

# SENATE JOURNAL

EIGHTY-FIRST LEGISLATURE — REGULAR SESSION

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AUSTIN, TEXAS

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PROCEEDINGS

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SIXTY-NINTH DAY

(Continued)

(Saturday, May 30, 2009)

AFTER RECESS

The Senate met at 9:45 a.m. and was called to order by President Pro Tempore Duncan.

The Reverend Dr. Jack Kyle Daniels, United Methodist Church, Austin, offered the invocation as follows:

God of our fathers, we invoke Your blessings on the Senate of the State of Texas and its business on this day. We acknowledge that Your blessings in the past have enabled us to build this great state as we celebrate our freedoms as citizens. We are mindful of our heritage and rejoice in the achievements of those who have led us in the past. Help us to be true to the highest hopes of the past and uphold the faith of those who have gone before us. We ask for Your guidance as we realize that our actions today will be instrumental in writing the history of our time. Today, we seek humility and wisdom as we deliberate matters of great concern for people from all walks of life who rely upon government to serve the common welfare. Let our strength become a blessing to the weak, and let our resources be at the command of all who are worthy, regardless of class, creed, race, or national origin. Grant us Your wisdom and power in all we do this day. Amen.

## MESSAGE FROM THE GOVERNOR

The following Message from the Governor was read and was filed with the Secretary of the Senate:

Austin, Texas  
May 29, 2009

OFFICIAL MEMORANDUM  
STATE OF TEXAS  
OFFICE OF THE GOVERNOR

MESSAGE

TO THE MEMBERS OF THE SENATE AND HOUSE OF REPRESENTATIVES  
OF THE EIGHTY-FIRST TEXAS LEGISLATURE, REGULAR SESSION:

Pursuant to Article IV, Section 14 of the Texas Constitution, I, Rick Perry, Governor of Texas, do hereby disapprove and veto Senate Bill No. 2038 of the 81st Texas Legislature, Regular Session, due to the following objections:

The plain words of a statute are the starting point for interpreting the law. Senate Bill No. 2038 would eliminate this fundamental principle. Citizens, judges and lawyers may debate the proper interpretation and application of those words but they may not debate what those words are. Senate Bill No. 2038 would abandon that basic and necessary premise. The reliability of the language found in the Texas codes would be subject to second guessing. Judges would no longer be able to apply the law simply by looking at its plain text. Senate Bill No. 2038 would likely result in an increase in litigation as lawyers would challenge the plain meaning of Texas statutes and compel courts to look to repealed codes and former session laws to determine what is Texas law.

The codification and revision process was established to make Texas law more accessible. Senate Bill No. 2038 would undermine the very purpose of the codification process by forcing both practitioners and ordinary citizens to locate and research old versions of our laws in order to determine if the current Texas codes really mean what they say.

Similar legislation, House Bill No. 2809, was vetoed in 2001. The concerns that existed then still exist today. Determining our state's laws should not be a burdensome process; Texans should be able to determine what our law says by simply reading the codes.

Since you remain gathered in regular session and continue to conduct formal business, I am delivering this disapproval message directly to you along with the official enrolled copy of the bill.

IN TESTIMONY WHEREOF, I have signed my name officially and caused the Seal of the State to be affixed hereto at Austin, this 29th day of May, 2009.

/s/Rick Perry  
Governor of Texas

Attested by:

/s/Esperanza "Hope" Andrade  
Secretary of State

### **MOTION TO RECESS**

On motion of Senator Van de Putte, the Senate at 9:59 a.m. agreed to recess upon conclusion of the Joint Session until 1:00 p.m. today.

### **JOINT SESSION**

(To hear the Honorable Rick Perry speak during the Texas Legislative Memorial Ceremony)

The President of the Senate and the Senators present, escorted by the Sergeant-at-Arms, proceeded to the Hall of the House of Representatives at 10:00 a.m. for the Joint Session, pursuant to the provisions of **HCR 184**.

The Honorable Rick Perry, Governor of the State of Texas, was announced and, on invitation of the Speaker, occupied a seat at the Speaker's Rostrum.

The Honorable David Dewhurst, President of the Senate, was announced and, on invitation of the Speaker, occupied a seat at the Speaker's Rostrum.

The Senators were announced and were admitted and escorted to seats prepared for them.

The President called the Senate to order and announced a quorum of the Senate present.

The Honorable Joe Straus, Speaker of the House of Representatives, called the House to order, announced a quorum of the House present, and stated the purpose of the Joint Session.

Representative Frank Corte, Chair of the House Committee on Defense and Veterans' Affairs, was recognized and thanked the Texas National Guard for the presentation of colors, Jessica Leibowitz for singing the National Anthem, Representative Leo Berman for leading the Pledge of Allegiance, and Dr. Jerry Hardwick of San Antonio, President and founder of New Centurions, Incorporated, for the invocation.

The President introduced the Honorable Rick Perry, who addressed the Joint Session as follows:

For the past 138 days, this historic room has witnessed leaders engaging in passionate debate over points of difference, but, today, we share a common purpose.

In a group representing a great diversity of political viewpoints, there is no debate today as we together express our heartfelt gratitude for the men and women who protect us and remember those who gave their lives in the process.

When we ponder the concept of laying down one's life for another, we are reminded that such sacrifice is a supreme act of love, love for those protected, and love for the ideals of a nation steeped in freedom.

We are amazed by accounts of such selflessness, but also saddened at lives cut short, dreams extinguished, and loved ones left behind.

As we honor these brave Texans who made the ultimate sacrifice, we also offer our heartfelt condolences to those who love them.

It can be no easy thing to balance admiration for your fallen warrior with the realities of a life that continues to unfold, one challenging day after another. Know that the people of Texas genuinely appreciate the service and sacrifice of our military personnel and lift up their survivors in their thoughts and prayers.

Not only do the leaders here today pray for you but they and their colleagues have been working to express support in tangible ways.

For example, when this ceremony concludes today, I will take pen in hand and sign Senate Bill 90, making it easier for dependents to pursue their education while enduring the frequent relocations of military life.

I want to thank Senator Van de Putte and Representative Geren for carrying these bills.

There is also time left in this session to extend the benefits of the Hazlewood Act to surviving spouses of killed or completely disabled military members. Providing for themselves and their families is a significant burden for these spouses, a burden that can be reduced by the better pay that typically comes with a college degree.

I also hope we can say "thank you" to all of our veterans by extending in-state tuition rates to all GI-Bill-eligible veterans.

No matter the outcome of the debates in this building, the fact remains that Texas owes much to those who have died as well as their families.

In the days to come, I encourage you to live your life fully because you know that each day is precious, and be assured that the cause for which your loved ones fought and died is still a just and noble cause.

The wreckage of that fateful September day was long ago removed and order restored to sites of unimaginable carnage, but the sentiment that drove our attackers still festers.

It is a sterling tribute to the men and women of our armed forces, our intelligence services, and members of the law enforcement community that no similar attack has occurred on our nation's soil in the intervening days.

Because our defenders have been willing to answer the call and muddy their boots with the soil of faraway lands, we enjoy safety and security here at home.

That said, the global war on terror is far from over, and the need for vigilance and engagement will continue as long as the hateful ideologies that drive our enemies continue to find a foothold in their hearts and minds.

Because these sentiments emanate from the basest parts of human nature, their demise will be a long time coming.

So we will continue to call upon the best and brightest among us to stand between us and those who would do us harm and join the long line that takes up arms to defend others.

I am reminded of the words written by Bayard Taylor in his poem, "The Song of the Camp," that conveys the unique character of those defenders and honors them in repose.

"Sleep, soldiers! still in honored rest

Your truth and valor wearing:

The bravest are the tenderest,

The loving are the daring."

Today, we remember these Texans, the bravest of our lot, and celebrate their daring. Because of them, we live and breathe free.

In the days to come, let us all cling tightly to those ideals that motivated their selfless service.

Let us never take for granted the freedom for which they traded their lives.

Let us strive to live in a manner befitting their sacrifice.

May God bless you all and, through you, may He continue to bless the great State of Texas.

The reading of the names of fallen Texans and the presentation of flags was conducted by Senator Leticia Van de Putte, Senator Eddie Lucio, Jr., Senator Craig Estes, Representative Frank Corte, Representative Jimmie Don Aycock, and Representative Norma Chávez.

Speaker Straus requested a moment of silence. "Amazing Grace" was sung by Michael and Melanie McCracken, worship leaders of The Church at Vineyard Hills, San Antonio.

The cannon salute was conducted by the Texas National Guard Salute Battery.

"Taps" was played and echoed by Chad Kloesel and Tyler Lewis of the Fightin' Texas Aggie Band.

### CONCLUSION OF JOINT SESSION

The Speaker of the House of Representatives at 11:54 a.m. announced that the purpose for which the Joint Session was called having been completed, the House would stand At Ease pending the departure of its guests.

### RECESS

The President announced that the Senate, pursuant to a previously adopted motion, would stand recessed until 1:00 p.m. today.

### AFTER RECESS

The Senate met at 1:13 p.m. and was called to order by the President.

