by the lieutenant governor; and

(3) the chair of the House Criminal Jurisprudence Committee.

Sec. 79.014. APPOINTMENTS. (a) The governor shall appoint with the advice and consent of the senate five members of the board as follows:

(1) one member who is a district judge serving as a presiding judge of an administrative judicial region;

(2) one member who is a judge of a constitutional county court or who is a county commissioner;

(3) one member who is a practicing criminal defense attorney;

(4) one member who is a chief public defender in this state or the chief public defender's designee, who must be an attorney employed by the public defender's office; and

(5) one member who is a judge of a constitutional county court or who is a county commissioner of a county with a population of 250,000 or more.

(b) The board members serve staggered terms of two years, with two members' terms expiring February 1 of each odd-numbered year and three members' terms expiring February 1 of each even-numbered year.

(c) In making appointments to the board, the governor shall attempt to reflect the geographic and demographic diversity of the state.

(d) A person may not be appointed to the board if the person is required to register as a lobbyist under Chapter 305 because of the person's activities for compensation on behalf of a profession related to the operation of the commission or the council.

Sec. 79.015. PRESIDING OFFICER. The board shall select a chair from among its members.

Sec. 79.016. DISCLOSURE REQUIRED. (a) A board member who is a chief public defender or who is an attorney employed by a public defender's office in a county that applies for funds under Section 79.037 shall disclose that fact before a vote by the board regarding an award of funds to that county and may not participate in such a vote.

(b) A board member's disclosure under Subsection (a) must be entered into the minutes of the board meeting at which the disclosure is made or reported, as applicable.

(c) The commission may not award funds under Section 79.037 to a county served by a chief public defender or other attorney who fails to make a disclosure to the board as required by Subsection (a).

Sec. 79.017. VACANCIES. A vacancy on the board must be filled for the unexpired term in the same manner as the original appointment.

Sec. 79.018. MEETINGS; QUORUM; VOTING. (a) The board shall meet at least four times each year and at such other times as it considers necessary or convenient to perform its duties.

(b) Six members of the board constitute a quorum for purposes of transacting the business of the board. The board may act only on the concurrence of five board members or a majority of the board members present, whichever number is greater. The board may adopt policies and standards under Section 79.034 only on the concurrence of seven board members.

(c) Except as provided by Section 79.016, a board member is entitled to vote on any matter before the board, except as otherwise provided by rules adopted by the board.

Sec. 79.019. COMPENSATION. A board member may not receive compensation for services on the board but is entitled to be reimbursed for actual and necessary expenses incurred in discharging board duties. The expenses are paid from funds appropriated to the board.

Sec. 79.020. IMMUNITY FROM LIABILITY. A member of the board performing duties on behalf of the board is not liable for damages arising from an act or omission within the scope of those duties.

Sec. 79.021. RULES. The board shall adopt rules as necessary to implement this chapter.

[Sections 79.022-79.030 reserved for expansion]

SUBCHAPTER C. GENERAL POWERS AND DUTIES OF COMMISSION

Sec. 79.031. FAIR DEFENSE ACCOUNT. The fair defense account is an account in the general revenue fund that may be appropriated only to:

- (1) the commission for the purpose of implementing this chapter; and
- (2) the office of capital writs for the purpose of implementing

Subchapter B, Chapter 78.

Sec. 79.032. ACCEPTANCE OF GIFTS, GRANTS, AND OTHER FUNDS; STATE GRANTS TEAM. (a) The commission may accept gifts, grants, and other funds from any public or private source to pay expenses incurred in performing its duties under this chapter.

(b) The State Grants Team of the Governor's Office of Budget, Planning, and Policy may assist the commission in identifying grants and other resources available for use by the commission in performing its duties under this chapter.

Sec. 79.033. LEGISLATIVE APPROPRIATIONS REQUEST. The board, in accordance with the rules and procedures of the Legislative Budget Board, shall prepare, approve, and submit a legislative appropriations request.

Sec. 79.034. POLICIES AND STANDARDS. (a) The commission shall develop policies and standards for providing legal representation and other defense services to indigent defendants at trial, on appeal, and in postconviction proceedings. The policies and standards may include:

(1) performance standards for counsel appointed to represent indigent defendants;

(2) qualification standards under which attorneys may qualify for appointment to represent indigent defendants, including:

(A) qualifications commensurate with the seriousness of the nature of the proceeding;

(B) qualifications appropriate for representation of mentally ill defendants and noncitizen defendants;

(C) successful completion of relevant continuing legal education programs approved by the council; and

(D) testing and certification standards;

(3) standards for ensuring appropriate appointed caseloads for counsel appointed to represent indigent defendants;

(4) standards for determining whether a person accused of a crime or juvenile offense is indigent;

(5) policies and standards governing the organization and operation of an assigned counsel program;

(6) policies and standards governing the organization and operation of a public defender's office consistent with recognized national policies and standards;

(7) standards for providing indigent defense services under a contract defender program consistent with recognized national policies and standards;

(8) standards governing the reasonable compensation of counsel appointed to represent indigent defendants;

(9) standards governing the availability and reasonable compensation of providers of indigent defense support services for counsel appointed to represent indigent defendants;

(10) standards governing the operation of a legal clinic or program that provides legal services to indigent defendants and is sponsored by a law school approved by the supreme court;

(11) policies and standards governing the appointment of attorneys to represent children in proceedings under Title 3, Family Code;

(12) policies and standards governing the organization and operation of a managed assigned counsel program consistent with nationally recognized policies and standards; and

(13) other policies and standards for providing indigent defense services as determined by the commission to be appropriate.

(b) The commission shall submit its proposed policies and standards developed under Subsection (a) to the board for adoption. The board shall adopt the proposed policies and standards as appropriate.

(c) Any qualification standards adopted by the board under Subsection (b) that relate to the appointment of counsel in a death penalty case must be consistent with the standards specified under Article 26.052(d), Code of Criminal Procedure. An attorney who is identified by the commission as not satisfying performance or qualification standards adopted by the board under Subsection (b) may not accept an appointment in a capital case.

Sec. 79.035. COUNTY REPORTING PLAN; COMMISSION REPORTS.

(a) The commission shall develop a plan that establishes statewide requirements for counties relating to reporting indigent defense information. The plan must include provisions designed to reduce redundant reporting by counties and provisions that take into consideration the costs to counties of implementing the plan statewide. The commission shall use the information reported by a county to monitor the effectiveness of the county's indigent defense policies, standards, and procedures and to ensure compliance by the county with the requirements of state law relating to indigent defense. The commission may revise the plan as necessary to improve monitoring of indigent defense policies, standards, and procedures in this state.

(b) The commission shall annually submit to the governor, lieutenant governor, speaker of the house of representatives, and council and shall publish in written and electronic form a report:

(1) containing any information submitted to the commission by a county under Section 79.036; and

(2) regarding:

(A) the quality of legal representation provided by counsel appointed to represent indigent defendants;

(B) current indigent defense practices in the state as compared to state and national standards;

(C) efforts made by the commission to improve indigent defense practices in the state; and

(D) recommendations made by the commission for improving indigent defense practices in the state.

(c) The commission shall annually submit to the Legislative Budget Board and council and shall publish in written and electronic form a detailed report of all expenditures made under this subchapter, including distributions under Section 79.037.

(d) The commission may issue other reports relating to indigent defense as determined to be appropriate by the commission.

Sec. 79.036. INDIGENT DEFENSE INFORMATION. (a) In each county, not later than November 1 of each odd-numbered year and in the form and manner prescribed by the commission, the following information shall be prepared and provided to the commission:

(1) a copy of all formal and informal rules and forms that describe the procedures used in the county to provide indigent defendants with counsel in accordance with the Code of Criminal Procedure, including the schedule of fees required under Article 26.05 of that code;

(2) any revisions to rules or forms previously submitted under this section; or

(3) verification that rules and forms previously submitted under this section still remain in effect.

(b) Except as provided by Subsection (c):

(1) the local administrative district judge in each county, or the person designated by the judge, shall perform the action required by Subsection (a) with respect to all rules and forms adopted by the judges of the district courts trying felony cases in the county; and

(2) the local administrative statutory county court judge in each county, or the person designated by the judge, shall perform the action required by Subsection (a) with respect to all rules and forms adopted by the judges of the county courts and statutory county courts trying misdemeanor cases in the county.

(c) If the judges of two or more levels of courts described by Subsection (b) adopt the same formal and informal rules and forms, the local administrative judge serving the courts having jurisdiction over offenses with the highest classification of punishment, or the person designated by the judge, shall perform the action required by Subsection (a).

(d) The chair of the juvenile board in each county, or the person designated by the chair, shall perform the action required by Subsection (a) with respect to all rules and forms adopted by the juvenile board.

(e) In each county, the county auditor, or the person designated by the commissioners court if the county does not have a county auditor, shall prepare and send to the commission in the form and manner prescribed by the commission and on a monthly, quarterly, or annual basis, with respect to legal

services provided in the county to indigent defendants during each fiscal year, information showing the total amount expended by the county to provide indigent defense services and an analysis of the amount expended by the county:

- (1) in each district, county, statutory county, and appellate court;
- (2) in cases for which a private attorney is appointed for an indigent defendant;
- (3) in cases for which a public defender is appointed for an indigent defendant;
- (4) in cases for which counsel is appointed for an indigent juvenile under Section 51.10(f), Family Code; and
- (5) for investigation expenses, expert witness expenses, or other litigation expenses.

(f) As a duty of office, each district and county clerk shall cooperate with the county auditor or the person designated by the commissioners court and the commissioners court in retrieving information required to be sent to the commission under this section.

Sec. 79.037. TECHNICAL SUPPORT; GRANTS. (a) The commission shall:

- (1) provide technical support to:

(A) assist counties in improving their indigent defense systems;

and

(B) promote compliance by counties with the requirements of state law relating to indigent defense;

(2) to assist counties in providing indigent defense services in the county, distribute in the form of grants any funds appropriated for the purposes of this section; and

(3) monitor each county that receives a grant and enforce compliance by the county with the conditions of the grant, including enforcement by:

(A) withdrawing grant funds; or

(B) requiring reimbursement of grant funds by the county.

(b) The commission shall distribute funds as required by Subsection (a)(2) based on a county's compliance with standards adopted by the board and the county's demonstrated commitment to compliance with the requirements of state law relating to indigent defense.

(c) The board shall adopt policies to ensure that funds under Subsection (a)(2) are allocated and distributed to counties in a fair manner.

(d) A county may not reduce the amount of funds provided for indigent defense services in the county because of funds provided by the commission under this section.

Sec. 79.038. ADMINISTRATIVE SUPPORT. The Office of Court Administration of the Texas Judicial System shall provide administrative support, including information technology services support, to the commission as necessary to carry out this chapter.

SECTION 2. Section 71.001, Government Code, is amended to read as follows:

Sec. 71.001. DEFINITIONS. In this chapter:

~~(1) ["Assigned counsel program" means a system under which private attorneys, acting as independent contractors and compensated with public funds, are individually appointed to provide legal representation and services to a particular indigent defendant accused of a crime or juvenile offense.~~

~~(2) "Chair" means the chair of the council.~~

~~(2) (3) "Contract defender program" means a system under which private attorneys, acting as independent contractors and compensated with public funds, are engaged to provide legal representation and services to a group of unspecified indigent defendants who appear before a particular court or group of courts.~~

~~(4) "Council" means the Texas Judicial Council.~~

~~(3) (5) "Crime" means:~~

~~[(A) a misdemeanor punishable by confinement; or~~

~~[(B) a felony.~~

~~(6) "Defendant" means a person accused of a crime or [a] juvenile offense, as those terms are defined by Section 79.001.~~

~~(4) (7) "Indigent defense support services" means criminal defense services that:~~

~~[(A) are provided by licensed investigators, experts, or other similar specialists, including forensic experts and mental health experts; and~~

~~[(B) are reasonable and necessary for appointed counsel to provide adequate representation to indigent defendants.~~

~~(8) "Juvenile offense" means conduct committed by a person while younger than 17 years of age that constitutes:~~

~~[(A) a misdemeanor punishable by confinement; or~~

~~[(B) a felony.~~

~~(9) "Public defender's office [defender]" has the meaning assigned by Article 26.044(a), Code of Criminal Procedure.~~

SECTION 3. Section 78.052(b), Government Code, is amended to read as follows:

(b) The office shall receive funds for personnel costs and expenses:

(1) as specified in the General Appropriations Act; and

(2) from the fair defense account under Section 79.031 [71.058], in an amount sufficient to cover personnel costs and expenses not covered by appropriations described by Subdivision (1).

SECTION 4. Section 78.056(b), Government Code, is amended to read as follows:

(b) The Office of Court Administration of the Texas Judicial System and the Texas ~~Task Force on~~ Indigent Defense Commission shall provide administrative support necessary under this section.

SECTION 5. Section 81.054(c), Government Code, is amended to read as follows:

(c) Fees shall be paid to the clerk of the supreme court. The clerk shall retain the fees, other than fees collected under Subsection (j), until distributed to the state bar for expenditure under the direction of the supreme court to administer this chapter. The clerk shall retain the fees collected under Subsection

(j) until distribution is approved by an order of the supreme court. In ordering that distribution, the supreme court shall order that the fees collected under Subsection (j) be remitted to the comptroller at least as frequently as quarterly. The comptroller shall credit 50 percent of the remitted fees to the credit of the judicial fund for programs approved by the supreme court that provide basic civil legal services to the indigent and shall credit the remaining 50 percent of the remitted fees to the fair defense account in the general revenue fund which is established under Section 79.031 [~~71.058~~], to be used, subject to all requirements of Section 79.037 [~~71.062~~], for demonstration or pilot projects that develop and promote best practices for the efficient delivery of quality representation to indigent defendants in criminal cases at trial, on appeal, and in postconviction proceedings.