### MESSAGE FROM THE HOUSE

#### HOUSE CHAMBER

Austin, Texas

May 30, 2009

The Honorable President of the Senate  
Senate Chamber  
Austin, Texas

Mr. President:

I am directed by the House to inform the Senate that the House has taken the following action:

THE HOUSE HAS CONCURRED IN THE SENATE AMENDMENTS TO THE FOLLOWING MEASURES:

**HB 55** (138 Yeas, 4 Nays, 1 Present, not voting)

**HB 192** (139 Yeas, 0 Nays, 1 Present, not voting)

**HB 281** (138 Yeas, 2 Nays, 1 Present, not voting)

**HB 339** (142 Yeas, 0 Nays, 1 Present, not voting)

**HB 358** (144 Yeas, 0 Nays, 1 Present, not voting)

**HB 464** (142 Yeas, 0 Nays, 1 Present, not voting)  
**HB 498** (110 Yeas, 28 Nays, 1 Present, not voting)  
**HB 857** (143 Yeas, 0 Nays, 1 Present, not voting)  
**HB 1013** (144 Yeas, 0 Nays, 1 Present, not voting)  
**HB 1151** (141 Yeas, 0 Nays, 1 Present, not voting)  
**HB 1174** (142 Yeas, 0 Nays, 2 Present, not voting)  
**HB 1285** (142 Yeas, 0 Nays, 2 Present, not voting)  
**HB 1462** (98 Yeas, 41 Nays, 1 Present, not voting)  
**HB 1720** (143 Yeas, 0 Nays, 1 Present, not voting)  
**HB 1819** (124 Yeas, 12 Nays, 2 Present, not voting)  
**HB 1822** (138 Yeas, 0 Nays, 1 Present, not voting)  
**HB 2013** (138 Yeas, 0 Nays, 1 Present, not voting)  
**HB 2113** (143 Yeas, 0 Nays, 1 Present, not voting)  
**HB 2127** (142 Yeas, 0 Nays, 1 Present, not voting)  
**HB 2154** (122 Yeas, 21 Nays, 2 Present, not voting)  
**HB 2161** (120 Yeas, 23 Nays, 1 Present, not voting)  
**HB 2256** (136 Yeas, 1 Nays, 4 Present, not voting)  
**HB 2344** (145 Yeas, 0 Nays, 1 Present, not voting)  
**HB 2462** (144 Yeas, 0 Nays, 1 Present, not voting)  
**HB 2488** (139 Yeas, 0 Nays, 1 Present, not voting)  
**HB 2504** (143 Yeas, 0 Nays, 1 Present, not voting)  
**HB 2525** (125 Yeas, 16 Nays, 2 Present, not voting)  
**HB 2559** (100 Yeas, 43 Nays, 2 Present, not voting)  
**HB 2570** (142 Yeas, 0 Nays, 1 Present, not voting)  
**HB 2656** (140 Yeas, 0 Nays, 1 Present, not voting)  
**HB 2668** (145 Yeas, 0 Nays, 1 Present, not voting)  
**HB 2808** (139 Yeas, 0 Nays, 1 Present, not voting)  
**HB 2859** (141 Yeas, 0 Nays, 1 Present, not voting)  
**HB 2914** (142 Yeas, 0 Nays, 1 Present, not voting)  
**HB 2941** (138 Yeas, 0 Nays, 1 Present, not voting)  
**HB 2954** (140 Yeas, 0 Nays, 2 Present, not voting)  
**HB 3009** (142 Yeas, 0 Nays, 1 Present, not voting)  
**HB 3082** (145 Yeas, 0 Nays, 1 Present, not voting)  
**HB 3094** (144 Yeas, 0 Nays, 2 Present, not voting)

**HB 3144** (140 Yeas, 0 Nays, 1 Present, not voting)

**HB 3186** (136 Yeas, 0 Nays, 1 Present, not voting)

**HB 3201** (139 Yeas, 0 Nays, 2 Present, not voting)

**HB 3202** (141 Yeas, 0 Nays, 1 Present, not voting)

**HB 3228** (138 Yeas, 1 Nays, 1 Present, not voting)

**HB 3445** (143 Yeas, 0 Nays, 1 Present, not voting)

**HB 3480** (136 Yeas, 0 Nays, 1 Present, not voting)

**HB 3481** (137 Yeas, 0 Nays, 2 Present, not voting)

**HB 3485** (142 Yeas, 2 Nays, 1 Present, not voting)

**HB 3628** (139 Yeas, 0 Nays, 1 Present, not voting)

**HB 3669** (139 Yeas, 1 Nays, 1 Present, not voting)

**HB 3896** (141 Yeas, 0 Nays, 2 Present, not voting)

**HB 4031** (145 Yeas, 0 Nays, 1 Present, not voting)

**HB 4189** (145 Yeas, 0 Nays, 1 Present, not voting)

**HB 4294** (118 Yeas, 24 Nays, 2 Present, not voting)

**HB 4300** (139 Yeas, 0 Nays, 1 Present, not voting)

**HB 4338** (143 Yeas, 0 Nays, 1 Present, not voting)

**HB 4433** (143 Yeas, 0 Nays, 1 Present, not voting)

**HB 4445** (136 Yeas, 0 Nays, 2 Present, not voting)

**HB 4728** (141 Yeas, 0 Nays, 2 Present, not voting)

**HB 4730** (142 Yeas, 0 Nays, 1 Present, not voting)

**HJR 7** (142 Yeas, 0 Nays, 1 Present, not voting)

**HJR 36** (142 Yeas, 0 Nays, 1 Present, not voting)

THE HOUSE HAS REFUSED TO CONCUR IN THE SENATE AMENDMENTS TO THE FOLLOWING MEASURES AND REQUESTS THE APPOINTMENT OF A CONFERENCE COMMITTEE TO ADJUST THE DIFFERENCES BETWEEN THE TWO HOUSES:

**HB 51** (non-record vote)

House Conferees: Branch - Chair/Cohen/Eiland/Madden/McCall

**HB 103** (non-record vote)

House Conferees: Brown, Fred - Chair/Branch/McClendon/Patrick/Villarreal

**HB 171** (non-record vote)

House Conferees: Olivo - Chair/Allen/Aycock/Eissler/Patrick

**HB 431** (non-record vote)

House Conferees: Lucio III - Chair/Anchia/Keffer/Maldonado/Otto

**HB 432** (non-record vote)

House Conferees: Lucio III - Chair/Cook/Menendez/Otto/Strama

**HB 451** (non-record vote)

House Conferees: Allen - Chair/Bolton/Cohen/Herrero/Leibowitz

**HB 459** (non-record vote)

House Conferees: Leibowitz - Chair/Bohac/Harless/King, Tracy O./Walle

**HB 469** (non-record vote)

House Conferees: King, Phil - Chair/Anchia/Hardcastle/Lewis/Strama

**HB 537** (non-record vote)

House Conferees: Berman - Chair/Bolton/Darby/Naishtat/Weber

**HB 635** (non-record vote)

House Conferees: Guillen - Chair/Hochberg/Hughes/Parker/Rodriguez

**HB 715** (non-record vote)

House Conferees: King, Phil - Chair/Callegari/Davis, Yvonne/  
Gonzales/Harper-Brown

**HB 746** (non-record vote)

House Conferees: Brown, Fred - Chair/Alonzo/Aycock/Branch/Rodriguez

**HB 756** (non-record vote)

House Conferees: Martinez Fischer - Chair/Anchia/Corte/Gutierrez/Laubenberg

**HB 770** (non-record vote)

House Conferees: Howard, Donna - Chair/Christian/Eiland/Hamilton/Taylor

**HB 963** (non-record vote)

House Conferees: Guillen - Chair/Gutierrez/Madden/McReynolds/Thompson

**HB 1030** (non-record vote)

House Conferees: Callegari - Chair/Bohac/Fletcher/Howard, Charlie/Turner,  
Sylvester

**HB 1041** (non-record vote)

House Conferees: Parker - Chair/Chavez/Rose/Shelton/Zerwas

**HB 1218** (non-record vote)

House Conferees: Howard, Donna - Chair/Coleman/Davis, John/Kolkhorst/Rose

**HB 1320** (non-record vote)

House Conferees: Christian - Chair/Berman/Chisum/Flynn/King, Phil

**HB 1322** (non-record vote)

House Conferees: Hochberg - Chair/Allen/Farias/Jackson, Jim/Shelton

**HB 1357** (non-record vote)

House Conferees: Isett - Chair/King, Susan/Laubenberg/McReynolds/Rios Ybarra

**HB 1506** (non-record vote)

House Conferees: Herrero - Chair/Gallego/Gattis/Otto/Pierson



**HB 1795** (non-record vote)

House Conferees: Pierson - Chair/Eiland/Gonzales/McCall/Zerwas

**HB 1801** (non-record vote)

House Conferees: Bohac - Chair/Castro/Martinez Fischer/Oliveira/Patrick

**HB 1831** (non-record vote)

House Conferees: Corte - Chair/Edwards/McClendon/Oliveira/Taylor

**HB 1924** (non-record vote)

House Conferees: Heflin - Chair/Chisum/Gonzalez Toureilles/Hopson/Swinford

**HB 1935** (non-record vote)

House Conferees: Villarreal - Chair/Eissler/Lucio III/McReynolds/Naishtat

**HB 1959** (non-record vote)

House Conferees: Isett - Chair/Cook/Hunter/McCall/McReynolds

**HB 2000** (non-record vote)

House Conferees: McCall - Chair/Bohac/King, Susan/Madden/Pierson

**HB 2003** (non-record vote)

House Conferees: McCall - Chair/Castro/King, Susan/Madden/Pierson

**HB 2012** (non-record vote)

House Conferees: Vaught - Chair/Bohac/Gattis/Kent/King, Susan

**HB 2086** (non-record vote)

House Conferees: Moody - Chair/Fletcher/Gallego/Miklos/Riddle

**HB 2093** (non-record vote)

House Conferees: Driver - Chair/Chisum/Hunter/Isett/Pena

**HB 2139** (non-record vote)

House Conferees: McClendon - Chair/Dukes/Hodge/Marquez/Moody

**HB 2153** (non-record vote)

House Conferees: Edwards - Chair/Fletcher/Kent/Riddle/Vaught

**HB 2163** (non-record vote)

House Conferees: Turner, Sylvester - Chair/Edwards/Giddings/Kolkhorst/Zerwas

**HB 2169** (non-record vote)

House Conferees: Chavez - Chair/Davis, Yvonne/Eissler/Morrison/Strama

**HB 2240** (non-record vote)

House Conferees: Lewis - Chair/Guillen/Howard, Donna/Moody/Vaught

**HB 2347** (non-record vote)

House Conferees: Thibaut - Chair/Coleman/Driver/Fletcher/Guillen

**HB 2521** (non-record vote)

House Conferees: Pickett - Chair/Farabee/Harless/Menendez/Solomons

**HB 2553** (non-record vote)

House Conferees: Hilderbran - Chair/Corte/King, Tracy O./Phillips/Villarreal

**HB 2555** (non-record vote)

House Conferees: Hilderbran - Chair/Chisum/Darby/Hughes/Rose

**HB 2582** (non-record vote)

House Conferees: Gonzalez Toureilles - Chair/Alonzo/Herrero/Hughes/Swinford

**HB 2730** (non-record vote)

House Conferees: Kolkhorst - Chair/Burnam/Driver/Frost/Merritt

**HB 2752** (non-record vote)

House Conferees: Eiland - Chair/Hancock/Martinez Fischer/Smithee/Taylor

**HB 2833** (non-record vote)

House Conferees: Marquez - Chair/Chisum/Deshotel/Harless/Ritter

**HB 2917** (non-record vote)

House Conferees: McReynolds - Chair/Frost/Hopson/Kolkhorst/Truitt

**HB 2919** (non-record vote)

House Conferees: King, Susan - Chair/Corte/Isett/McClendon/Vaught

**HB 3065** (non-record vote)

House Conferees: Bohac - Chair/Crownover/Hopson/Jackson, Jim/Solomons

**HB 3076** (non-record vote)

House Conferees: Deshotel - Chair/Allen/Eissler/Hochberg/Patrick

**HB 3220** (non-record vote)

House Conferees: Hancock - Chair/Dutton/Eissler/Jackson, Jim/Lucio III

**HB 3287** (non-record vote)

House Conferees: McReynolds - Chair/Bonnen/Darby/Hardcastle/Homer

**HB 3309** (non-record vote)

House Conferees: Gattis - Chair/Hamilton/Kolkhorst/Lucio III/Ritter

**HB 3335** (non-record vote)

House Conferees: Callegari - Chair/Hilderbran/Miller, Doug/Ritter/Zerwas

**HB 3389** (non-record vote)

House Conferees: Harper-Brown - Chair/Driver/Fletcher/Frost/King, Phil

**HB 3452** (non-record vote)

House Conferees: Gattis - Chair/Aycock/Geren/Vaught/Veasey

**HB 3454** (non-record vote)

House Conferees: Otto - Chair/Farabee/Hardcastle/Heflin/Keffer

**HB 3461** (non-record vote)

House Conferees: Orr - Chair/Bonnen/Chisum/Gattis/Gonzalez Toureilles

**HB 3479** (non-record vote)

House Conferees: Gallego - Chair/Castro/Chisum/Christian/Herrero

**HB 3526** (non-record vote)

House Conferees: Callegari - Chair/Creighton/King, Tracy O./Lucio III/Ritter

**HB 3612** (non-record vote)

House Conferees: Otto - Chair/Darby/Gattis/Heflin/Quintanilla

**HB 3621** (non-record vote)

House Conferees: Solomons - Chair/Deshotel/Elkins/Farabee/Flynn

**HB 3632** (non-record vote)

House Conferees: Geren - Chair/Hamilton/Harless/Homer/Ritter

**HB 3646** (non-record vote)

House Conferees: Hochberg - Chair/Allen/Aycock/Eissler/Patrick

**HB 3653** (non-record vote)

House Conferees: Marquez - Chair/Guillen/King, Susan/Olivo/Strama

**HB 3676** (non-record vote)

House Conferees: Heflin - Chair/Hartnett/Oliveira/Ritter/Swinford

**HB 3689** (non-record vote)

House Conferees: McClendon - Chair/Kolkhorst/Madden/McReynolds/Turner, Sylvester

**HB 3737** (non-record vote)

House Conferees: Anchia - Chair/Elkins/Naishtat/Rose/Walle

**HB 3751** (non-record vote)

House Conferees: Gallego - Chair/Christian/Miklos/Moody/Riddle

**HB 3827** (non-record vote)

House Conferees: Hancock - Chair/Chisum/Farabee/Legler/Ritter

**HB 3864** (non-record vote)

House Conferees: Smithee - Chair/Heflin/Homer/McCall/Swinford

**HB 3872** (non-record vote)

House Conferees: Gattis - Chair/Corte/Kleinschmidt/Sheffield/Vaught

**HB 3876** (non-record vote)

House Conferees: Phillips - Chair/Hodge/Hughes/Lewis/Pena

**HB 3907** (non-record vote)

House Conferees: Madden - Chair/Marquez/McCall/McReynolds/Sheffield

**HB 4009** (non-record vote)

House Conferees: Weber - Chair/Anchia/Hughes/Hunter/Thompson

**HB 4244** (non-record vote)

House Conferees: Hochberg - Chair/Aycock/King, Susan/Morrison/Villarreal

**HB 4275** (non-record vote)House Conferees with Instructions: Menendez - Chair/  
Bohac/Kent/Leibowitz/Thompson**HB 4424** (non-record vote)

House Conferees: Hernandez - Chair/Creighton/Hughes/Lucio III/Martinez, "Mando"

**HB 4833** (non-record vote)

House Conferees: Hunter - Chair/Craddick/Hughes/Leibowitz/Martinez, "Mando"

**HJR 14** (non-record vote)

House Conferees: Corte - Chair/Bonnen/Hilderbran/Pena/Woolley

**HJR 127** (non-record vote)

House Conferees: King, Phil - Chair/Flynn/Guillen/Pena/Vaught

THE HOUSE HAS GRANTED THE REQUEST OF THE SENATE FOR THE APPOINTMENT OF A CONFERENCE COMMITTEE ON THE FOLLOWING MEASURES:

**SB 679** (non-record vote)

House Conferees: Davis, Yvonne - Chair/Fletcher/Menendez/Miklos/Pierson

**SB 726** (non-record vote)

House Conferees: Hughes - Chair/Bolton/Hopson/Orr/Pitts

**SB 1001** (non-record vote)

House Conferees: Isett - Chair/Hancock/Martinez Fischer/Smithee/Thompson

**SB 1011** (non-record vote)

House Conferees: Harper-Brown - Chair/Davis, Yvonne/  
Laubenberg/McClendon/Paxton

**SB 2314** (non-record vote)

House Conferees: Callegari - Chair/Creighton/King, Tracy O./Lucio III/Ritter

**SB 2513** (non-record vote)

House Conferees: Dunnam - Chair/Anderson/Farrar/Miller, Sid/Veasey

Respectfully,

/s/Robert Haney, Chief Clerk  
House of Representatives

**SENATE BILL 1645 WITH HOUSE AMENDMENT**

Senator Van de Putte called **SB 1645** from the President's table for consideration of the House amendment to the bill.

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

**Floor Amendment No. 1**

Amend **SB 1645** (House committee printing) by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. NORMAL DISTRIBUTION CHANNEL. Section 431.401(5), Health and Safety Code, is amended to read as follows:

(5) "Normal distribution channel" means a chain of custody for a prescription drug, either directly or by drop shipment, from the manufacturer of the prescription drug, the manufacturer to the manufacturer's co-licensed product partner, the manufacturer to the manufacturer's third-party logistics provider, or the manufacturer to the manufacturer's exclusive distributor, to:

(A) a pharmacy to:

(i) a patient; or

(ii) another designated person authorized by law to dispense or administer the drug to a patient;

(B) an authorized distributor of record to:

(i) a pharmacy to a patient; or

(ii) another designated person authorized by law to dispense or administer the drug to a patient;

(C) an authorized distributor of record to a wholesale distributor licensed under this chapter to another designated person authorized by law to dispense or administer the drug to a patient;

(D) an authorized distributor of record to a pharmacy warehouse to the pharmacy warehouse's intracompany pharmacy;

(E) [~~(E)~~] a pharmacy warehouse to the pharmacy warehouse's intracompany pharmacy or another designated person authorized by law to dispense or administer the drug to a patient;

(F) [~~(F)~~] a person authorized by law to prescribe a prescription drug that by law may be administered only under the supervision of the prescriber; or

(G) [~~(G)~~] an authorized distributor of record to one other authorized distributor of record to a licensed practitioner for office use.

SECTION \_\_\_\_\_. EXEMPTION FROM CERTAIN PROVISIONS FOR CERTAIN WHOLESALE DISTRIBUTORS. Section 431.4031, Health and Safety Code, is amended to read as follows:

Sec. 431.4031. EXEMPTION FROM CERTAIN PROVISIONS FOR CERTAIN WHOLESALE DISTRIBUTORS. (a) A wholesale distributor that distributes prescription drugs that are medical gases or a wholesale distributor that is a manufacturer or a third-party logistics provider on behalf of a manufacturer is exempt from Sections 431.404(a)(5) and (6), (b), and (c), 431.4045(2), 431.405, 431.407, and 431.408.

(b) A state agency or a political subdivision of this state that distributes prescription drugs using federal or state funding to nonprofit health care facilities or local mental health or mental retardation authorities for distribution to a pharmacy, practitioner, or patient is exempt from Sections 431.405(b), 431.407, 431.408, 431.412, and 431.413.

SECTION \_\_\_\_\_. RULES. As soon as practicable after the effective date of this Act, the executive commissioner of the Health and Human Services Commission shall adopt, modify, or repeal rules as necessary to implement the changes in law made by this Act to Chapter 431, Health and Safety Code.

The amendment was read.

Senator Van de Putte moved that the Senate do not concur in the House amendment, but that a conference committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed without objection.

The President asked if there were any motions to instruct the conference committee on **SB 1645** before appointment.

There were no motions offered.