SECTION 6. Section 402.035(c), Government Code, is amended to read as follows:

- (c) The task force is composed of the following:
- (1) the governor or the governor's designee;
 - (2) the attorney general or the attorney general's designee;
 - (3) the executive commissioner of the Health and Human Services Commission or the executive commissioner's designee;
 - (4) the commissioner of the Department of Family and Protective Services or the commissioner's designee;
 - (5) the public safety director of the Department of Public Safety or the director's designee;
 - (6) one representative from each of the following state agencies, appointed by the chief administrative officer of the respective agency:
 - (A) the Texas Workforce Commission;
 - (B) the Texas Department of Criminal Justice;
 - (C) the Texas Youth Commission;
 - (D) the Texas Juvenile Probation Commission; and
 - (E) the Texas Alcoholic Beverage Commission; and
 - (7) as appointed by the attorney general:
 - (A) a chief public defender employed by a public defender's office, as defined by Article 26.044(a) [~~26.044~~], Code of Criminal Procedure, or an attorney designated by the chief public defender;
 - (B) an attorney representing the state;
 - (C) a representative of:
 - (i) a hotel and motel association;
 - (ii) a district and county attorneys association; and
 - (iii) a state police association;
 - (D) representatives of sheriff's departments;
 - (E) representatives of local law enforcement agencies affected by human trafficking; and
 - (F) representatives of nongovernmental entities making comprehensive efforts to combat human trafficking by:
 - (i) identifying human trafficking victims;

- (ii) providing legal or other services to human trafficking victims;
- (iii) participating in community outreach or public awareness efforts regarding human trafficking;
- (iv) providing or developing training regarding the prevention of human trafficking; or
- (v) engaging in other activities designed to prevent human trafficking.

SECTION 7. Article 26.04, Code of Criminal Procedure, is amended by amending Subsections (a), (d), and (f) and adding Subsection (f-1) to read as follows:

(a) The judges of the county courts, statutory county courts, and district courts trying criminal cases in each county, by local rule, shall adopt and publish written countywide procedures for timely and fairly appointing counsel for an indigent defendant in the county arrested for or charged with a misdemeanor punishable by confinement or a felony. The procedures must be consistent with this article and Articles 1.051, 15.17, 26.05, and 26.052. A court shall appoint an attorney from a public appointment list using a system of rotation, unless the court appoints an attorney under Subsection (f), (f-1), (h), or (i). The court shall appoint attorneys from among the next five names on the appointment list in the order in which the attorneys' names appear on the list, unless the court makes a finding of good cause on the record for appointing an attorney out of order. An attorney who is not appointed in the order in which the attorney's name appears on the list shall remain next in order on the list.

(d) A public appointment list from which an attorney is appointed as required by Subsection (a) shall contain the names of qualified attorneys, each of whom:

- (1) applies to be included on the list;
- (2) meets the objective qualifications specified by the judges under Subsection (e);
- (3) meets any applicable qualifications specified by the Texas [Task Force on] Indigent Defense Commission; and
- (4) is approved by a majority of the judges who established the appointment list under Subsection (e).

(f) In a county in which a public defender's office is created or designated ~~[defender is appointed]~~ under Article 26.044, the court or the courts' designee may appoint that office ~~[the public defender]~~ to represent the defendant in accordance with guidelines established for the office ~~[public defender]~~.

(f-1) In a county in which a managed assigned counsel program is operated in accordance with Article 26.047, the managed assigned counsel program may appoint counsel to represent the defendant in accordance with the guidelines established for the program.

SECTION 8. The heading to Article 26.044, Code of Criminal Procedure, is amended to read as follows:

Art. 26.044. PUBLIC DEFENDER'S OFFICE ~~[DEFENDER]~~.

SECTION 9. Article 26.044, Code of Criminal Procedure, is amended by amending Subsections (a), (b), (c), (d), (e), (f), (g), (h), (i), (j), (k), (l), and (m) and adding Subsections (b-1) and (c-1) to read as follows:

(a) In this chapter:

(1) "Governmental entity" includes a county, a group of counties, a department [~~branch or agency~~] of a county, an administrative judicial region created by Section 74.042, Government Code, and any entity created under the Interlocal Cooperation Act as permitted by Chapter 791, Government Code.

(2) "Office of capital writs" means the office of capital writs established under Subchapter B, Chapter 78, Government Code.

(3) "Oversight board" means an oversight board established in accordance with Article 26.045.

(4) "Public defender's office [~~defender~~]" means an entity that:

(A) is either:

(i) a governmental entity; or

(ii) a nonprofit corporation[~~;~~

~~(A)]~~ operating under a written agreement with a governmental entity, other than an individual judge or court; and

(B) uses [~~using~~] public funds to provide[~~;~~ and

~~(C) providing]~~ legal representation and services to indigent defendants accused of a crime or juvenile offense, as those terms are defined by Section 79.001 [71.001], Government Code.

~~[(3) "Office of capital writs" means the office of capital writs established under Subchapter B, Chapter 78, Government Code.]~~

(b) The commissioners court of any county, on written approval of a judge of a county court, statutory county court, or district court trying criminal cases or cases under Title 3, Family Code, in the county, may create a department of the county or by contract may designate a [~~appoint a governmental entity or~~] nonprofit corporation to serve as a public defender's office [~~defender~~]. The commissioners courts of two or more counties may enter into a written agreement to jointly create or designate [~~appoint~~] and jointly fund a regional public defender's office [~~defender~~]. In creating or designating [~~appointing~~] a public defender's office [~~defender~~] under this subsection, the commissioners court shall specify or the commissioners courts shall jointly specify, if creating or designating [~~appointing~~] a regional public defender's office [~~defender~~]:

(1) the duties of the public defender's office [~~defender~~];

(2) the types of cases to which the public defender's office [~~defender~~] may be appointed under Article 26.04(f) and the courts in which an attorney employed by the public defender's office [~~defender~~] may be required to appear;

(3) if the public defender's office is a nonprofit corporation, the term during which the contract designating the public defender's office is effective and how that contract may be renewed on expiration of the term [~~whether the public defender is appointed to serve a term or serve at the pleasure of the commissioners court or the commissioners courts~~]; and

(4) if an oversight board is established under Article 26.045 for the public defender's office, the powers and duties that have been delegated to the oversight board ~~[the public defender is appointed to serve a term, the term of appointment and the procedures for removing the public defender]~~.

(b-1) The applicable commissioners court or commissioners courts shall require a written plan from a governmental entity serving as a public defender's office.

(c) Before contracting with a nonprofit corporation to serve as ~~[appointing]~~ a public defender's office ~~[defender]~~ under Subsection (b), the commissioners court or commissioners courts shall solicit proposals for the public defender's office ~~[defender]~~.

(c-1) A written plan under Subsection (b-1) or a proposal under Subsection (c) must include:

(1) a budget for the public defender's office ~~[defender]~~, including salaries;

(2) a description of each personnel position, including the chief public defender position;

(3) the maximum allowable caseloads for each attorney employed by the public defender's office ~~[proponent]~~;

(4) provisions for personnel training;

(5) a description of anticipated overhead costs for the public defender's office ~~[defender]~~; ~~[and]~~

(6) policies regarding the use of licensed investigators and expert witnesses by the public defender's office; and

(7) a policy to ensure that the chief public defender and other attorneys employed by the public defender's office do not provide representation to a defendant if doing so would create a conflict of interest that has not been waived by the client ~~[proponent]~~.

(d) After considering each proposal for the public defender's office ~~[defender]~~ submitted by a ~~[governmental entity or]~~ nonprofit corporation under Subsection (c), the commissioners court or commissioners courts shall select a proposal that reasonably demonstrates that the public defender's office ~~[proponent]~~ will provide adequate quality representation for indigent defendants in the county or counties.

(e) The total cost of the proposal under Subsection (c) may not be the sole consideration in selecting a proposal.

(f) A ~~[To be eligible for appointment as a]~~ public defender's office ~~[defender, the governmental entity or nonprofit corporation]~~ must be directed by a chief public defender who:

(1) is a member of the State Bar of Texas;

(2) has practiced law for at least three years; and

(3) has substantial experience in the practice of criminal law.

(g) A public defender's office ~~[defender]~~ is entitled to receive funds for personnel costs and expenses incurred in operating as a public defender's office ~~[defender]~~ in amounts fixed by the commissioners court and paid out of the

appropriate county fund, or jointly fixed by the commissioners courts and proportionately paid out of each appropriate county fund if the public defender's office [~~defender~~] serves more than one county.

(h) A public defender's office [~~defender~~] may employ attorneys, licensed investigators, and other personnel necessary to perform the duties of the public defender's office [~~defender~~] as specified by the commissioners court or commissioners courts under Subsection (b)(1).

(i) Except as authorized by this article, the chief public defender and other attorneys [~~or an attorney~~] employed by a public defender's office [~~defender~~] may not:

(1) engage in the private practice of criminal law; or

(2) accept anything of value not authorized by this article for services rendered under this article.

(j) A public defender's office [~~defender~~] may not accept [~~refuse~~] an appointment under Article 26.04(f) if:

(1) a conflict of interest exists that has not been waived by the client;

(2) the public defender's office [~~defender~~] has insufficient resources to provide adequate representation for the defendant;

(3) the public defender's office [~~defender~~] is incapable of providing representation for the defendant in accordance with the rules of professional conduct; or

(4) the public defender's office [~~defender~~] shows other good cause for not accepting [~~refusing~~] the appointment.

(k) The judge may remove from a case a person [~~public defender~~] who violates a provision of Subsection (i).

(l) A public defender's office [~~defender~~] may investigate the financial condition of any person the public defender's office [~~defender~~] is appointed to represent. The public defender's office [~~defender~~] shall report the results of the investigation to the appointing judge. The judge may hold a hearing to determine if the person is indigent and entitled to representation under this article.

(m) If it is necessary that an attorney who is not employed by [~~other than~~] a public defender's office [~~defender~~] be appointed, the attorney is entitled to the compensation provided by Article 26.05 of this code.

SECTION 10. Chapter 26, Code of Criminal Procedure, is amended by adding Article 26.045 to read as follows:

Art. 26.045. PUBLIC DEFENDER OVERSIGHT BOARD. (a) The commissioners court of a county or the commissioners courts of two or more counties may establish an oversight board for a public defender's office created or designated in accordance with this chapter.

(b) The commissioners court or courts that establish an oversight board under this article shall appoint members of the board. Members may include one or more of the following:

(1) an attorney;

(2) the judge of a trial court in this state;

(3) a county commissioner;

(4) a county judge;

(5) a community representative; and
(6) a former client or a family member of a former client of the public defender's office for which the oversight board was established under this article.

(c) The commissioners court or courts may delegate to the board any power or duty of the commissioners court to provide oversight of the office under Article 26.044, including:

- (1) recommending selection and removal of a chief public defender;
- (2) setting policy for the office; and
- (3) developing a budget proposal for the office.

(d) An oversight board established under this article may not gain access to privileged or confidential information.

SECTION 11. Chapter 26, Code of Criminal Procedure, is amended by adding Article 26.047 to read as follows:

Art. 26.047. MANAGED ASSIGNED COUNSEL PROGRAM. (a) In this article:

- (1) "Governmental entity" has the meaning assigned by Article 26.044.
- (2) "Managed assigned counsel program" or "program" means a program operated with public funds:

(A) by a governmental entity, nonprofit corporation, or bar association under a written agreement with a governmental entity, other than an individual judge or court; and

(B) for the purpose of appointing counsel under Article 26.04 of this code or Section 51.10, Family Code.

(b) The commissioners court of any county, on written approval of a judge of the juvenile court of a county or a county court, statutory county court, or district court trying criminal cases in the county, may appoint a governmental entity, nonprofit corporation, or bar association to operate a managed assigned counsel program. The commissioners courts of two or more counties may enter into a written agreement to jointly appoint and fund a governmental entity, nonprofit corporation, or bar association to operate a managed assigned counsel program. In appointing an entity to operate a managed assigned counsel program under this subsection, the commissioners court shall specify or the commissioners courts shall jointly specify:

(1) the types of cases in which the program may appoint counsel under Article 26.04 of this code or Section 51.10, Family Code, and the courts in which the counsel appointed by the program may be required to appear; and

(2) the term of any agreement establishing a program and how the agreement may be terminated or renewed.

(c) The commissioners court or commissioners courts shall require a written plan of operation from an entity operating a program under this article. The plan of operation must include:

- (1) a budget for the program, including salaries;
- (2) a description of each personnel position, including the program's director;
- (3) the maximum allowable caseload for each attorney appointed by the program;

(4) provisions for training personnel of the program and attorneys appointed under the program;

(5) a description of anticipated overhead costs for the program;

(6) a policy regarding licensed investigators and expert witnesses used by attorneys appointed under the program;

(7) a policy to ensure that appointments are reasonably and impartially allocated among qualified attorneys; and

(8) a policy to ensure that an attorney appointed under the program does not accept appointment in a case that involves a conflict of interest for the attorney that has not been waived by all affected clients.

(d) A program under this article must have a director. Unless the program uses a review committee appointed under Subsection (e), a program under this article must be directed by a person who:

(1) is a member of the State Bar of Texas;

(2) has practiced law for at least three years; and

(3) has substantial experience in the practice of criminal law.