The President announced the appointment of the following conferees on the part of the Senate: Senators Van de Putte, Chair; Duncan, Nelson, Nichols, and Zaffirini.

**SENATE BILL 1449 WITH HOUSE AMENDMENTS**

Senator West called **SB 1449** from the President's table for consideration of the House amendments to the bill.

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

**Amendment**

Amend **SB 1449** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED  
AN ACT

relating to the appointment of a receiver to remedy hazardous properties.

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

SECTION 1. Subchapter A, Chapter 214, Local Government Code, is amended by adding Section 214.0031 to read as follows:

Sec. 214.0031. ADDITIONAL AUTHORITY TO APPOINT RECEIVER FOR HAZARDOUS PROPERTIES. (a) In this section:

(1) "Eligible nonprofit housing organization" means a nonprofit housing organization that is certified by a home-rule municipality to bring an action under this section.

(2) "Multifamily residential property" means any residential dwelling complex consisting of four or more units.

(b) A home-rule municipality may annually certify one or more nonprofit housing organizations to bring an action under this section after making the following findings:

(1) the nonprofit housing organization has a record of community involvement; and

(2) the certification will further the home-rule municipality's goal to rehabilitate hazardous properties.

(c) A home-rule municipality or an eligible nonprofit housing organization may bring an action under this section in district court against an owner of property that is not in substantial compliance with one or more municipal ordinances regarding:

(1) the prevention of substantial risk of injury to any person; or

(2) the prevention of an adverse health impact to any person.

(d) A municipality that grants authority to an eligible nonprofit housing organization to initiate an action under this section has standing to intervene in the proceedings at any time as a matter of right.

(e) The court may appoint a receiver if the court finds that:

(1) the property is in violation of one or more ordinances of the municipality described by Subsection (c);

(2) the condition of the property constitutes a serious and imminent public health or safety hazard; and

(3) the property is not an owner-occupied, single-family residence.

(f) The following are eligible to serve as court-appointed receivers:

(1) an entity with, as determined by the court, sufficient capacity and experience rehabilitating properties; and

(2) an individual with, as determined by the court, sufficient resources and experience rehabilitating properties.

(g) Notwithstanding Subsection (f), an entity is ineligible to serve as a receiver for a multifamily residential property if the nonprofit housing organization that brought the action under this section has an ownership interest or a right to income in the entity.

(h) The home-rule municipality or eligible nonprofit housing organization must send by certified mail notice of any ordinance violation alleged to exist on the property on or before the 30th day before the date an action is filed under this section to:

(1) the physical address of the property; and

(2) the address as indicated on the most recently approved municipal tax roll for the property owner or the property owner's agent.

(i) In an action under this section, each record owner and each lienholder of record of the property shall be served with notice of the proceedings or, if not available after due diligence, may be served by alternative means, including publication, as prescribed by the Texas Rules of Civil Procedure. Actual service or service by publication on a record owner or lienholder constitutes notice to each unrecorded owner or lienholder.

(j) On a showing of imminent risk of injury to a person occupying the property or present in the community, the court may issue a mandatory or prohibitory temporary restraining order or temporary injunction as necessary to protect the public health or safety.

(k) Unless inconsistent with this section or other law, the rules of equity govern all matters relating to a court action under this section.

(l) Subject to control of the court, a court-appointed receiver has all powers necessary and customary to the powers of a receiver under the laws of equity and may:

(1) take possession and control of the property;

(2) operate and manage the property;

(3) establish and collect rents and income on the property;

(4) lease the property;

(5) make any repairs and improvements necessary to bring the property into compliance with local codes and ordinances and state laws, including:

(A) performing and entering into contracts for the performance of work and the furnishing of materials for repairs and improvements; and

(B) entering into loan and grant agreements for repairs and improvements to the property;

(6) pay expenses, including paying for utilities and paying taxes and assessments, insurance premiums, and reasonable compensation to a property management agent;

(7) enter into contracts for operating and maintaining the property;

(8) exercise all other authority of an owner of the property other than the authority to sell the property unless authorized by the court under Subsection (n); and

(9) perform other acts regarding the property as authorized by the court.

(m) A court-appointed receiver may demolish a single-family structure on the property under this section on authorization by the court and only if the court finds:

(1) it is not economically feasible to bring the structure into compliance with local codes and ordinances and state laws; and

(2) the structure is:

(A) unfit for human habitation or is a hazard to the public health or safety;

(B) regardless of its structural condition:

(i) unoccupied by its owners or lessees or other invitees; and

(ii) unsecured from unauthorized entry to the extent that it could be entered or used by vagrants or other uninvited persons as a place of harborage or could be entered or used by children; or

(C) boarded, fenced, or otherwise secured, but:

(i) the structure constitutes a danger to the public even though secured from entry; or

(ii) the means used to secure the structure are inadequate to prevent unauthorized entry or use of the structure in the manner described by Paragraph (B)(ii).

(n) On demolition of the structure, the court may authorize the receiver to sell the property to an individual or organization that will bring the property into productive use.

(o) On completing the repairs or demolishing the structure or before petitioning a court for termination of the receivership, the receiver shall file with the court a full accounting of all costs and expenses incurred in the repairs or demolition, including reasonable costs for labor and supervision, all income received from the property, and, at the receiver's discretion, a receivership fee of 10 percent of those costs and expenses. If the property was sold under Subsection (n) and the revenue exceeds the total of the costs and expenses incurred by the receiver plus any receivership fee, any net income shall be returned to the owner. If the property is not sold and the income produced exceeds the total of the costs and expenses incurred by the receiver plus any receivership fee, the rehabilitated property shall be restored to the owner and any net income shall be returned to the owner. If the total of the costs and expenses incurred by the receiver plus any receivership fee exceeds the income produced during the receivership, the receiver may maintain control of the property until all rehabilitation and maintenance costs plus any receivership fee are recovered or until the receivership is terminated.

(p) A receiver shall have a lien on the property for all of the receiver's unreimbursed costs and expenses, plus any receivership fee.

(q) Any lienholder of record may, after initiation of an action under this section:

(1) intervene in the action; and

(2) request appointment as a receiver under this section if the lienholder demonstrates to the court an ability and willingness to rehabilitate the property.

(r) A receiver appointed under this section or the home-rule municipality or eligible nonprofit housing organization that filed the action under which the receiver was appointed may petition the court to terminate the receivership and order the sale



of the property if an owner has been served with notice but has failed to repay all of the receiver's outstanding costs and expenses plus any receivership fee on or before the 180th day after the date the notice was served.

(s) The court may order the sale of the property if the court finds that:

(1) notice was given to each record owner of the property and each lienholder of record;

(2) the receiver has been in control of the property and the owner has failed to repay all the receiver's outstanding costs and expenses of rehabilitation plus any receivership fee within the period prescribed by Subsection (r); and

(3) no lienholder of record has intervened in the action and tendered the receiver's costs and expenses, plus any receivership fee, and assumed control of the property.

(t) The court may order the property sold:

(1) to a land bank or other party as the court may direct, excluding, for multifamily residential properties, an eligible nonprofit housing organization that initiated the action under this section; or

(2) at public auction.

(u) The receiver, if an entity not excluded under Subsection (t), may bid on the property at the sale described by Subsection (t)(2) and may use a lien granted under Subsection (p) as credit toward the purchase.

(v) The court shall confirm a sale under this section and order a distribution of the proceeds of the sale in the following order:

(1) court costs;

(2) costs and expenses, plus a receivership fee, and any lien held by the receiver; and

(3) other valid liens.

(w) Any remaining amount shall be paid to the owner. If the owner cannot be identified or located, the court shall order the remaining amount to be deposited in an interest-bearing account with the district clerk's office in the district court in which the action is pending. The district clerk shall hold the funds as provided by other law.

(x) After the proceeds are distributed, the court shall award fee title to the purchaser. If the proceeds of the sale are insufficient to pay all liens, claims, and encumbrances on the property, the court shall extinguish all unpaid liens, claims, and encumbrances on the property and award title to the purchaser free and clear.

(y) This section does not foreclose any right or remedy that may be available under Section 214.003, other state law, or the laws of equity.

SECTION 2. This Act takes effect September 1, 2009.

### **Floor Amendment No. 1**

Amend **CSSB 1449** by inserting new SECTION 2 to read as follows and renumber the subsequent sections accordingly:

SECTION 2. Subchapter A, Chapter 214, Local Government Code, is amended by adding Section 214.0032 to read as follows:

(a) Notwithstanding Section 361.8065, (a) (1) (B), Health and Safety Code, if a retail public utility does not inform the executive director that it has passed a resolution opposing an application within the later of 120 days from the date of receipt

of the notice filed subject to 361.805, Health and Safety Code, or 120 days from the effective date of this Act, the executive director shall deem the retail public utility to have passed a resolution in support of the application.

The amendments were read.

Senator West moved that the Senate do not concur in the House amendments, but that a conference committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed without objection.

The President asked if there were any motions to instruct the conference committee on **SB 1449** before appointment.

There were no motions offered.

The President announced the appointment of the following conferees on the part of the Senate: Senators West, Chair; Williams, Ellis, Eltife, and Wentworth.

#### **CONFERENCE COMMITTEE ON HOUSE BILL 4817**

Senator Ogden called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 4817** and moved that the request be granted.

The motion prevailed without objection.

The President asked if there were any motions to instruct the conference committee on **HB 4817** before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate: Senators Ogden, Chair; West, Williams, Nichols, and Watson.

#### **CONFERENCE COMMITTEE ON HOUSE BILL 1914**

Senator Nichols called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 1914** and moved that the request be granted.

The motion prevailed without objection.

The President asked if there were any motions to instruct the conference committee on **HB 1914** before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate: Senators Nichols, Chair; Whitmire, Shapleigh, Williams, and Patrick.