(e) The governmental entity, nonprofit corporation, or bar association operating the program may appoint a review committee of three or more individuals to approve attorneys for inclusion on the program's public appointment list described by Subsection (f). Each member of the committee:

(1) must meet the requirements described by Subsection (d);

(2) may not be employed as a prosecutor; and

(3) may not be included on or apply for inclusion on the public appointment list described by Subsection (f).

(f) The program's public appointment list from which an attorney is appointed must contain the names of qualified attorneys, each of whom:

(1) applies to be included on the list;

(2) meets any applicable requirements specified by the procedure for appointing counsel adopted under Article 26.04(a) and the Texas Indigent Defense Commission; and

(3) is approved by the program director or review committee, as applicable.

(g) A court may replace an attorney appointed by the program for the same reasons and in the same manner described by Article 26.04(k).

(h) A managed assigned counsel program is entitled to receive funds for personnel costs and expenses incurred in amounts fixed by the commissioners court and paid out of the appropriate county fund, or jointly fixed by the commissioners courts and proportionately paid out of each appropriate county fund if the program serves more than one county.

(i) A managed assigned counsel program may employ personnel and enter into contracts necessary to perform the program's duties as specified by the commissioners court or commissioners courts under this article.

SECTION 12. Articles 26.05(a), (c), and (d), Code of Criminal Procedure, are amended to read as follows:

(a) A counsel, other than an attorney with a public defender's office [~~defender~~] or an attorney employed by the office of capital writs, appointed to represent a defendant in a criminal proceeding, including a habeas corpus hearing, shall be paid a reasonable attorney's fee for performing the following services, based on the time and labor required, the complexity of the case, and the experience and ability of the appointed counsel:

(1) time spent in court making an appearance on behalf of the defendant as evidenced by a docket entry, time spent in trial, and time spent in a proceeding in which sworn oral testimony is elicited;

(2) reasonable and necessary time spent out of court on the case, supported by any documentation that the court requires;

(3) preparation of an appellate brief and preparation and presentation of oral argument to a court of appeals or the Court of Criminal Appeals; and

(4) preparation of a motion for rehearing.

(c) Each fee schedule adopted shall state reasonable fixed rates or minimum and maximum hourly rates, taking into consideration reasonable and necessary overhead costs and the availability of qualified attorneys willing to accept the stated rates, and shall provide a form for the appointed counsel to itemize the types of services performed. No payment shall be made under this article until the form for itemizing the services performed is submitted to the judge presiding over the proceedings or, if the county operates a managed assigned counsel program under Article 26.047, to the director of the program, and until the judge or director, as applicable, approves the payment. If the judge or director disapproves the requested amount of payment, the judge or director shall make written findings stating the amount of payment that the judge or director approves and each reason for approving an amount different from the requested amount. An attorney whose request for payment is disapproved or is not otherwise acted on by the 60th day after the date the request for payment is submitted may appeal the disapproval or failure to act by filing a motion with the presiding judge of the administrative judicial region. On the filing of a motion, the presiding judge of the administrative judicial region shall review the disapproval of payment or failure to act and determine the appropriate amount of payment. In reviewing the disapproval or failure to act, the presiding judge of the administrative judicial region may conduct a hearing. Not later than the 45th day after the date an application for payment of a fee is submitted under this article, the commissioners court shall pay to the appointed counsel the amount that is approved by the presiding judge of the administrative judicial region and that is in accordance with the fee schedule for that county.

(d) A counsel in a noncapital case, other than an attorney with a public defender's office [~~defender~~], appointed to represent a defendant under this code shall be reimbursed for reasonable and necessary expenses, including expenses for investigation and for mental health and other experts. Expenses incurred with prior court approval shall be reimbursed in the same manner provided for capital cases by Articles 26.052(f) and (g), and expenses incurred without prior court approval shall be reimbursed in the manner provided for capital cases by Article 26.052(h).

SECTION 13. Section 11(a), Article 42.12, Code of Criminal Procedure, is amended to read as follows:

(a) The judge of the court having jurisdiction of the case shall determine the conditions of community supervision and may, at any time during the period of community supervision, alter or modify the conditions. The judge may impose any reasonable condition that is designed to protect or restore the community, protect or restore the victim, or punish, rehabilitate, or reform the defendant. Conditions of community supervision may include, but shall not be limited to, the conditions that the defendant shall:

(1) Commit no offense against the laws of this State or of any other State or of the United States;

(2) Avoid injurious or vicious habits;

(3) Avoid persons or places of disreputable or harmful character, including any person, other than a family member of the defendant, who is an active member of a criminal street gang;

(4) Report to the supervision officer as directed by the judge or supervision officer and obey all rules and regulations of the community supervision and corrections department;

(5) Permit the supervision officer to visit the defendant at the defendant's home or elsewhere;

(6) Work faithfully at suitable employment as far as possible;

(7) Remain within a specified place;

(8) Pay the defendant's fine, if one is assessed, and all court costs whether a fine is assessed or not, in one or several sums;

(9) Support the defendant's dependents;

(10) Participate, for a time specified by the judge, in any community-based program, including a community-service work program under Section 16 of this article;

(11) Reimburse the county in which the prosecution was instituted for compensation paid to appointed counsel for defending the defendant in the case, if counsel was appointed, or if the defendant was represented by a [~~county paid~~] public defender's office [~~defender~~], in an amount that would have been paid to an appointed attorney had the county not had a public defender's office [~~defender~~];

(12) Remain under custodial supervision in a community corrections facility, obey all rules and regulations of the facility, and pay a percentage of the defendant's income to the facility for room and board;

(13) Pay a percentage of the defendant's income to the defendant's dependents for their support while under custodial supervision in a community corrections facility;

(14) Submit to testing for alcohol or controlled substances;

(15) Attend counseling sessions for substance abusers or participate in substance abuse treatment services in a program or facility approved or licensed by the Department of State Health Services [~~Texas Commission on Alcohol and Drug Abuse~~];

(16) With the consent of the victim of a misdemeanor offense or of any offense under Title 7, Penal Code, participate in victim-defendant mediation;

(17) Submit to electronic monitoring;

(18) Reimburse the compensation to victims of crime fund for any amounts paid from that fund to or on behalf of a victim, as defined by Article 56.32, of the defendant's offense or if no reimbursement is required, make one payment to the compensation to victims of crime fund in an amount not to exceed \$50 if the offense is a misdemeanor or not to exceed \$100 if the offense is a felony;

(19) Reimburse a law enforcement agency for the analysis, storage, or disposal of raw materials, controlled substances, chemical precursors, drug paraphernalia, or other materials seized in connection with the offense;

(20) Pay all or part of the reasonable and necessary costs incurred by the victim for psychological counseling made necessary by the offense or for counseling and education relating to acquired immune deficiency syndrome or human immunodeficiency virus made necessary by the offense;

(21) Make one payment in an amount not to exceed \$50 to a crime stoppers organization as defined by Section 414.001, Government Code, and as certified by the Texas Crime Stoppers Council;

(22) Submit a DNA sample to the Department of Public Safety under Subchapter G, Chapter 411, Government Code, for the purpose of creating a DNA record of the defendant;

(23) In any manner required by the judge, provide public notice of the offense for which the defendant was placed on community supervision in the county in which the offense was committed; and

(24) Reimburse the county in which the prosecution was instituted for compensation paid to any interpreter in the case.

SECTION 14. Section 133.107, Local Government Code, is amended to read as follows:

Sec. 133.107. FEE FOR SUPPORT OF INDIGENT DEFENSE REPRESENTATION. (a) A person convicted of any 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 \$2 to be used to fund indigent defense representation through the fair defense account established under Section 79.031 [~~71.058~~], Government Code.

(b) The treasurer shall remit a fee 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 fair defense account established under Section 79.031 [~~71.058~~], Government Code.

SECTION 15. The following are repealed:

(1) Article 26.05(i), Code of Criminal Procedure;

(2) Section 71.0351, Government Code; and

(3) Subchapter D, Chapter 71, Government Code.

SECTION 16. As soon as possible after the effective date of this Act, the governor shall appoint the initial governing board of the Texas Indigent Defense Commission in accordance with Subchapter B, Chapter 79, Government Code, as added by this Act. To enable the staggering of terms as required by Section

79.014(b) of that subchapter, the governor shall appoint two members whose terms expire on February 1 of the next odd-numbered year and three members whose terms expire on February 1 of the next even-numbered year.

SECTION 17. (a) On the date the last appointee to the initial governing board of the Texas Indigent Defense Commission takes office, the Task Force on Indigent Defense established under Subchapter D, Chapter 71, Government Code, is abolished. On that date, the powers, duties, obligations, rights, contracts, records, personnel, property, and unspent appropriations of the task force are transferred to the commission.

(b) All rules of the Task Force on Indigent Defense are continued in effect as rules of the Texas Indigent Defense Commission until superseded by a rule of the commission.

(c) Notwithstanding the changes in law made by this Act, until the date the Task Force on Indigent Defense is abolished as provided by this section, the members and the director of the task force on the effective date of this Act may continue in office and exercise their powers and duties under the law that governed the task force before the effective date of this Act, and the prior law is continued in effect for that purpose.

SECTION 18. Not later than December 1, 2011, the Texas Indigent Defense Commission and the Texas Judicial Council shall adopt a memorandum of understanding to facilitate the timely implementation of this Act.

SECTION 19. This Act takes effect September 1, 2011.

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

Amend **CSHB 1754** (senate committee printing) in SECTION 1 of the bill as follows:

(1) In added Section 79.035(b)(2)(C), Government Code (page 5, line 7), strike "and".

(2) In added Section 79.035(b)(2)(D), Government Code (page 5, line 9), between "state" and the underlined period, insert the following:
; and

(E) the findings of a report submitted to the commission under Section 79.039

(3) In added Subchapter C, Chapter 79, Government Code (page 6, between lines 35 and 36), insert the following:

Sec. 79.039. EXONERATION REPORT. (a) Each legal clinic or program in this state that is operated by a law school and that receives financial support from the commission shall submit to the commission an annual report regarding criminal cases:

(1) in which the clinic or program has provided legal services to an indigent defendant during the preceding calendar year; and

(2) in which:

(A) based on a finding of actual innocence, the court of criminal appeals overturns a conviction; or

(B) the governor issues a pardon based on actual innocence.

(b) The report required under Subsection (a) must:

(1) identify each likely cause of a wrongful conviction listed in the report; and

(2) recommend to the judiciary and the legislature best practices, policies, and statutory changes to address or mitigate those likely causes with respect to future criminal cases.

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

SECTION _____. Not later than December 1, 2012, each legal clinic or program in this state that is operated by a law school and that receives financial support from the Texas Indigent Defense Commission shall submit the initial report required by Section 79.039, Government Code, as added by this Act.

Senate Amendment No. 2 (Senate Floor Amendment No. 2)

Amend **CSHB 1754** (senate committee printing) in SECTION 1 of the bill as follows:

(1) In added Section 79.001(3), Government Code (page 1, line 27), strike "agency" and substitute "permanent standing committee of the council".

(2) In added Section 79.002, Government Code (page 1, lines 60 through 61), strike "The commission is an agency in the judicial branch of this state" and substitute "as a permanent standing committee of the council".

(3) Strike added Section 79.003, Government Code (page 2, lines 1 through 4).

(4) In added Section 79.011(b), Government Code (page 2, line 10), strike "79.038" and substitute "79.033(b)".

(5) Strike added Section 79.033, Government Code (page 3, lines 58 through 61), and substitute the following:

Sec. 79.033. ADMINISTRATIVE ATTACHMENT; SUPPORT; BUDGET.

(a) The commission is administratively attached to the Office of Court Administration of the Texas Judicial System.

(b) The office of court administration shall provide administrative support services, including human resources, budgetary, accounting, purchasing, payroll, information technology, and legal support services, to the commission as necessary to carry out the purposes of this chapter.

(c) The commission, in accordance with the rules and procedures of the Legislative Budget Board, shall prepare, approve, and submit a legislative appropriations request that is separate from the legislative appropriations request for the Office of Court Administration of the Texas Judicial System and is used to develop the commission's budget structure. The commission shall maintain the legislative appropriations request and budget structure separately from those of the office of court administration.

(6) Strike added Section 79.038, Government Code (page 6, lines 32 through 35).

HR 2546 - ADOPTED

(by Phillips)

The following privileged resolution was laid before the house:

HR 2546

BE IT RESOLVED by the House of Representatives of the State of Texas, 82nd Legislature, Regular Session, 2011, That House Rule 13, Section 9(a), be suspended in part as provided by House Rule 13, Section 9(f), to enable the conference committee appointed to resolve the differences on **HB 1112** (authority and powers of regional mobility authorities) to consider and take action on the following matter:

House Rule 13, Section 9(a)(4), is suspended to permit the committee to add text on a matter which is not included in either the house or senate version of the bill by adding the following section to the bill:

SECTION 16. Subchapter H, Chapter 370, Transportation Code, is amended by adding Section 370.333 to read as follows:

Sec. 370.333. VOLUNTARY DISSOLUTION OF AUTHORITY GOVERNED BY GOVERNING BODY OF MUNICIPALITY. In addition to the requirements of Section 370.331, an authority governed under Section 370.2511 may not be dissolved unless:

(1) the dissolution is approved by a vote of at least two-thirds of the members of the governing body;

(2) all debts, obligations, and liabilities of the authority have been paid and discharged or adequate provision has been made for the payment of all debts, obligations, and liabilities;

(3) there are no suits pending against the authority, or adequate provision has been made for the satisfaction of any judgment, order, or decree that may be entered against it in any pending suit; and

(4) the authority has commitments from other governmental entities to assume jurisdiction of all authority transportation facilities.

Explanation: This change is necessary to enact additional requirements for the voluntary dissolution of a regional mobility authority governed by the governing body of a municipality.

HR 2546 was adopted by (Record 1548): 137 Yeas, 1 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alvarado; Anchia; Anderson, C.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Burnam; Button; Cain; Callegari; Christian; Coleman; Cook; Craddick; Creighton; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Elkins; Farias; Farrar; Fletcher; Flynn; Frullo; Gallego; Geren; Giddings; Gonzales, L.; Gonzales, V.; 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; 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, V.; Thompson; Torres; Truitt; Turner; Veasey; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

Nays — Carter.

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

Absent, Excused — Castro; Crownover; Gonzalez; Villarreal.

Absent — Alonzo; Anderson, R.; Chisum; Eissler; Garza; Orr.

HB 1112 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Phillips submitted the following conference committee report on **HB 1112**:

Austin, Texas, May 24, 2011

The Honorable David Dewhurst
President of the Senate

The Honorable Joe Straus
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the senate and the house of representatives on **HB 1112** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Nichols
Shapiro
Watson
Williams
Rodriguez
On the part of the senate

Phillips
Harper-Brown
Lavender
Pickett
Fletcher
On the part of the house

HB 1112, A bill to be entitled An Act relating to the authority and powers of regional mobility authorities.

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

SECTION 1. Sections 370.003(12) and (14), Transportation Code, are amended to read as follows:

(12) "Surplus revenue" means revenue that exceeds:

(A) an authority's debt service requirements for a transportation project, including the redemption or purchase price of bonds subject to redemption or purchase as provided in the applicable bond proceedings;

(A-1) an authority's payment obligations under a contract or agreement authorized by this chapter;

(B) coverage requirements of a bond indenture for a transportation project;

(C) costs of operation and maintenance for a transportation project;

(D) cost of repair, expansion, or improvement of a transportation project;

(E) funds allocated for feasibility studies; and

- (F) necessary reserves as determined by the authority.
- (14) "Transportation project" means:
- (A) a turnpike project;
 - (B) a system;
 - (C) a passenger or freight rail facility, including:
 - (i) tracks;
 - (ii) a rail line;
 - (iii) switching, signaling, or other operating equipment;
 - (iv) a depot;
 - (v) a locomotive;
 - (vi) rolling stock;
 - (vii) a maintenance facility; and
 - (viii) other real and personal property associated with a rail operation;
 - (D) a roadway with a functional classification greater than a local road or rural minor collector;
 - (E) a ferry;
 - (F) an airport, other than an airport that on September 1, 2005, was served by one or more air carriers engaged in scheduled interstate transportation, as those terms were defined by 14 C.F.R. Section 1.1 on that date;
 - (G) a pedestrian or bicycle facility;
 - (H) an intermodal [~~intermodal~~] hub;
 - (I) an automated conveyor belt for the movement of freight;
 - (J) a border crossing inspection station;
 - (K) an air quality improvement initiative;
 - (L) a public utility facility;
 - (M) a transit system;
 - (M-1) a parking area, structure, or facility, or a collection device for parking fees; ~~and~~
 - (N) if applicable, projects and programs listed in the most recently approved state implementation plan for the area covered by the authority, including an early action compact; and
 - (O) improvements in a transportation reinvestment zone designated under Subchapter E, Chapter 222.

SECTION 2. Section 370.004(a), Transportation Code, is amended to read as follows:

(a) The cost of acquisition, construction, improvement, extension, or expansion of a transportation project under this chapter includes the cost of:

- (1) the actual acquisition, construction, improvement, extension, or expansion of the transportation project;
- (2) the acquisition of real property, rights-of-way, property rights, easements, and other interests in real property;
- (3) machinery and equipment;
- (4) interest payable before, during, and for not more than three years after acquisition, construction, improvement, extension, or expansion as provided in the bond proceedings;

(5) traffic estimates, revenue estimates, engineering and legal services, plans, specifications, surveys, appraisals, construction cost estimates, and other expenses necessary or incidental to determining the feasibility of the acquisition, construction, improvement, extension, or expansion;

(6) necessary or incidental administrative, legal, and other expenses;

(7) compliance with laws, regulations, and administrative rulings, including any costs associated with necessary environmental mitigation measures;

(8) financing;

(9) the assumption of debts, obligations, and liabilities of an entity relating to a transportation project transferred to an authority by that entity; ~~and~~

(10) expenses related to the initial operation of the transportation project; and

(11) payment obligations of an authority under a contract or agreement authorized by this chapter in connection with the acquisition, construction, improvement, extension, expansion, or financing of the transportation project.

SECTION 3. Sections 370.033(a), (f), and (g), Transportation Code, are amended to read as follows:

(a) An authority, through its board, may:

(1) adopt rules for the regulation of its affairs and the conduct of its business;

(2) adopt an official seal;

(3) study, evaluate, design, finance, acquire, construct, maintain, repair, and operate transportation projects, individually or as one or more systems, provided that a transportation project that is subject to Subpart C, 23 C.F.R. Part 450, is:

(A) included in the plan approved by the applicable metropolitan planning organization; and

(B) consistent with the statewide transportation plan and the statewide transportation improvement program;

(4) acquire, hold, and dispose of property in the exercise of its powers and the performance of its duties under this chapter;

(5) enter into contracts or operating agreements with a similar authority, another governmental entity, or an agency of the United States, a state of the United States, the United Mexican States, or a state of the United Mexican States;

(6) enter into contracts or agreements necessary or incidental to its powers and duties under this chapter;

(7) cooperate and work directly with property owners and governmental entities and officials to support an activity required to promote or develop a transportation project;

(8) employ and set the compensation and benefits of administrators, consulting engineers, attorneys, accountants, construction and financial experts, superintendents, managers, full-time and part-time employees, agents, consultants, and other persons as the authority considers necessary or useful;

(8-a) participate in the state travel management program administered by the comptroller for the purpose of obtaining reduced airline fares and reduced travel agent fees, provided that the comptroller may charge the authority a fee not to exceed the costs incurred by the comptroller in providing services to the authority;

(9) notwithstanding Sections 221.003 and 222.031 and subject to Subsections (j) and (m), apply for, directly or indirectly receive and spend loans, gifts, grants, and other contributions for any purpose of this chapter, including the construction of a transportation project, and receive and spend contributions of money, property, labor, or other things of value from any source, including the United States, a state of the United States, the United Mexican States, a state of the United Mexican States, the commission, the department, a subdivision of this state, or a governmental entity or private entity, to be used for the purposes for which the grants, loans, or contributions are made, and enter into any agreement necessary for the grants, loans, or contributions;

(10) install, construct, or contract for the construction of public utility facilities, direct the time and manner of construction of a public utility facility in, on, along, over, or under a transportation project, or request the removal or relocation of a public utility facility in, on, along, over, or under a transportation project;

(11) organize a corporation under Chapter 431 for the promotion and development of transportation projects;

(12) adopt and enforce rules not inconsistent with this chapter for the use of any transportation project, including tolls, fares, or other user fees, speed and weight limits, and traffic and other public safety rules, provided that an authority must consider the same factors that the Texas Turnpike Authority division of the department must consider in altering a prima facie speed limit under Section 545.354;

(13) enter into leases, operating agreements, service agreements, licenses, franchises, and similar agreements with a public or private party governing the party's use of all or any portion of a transportation project and the rights and obligations of the authority with respect to a transportation project;

(14) borrow money from or enter into a loan agreement or other arrangement with the state infrastructure bank, the department, the commission, or any other public or private entity; and

(15) do all things necessary or appropriate to carry out the powers and duties expressly granted or imposed by this chapter.

(f) An authority and a governmental entity may enter into a contract, agreement, interlocal agreement, or other similar arrangement under which the authority may plan, design, construct, or operate a transportation project on behalf of the governmental entity. An authority may enter into a contract or agreement with the department under which the authority will plan, develop, operate, or maintain a transportation project on behalf of the department, subject to the transportation project being in the authority's area of jurisdiction. A

contract or agreement under this subsection may contain terms and conditions as may be approved by an authority, including payment obligations of the governmental entity and the authority.

(g) Payments to be made to an authority under a contract or agreement described by Subsection (f) constitute operating expenses of the transportation project or system that is to be operated under the contract or agreement. The contract or agreement may extend for the number of years as agreed to by the parties.

SECTION 4. Sections 370.071(a) and (b), Transportation Code, are amended to read as follows:

(a) An authority may pay the expenses of studying the cost and feasibility of a transportation project, the design and engineering of a transportation project, and any other expenses relating to the preparation and issuance of bonds for a proposed transportation project by:

(1) using legally available revenue derived from an existing transportation project;

(2) borrowing money and issuing bonds or entering into a loan agreement payable out of legally available revenue anticipated to be derived from the operation of an existing transportation project; ~~or~~

(3) pledging to the payment of the bonds or a loan agreement legally available revenue anticipated to be derived from the operation of transportation projects or revenue legally available to the authority from another source; or

(4) pledging to the payment of the bonds or a loan agreement the proceeds from the sale of other bonds.

(b) Money spent under this section for a proposed transportation project must be reimbursed to the transportation project from which the money was spent from the proceeds of bonds issued for the acquisition and construction of the proposed transportation project, unless the transportation projects are or become part of a system under Section 370.034.

SECTION 5. Section 370.072(c), Transportation Code, is amended to read as follows:

(c) Money in the feasibility study fund may be used only to pay the expenses of studying the cost and feasibility of a transportation project, the design and engineering of a transportation project, and any other expenses relating to:

(1) the preparation and issuance of bonds for the acquisition and construction of a proposed transportation project;

(2) the financing of the improvement, extension, or expansion of an existing transportation project; and

(3) private participation, as authorized by law, in the financing of a proposed transportation project, the refinancing of an existing transportation project or system, or the improvement, extension, or expansion of a transportation project.

SECTION 6. Section 370.073(a), Transportation Code, is amended to read as follows:

(a) One or more municipalities, counties, or other governmental entities, a combination of municipalities, counties, and other governmental entities, or a private group or combination of individuals in this state may pay all or part of the expenses of studying the cost and feasibility of a transportation project, the design and engineering of a transportation project, and any other expenses relating to:

(1) the preparation and issuance of bonds for the acquisition or construction of a proposed transportation project by an authority;

(2) the improvement, extension, or expansion of an existing transportation project of the authority; or

(3) the use of private participation under applicable law in connection with the acquisition, construction, improvement, expansion, extension, maintenance, repair, or operation of a transportation project by an authority.

SECTION 7. Section 370.113(a), Transportation Code, is amended to read as follows:

(a) The principal of, interest on, and any redemption premium on bonds issued by an authority are payable solely from:

(1) the revenue of the transportation project for which the bonds are issued;

(2) payments made under an agreement with the commission, the department, or other governmental entity as authorized ~~[provided]~~ by this chapter ~~[Subchapter G]~~;

(3) money derived from any other source available to the authority, other than money derived from a transportation project that is not part of the same system or money derived from a different system, except to the extent that the surplus revenue of a transportation project or system has been pledged for that purpose; ~~[and]~~

(4) amounts received under a credit agreement relating to the transportation project for which the bonds are issued; and

(5) the proceeds of the sale of other bonds.

SECTION 8. Section 370.114, Transportation Code, is amended to read as follows:

Sec. 370.114. EFFECT OF LIEN. (a) A lien on or a pledge of revenue from a transportation project under this chapter or on a reserve, replacement, or other fund established in connection with a bond issued under this chapter or a contract or agreement entered into under this chapter:

(1) is enforceable at the time of payment for and delivery of the bond or on the effective date of the contract or agreement;

(2) applies to each item on hand or subsequently received;

(3) applies without physical delivery of an item or other act; and

(4) is enforceable against any person having a claim, in tort, contract, or other remedy, against the applicable authority without regard to whether the person has notice of the lien or pledge.

(b) A copy of any bond resolution shall ~~[is not required to]~~ be maintained ~~[recorded except]~~ in the regular records of the authority.

SECTION 9. Section 370.172, Transportation Code, is amended by amending Subsection (b) and adding Subsection (k) to read as follows:

(b) Tolls, fees, fares, or other charges must be set at rates or amounts so that the aggregate of tolls, fees, fares, or other charges from an authority's transportation project, together with other revenue of the transportation project:

(1) provides revenue sufficient to pay:

(A) the cost of maintaining, repairing, and operating the transportation project; ~~and~~

(B) the principal of and interest on any bonds issued for the transportation project as those bonds become due and payable; and

(C) any other payment obligations of an authority under a contract or agreement authorized under this chapter; and

(2) creates reserves for a purpose listed under Subdivision (1).

(k) Notwithstanding any other provision of this chapter, an authority may pledge all or any part of its revenues and any other funds available to the authority to the payment of any obligations of the authority under a contract or agreement authorized by this chapter.

SECTION 10. Section 370.173(c), Transportation Code, is amended to read as follows:

(c) The authority may use money in the revolving fund to:

(1) finance the acquisition, construction, maintenance, or operation of a transportation project, including the extension, expansion, or improvement of a transportation project;

(2) provide matching money required in connection with any federal, state, local, or private aid, grant, or other funding, including aid or funding by or with public-private partnerships;

(3) provide credit enhancement either directly or indirectly for bonds issued to acquire, construct, extend, expand, or improve a transportation project;

(4) provide security for or payment of future or existing debt for the design, acquisition, construction, operation, maintenance, extension, expansion, or improvement of a transportation project or system;

(5) borrow money and issue bonds, promissory notes, or other indebtedness payable out of the revolving fund for any purpose authorized by this chapter; and

(6) provide for any other reasonable purpose that assists in the financing of an authority as authorized by this chapter.