#### **SENATE BILL 313 WITH HOUSE AMENDMENT**

Senator Wentworth called **SB 313** from the President's table for consideration of the House amendment to the bill.

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

**Committee Amendment No. 1**

Amend **SB 313** by striking all below the enacting clause and substituting the following:

SECTION 1. Section 311.002(1), Tax Code, is amended to read as follows:

(1) "Project costs" means the expenditures made or estimated to be made and monetary obligations incurred or estimated to be incurred by the municipality or county designating ~~[establishing]~~ a reinvestment zone that are listed in the project plan as costs of public works, ~~[or]~~ public improvements, programs, or other projects benefiting ~~[in]~~ the zone, plus other costs incidental to those expenditures and obligations. "Project costs" include:

(A) capital costs, including the actual costs of the acquisition and construction of public works, public improvements, new buildings, structures, and fixtures; the actual costs of the acquisition, demolition, alteration, remodeling, repair, or reconstruction of existing buildings, structures, and fixtures; the actual costs of the remediation of conditions that contaminate public or private land or buildings; the actual costs of the preservation of the facade of a public or private building; the actual costs of the demolition of public or private buildings; and the actual costs of the acquisition of land and equipment and the clearing and grading of land;

(B) financing costs, including all interest paid to holders of evidences of indebtedness or other obligations issued to pay for project costs and any premium paid over the principal amount of the obligations because of the redemption of the obligations before maturity;

(C) real property assembly costs;

(D) professional service costs, including those incurred for architectural, planning, engineering, and legal advice and services;

(E) imputed administrative costs, including reasonable charges for the time spent by employees of the municipality or county in connection with the implementation of a project plan;

(F) relocation costs;

(G) organizational costs, including the costs of conducting environmental impact studies or other studies, the cost of publicizing the creation of the zone, and the cost of implementing the project plan for the zone;

(H) interest before and during construction and for one year after completion of construction, whether or not capitalized;

(I) the cost of operating the reinvestment zone and project facilities;

(J) the amount of any contributions made by the municipality or county from general revenue for the implementation of the project plan; ~~[and]~~

(K) the costs of a program described by Section 311.010(h);

(L) the costs of school buildings, other educational buildings, other educational facilities, or other buildings owned by or on behalf of a school district, community college district, or other political subdivision of this state;

(M) the costs of providing affordable housing or areas of public assembly in or outside of the zone; and

(N) payments made at the discretion of the governing body of the municipality or county that the governing body finds necessary or convenient to the creation of the zone or to the implementation of the project plans for the zone.

SECTION 2. Sections 311.003(a) and (b), Tax Code, are amended to read as follows:

(a) The governing body of a county by order may designate a geographic area in the county or the governing body of a municipality by ordinance [or the governing body of a county by order] may designate a [contiguous] geographic area that is in the corporate limits of the municipality, in the extraterritorial jurisdiction of the municipality, or in both [in the jurisdiction of the municipality or county] to be a reinvestment zone to promote development or redevelopment of the area if the governing body determines that development or redevelopment would not occur solely through private investment in the reasonably foreseeable future. The area need not be contiguous if the governing body determines that the tracts included in the area are substantially related. The designation of an area that is wholly or partly located in the extraterritorial jurisdiction of a municipality is not affected by a subsequent annexation of real property in the reinvestment zone by the municipality. The tax increment base of a municipality that annexes an area in a zone after the area is included in the zone is computed as if the area were located in the corporate limits of the municipality at the time the area was included in the zone.

(b) Before adopting an ordinance or order designating [providing for] a reinvestment zone, the governing body of the municipality or county must prepare a preliminary reinvestment zone financing plan. [As soon as the plan is completed, a copy of the plan must be sent to the governing body of each taxing unit that levies taxes on real property in the proposed zone.]

SECTION 3. Chapter 311, Tax Code, is amended by adding Section 311.0035 to read as follows:

Sec. 311.0035. PROCEDURE FOR DESIGNATING JOINT REINVESTMENT ZONE. (a) The governing bodies of two or more municipalities by ordinance adopted by each municipality may designate a contiguous area in the jurisdiction of each of the municipalities to be a joint reinvestment zone. Except as otherwise provided by this section, each of the municipalities must follow the procedures provided by Section 311.003 to designate an area as a joint reinvestment zone. The ordinances adopted by all of the municipalities designating an area as a joint reinvestment zone must contain the same terms and must:

(1) describe the boundaries of the zone with sufficient definiteness to identify with ordinary and reasonable certainty the territory included in the zone;

(2) create a board of directors for the zone and specify:

(A) the number of directors;

(B) the qualifications of directors;

(C) the manner in which directors are appointed;

(D) the terms of directors;

(E) the manner in which vacancies on the board are filled; and

(F) the manner by which officers of the board are selected;

(3) provide that the zone takes effect immediately on adoption of the ordinance by the last of the municipalities in the jurisdiction of which the area contained in the zone is located;

(4) provide a termination date for the zone;

(5) assign a name to the zone, which may include the name of one or more of the designating municipalities and may contain a number;

(6) establish a tax increment fund for the zone; and

(7) contain findings that:

(A) improvements in the zone will significantly enhance the value of all taxable real property in the zone and will be of general benefit to the municipalities; and

(B) the area meets the requirements of Sections 311.005(a)(1) and (2) and (a-1).

(b) For purposes of complying with Subsection (a)(7)(A), the ordinances are not required to identify the specific parcels of real property to be enhanced in value.

(c) The boundaries of a joint reinvestment zone may be enlarged or reduced by ordinance of the governing bodies of the municipalities that designated the zone, subject to the restrictions contained in this section.

(d) The municipalities designating a joint reinvestment zone may exercise any power necessary and convenient to carry out this section and the other provisions of this chapter, including the powers listed in Section 311.008.

(e) Except as otherwise provided by this section, the board of directors of a joint reinvestment zone has the same powers and duties and is subject to the same limitations as the board of directors of a reinvestment zone designated by a single municipality. Sections 311.011, 311.012, 311.0123, 311.013, 311.014, 311.015, 311.016, 311.0163, and 311.018 apply to the municipalities designating a joint reinvestment zone, except that a reference in those sections to a municipality means all of the municipalities designating a joint reinvestment zone and an action required of a municipality under those sections is considered to be required of all of the municipalities designating a joint reinvestment zone.

(f) Expenditures from tax increment financing funds or bonds secured by tax increment financing may be made without regard to the location from which the funds were derived or the location within the joint reinvestment zone at which the funds are spent, but only if those expenditures are authorized as required by this chapter.

SECTION 4. Section 311.005(a), Tax Code, is amended to read as follows:

(a) To be designated as a reinvestment zone, an area must:

(1) substantially arrest or impair the sound growth of the municipality or county designating ~~erecting~~ the zone, retard the provision of housing accommodations, or constitute an economic or social liability and be a menace to the public health, safety, morals, or welfare in its present condition and use because of the presence of:

(A) a substantial number of substandard, slum, deteriorated, or deteriorating structures;

(B) the predominance of defective or inadequate sidewalk or street layout;

(C) faulty lot layout in relation to size, adequacy, accessibility, or usefulness;

(D) unsanitary or unsafe conditions;

(E) the deterioration of site or other improvements;

(F) tax or special assessment delinquency exceeding the fair value of the land;

(G) defective or unusual conditions of title;

(H) conditions that endanger life or property by fire or other cause; or

(I) structures, other than single-family residential structures, less than 10 percent of the square footage of which has been used for commercial, industrial, or residential purposes during the preceding 12 years, if the municipality has a population of 100,000 or more;

(2) be predominantly open, undeveloped, or underdeveloped and, because of obsolete platting, deterioration of structures or site improvements, or other factors, substantially impair or arrest the sound growth of the municipality or county;

(3) be in a federally assisted new community located in the municipality or county or in an area immediately adjacent to a federally assisted new community; or

(4) be an area described in a petition requesting that the area be designated as a reinvestment zone, if the petition is submitted to the governing body of the municipality or county by the owners of property constituting at least 50 percent of the appraised value of the property in the area according to the most recent certified appraisal roll for the county in which the area is located.

SECTION 5. Section 311.007, Tax Code, is amended to read as follows:

Sec. 311.007. CHANGING BOUNDARIES OR TERM OF EXISTING ZONE.

(a) ~~The [Subject to the limitations provided by Section 311.006, if applicable, the] boundaries of an existing reinvestment zone may be reduced or enlarged by ordinance or resolution of the governing body of the municipality or by order or resolution of the governing body of the county that designated [created] the zone.~~

(b) ~~The governing body of the municipality or county that designated a reinvestment zone by ordinance or resolution or by order or resolution, respectively, may extend the term of all or a portion of the zone after notice and hearing in the manner provided for the designation of the zone. A taxing unit other than the municipality or county that designated the zone is not required to participate in the zone or portion of the zone for the extended term unless the taxing unit enters into a written agreement to do so [may enlarge an existing reinvestment zone to include an area described in a petition requesting that the area be included in the zone if the petition is submitted to the governing body of the municipality or county by the owners of property constituting at least 50 percent of the appraised value of the property in the area according to the most recent certified appraisal roll for the county in which the area is located. The composition of the board of directors of the zone continues to be governed by Section 311.009(a) or (b), whichever applied to the zone immediately before the enlargement of the zone, except that the membership of the board must conform to the requirements of the applicable subsection of Section 311.009 as applied to the zone after its enlargement. The provision of Section~~

~~311.006(b) relating to the amount of property used for residential purposes that may be included in the zone does not apply to the enlargement of a zone under this subsection].~~

SECTION 6. Section 311.008, Tax Code, is amended by amending Subsection (b) and adding Subsections (f) and (g) to read as follows:

(b) A municipality or county may exercise any power necessary and convenient to carry out this chapter, including the power to:

(1) cause project plans to be prepared, approve and implement the plans, and otherwise achieve the purposes of the plan;

(2) acquire real property by purchase, condemnation, or other means ~~to implement project plans~~ and sell real ~~that~~ property, on the terms and conditions and in the manner it considers advisable, to implement project plans;

(3) enter into agreements, including agreements with bondholders, determined by the governing body of the municipality or county to be necessary or convenient to implement project plans and achieve their purposes, which agreements may include conditions, restrictions, or covenants that run with the land or that by other means regulate or restrict the use of land; and

(4) consistent with the project plan for the zone:

(A) acquire blighted, deteriorated, deteriorating, undeveloped, or inappropriately developed real property or other property in a blighted area or in a federally assisted new community in the zone for the preservation or restoration of historic sites, beautification or conservation, the provision of public works or public facilities, or other public purposes;

(B) acquire, construct, reconstruct, or install public works, facilities, or sites or other public improvements, including utilities, streets, street lights, water and sewer facilities, pedestrian malls and walkways, parks, flood and drainage facilities, or parking facilities, but not including educational facilities; or

(C) in a reinvestment zone created on or before September 1, 1999, acquire, construct, or reconstruct educational facilities in the municipality.