SECTION 11. Section 370.177, Transportation Code, is amended by adding Subsection (l) to read as follows:

(l) In addition to the other powers and duties provided by this chapter, with regard to its toll collection and enforcement powers for its turnpike projects or other toll projects developed, financed, constructed, and operated under an agreement with the authority or another entity, an authority has the same powers and duties as the department under Chapter 228, a county under Chapter 284, and a regional tollway authority under Chapter 366.

SECTION 12. Sections 370.251(a) and (b), Transportation Code, are amended to read as follows:

(a) Except as provided by Subsection (a-1), the governing body of an authority is a board of directors consisting of representatives of each county in which a transportation project of the authority is located or is proposed to be located. The commissioners court of each county that initially forms the authority shall appoint at least two directors to the board. Additional directors may be appointed to the board at the time of initial formation by agreement of the counties creating the authority to ensure fair representation of political subdivisions in the counties of the authority that will be affected by a transportation project of the authority, provided that the number of directors must be an odd number. The commissioners court of a county that is subsequently added to the authority shall appoint at least one director to the board. The governor shall appoint one director to the board who shall serve as the presiding officer of the board and shall appoint an additional director to the board if an appointment is necessary to maintain an odd number of directors on the board.

(b) The appointment [Unless the commissioners courts] of additional directors from a county subsequently added to an [the counties of the] authority or from a [unanimously agree otherwise, the commissioners court of each] county of an authority that contains an operating transportation project of the authority shall be by a process unanimously agreed to by the commissioners courts of all the counties of the authority [appoint one additional director].

SECTION 13. Subchapter F, Chapter 370, Transportation Code, is amended by adding Section 370.2511 to read as follows:

Sec. 370.2511. BOARD OF DIRECTORS: CERTAIN AUTHORITIES. (a) This section applies only to an authority created by a municipality.

(b) The governing body of a municipality may, by a resolution approved by at least two-thirds of the members of the governing body, establish the governing body as the board of directors of an authority.

(c) If the board of directors of an authority created by a municipality consists of the members of the governing body of the municipality, the governor shall appoint an additional director who is not a member of the governing body of the municipality and who serves as the presiding officer of the board.

(d) Each director of a board under this section has equal status and may vote.

(e) The vote of a majority attending a board meeting is necessary for any action taken by a board under this section. If a vacancy exists on a board, the majority of directors serving on the board is a quorum.

(f) The governing body of a municipality that becomes the board of an existing authority under this section shall by resolution provide for the transfer process that establishes the governing body as the board of the authority.

(g) If the board of directors of an authority created by a municipality consists of the members of the governing body of the municipality, Sections 370.251, 370.2515, 370.252, 370.2521, 370.2522, 370.2523, 370.253, 370.254, and 370.255 do not apply to the board, except that, to the extent applicable, those provisions apply to the governor's appointee under Subsection (c).

(h) This section has no effect if the attorney general issues an opinion stating that, notwithstanding the statutory authority under this section, the Texas Constitution, the common law doctrine of incompatibility, or any other legal principle would prohibit a member of the governing body of a municipality from serving as a director of an authority.

(i) A board under this section is not required to have an odd number of directors.

SECTION 14. Section 370.303, Transportation Code, is amended by amending Subsections (a) and (b) and adding Subsections (b-1) and (g) to read as follows:

(a) A governmental entity [~~other than a nonprofit corporation~~] may, consistent with the Texas Constitution, issue bonds, notes, or other obligations or enter into and make payments under agreements with an authority in connection with the financing, acquisition, construction, [~~to acquire, construct, maintain,~~] or operation of [~~operate~~] a transportation project by an authority, whether inside or outside the geographic boundaries of the governmental entity, including agreements to pay the principal of, and interest on, bonds, notes, or other obligations issued by the authority and make payments under any related credit agreements. The entity may impose and collect taxes to pay the interest on the bonds and to provide a sinking fund for the redemption of the bonds.

(b) In addition to the powers provided by Subsection (a), a governmental entity may, to the extent constitutionally permitted, agree with an authority to:

(1) issue bonds, notes, or other obligations;

(2) [~~]~~ create:

(A) a taxing district;

(B) a transportation reinvestment zone under Subchapter E,

Chapter 222; or

(C) an entity to promote economic development;

(3) collect and remit to an authority taxes, fees, or assessments collected for purposes of developing transportation projects;

(4) [~~]~~ fund public improvements to promote economic development; [~~]~~

or

(5) enter into and make payments under an agreement to acquire, construct, maintain, or operate any portion of a transportation project of the authority.

(b-1) An agreement under Subsection (b) may include a means for a local governmental entity to pledge or otherwise provide funds for a transportation project that benefits the governmental entity to be developed by the authority.

(g) An agreement under this section may contain repayment or reimbursement obligations of an authority.

SECTION 15. Section 370.304, Transportation Code, is amended to read as follows:

Sec. 370.304. ADDITIONAL AGREEMENTS OF AUTHORITY. An authority may enter into any contract, loan agreement, or other agreement necessary or convenient to achieve the purposes of this subchapter.

SECTION 16. Subchapter H, Chapter 370, Transportation Code, is amended by adding Section 370.333 to read as follows:

Sec. 370.333. VOLUNTARY DISSOLUTION OF AUTHORITY GOVERNED BY GOVERNING BODY OF MUNICIPALITY. In addition to the requirements of Section 370.331, an authority governed under Section 370.2511 may not be dissolved unless:

(1) the dissolution is approved by a vote of at least two-thirds of the members of the governing body;

(2) all debts, obligations, and liabilities of the authority have been paid and discharged or adequate provision has been made for the payment of all debts, obligations, and liabilities;

(3) there are no suits pending against the authority, or adequate provision has been made for the satisfaction of any judgment, order, or decree that may be entered against it in any pending suit; and

(4) the authority has commitments from other governmental entities to assume jurisdiction of all authority transportation facilities.

SECTION 17. Section 370.317(d), Transportation Code, is repealed.

SECTION 18. 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.

Representative Phillips moved to adopt the conference committee report on **HB 1112**.

The motion to adopt the conference committee report on **HB 1112** prevailed by (Record 1549): 130 Yeas, 12 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bonnen; Branch; Brown; Burkett; Burnam; Button; Cain; Callegari; Chisum; Christian; Coleman; Cook; Craddick; Creighton; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Flynn; Frullo; Gallego; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gooden; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hernandez Luna; Hilderbran; Hochberg; Hopson; Howard, C.; Howard, D.; Huberty; Hughes; Hunter; Isaac; Jackson; Johnson; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kuempel; Larson; Lavender; 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; Phillips; Pickett; Pitts; Price; Quintanilla; Raymond; Reynolds; Riddle; Ritter; Rodriguez; Schwertner; Scott; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, V.; Thompson; Torres; Truitt; Turner; Veasey; Vo; Walle; Woolley; Workman; Zedler; Zerwas.

Nays — Bohac; Carter; Darby; Hartnett; Kolkhorst; Landtroop; Laubenberg; Legler; Perry; Sheets; Weber; White.

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

Absent, Excused — Castro; Crownover; Gonzalez; Villarreal.

Absent — Alonzo; Garza.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 1549. I intended to vote no.

R. Anderson

I was shown voting yes on Record No. 1549. I intended to vote no.

Brown

I was shown voting yes on Record No. 1549. I intended to vote no.

Larson

When Record No. 1549 was taken, I was temporarily out of the house chamber. I would have voted no.

Garza

I was shown voting yes on Record No. 1549. I intended to vote no.

Kleinschmidt

I was shown voting yes on Record No. 1549. I intended to vote no.

Schwertner

I was shown voting yes on Record No. 1549. I intended to vote no.

Simpson

**HB 2093 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

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

HB 2093, A bill to be entitled An Act relating to the operation and regulation of certain consolidated insurance programs.

Representative Thompson 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 2093**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 2093**: Thompson, chair; Eiland, Sheets, Smithee, and V. Taylor.

**HR 2482 - ADOPTED
(by Price)**

The following privileged resolution was laid before the house:

HR 2482

BE IT RESOLVED by the House of Representatives of the State of Texas, 82nd Legislature, Regular Session, 2011, That House Rule 13, Section 9(a), be suspended in part as provided by House Rule 13, Section 9(f), to enable the conference committee appointed to resolve the differences on **SB 313** (priority groundwater management areas), to consider and take action on the following matters:

House Rule 13, Section 9(a)(1), is suspended to permit the committee to change text not in disagreement in proposed SECTION 4 of the bill, in added Section 35.013(g-1), Water Code, to read as follows:

(g-1) If the voters do not approve the assumption of a proportional share of the debts or taxes of a district under Subsection (e), the board shall assess production fees in the added territory based on the amount of water authorized by permit to be withdrawn from a well or the amount actually withdrawn. A district may use revenue generated for any purpose authorized by Section 36.206 or 36.207. Initial production fees may not exceed production fees as set in Section 36.205(c), but may be increased by the board on a majority vote after the first anniversary of the commission order. Production fees may be raised incrementally by 40 percent and 10 percent every following year until the maximum production fees equal:

(1) \$2 per acre-foot, payable annually, for water used for an agricultural purpose; or

(2) 30 cents per 1,000 gallons, payable annually, for water used for any non-agricultural purpose.

Explanation: This change is necessary to specify the amounts to which a production fee may be set or increased.

HR 2482 was adopted by (Record 1550): 140 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Burnam; Button; Cain; Callegari; Carter; Chisum; Christian; Coleman; Cook; Craddick; Creighton; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Flynn; Frullo; Gallego; Geren; Giddings; Gonzales, L.; Gonzales, V.; 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.; 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, V.; Thompson; Torres; Truitt; Turner; Veasey; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

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

Absent, Excused — Castro; Crownover; Gonzalez; Villarreal.

Absent — Allen; Garza; Kleinschmidt; Murphy.

SB 313 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Price submitted the conference committee report on **SB 313**.

Representative Price moved to adopt the conference committee report on **SB 313**.

The motion to adopt the conference committee report on **SB 313** prevailed by (Record 1551): 141 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Burnam; Button; Cain; Callegari; Carter; Chisum; Christian; Coleman; Cook; Craddick; Creighton; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Flynn; Frullo; Gallego; Geren; Giddings; Gonzales, L.; Gonzales, V.; 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.; 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, V.; Thompson; Torres; Truitt; Turner; Veasey; Vo; Walle; Weber; White; Workman; Zedler; Zerwas.

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

Absent, Excused — Castro; Crownover; Gonzalez; Villarreal.

Absent — Garza; Kleinschmidt; Woolley.

SB 563 - REQUEST OF SENATE GRANTED CONFERENCE COMMITTEE APPOINTED

On motion of Representative Torres, the house granted the request of the senate for the appointment of a Conference Committee on **SB 563**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 563**: Torres, chair; Garza, Harper-Brown, Lucio, and Zedler.

HB 3109 - VOTE RECONSIDERED

Representative Craddick moved to reconsider the vote by which the house concurred in the senate amendments to **HB 3109** on May 25.

The motion to reconsider prevailed.

**HB 3109 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

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

HB 3109, A bill to be entitled An Act relating to the rulemaking power of certain groundwater conservation districts.

Representative Craddick 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 3109**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 3109**: Craddick, chair; Darby, Lewis, S. King, and Parker.

HB 1103 - CONFERENCE COMMITTEE APPOINTED

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 1103**: Lucio, chair; Peña, Scott, Thompson, and Woolley.

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. 5).

**SB 316 - REQUEST OF SENATE GRANTED
CONFERENCE COMMITTEE APPOINTED**

On motion of Representative Gallego, the house granted the request of the senate for the appointment of a Conference Committee on **SB 316**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 316**: Gallego, chair; Christian, Hartnett, Rodriguez, and Woolley.

**HB 213 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

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

HB 213, A bill to be entitled An Act relating to the duties of a mortgage servicer of certain residential mortgage loans.

Representative Rodriguez 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 213**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 213**: Rodriguez, chair; Truitt, Keffer, Anchia, and Muñoz.

PROVIDING FOR ADJOURNMENT

Representative Peña moved that, at the conclusion of the reading of bills and resolutions on first reading and referral to committees and the receipt of messages from the senate, the house adjourn until 10 a.m. tomorrow.

The motion prevailed.

(C. Anderson in the chair)

RESOLUTIONS REFERRED TO COMMITTEES

Resolutions were at this time laid before the house and referred to committees. (See the addendum to the daily journal, Referred to Committees, List No. 1.)

(Geren in the chair)

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. 6).

(Isaac in the chair)

ADJOURNMENT

In accordance with a previous motion, the house, at 6:47 p.m., adjourned until 10 a.m. tomorrow.

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

HR 2177 (By Y. Davis), Honoring Hugh L. Brady on being named the 2010 Volunteer of the Year by Planned Parenthood of North Texas.

To Rules and Resolutions.

HR 2376 (By Truitt), Commending Emily Landon for her service as assistant clerk for the House Committee on Pensions, Investments, and Financial Services.

To Rules and Resolutions.

HR 2377 (By Truitt), Commending Jessica Myles on her participation in the Texas Legislative Internship Program.

To Rules and Resolutions.

HR 2378 (By Truitt), Commending Jonathan Connors for his service as a legislative intern in the office of State Representative Vicki Truitt.

To Rules and Resolutions.

HR 2379 (By Truitt), Commending Joseph Halbert for his service as a legislative aide in the office of State Representative Vicki Truitt.

To Rules and Resolutions.

HR 2380 (By Truitt), Commending Adam Shapiro for his service as assistant clerk for the House Committee on Pensions, Investments, and Financial Services.

To Rules and Resolutions.

HR 2381 (By Reynolds), Honoring Houston Community College trustee Neeta Sane for her contributions to HCC and to Fort Bend County.

To Rules and Resolutions.

HR 2382 (By Guillen), In memory of Jose R. Coronado of Duval County.

To Rules and Resolutions.

HR 2383 (By Peña), Commending Felicia Pilar Pena for her service as assistant clerk for the House Committee on Technology.

To Rules and Resolutions.

HR 2384 (By Fletcher), In memory of Teddy A. Klein of Tomball.

To Rules and Resolutions.

HR 2385 (By Riddle), Commending Joshua Santo for his service as an intern in the office of State Representative Debbie Riddle.

To Rules and Resolutions.

HR 2387 (By Paxton), Congratulating the girls' soccer team of Wakeland High School in Frisco on winning the UIL 4A state championship.

To Rules and Resolutions.

HR 2388 (By Guillen), In memory of the Honorable Judge Ricardo H. Garcia of Duval County.

To Rules and Resolutions.

HR 2389 (By Guillen), Congratulating the softball team of United South High School in Laredo on its successful 2011 season.

To Rules and Resolutions.

HR 2391 (By Garza), Congratulating Dr. Felix D. Almaraz, Jr., on his retirement as the Peter T. Flawn Distinguished University Professor of Borderlands History at The University of Texas at San Antonio.

To Rules and Resolutions.

HR 2393 (By Y. Davis), Congratulating Curt Krohn on being elected to the DeSoto Independent School District Board of Trustees.

To Rules and Resolutions.

HR 2394 (By Y. Davis), Congratulating Kenzie Moore on being reelected to the DeSoto Independent School District Board of Trustees.

To Rules and Resolutions.

HR 2395 (By Eissler), In memory of U.S. Air Force Captain Nathan J. Nylander of Hockley.

To Rules and Resolutions.

HR 2396 (By Craddick), Congratulating Lawrence and Patty Fuller of Midland on their 65th wedding anniversary.

To Rules and Resolutions.

HR 2397 (By Harper-Brown), Commending Brendin Gardiner James for his service as an intern in the office of State Representative Linda Harper-Brown.

To Rules and Resolutions.

HR 2398 (By Guillen), In memory of Eliseo Smith, Jr., of Rio Grande City.

To Rules and Resolutions.

HR 2399 (By Guillen), In memory of Oscar Garcia, Jr., of San Diego, Texas.

To Rules and Resolutions.

HR 2400 (By Guillen), In memory of Victoriano "Tano" Leal, Sr.

To Rules and Resolutions.

HR 2401 (By Guillen), In memory of Jose Venecia.

To Rules and Resolutions.

HR 2402 (By Guillen), In memory of Ines G. Carrera of Starr County.

To Rules and Resolutions.

HR 2403 (By Guillen), In memory of Rene Serrato.

To Rules and Resolutions.

HR 2404 (By Guillen), In memory of Felipe Victor Ramon.

To Rules and Resolutions.

HR 2405 (By Guillen), In memory of Juan "Nuno" Flores.

To Rules and Resolutions.

HR 2407 (By C. Anderson), In memory of Adelia Engelbrecht of Crawford.

To Rules and Resolutions.

HR 2408 (By C. Anderson), In memory of Helen Marie Davis of Waco.

To Rules and Resolutions.

HR 2409 (By C. Anderson), In memory of Arlene M. Tomchesson of Waco.

To Rules and Resolutions.

HR 2410 (By C. Anderson), In memory of Milton John "M. J." Norris, Jr.

To Rules and Resolutions.

HR 2411 (By C. Anderson), In memory of Mary Massie Goss.

To Rules and Resolutions.

HR 2412 (By C. Anderson), In memory of Betty Jo Smith of Waco.
To Rules and Resolutions.

HR 2413 (By C. Anderson), In memory of Curtis Rodriguez of Waco.
To Rules and Resolutions.

HR 2414 (By C. Anderson), In memory of Debra Lynn Ramirez of Waco.
To Rules and Resolutions.

HR 2415 (By C. Anderson), In memory of Charles Franklin Smith of Waco.
To Rules and Resolutions.

HR 2416 (By C. Anderson), Congratulating Wendy Willis and Brandon Dale Sharp on their wedding.
To Rules and Resolutions.

HR 2417 (By Eissler), Congratulating Dave Parsons of Conroe on being named Texas Poet Laureate for 2011.
To Rules and Resolutions.

HR 2418 (By Frullo), Commending Rise Academy superintendent Richard Baumgartner for his courageous actions that saved a woman from an assault.
To Rules and Resolutions.

HR 2419 (By Frullo), Honoring the Legal Aid Society of Lubbock.
To Rules and Resolutions.

HR 2425 (By Margo), Congratulating Justin Churchman on being named one of the top 10 youth volunteers in the nation for 2011 by the Prudential Spirit of Community Awards program.
To Rules and Resolutions.

HR 2426 (By McClendon), In memory of Merline Clack Johnson.
To Rules and Resolutions.

HR 2427 (By McClendon), Honoring the 2011 Class of UTSA Legislative Scholars.
To Rules and Resolutions.

HR 2428 (By Peña), Commending Melinda Hope Reyes for her service as an intern in the office of State Representative Aaron Pena and congratulating her on her August 2011 graduation from Texas State University.
To Rules and Resolutions.

HR 2429 (By Peña), Commending Jacob Welch for his service as assistant clerk for the House Committee on Technology.
To Rules and Resolutions.

HR 2430 (By Peña), Congratulating Isabel Garza Brown on her 80th birthday.
To Rules and Resolutions.

HR 2431 (By Peña), Honoring Mikael A. Garcia for his service as legislative director for the office of State Representative Aaron Pena.
To Rules and Resolutions.

HR 2433 (By Carter), Commending Douglas "Craig" Reid for serving as a Republican Party precinct chair in Dallas County.

To Rules and Resolutions.

HR 2434 (By Carter), Commending Suzy Pollok for serving as a Republican Party precinct chair in Dallas County.

To Rules and Resolutions.

HR 2435 (By Carter), Commending John Locus for serving as a Republican Party precinct chair in Dallas County.

To Rules and Resolutions.

HR 2436 (By Carter), Commending James Beasley for serving as a Republican Party precinct chair in Dallas County.

To Rules and Resolutions.

HR 2437 (By Carter), Commending Paulette Standefer for serving as a Republican Party precinct chair in Dallas County.

To Rules and Resolutions.

HR 2438 (By Carter), Commending Paul Freeman for serving as a Republican Party precinct chair in Dallas County.

To Rules and Resolutions.

HR 2439 (By Carter), Commending Jeni McGarry for serving as a Republican Party precinct chair in Dallas County.

To Rules and Resolutions.

HR 2440 (By Carter), Commending Mickey Kennedy for serving as a Republican Party precinct chair in Dallas County.

To Rules and Resolutions.

HR 2441 (By Carter), Commending Mary McElvany for serving as a Republican Party precinct chair in Dallas County.

To Rules and Resolutions.

HR 2442 (By Carter), Commending Penny Hajdu for serving as a Republican Party precinct chair in Dallas County.

To Rules and Resolutions.

HR 2443 (By Carter), Commending Connie Hutzell for serving as a Republican Party precinct chair in Dallas County.

To Rules and Resolutions.

HR 2444 (By Carter), Commending Darlene Howell for serving as a Republican Party precinct chair in Dallas County.

To Rules and Resolutions.

HR 2445 (By Carter), Commending Caron Hill for serving as a Republican Party precinct chair in Dallas County.

To Rules and Resolutions.

HR 2446 (By Carter), Commending Lois Neal for serving as a Republican Party precinct chair in Dallas County.

To Rules and Resolutions.

HR 2447 (By Carter), Commending Brenda Box-Bristol for serving as a Republican Party precinct chair in Dallas County.

To Rules and Resolutions.

HR 2448 (By Carter), Commending Betty Scoggin for serving as a Republican Party precinct chair in Dallas County.

To Rules and Resolutions.

HR 2449 (By Carter), Commending Dana M. Collins for serving as a Republican Party precinct chair in Dallas County.

To Rules and Resolutions.

HR 2450 (By Carter), Commending Lee Gammill for serving as a Republican Party precinct chair in Dallas County.

To Rules and Resolutions.

HR 2451 (By Carter), Commending Andrew Pavey for serving as a Republican Party precinct chair in Dallas County.

To Rules and Resolutions.

HR 2452 (By Carter), Commending Mary Ellen Cummings for serving as a Republican Party precinct chair in Dallas County.

To Rules and Resolutions.

HR 2453 (By Carter), Commending Bob Friesenhahn for serving as a campaign volunteer for the 2010 House District 102 election.

To Rules and Resolutions.

HR 2454 (By Carter), Commending Barbara Perryman for serving as a campaign volunteer for the 2010 House District 102 election.

To Rules and Resolutions.

HR 2455 (By Carter), Commending Don Sims for serving as a campaign volunteer for the 2010 House District 102 election.

To Rules and Resolutions.

HR 2456 (By Carter), Commending Diann Jones for serving as a campaign volunteer for the 2010 House District 102 election.

To Rules and Resolutions.

HR 2457 (By Carter), Commending Gary McFarland for serving as a campaign volunteer for the 2010 House District 102 election.

To Rules and Resolutions.

HR 2458 (By Carter), Commending Tricia McFarland for serving as a campaign volunteer for the 2010 House District 102 election.

To Rules and Resolutions.

HR 2459 (By Carter), Commending Gerrit Woning for serving as a campaign volunteer for the 2010 House District 102 election.

To Rules and Resolutions.

HR 2460 (By Carter), Commending Annette Ratliffe for serving as a campaign volunteer for the 2010 House District 102 election.

To Rules and Resolutions.

HR 2461 (By Carter), Commending Jana Bertrand for serving as a campaign volunteer for the 2010 House District 102 election.

To Rules and Resolutions.

HR 2462 (By Carter), Commending John Smolik for serving as a campaign volunteer for the 2010 House District 102 election.

To Rules and Resolutions.

HR 2463 (By Carter), Commending Linda Lawrence for serving as a campaign volunteer for the 2010 House District 102 election.

To Rules and Resolutions.

HR 2464 (By Carter), Commending Mary McElvany for serving as a campaign volunteer for the 2010 House District 102 election.

To Rules and Resolutions.

HR 2465 (By Carter), Commending Nella Phillips for serving as a campaign volunteer for the 2010 House District 102 election.

To Rules and Resolutions.

HR 2466 (By Carter), Commending Sherrie Timmins for serving as a campaign volunteer for the 2010 House District 102 election.

To Rules and Resolutions.

HR 2467 (By Carter), Commending Beverly Shukis for serving as a campaign volunteer for the 2010 House District 102 election.

To Rules and Resolutions.

HR 2468 (By Carter), Commending Sherry Walker for serving as a campaign volunteer for the 2010 House District 102 election.

To Rules and Resolutions.

HR 2469 (By Carter), Commending Kris Butler for serving as a campaign volunteer for the 2010 House District 102 election.

To Rules and Resolutions.

HR 2470 (By Carter), Commending Janet Martin for serving as a campaign volunteer for the 2010 House District 102 election.

To Rules and Resolutions.

HR 2471 (By Fletcher), Congratulating Craig E. Ferrell, Jr., on the occasion of his retirement as a deputy director of the Houston Police Department.

To Rules and Resolutions.

HR 2472 (By Craddick), Honoring Colbert L. "Tim" Baker III for his work as founder, president, and chief operating officer of the Springboard Center in Midland.

To Rules and Resolutions.

HR 2473 (By Flynn), Congratulating Devin Faber of Canton High School on winning the 2011 UIL 3A state title in the pole vault.

To Rules and Resolutions.

HR 2475 (By Pitts), Congratulating Corporal Jeremie J. Atilano, Deputy Ryan M. Connelly, Sergeant Deputy David B. "Bryan" McGee, and Deputy Manuel Valdez III of the Ellis County Sheriff's Office on their receipt of the 2010 State of Texas Law Enforcement Achievement Award for Valor.

To Rules and Resolutions.

HR 2476 (By Christian), Recognizing Jacob Soisson for his achievements as a member of the Jasper High School baseball team.

To Rules and Resolutions.

HR 2477 (By Christian), Honoring The University of Texas School of Law on winning the national championship in the 2011 John L. Costello National Criminal Law Trial Advocacy Competition.

To Rules and Resolutions.

HR 2478 (By Y. Davis), Honoring the Reverend Stephen G. Brown on his installation as pastor of Greater Bethlehem Baptist Church of Dallas.

To Rules and Resolutions.

HR 2479 (By Y. Davis), Commending Shirley Daniels for serving as a Democratic Party precinct chair in Dallas County.

To Rules and Resolutions.

HR 2480 (By Y. Davis), Commending Myrtis Evans for serving as a Democratic Party precinct chair in Dallas County.

To Rules and Resolutions.

HR 2481 (By Y. Davis), Commending Shirley Brown for serving as a Democratic Party precinct chair in Dallas County.

To Rules and Resolutions.

HR 2483 (By Gooden), Honoring Don Thurman for his service on the Terrell City Council.

To Rules and Resolutions.

HR 2484 (By Y. Davis), Commending Sedonia Kidd for serving as a Democratic Party precinct chair in Dallas County.

To Rules and Resolutions.

HR 2485 (By Y. Davis), Commending G. Virginia Hill for serving as a Democratic Party precinct chair in Dallas County.

To Rules and Resolutions.

HR 2486 (By Y. Davis), Commending Thelmer Norman for serving as a Democratic Party precinct chair in Dallas County.

To Rules and Resolutions.

HR 2487 (By Y. Davis), Commending Joan Young for serving as a Democratic Party precinct chair in Dallas County.