(f) The governing body of a municipality or county may impose a fee:

(1) on property owners who submit a petition under Section 311.005(a)(4) for processing the petition; or

(2) for reviewing a project designated or proposed to be designated under this chapter.

(g) A fee under Subsection (f) must be reasonably related to the estimated cost to the municipality or county of processing the petition or reviewing the project, respectively.

SECTION 7. Section 311.0085(a), Tax Code, is amended to read as follows:

(a) This section applies only to a municipality with a population of less than 130,000 as shown by the 2000 federal decennial census that has

~~(1) territory in three counties; and~~

~~(2) a population of less than 120,000].~~

SECTION 8. Sections 311.009(a), (b), and (e), Tax Code, are amended to read as follows:

(a) Except as provided by Subsection (b), the board of directors of a reinvestment zone consists of at least five and not more than 15 members, unless more than 15 members are required to satisfy the requirements of this subsection. Each taxing unit other than the municipality or county that designated ~~[created]~~ the zone that levies taxes on real property in the zone may appoint one member of the board if the taxing unit has approved the payment of all or part of the tax increment produced by the unit into the tax increment fund for the zone. A unit may waive its right to appoint a director. The governing body of the municipality or county that designated ~~[created]~~ the zone may appoint not more than 10 directors to the board; except that if there are fewer than five directors appointed by taxing units other than the municipality or county, the governing body of the municipality or county may appoint more than 10 members as long as the total membership of the board does not exceed 15.

(b) If the zone was designated under Section 311.005(a)(4), the governing body of the municipality or county that designated the zone may provide that the board of directors of the zone consists of nine members appointed as provided by this subsection, unless more than nine members are required to comply with this subsection. Each taxing unit ~~[school district, county, or municipality]~~, other than the municipality or county that designated ~~[created]~~ the zone, that levies taxes on real property in the zone may appoint one member of the board if the taxing unit ~~[school district, county, or municipality]~~ has approved the payment of all or part of the tax increment produced by the unit into the tax increment fund for the zone. The member of the state senate in whose district the zone is located is a member of the board, and the member of the state house of representatives in whose district the zone is located is a member of the board, except that either may designate another individual to serve in the member's place at the pleasure of the member. If the zone is located in more than one senate or house district, this subsection applies only to the senator or representative in whose district a larger portion of the zone is located than any other senate or house district, as applicable. If fewer than seven taxing units, other than the municipality or county that designated the zone, are eligible to appoint members of the board of directors of the zone, the municipality or county may appoint a number of members of the board such that the board comprises nine members. If at least seven taxing units, other than the municipality or county that designated the zone, are eligible to appoint members of the board of directors of the zone, the municipality or county may appoint one member. ~~[The remaining members of the board are appointed by the governing body of the municipality or county that created the zone.]~~

(e) To be eligible for appointment to the board by the governing body of the municipality or county that designated ~~[created]~~ the zone, an individual must:

(1) if the board is covered by Subsection (a):

(A) be a resident of this state and a citizen of the United States ~~[qualified voter of the municipality or county, as applicable]; and [or]~~

(B) be at least 18 years of age ~~[and own real property in the zone, whether or not the individual resides in the municipality or county]; or~~

(2) if the board is covered by Subsection (b):

(A) be at least 18 years of age; and



(B) own real property in the zone or be an employee, tenant, or agent of a person that owns real property in the zone.

SECTION 9. Section 311.0091, Tax Code, is amended by amending Subsection (f) and adding Subsection (i) to read as follows:

(f) Except as provided by Subsection (i), to [To] be eligible for appointment to the board, an individual must:

(1) be a qualified voter of the municipality; or

(2) be at least 18 years of age and own real property in the zone or be an employee or agent of a person that owns real property in the zone.

(i) The eligibility criteria for appointment to the board specified by Subsection (f) do not apply to an individual appointed by a conservation and reclamation district:

(1) created under Section 59, Article XVI, Texas Constitution; and

(2) the jurisdiction of which covers four counties.

SECTION 10. Sections 311.010(b), (g), and (h), Tax Code, are amended to read as follows:

(b) The board of directors of a reinvestment zone and the governing body of the municipality or county that designates ~~creates~~ a reinvestment zone may each enter into agreements as the board or the governing body considers necessary or convenient to implement the project plan and reinvestment zone financing plan and achieve their purposes. An agreement may provide for the regulation or restriction of the use of land by imposing conditions, restrictions, or covenants that run with the land. An agreement may during the term of the agreement dedicate, pledge, or otherwise provide for the use of revenue in the tax increment fund to pay any project costs that benefit the reinvestment zone, including project costs relating to the cost of buildings, schools, or other educational facilities owned by or on behalf of a school district, community college district, or other political subdivision of this state, railroad or transit facilities, affordable housing, the remediation of conditions that contaminate public or private land or buildings, the preservation of the facade of a private or public building, ~~or~~ the demolition of public or private buildings, or the construction of a road, sidewalk, or other public infrastructure in or out of the zone, including the cost of acquiring the real property necessary for the construction of the road, sidewalk, or other public infrastructure. An agreement may dedicate revenue from the tax increment fund to pay the costs of providing affordable housing or areas of public assembly in or out of the zone. ~~[An agreement may dedicate revenue from the tax increment fund to pay a neighborhood enterprise association for providing services or carrying out projects authorized under Subchapters E and G, Chapter 2303, Government Code, in the zone. The term of an agreement with a neighborhood enterprise association may not exceed 10 years.]~~

(g) Chapter 252, Local Government Code, does not apply to a dedication, pledge, or other use of revenue in the tax increment fund for a reinvestment zone ~~[by the board of directors of the zone in carrying out its powers]~~ under Subsection (b).

(h) Subject to the approval of the governing body of the municipality or county that designated ~~created~~ the zone, the board of directors of a reinvestment zone, as necessary or convenient to implement the project plan and reinvestment zone financing plan and achieve their purposes, may establish and provide for the administration of one or more programs for the public purposes of developing and

diversifying the economy of the zone, eliminating unemployment and underemployment in the zone, and developing or expanding transportation, business, and commercial activity in the zone, including programs to make grants and loans ~~[from the tax increment fund of the zone in an aggregate amount not to exceed the amount of the tax increment produced by the municipality and paid into the tax increment fund for the zone]~~ for activities that benefit the zone and stimulate business and commercial activity in the zone. For purposes of this subsection, on approval of the municipality or county, the board of directors of the zone has all the powers of a municipality under Chapter 380, Local Government Code. The approval required by this subsection may be granted in an ordinance, in the case of a zone designated by a municipality, or in an order, in the case of a zone designated by a county, approving a project plan or reinvestment zone financing plan or approving an amendment to a project plan or reinvestment zone financing plan.

SECTION 11. Section 311.01005, Tax Code, is amended by adding Subsection (f) to read as follows:

(f) This section does not limit the power of the board of directors of a reinvestment zone or the governing body of the municipality that designates a reinvestment zone to dedicate, pledge, or otherwise provide for the use of revenue in the tax increment fund for the zone to finance the costs of a project involving real property located outside the zone.

SECTION 12. Section 311.011, Tax Code, is amended by amending Subsections (a), (b), (c), (d), and (g) and adding Subsection (h) to read as follows:

(a) The board of directors of a reinvestment zone shall prepare and adopt a project plan and a reinvestment zone financing plan for the zone and submit the plans to the governing body of the municipality or county that designated ~~[created]~~ the zone. ~~[The plans must be as consistent as possible with the preliminary plans developed for the zone before the creation of the board.]~~

(b) The project plan must include:

(1) a description of ~~[map showing]~~ existing uses and conditions of real property in the zone and ~~[a map showing]~~ proposed ~~[improvements to and proposed]~~ uses of that property;

(2) proposed changes of zoning ordinances, ~~[the master plan of the municipality,]~~ building codes, other municipal ordinances, and subdivision rules and regulations, if any, of the county, if applicable; and

(3) ~~[a list of estimated nonproject costs; and~~

~~[4)]~~ a statement of a method of relocating persons to be displaced, if any, as a result of implementing the plan.

(c) The reinvestment zone financing plan must include:

(1) a detailed list describing the estimated project costs of the zone, including administrative expenses;

(2) a statement listing the proposed kind, number, and location of all ~~[proposed]~~ public works or public improvements to be financed by [it] the zone;

(3) a finding that the plan is economically feasible ~~[an economic feasibility study];~~

(4) the estimated amount of bonded indebtedness to be incurred;

(5) the estimated time when related costs or monetary obligations are to be incurred;

(6) a description of the methods of financing all estimated project costs and the expected sources of revenue to finance or pay project costs, including the percentage of tax increment to be derived from the property taxes of each taxing unit anticipated to contribute tax increment to the zone that levies taxes on real property in the zone;

(7) the current total appraised value of taxable real property in the zone;

(8) the estimated captured appraised value of the zone during each year of its existence; and

(9) the duration of the zone.