To Rules and Resolutions.

HR 2488 (By Y. Davis), Commending W. O. Montgomery for serving as a Democratic Party precinct chair in Dallas County.

To Rules and Resolutions.

HR 2489 (By Y. Davis), Commending Gloria Garnett for serving as a Democratic Party precinct chair in Dallas County.

To Rules and Resolutions.

HR 2490 (By Y. Davis), Commending Shirley Walker for serving as a Democratic Party precinct chair in Dallas County.

To Rules and Resolutions.

HR 2491 (By Y. Davis), Commending Joe Burkleo for serving as a Democratic Party precinct chair in Dallas County.

To Rules and Resolutions.

HR 2492 (By Y. Davis), Commending Betty Hallum for serving as a Democratic Party precinct chair in Dallas County.

To Rules and Resolutions.

HR 2493 (By Y. Davis), Commending Nancy Woertendyke for serving as a Democratic Party precinct chair in Dallas County.

To Rules and Resolutions.

HR 2494 (By Torres), Honoring Paul Cameron for his service to the Corpus Christi chapter of the Texas Society of Certified Public Accountants and to Corpus Christi State University.

To Rules and Resolutions.

HR 2495 (By Torres), Congratulating Al Jones on his receipt of the 2011 Brad Lomax Spirit of Hospitality Award from the Corpus Christi Convention and Visitors Bureau.

To Rules and Resolutions.

HR 2496 (By Y. Davis), Congratulating Aubrey Hooper on being elected to the DeSoto Independent School District Board of Trustees.

To Rules and Resolutions.

HR 2497 (By Y. Davis), Honoring the Southwest Dallas County Democrats for their civic engagement.

To Rules and Resolutions.

HR 2498 (By Y. Davis), Commending Nettie Runnels for serving as a Democratic Party precinct chair in Dallas County.

To Rules and Resolutions.

HR 2499 (By Y. Davis), Commending Rosa Orenstein for serving as a Democratic Party precinct chair in Dallas County.

To Rules and Resolutions.

HR 2500 (By Y. Davis), Commending Lawson Turner for serving as a Democratic Party precinct chair in Dallas County.

To Rules and Resolutions.

HR 2501 (By Y. Davis), Commending Martin Burrell for serving as a Democratic Party precinct chair in Dallas County.

To Rules and Resolutions.

HR 2502 (By Y. Davis), Commending Gwendolyn Swann for serving as a Democratic Party precinct chair in Dallas County.

To Rules and Resolutions.

HR 2503 (By Y. Davis), Commending Linda Lydia for serving as a Democratic Party precinct chair in Dallas County.

To Rules and Resolutions.

HR 2504 (By Y. Davis), Commending Frances Rizo for serving as a Democratic Party precinct chair in Dallas County.

To Rules and Resolutions.

HR 2505 (By Y. Davis), Commending Rosalind Wooten for serving as a Democratic Party precinct chair in Dallas County.

To Rules and Resolutions.

HR 2506 (By Y. Davis), Commending Yvette Harris for serving as a Democratic Party precinct chair in Dallas County.

To Rules and Resolutions.

HR 2507 (By Y. Davis), Commending Millie Williams for serving as a Democratic Party precinct chair in Dallas County.

To Rules and Resolutions.

HR 2508 (By Y. Davis), Commending DeVonne Foutz for serving as a Democratic Party precinct chair in Dallas County.

To Rules and Resolutions.

HR 2509 (By Y. Davis), Commending Pam Malveaux for serving as a Democratic Party precinct chair in Dallas County.

To Rules and Resolutions.

HR 2510 (By Y. Davis), Commending Patrick De La Garza Und Senkel for serving as a Democratic Party precinct chair in Dallas County.

To Rules and Resolutions.

HR 2511 (By Y. Davis), Commending Eli Davis for serving as a Democratic Party precinct chair in Dallas County.

To Rules and Resolutions.

HR 2512 (By Y. Davis), Commending Dorothy Dean for serving as a Democratic Party precinct chair in Dallas County.

To Rules and Resolutions.

HR 2513 (By Y. Davis), Commending LemLem Berhe for serving as a Democratic Party precinct chair in Dallas County.

To Rules and Resolutions.

HR 2514 (By Y. Davis), Commending Betty Culbreath for serving as a Democratic Party precinct chair in Dallas County.

To Rules and Resolutions.

HR 2515 (By Y. Davis), Commending Robert Smith for serving as a Democratic Party precinct chair in Dallas County.

To Rules and Resolutions.

HR 2516 (By Y. Davis), Commending Paul Clarkson for serving as a Democratic Party precinct chair in Dallas County.

To Rules and Resolutions.

HR 2517 (By Y. Davis), Commending Alice Cox for serving as a Democratic Party precinct chair in Dallas County.

To Rules and Resolutions.

HR 2519 (By Menendez), Honoring Alex Briseno on his retirement as the chair of the board of trustees of the San Antonio Water System.

To Rules and Resolutions.

HR 2520 (By Y. Davis), Congratulating Dr. Tarron Richardson on his appointment as city manager of DeSoto.

To Rules and Resolutions.

HR 2521 (By Torres), Recognizing the first full week of May 2012 as Texas Teacher Appreciation Week.

To Rules and Resolutions.

HR 2522 (By Torres), Recognizing September 15 to October 15, 2011, as Latino Texan Month.

To Rules and Resolutions.

HR 2523 (By Alonzo), Congratulating Tom Bohanan for his many years of service to Troop No. 8 of the Circle Ten Council of the Boy Scouts of America.

To Rules and Resolutions.

HR 2524 (By Kolkhorst), Honoring Monsignors Harry Mazurkiewicz and Louis Wozniak of Brenham on 60 years of dedicated service to the Catholic Church.

To Rules and Resolutions.

HR 2526 (By Schwertner), Honoring Brianna Vogel of Cedar Park for establishing Brianna's Pennies of Love.

To Rules and Resolutions.

HR 2527 (By Schwertner), Commemorating the centennial of the Williamson County Courthouse.

To Rules and Resolutions.

HR 2528 (By Callegari), Honoring the Katy High School football team on its successful 2009 season and its appearance in the UIL 5A Division 2 title game.

To Rules and Resolutions.

HR 2529 (By Callegari), Honoring the Katy High School football team on its success during the 2010 season.

To Rules and Resolutions.

HR 2530 (By Callegari), Congratulating Andrew Joe Lopez of Katy on his graduation from Taylor High School.

To Rules and Resolutions.

HR 2531 (By Menendez), Honoring Hector and Maria Morales of San Antonio on their 50th wedding anniversary.

To Rules and Resolutions.

HR 2532 (By Gutierrez), In memory of Monica Lisa Reyes of El Paso.

To Rules and Resolutions.

HR 2533 (By Gutierrez), Congratulating Michael Thomas Criaco on his graduation from St. Thomas High School in Houston in May 2011.

To Rules and Resolutions.

HR 2534 (By Gutierrez), Congratulating Matthew Paul Rayner on his graduation from Strake Jesuit College Preparatory.

To Rules and Resolutions.

HR 2535 (By Y. Davis), Congratulating Vonciel Jones Hill on being reelected to the Dallas City Council.

To Rules and Resolutions.

HR 2536 (By Y. Davis), Congratulating Carolyn R. Davis on being reelected to the Dallas City Council.

To Rules and Resolutions.

HR 2537 (By Y. Davis), Congratulating Tennell Atkins on being reelected to the Dallas City Council.

To Rules and Resolutions.

HR 2538 (By Y. Davis), Congratulating Angela Hunt on being reelected to the Dallas City Council.

To Rules and Resolutions.

HR 2539 (By Y. Davis), Congratulating Scott Griggs on being elected to the Dallas City Council.

To Rules and Resolutions.

HR 2540 (By Y. Davis), Congratulating Monica R. Alonzo on being elected to the Dallas City Council.

To Rules and Resolutions.

HR 2541 (By Y. Davis), Congratulating Pauline Medrano on being reelected to the Dallas City Council.

To Rules and Resolutions.

HR 2542 (By Y. Davis), Congratulating Don Freeman on being elected to the Duncanville City Council.

To Rules and Resolutions.

HR 2543 (By Y. Davis), Congratulating Johnette Jameson on being reelected to the Duncanville City Council.

To Rules and Resolutions.

HR 2544 (By Y. Davis), Congratulating Leslie Thomas on being reelected to the Duncanville City Council.

To Rules and Resolutions.

HR 2545 (By Shelton), Commending Dr. Melody Johnson for her service as superintendent of the Fort Worth Independent School District.

To Rules and Resolutions.

HR 2548 (By Harless), Commending Barbara Schlattman for her efforts to bring landscaped medians to FM 1960 in Northwest Houston.

To Rules and Resolutions.

HR 2551 (By Torres), Recognizing September 15 to October 15, 2012, as Latino Texan Month.

To Rules and Resolutions.

HR 2552 (By Y. Davis), Congratulating Tayler Lanise Haggerty on her graduation from Sam Houston State University.

To Rules and Resolutions.

HR 2553 (By Y. Davis), Congratulating Dwaine Caraway on being reelected to the Dallas City Council and commending him for his service as interim mayor.

To Rules and Resolutions.

HR 2554 (By Y. Davis), Congratulating the DeSoto High School girls' track and field team on winning the 2011 UIL 5A state championship.

To Rules and Resolutions.

HR 2555 (By Thompson), Commending Steven E. Simmons for his service to the Texas Department of Transportation.

To Rules and Resolutions.

HR 2556 (By V. Gonzales), Commemorating the 35th anniversary of Freddy Gonzalez Elementary School in Edinburg.

To Rules and Resolutions.

HR 2557 (By V. Gonzales), In memory of U.S. Army Staff Sergeant Bradley Espinoza.

To Rules and Resolutions.

HR 2559 (By Pickett), Congratulating the Eastwood High School girls' golf team on its outstanding 2011 season.

To Rules and Resolutions.

HR 2560 (By Pickett), Honoring Jay T. Kimbrough for his military service during the Vietnam War and his efforts to commemorate those Texans who made the ultimate sacrifice in Vietnam.

To Rules and Resolutions.

HR 2561 (By Price), In memory of Elias Macias Jaquez of the Cactus Volunteer Fire Department.

To Rules and Resolutions.

HR 2562 (By Price), Congratulating Carole D. Baker on her receipt of the 2011 Gregg A. Cooke Memorial Award for Exceptional Environmental Excellence from the Texas Commission on Environmental Quality.

To Rules and Resolutions.

HR 2563 (By White), Recognizing the GEAR UP program and congratulating the 2011 graduating class of Lufkin High School.

To Rules and Resolutions.

HR 2564 (By Alonzo), Commending Deborah Seriki for her service as an intern in the office of State Representative Roberto R. Alonzo.

To Rules and Resolutions.

HR 2565 (By D. Howard), Congratulating Darin and Kathy Leigh of Austin on attaining U.S. citizenship.

To Rules and Resolutions.

HR 2566 (By Parker), Congratulating John Edward Carroll of Grand Prairie on his 76th birthday.

To Rules and Resolutions.

HR 2567 (By Parker), Congratulating Officer Luther E. Cosby of the Roanoke Police Department on his receipt of a 2010 State of Texas Law Enforcement Achievement Award for Valor.

To Rules and Resolutions.

HR 2568 (By Burkett), In memory of U.S. Army Private First Class Devon Jemail Harris of Mesquite.

To Rules and Resolutions.

SIGNED BY THE SPEAKER

The following bills and resolutions were today signed in the presence of the house by the speaker:

House List No. 38

HB 149, HB 254, HB 338, HB 343, HB 364, HB 412, HB 447, HB 528, HB 534, HB 577, HB 588, HB 654, HB 692, HB 737, HB 787, HB 890, HB 943, HB 963, HB 990, HB 1048, HB 1060, HB 1070, HB 1116, HB 1129, HB 1144, HB 1148, HB 1163, HB 1226, HB 1235, HB 1274, HB 1305, HB 1315, HB 1486, HB 1499, HB 1610, HB 1615, HB 1942, HB 1964, HB 1992, HB 2038, HB 2098, HB 2120, HB 2160, HB 2170, HB 2195, HB 2223, HB 2280, HB 2292, HB 2325, HB 2359, HB 2425, HB 2472, HB 2604, HB 2619, HB 2632, HB 2725, HB 2769, HB 2792, HB 2872, HB 2994, HB 3093, HB 3134, HB 3145, HB 3167, HB 3182, HB 3270, HB 3311, HB 3336, HB 3404, HB 3410, HB 3423, HB 3439, HB 3578, HB 3727, HB 3788, HB 3796, HB 3823, HB 3829, HB 3836, HB 3862, HB 3864, HCR 24, HCR 86, HCR 130, HCR 153, HJR 109

Senate List No. 34

SB 19, SB 29, SB 43, SB 166, SB 233, SB 234, SB 266, SB 267, SB 304, SB 350, SB 367, SB 422, SB 449, SB 461, SB 471, SB 481, SB 489, SB 554, SB 577, SB 578, SB 609, SB 627, SB 650, SB 682, SB 735, SB 791, SB 792, SB 799, SB 864, SB 889, SB 898, SB 900, SB 901, SB 959, SB 966, SB 987, SB 1020, SB 1030, SB 1044, SB 1046, SB 1106, SB 1133, SB 1167, SB 1176, SB 1220, SB 1231, SB 1273, SB 1308, SB 1322, SB 1330, SB 1342, SB 1368,

SB 1438, SB 1441, SB 1480, SB 1484, SB 1493, SB 1521, SB 1522, SB 1557, SB 1596, SB 1681, SB 1737, SB 1787, SB 1789, SB 1807, SB 1812, SB 1857, SB 1875, SB 1880, SB 1915, SB 1928, SCR 35, SCR 51

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

Thursday, May 26, 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 4 Pitts SPONSOR: Ogden
Relating to making supplemental appropriations and giving direction and adjustment authority regarding appropriations.
(Committee Substitute/Amended)

HB 242 Craddick SPONSOR: Hegar
Relating to the authority of certain retired peace officers to carry certain firearms.
(Amended)

HB 550 Dutton SPONSOR: Jackson
Relating to an exemption to the requirement for a fishing license for residents of a certain age.
(Amended)

HB 680 Schwertner SPONSOR: Huffman
Relating to complaints filed with the Texas Medical Board.
(Committee Substitute)

HB 1199 Gallego SPONSOR: Davis
Relating to the penalty for certain intoxication offenses.
(Committee Substitute/Amended)

HB 1844 Guillen SPONSOR: Watson
Relating to storage of local government records by the Texas State Library and Archives Commission.