(d) The governing body of the municipality or county that designated [~~created~~] the zone must approve a project plan or reinvestment zone financing plan after its adoption by the board. The approval must be by ordinance, in the case of a municipality, or by order, in the case of a county, that finds that the plan is feasible [~~and conforms to the master plan, if any, of the municipality or to subdivision rules and regulations, if any, of the county~~].

(g) A [~~An amendment to the project plan or the reinvestment zone financing plan for a zone does not apply to a~~] school district that participates in a [~~the~~] zone is not required to increase the percentage or amount of the tax increment to be contributed by the school district because of an amendment to the project plan or reinvestment zone financing plan for the zone unless the governing body of the school district by official action approves the amendment[, ~~if the amendment:~~

~~[(1) has the effect of directly or indirectly increasing the percentage or amount of the tax increment to be contributed by the school district; or~~

~~[(2) requires or authorizes the municipality or county creating the zone to issue additional tax increment bonds or notes].~~

(h) Unless specifically provided otherwise in the plan, all amounts contained in the project plan or reinvestment zone financing plan, including amounts of expenditures relating to project costs and amounts relating to participation by taxing units, are considered estimates and do not act as a limitation on the described items.

SECTION 13. Sections 311.012(a) and (c), Tax Code, are amended to read as follows:

(a) The amount of a taxing unit's tax increment for a year is the amount of property taxes levied and assessed by the unit for that year on the captured appraised value of real property taxable by the unit and located in a reinvestment zone or the amount of property taxes levied and collected by the unit for that year on the captured appraised value of real property taxable by the unit and located in a reinvestment zone. The governing body of a taxing unit shall determine which of the methods specified by this subsection is used to calculate the amount of the unit's tax increment.

(c) The tax increment base of a taxing unit is the total taxable [~~appraised~~] value of all real property taxable by the unit and located in a reinvestment zone for the year in which the zone was designated under this chapter. If the boundaries of a zone are enlarged, the tax increment base is increased by the taxable value of the real property added to the zone for the year in which the property was added. If the boundaries of a zone are reduced, the tax increment base is reduced by the taxable value of the real

property removed from the zone for the year in which the property was originally included in the zone's boundaries. If the municipality that designates a zone does not levy an ad valorem tax in the year in which the zone is designated, the tax increment base is determined by the appraisal district in which the zone is located using assumptions regarding exemptions and other relevant information provided to the appraisal district by the municipality.

SECTION 14. Sections 311.013(f), (g), (l), and (n), Tax Code, are amended to read as follows:

(f) A taxing unit is not required to pay into the tax increment fund any of its tax increment produced from property located in a reinvestment zone designated under Section 311.005(a) or in an area added to a reinvestment zone under Section 311.007 unless the taxing unit enters into an agreement to do so with the governing body of the municipality or county that designated ~~created~~ the zone. A taxing unit may enter into an agreement under this subsection at any time before or after the zone is designated ~~created~~ or enlarged. The agreement may include conditions for payment of that tax increment into the fund and must specify the portion of the tax increment to be paid into the fund and the years for which that tax increment is to be paid into the fund. In addition to any other terms to which the parties may agree, the agreement may specify the projects to which a participating taxing unit's tax increment will be dedicated and that the taxing unit's participation may be computed with respect to a base year later than the original base year of the zone. The agreement and the conditions in the agreement are binding on the taxing unit, the municipality or county, and the board of directors of the zone.

(g) Subject to the provisions of Section 311.0125, in lieu of permitting a portion of its tax increment to be paid into the tax increment fund, and notwithstanding the provisions of Section 312.203, a taxing unit, including ~~other than~~ a municipality ~~city~~, may elect to offer the owners of taxable real property in a reinvestment zone designated ~~created~~ under this chapter an exemption from taxation of all or part of the value of the property. To be effective, an [Any] agreement under this subsection to exempt real property ~~[concerning an exemption]~~ from ad valorem taxes must be approved by:

(1) the board of directors of the reinvestment zone; and

(2) the governing body of each taxing unit that imposes taxes on real property in the reinvestment zone and deposits or agrees to deposit any of its tax increment into the tax increment fund for the zone ~~[shall be executed in the manner and subject to the limitations of Chapter 312; provided, however, the property covered by the agreement need not be in a zone created pursuant to Chapter 312. A taxing unit may not offer a tax abatement agreement to property owners in the zone after it has entered into an agreement that its tax increments would be paid into the tax increment fund pursuant to Subsection (f)].~~

(l) The governing body of a municipality or county that designates an area as a reinvestment zone may determine, in the designating ordinance or order adopted under Section 311.003 or in the ordinance or order adopted under Section 311.011 approving the reinvestment zone financing plan for the zone, the portion of the tax increment produced by the municipality or county that the municipality or county is required to pay into the tax increment fund for the zone. If a municipality or county

does not determine the portion of the tax increment produced by the municipality or county that the municipality or county is required to pay into the tax increment fund for a reinvestment zone, the municipality or county is required to pay into the fund for the zone the entire tax increment produced by the municipality or county, except as provided by Subsection (b)(1).

(n) This subsection applies only to a school district whose taxable value computed under Section 403.302(d), Government Code, is reduced in accordance with Subdivision (4) [~~(5)~~] of that subsection. In addition to the amount otherwise required to be paid into the tax increment fund, the district shall pay into the fund an amount equal to the amount by which the amount of taxes the district would have been required to pay into the fund in the current year if the district levied taxes at the rate the district levied in 2005 exceeds the amount the district is otherwise required to pay into the fund in the year of the reduction [~~, not to exceed the amount the school district realizes from the reduction in the school district's taxable value under Section 403.302(d)(5), Government Code~~].

SECTION 15. Section 311.014(b), Tax Code, is amended to read as follows:

(b) Tax increment and other funds deposited in the tax increment fund of the zone shall be administered by the governing body of the municipality or county that designated the zone or, if delegated by the governing body, by the board of directors of the zone, to implement the project plan and reinvestment zone financing plan for the zone during the term of the zone, as it may be extended, and for any period in which the zone remains in existence for collection and disbursement pursuant to Section 311.017(d). Money may be disbursed from the fund only to satisfy claims of holders of tax increment bonds or notes issued for the zone, to pay project costs for the zone, to make payments pursuant to an agreement made under Section 311.010(b) or a program under Section 311.010(h) dedicating revenue from the tax increment fund, or to repay other obligations incurred for the zone.

SECTION 16. Sections 311.015(a) and (l), Tax Code, are amended to read as follows:

(a) A municipality or county designating [creating] a reinvestment zone may issue tax increment bonds or notes, the proceeds of which may be used to make payments pursuant to agreements made under Section 311.010(b), to make payments pursuant to programs under Section 311.010(h), to pay project costs for the reinvestment zone on behalf of which the bonds or notes were issued, or to satisfy claims of holders of the bonds or notes. The municipality or county may issue refunding bonds or notes for the payment or retirement of tax increment bonds or notes previously issued by it. In lieu of issuing bonds or notes under this subsection, a municipality may issue certificates of obligation under Subchapter C, Chapter 271, Local Government Code, to pay the project costs for a zone and may use tax increment from the zone to pay debt service on the certificates.

(l) A tax increment bond or note must mature on or before the date by which the final payments of tax increment into the tax increment fund are due [within 20 years of the date of issue].

SECTION 17. Section 311.016(a), Tax Code, is amended to read as follows:

(a) On or before the 150th ~~[90th]~~ day following the end of the fiscal year of the municipality or county, the governing body of a municipality or county shall submit to the chief executive officer of each taxing unit that levies property taxes on real property in a reinvestment zone created by the municipality or county a report on the status of the zone. The report must include:

- (1) the amount and source of revenue in the tax increment fund established for the zone;
- (2) the amount and purpose of expenditures from the fund;
- (3) the amount of principal and interest due on outstanding bonded indebtedness;
- (4) the tax increment base and current captured appraised value retained by the zone; and
- (5) the captured appraised value shared by the municipality or county and other taxing units, the total amount of tax increments received, and any additional information necessary to demonstrate compliance with the tax increment financing plan adopted by the governing body of the municipality or county.

SECTION 18. Section 311.016(b), Tax Code, as amended by Chapters 977 (H.B. 1820) and 1094 (H.B. 2120), Acts of the 79th Legislature, Regular Session, 2005, is reenacted to read as follows:

(b) The municipality or county shall send a copy of a report made under this section to:

- (1) the attorney general; and
- (2) the comptroller.

SECTION 19. Section 311.017, Tax Code, is amended by amending Subsection (a) and adding Subsections (a-1), (c), (d), and (e) to read as follows:

(a) A reinvestment zone terminates on the earlier of:

(1) the termination date designated in the ordinance or order, as applicable, designating ~~[creating]~~ the zone or an earlier or later termination date designated by an ordinance or order adopted under Section 311.007(b) ~~[subsequent to the ordinance or order creating the zone]~~; or

(2) the date on which all project costs, tax increment bonds and interest on those bonds, and other obligations have been paid in full.

(a-1) Notwithstanding the designation of a later termination date under Section 311.007(b), a taxing unit that taxes real property located in the zone, other than the municipality or county that created the zone, is not required to pay any of its tax increment into the tax increment fund for the zone for any tax year after the termination date designated in the ordinance or order designating the zone unless the governing body of the taxing unit enters into an agreement to do so with the governing body of the municipality or county that designated the zone.

(c) A zone designated under other law as described by Section 311.0031 terminates for purposes of this chapter on the date specified in the ordinance or order designating the zone as a reinvestment zone under this chapter, regardless of whether the zone has terminated under the other law under which the zone was originally designated.