HB 2853 Davis, John SPONSOR: Jackson
Relating to tax increment financing.
(Amended)

HB 2857 Gallego SPONSOR: Uresti

Relating to regulation of outdoor lighting in certain areas; providing a criminal penalty and for injunctive relief.

(Committee Substitute)

HCR 84

Cain

SPONSOR: Estes

Designating 42 as the official State Domino Game of Texas.

(Amended)

THE SENATE HAS CONCURRED IN THE HOUSE AMENDMENTS TO THE FOLLOWING MEASURES:

| | |
|----------------|-------------------|
| SB 176 | (31 Yeas, 0 Nays) |
| SB 218 | (31 Yeas, 0 Nays) |
| SB 220 | (31 Yeas, 0 Nays) |
| SB 229 | (31 Yeas, 0 Nays) |
| SB 349 | (31 Yeas, 0 Nays) |
| SB 438 | (31 Yeas, 0 Nays) |
| SB 548 | (31 Yeas, 0 Nays) |
| SB 701 | (31 Yeas, 0 Nays) |
| SB 802 | (31 Yeas, 0 Nays) |
| SB 804 | (31 Yeas, 0 Nays) |
| SB 812 | (30 Yeas, 1 Nay) |
| SB 917 | (31 Yeas, 0 Nays) |
| SB 1386 | (28 Yeas, 3 Nays) |
| SB 1477 | (31 Yeas, 0 Nays) |
| SB 1504 | (31 Yeas, 0 Nays) |

THE SENATE HAS REFUSED TO CONCUR IN THE HOUSE AMENDMENTS TO THE FOLLOWING MEASURES AND REQUESTS THE APPOINTMENT OF A CONFERENCE COMMITTEE TO ADJUST THE DIFFERENCES BETWEEN THE TWO HOUSES:

SB 377

Senate Conferees: Huffman - Chair/Eltife/Nelson/Patrick/Whitmire

SB 1010

Senate Conferees: Huffman - Chair/Hegar/Nelson/Patrick/Whitmire

SB 1331

Senate Conferees: Watson - Chair/Carona/Ellis/Huffman/Whitmire

SB 1543

Senate Conferees: Wentworth - Chair/Carona/Davis/Seliger/Shapiro

SB 1600

Senate Conferees: Whitmire - Chair/Gallegos/Hinojosa/Huffman/Nelson

THE SENATE HAS GRANTED THE REQUEST OF THE HOUSE FOR THE APPOINTMENT OF A CONFERENCE COMMITTEE ON THE FOLLOWING MEASURES:

HB 200

Senate Conferees: Whitmire - Chair/Ellis/Hegar/Huffman/Patrick
HB 414

Senate Conferees: Hegar - Chair/Estes/Hinojosa/Jackson/Seliger
HB 871

Senate Conferees: Zaffirini - Chair/Carona/Deuell/Eltife/Rodriguez
HB 1619

Senate Conferees: Patrick - Chair/Eltife/Hegar/Huffman/Nichols

THE SENATE HAS ADOPTED THE FOLLOWING CONFERENCE COMMITTEE REPORTS:

HB 275 (31 Yeas, 0 Nays)

Respectfully,
 Patsy Spaw
 Secretary of the Senate

Message No. 2

MESSAGE FROM THE SENATE
 SENATE CHAMBER
 Austin, Texas
 Thursday, May 26, 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:

HB 1960 Deshotel SPONSOR: Jackson
 Relating to the regulation of boat manufacturers, distributors, and dealers; providing a civil penalty.

HCR 1 Hilderbran SPONSOR: Uresti
 In memory of former Texas governor Dolph Briscoe, Jr.

THE SENATE HAS CONCURRED IN THE HOUSE AMENDMENTS TO THE FOLLOWING MEASURES:

SB 20 (29 Yeas, 2 Nays)

SB 167 (31 Yeas, 0 Nays)

SB 408 (31 Yeas, 0 Nays)

SB 683 (31 Yeas, 0 Nays)

SB 761 (31 Yeas, 0 Nays)

SB 810 (31 Yeas, 0 Nays)

SB 1686 (31 Yeas, 0 Nays)

SB 1714 (31 Yeas, 0 Nays)

THE SENATE HAS REFUSED TO CONCUR IN THE HOUSE AMENDMENTS TO THE FOLLOWING MEASURES AND REQUESTS THE APPOINTMENT OF A CONFERENCE COMMITTEE TO ADJUST THE DIFFERENCES BETWEEN THE TWO HOUSES:

SB 516

Senate Conferees: Patrick - Chair/Birdwell/Hinojosa/Huffman/Nichols

SB 635

Senate Conferees: Nichols - Chair/Fraser/Gallegos/Hegar/Patrick

SB 694

Senate Conferees: West - Chair/Duncan/Fraser/Harris/Uresti

SB 1588

Senate Conferees: Ogden - Chair/Estes/Hinojosa/Lucio/Seliger

SB 1717

Senate Conferees: Duncan - Chair/Harris/Hinojosa/Huffman/Uresti

THE SENATE HAS GRANTED THE REQUEST OF THE HOUSE FOR THE APPOINTMENT OF A CONFERENCE COMMITTEE ON THE FOLLOWING MEASURES:

HB 90

Senate Conferees: Birdwell - Chair/Nichols/Patrick/Watson/Williams

HB 1178

Senate Conferees: Birdwell - Chair/Estes/Harris/Seliger/Van de Putte

HB 1335

Senate Conferees: Van de Putte - Chair/Carona/Lucio/Shapiro/Zaffirini

HB 1732

Senate Conferees: Hinojosa - Chair/Nelson/Seliger/Whitmire/Williams

HB 2226

Senate Conferees: Carona - Chair/Eltife/Gallegos/Nichols/Zaffirini

HB 2560

Senate Conferees: Estes - Chair/Hegar/Huffman/Lucio/Wentworth

HB 2605

Senate Conferees: Huffman - Chair/Hegar/Hinojosa/Nelson/Whitmire

Respectfully,

Patsy Spaw

Secretary of the Senate

Message No. 3

MESSAGE FROM THE SENATE

SENATE CHAMBER

Austin, Texas

Thursday, May 26, 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 2810 Miller, Sid SPONSOR: Estes
Relating to an exemption from the sales and use tax for tangible personal property incorporated into or attached to certain agricultural structures.
(Committee Substitute)

THE SENATE HAS REFUSED TO CONCUR IN THE HOUSE AMENDMENTS TO THE FOLLOWING MEASURES AND REQUESTS THE APPOINTMENT OF A CONFERENCE COMMITTEE TO ADJUST THE DIFFERENCES BETWEEN THE TWO HOUSES:

SB 1788
Senate Conferees: Patrick - Chair/Huffman/Nelson/Shapiro/West

THE SENATE HAS GRANTED THE REQUEST OF THE HOUSE FOR THE APPOINTMENT OF A CONFERENCE COMMITTEE ON THE FOLLOWING MEASURES:

HB 753
Senate Conferees: Zaffirini - Chair/Carona/Deuell/Eltife/Rodriguez

Respectfully,
Patsy Spaw
Secretary of the Senate

Message No. 4

MESSAGE FROM THE SENATE
SENATE CHAMBER
Austin, Texas
Thursday, May 26, 2011 - 4

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 REFUSED TO CONCUR IN THE HOUSE AMENDMENTS TO THE FOLLOWING MEASURES AND REQUESTS THE APPOINTMENT OF A CONFERENCE COMMITTEE TO ADJUST THE DIFFERENCES BETWEEN THE TWO HOUSES:

SB 40
Senate Conferees: Zaffirini - Chair/Carona/Duncan/Eltife/Watson

SB 158
Senate Conferees: Williams - Chair/Eltife/Hinojosa/Huffman/West

SB 1664
Senate Conferees: Duncan - Chair/Deuell/Ellis/Van de Putte/Williams

THE SENATE HAS GRANTED THE REQUEST OF THE HOUSE FOR THE APPOINTMENT OF A CONFERENCE COMMITTEE ON THE FOLLOWING MEASURES:

HB 2048

Senate Conferees: Deuell - Chair/Hinojosa/Nelson/Seliger/Whitmire

HB 2357

Senate Conferees: Williams - Chair/Lucio/Nichols/Watson/Wentworth

HB 2734

Senate Conferees: Williams - Chair/Hinojosa/Nichols/Shapiro/Wentworth

Respectfully,

Patsy Spaw

Secretary of the Senate

Message No. 5

MESSAGE FROM THE SENATE
SENATE CHAMBER

Austin, Texas

Thursday, May 26, 2011 - 5

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 REFUSED TO CONCUR IN THE HOUSE AMENDMENTS TO THE FOLLOWING MEASURES AND REQUESTS THE APPOINTMENT OF A CONFERENCE COMMITTEE TO ADJUST THE DIFFERENCES BETWEEN THE TWO HOUSES:

SB 472

Senate Conferees: West - Chair/Davis/Nelson/Nichols/Wentworth

SB 1134

Senate Conferees: Hegar - Chair/Deuell/Fraser/Jackson/Whitmire

THE SENATE HAS GRANTED THE REQUEST OF THE HOUSE FOR THE APPOINTMENT OF A CONFERENCE COMMITTEE ON THE FOLLOWING MEASURES:

HB 1711

Senate Conferees: Jackson - Chair/Eltife/Huffman/Lucio/Williams

HB 2490

Senate Conferees: Carona - Chair/Eltife/Lucio/Van de Putte/Zaffirini

HB 2729

Senate Conferees: Watson - Chair/Ellis/Eltife/Jackson/Zaffirini

HB 2900

Senate Conferees: Harris - Chair/Huffman/Lucio/Rodriguez/Watson

Respectfully,

Patsy Spaw

Secretary of the Senate

Message No. 6

MESSAGE FROM THE SENATE
SENATE CHAMBER

Austin, Texas

Thursday, May 26, 2011 - 6

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 CONCURRED IN THE HOUSE AMENDMENTS TO THE FOLLOWING MEASURES:

SB 181 (31 Yeas, 0 Nays)

THE SENATE HAS REFUSED TO CONCUR IN THE HOUSE AMENDMENTS TO THE FOLLOWING MEASURES AND REQUESTS THE APPOINTMENT OF A CONFERENCE COMMITTEE TO ADJUST THE DIFFERENCES BETWEEN THE TWO HOUSES:

SB 875

Senate Conferees: Fraser - Chair/Duncan/Estes/Jackson/Watson

THE SENATE HAS GRANTED THE REQUEST OF THE HOUSE FOR THE APPOINTMENT OF A CONFERENCE COMMITTEE ON THE FOLLOWING MEASURES:

HB 2380

Senate Conferees: Shapiro - Chair/Carona/Nelson/Patrick/Seliger

Respectfully,

Patsy Spaw

Secretary of the Senate

APPENDIX

ENROLLED

May 25 - HB 109, HB 149, HB 343, HB 412, HB 588, HB 787, HB 890, HB 943, HB 1116, HB 1129, HB 1163, HB 1179, HB 1241, HB 1274, HB 1341, HB 1486, HB 1615, HB 1942, HB 1992, HB 2038, HB 2098, HB 2109, HB 2120, HB 2127, HB 2132, HB 2139, HB 2160, HB 2170, HB 2292, HB 2325, HB 2359, HB 2382, HB 2387, HB 2422, HB 2425, HB 2471, HB 2510, HB 2619, HB 2632, HB 2649, HB 2703, HB 2758, HB 2769, HB 2792, HB 2872, HB 2904, HB 2940, HB 2971, HB 3093,

HB 3134, HB 3145, HB 3167, HB 3182, HB 3270, HB 3309, HB 3311, HB 3314, HB 3336, HB 3337, HB 3352, HB 3404, HB 3410, HB 3423, HB 3439, HB 3578, HB 3579, HB 3727, HB 3788, HB 3796, HB 3808, HB 3815, HB 3821, HB 3823, HB 3829, HB 3833, HB 3836, HB 3852, HB 3862, HCR 130, HCR 163, HJR 109

SENT TO THE GOVERNOR

May 25 - HB 8, HB 91, HB 159, HB 240, HB 252, HB 350, HB 417, HB 441, HB 442, HB 499, HB 675, HB 886, HB 1057, HB 1075, HB 1127, HB 1137, HB 1469, HB 1573, HB 1814, HB 1899, HB 2080, HB 2118, HB 2383, HB 2417, HB 2476, HB 2488, HB 2507, HB 2518, HB 2609, HB 2716, HB 2902, HB 2907, HB 2959, HB 2973, HB 3342, HB 3372, HB 3510, HB 3531, HB 3803

SIGNED BY THE GOVERNOR

May 25 - HB 3000