(d) Subject to Subsection (a-1), if tax increment bonds or other obligations issued or incurred for the zone are outstanding when the zone terminates, the zone remains in existence solely for the purpose of collecting and disbursing tax increment with respect to tax years during the designated term of the zone, as it may have been extended. Those funds shall be used to pay the tax increment bonds or other obligations issued or incurred for the zone. Notwithstanding the other provisions of this subsection or the extension of the term of a zone under Section 311.007, the termination date of a zone for purposes of any contract entered into by the board, or by the municipality or county that designated the zone, remains the termination date designated by ordinance or order in effect on the date the contract was executed unless a subsequent amendment to the contract expressly provides otherwise.

(e) After termination of the zone, the governing body of the municipality or county that designated the zone may continue the zone for an additional period for the purpose of continuing the implementation of the reinvestment zone project plan and financing plan. In that event, although tax increment shall cease to be deposited with respect to tax years following termination of the zone, the zone shall retain all remaining funds, property, and assets of the zone to be used to implement the plans as authorized by the governing body.

SECTION 20. Chapter 311, Tax Code, is amended by adding Section 311.021 to read as follows:

Sec. 311.021. ACT OR PROCEEDING PRESUMED VALID. (a) A governmental act or proceeding of a municipality or county, the board of directors of a reinvestment zone, or an entity acting under Section 311.010(f) relating to the designation, operation, or administration of a reinvestment zone or the implementation of a project plan or reinvestment zone financing plan under this chapter is conclusively presumed, as of the date it occurred, valid and to have occurred in accordance with all applicable statutes and rules if:

(1) the second anniversary of the effective date of the act or proceeding has expired; and

(2) a lawsuit to annul or invalidate the act or proceeding has not been filed on or before the later of that second anniversary or August 1, 2009.

(b) This section does not apply to:

(1) an act or proceeding that was void at the time it occurred;

(2) an act or proceeding that, under a statute of this state or the United States, was a misdemeanor or felony at the time the act or proceeding occurred;

(3) a rule that, at the time it was passed, was preempted by a statute of this state or the United States, including Section 1.06 or 109.57, Alcoholic Beverage Code; or

(4) a matter that on the effective date of the Act enacting this section:

(A) is involved in litigation if the litigation ultimately results in the matter being held invalid by a final judgment of a court; or

(B) has been held invalid by a final judgment of a court.

SECTION 21. Section 42.2516(b), Education Code, is amended to read as follows:

(b) Subject to Subsections (b-1), (b-2), (f-1), (g), and (h), but notwithstanding any other provision of this title, a school district is entitled to state revenue necessary to provide the district with the sum of:

(1) the amount of state revenue necessary to maintain state and local revenue per student in weighted average daily attendance in the amount equal to the greater of:

(A) the amount of state and local revenue per student in weighted average daily attendance for the maintenance and operations of the district available to the district for the 2005-2006 school year;

(B) the amount of state and local revenue per student in weighted average daily attendance for the maintenance and operations of the district to which the district would have been entitled for the 2006-2007 school year under this chapter, as it existed on January 1, 2006, or, if the district would have been subject to Chapter 41, as that chapter existed on January 1, 2006, the amount to which the district would have been entitled under that chapter, based on the funding elements in effect for the 2005-2006 school year, if the district imposed a maintenance and operations tax at the rate adopted by the district for the 2005 tax year; or

(C) the amount of state and local revenue per student in weighted average daily attendance for the maintenance and operations of the district to which the district would have been entitled for the 2006-2007 school year under this chapter, as it existed on January 1, 2006, or, if the district would have been subject to Chapter 41, as that chapter existed on January 1, 2006, the amount to which the district would have been entitled under that chapter, based on the funding elements in effect for the 2005-2006 school year, if the district imposed a maintenance and operations tax at the rate equal to the rate described by Section 26.08(i) or (k)(1), Tax Code, as applicable, for the 2006 tax year;

(2) an amount equal to the product of \$2,500 multiplied by the number of classroom teachers, full-time librarians, full-time counselors certified under Subchapter B, Chapter 21, and full-time school nurses employed by the district and entitled to a minimum salary under Section 21.402; ~~and~~

(3) an amount equal to the product of \$275 multiplied by the number of students in average daily attendance in grades nine through 12 in the district; and

(4) an amount equal to the amount the district is required to pay into the tax increment fund for a reinvestment zone under Section 311.013(n), Tax Code, in the current tax year.

SECTION 22. Section 42.253, Education Code, is amended by adding Subsection (c-1) to read as follows:

(c-1) The amounts to be paid under Section 42.2516(b)(4) shall be paid at the same time as other state revenue is paid to the district. Payments shall be based on amounts paid under Section 42.2516(b)(4) for the preceding year. Any deficiency shall be paid to the district at the same time the final amount to be paid to the district is determined, and any overpayment shall be deducted from the payments the district would otherwise receive in the following year.

SECTION 23. Sections 403.302(d) and (i), Government Code, are amended to read as follows:



(d) For the purposes of this section, "taxable value" means the market value of all taxable property less:

(1) the total dollar amount of any residence homestead exemptions lawfully granted under Section 11.13(b) or (c), Tax Code, in the year that is the subject of the study for each school district;

(2) one-half of the total dollar amount of any residence homestead exemptions granted under Section 11.13(n), Tax Code, in the year that is the subject of the study for each school district;

(3) the total dollar amount of any exemptions granted before May 31, 1993, within a reinvestment zone under agreements authorized by Chapter 312, Tax Code;

(4) subject to Subsection (e), the total dollar amount of any captured appraised value of property that:

(A) is within a reinvestment zone created on or before May 31, 1999, or is proposed to be included within the boundaries of a reinvestment zone as the boundaries of the zone and the proposed portion of tax increment paid into the tax increment fund by a school district are described in a written notification provided by the municipality or the board of directors of the zone to the governing bodies of the other taxing units in the manner provided by Section 311.003(e), Tax Code, before May 31, 1999, and within the boundaries of the zone as those boundaries existed on September 1, 1999, including subsequent improvements to the property regardless of when made;

(B) generates taxes paid into a tax increment fund created under Chapter 311, Tax Code, under a reinvestment zone financing plan approved under Section 311.011(d), Tax Code, on or before September 1, 1999; and

(C) is eligible for tax increment financing under Chapter 311, Tax Code;

~~(5) [for a school district for which a deduction from taxable value is made under Subdivision (4), an amount equal to the taxable value required to generate revenue when taxed at the school district's current tax rate in an amount that, when added to the taxes of the district paid into a tax increment fund as described by Subdivision (4)(B), is equal to the total amount of taxes the district would have paid into the tax increment fund if the district levied taxes at the rate the district levied in 2005;~~

~~(6)~~ the total dollar amount of any captured appraised value of property that:

(A) is within a reinvestment zone:

(i) created on or before December 31, 2008, by a municipality with a population of less than 18,000; and

(ii) the project plan for which includes the alteration, remodeling, repair, or reconstruction of a structure that is included on the National Register of Historic Places and requires that a portion of the tax increment of the zone be used for the improvement or construction of related facilities or for affordable housing;

(B) generates school district taxes that are paid into a tax increment fund created under Chapter 311, Tax Code; and

(C) is eligible for tax increment financing under Chapter 311, Tax Code;

(6) ~~(7)~~ the total dollar amount of any exemptions granted under Section 11.251 or ~~11.253~~, Tax Code;

(7) ~~(8)~~ the difference between the comptroller's estimate of the market value and the productivity value of land that qualifies for appraisal on the basis of its productive capacity, except that the productivity value estimated by the comptroller may not exceed the fair market value of the land;

(8) ~~(9)~~ the portion of the appraised value of residence homesteads of individuals who receive a tax limitation under Section 11.26, Tax Code, on which school district taxes are not imposed in the year that is the subject of the study, calculated as if the residence homesteads were appraised at the full value required by law;

(9) ~~(10)~~ a portion of the market value of property not otherwise fully taxable by the district at market value because of:

(A) action required by statute or the constitution of this state that, if the tax rate adopted by the district is applied to it, produces an amount equal to the difference between the tax that the district would have imposed on the property if the property were fully taxable at market value and the tax that the district is actually authorized to impose on the property, if this subsection does not otherwise require that portion to be deducted; or

(B) action taken by the district under Subchapter B or C, Chapter 313, Tax Code;

(10) ~~(11)~~ the market value of all tangible personal property, other than manufactured homes, owned by a family or individual and not held or used for the production of income;

(11) ~~(12)~~ the appraised value of property the collection of delinquent taxes on which is deferred under Section 33.06, Tax Code;

(12) ~~(13)~~ the portion of the appraised value of property the collection of delinquent taxes on which is deferred under Section 33.065, Tax Code; and

(13) ~~(14)~~ the amount by which the market value of a residence homestead to which Section 23.23, Tax Code, applies exceeds the appraised value of that property as calculated under that section.

(i) If the comptroller determines in the annual study that the market value of property in a school district as determined by the appraisal district that appraises property for the school district, less the total of the amounts and values listed in Subsection (d) as determined by that appraisal district, is valid, the comptroller, in determining the taxable value of property in the school district under Subsection (d), shall for purposes of Subsection (d)(13) ~~(d)(14)~~ subtract from the market value as determined by the appraisal district of residence homesteads to which Section 23.23, Tax Code, applies the amount by which that amount exceeds the appraised value of those properties as calculated by the appraisal district under Section 23.23, Tax Code. If the comptroller determines in the annual study that the market value of property in a school district as determined by the appraisal district that appraises property for the school district, less the total of the amounts and values listed in Subsection (d) as determined by that appraisal district, is not valid, the comptroller, in determining the taxable value of property in the school district under Subsection (d), shall for purposes of Subsection (d)(13) ~~(d)(14)~~ subtract from the market value as estimated by the

comptroller of residence homesteads to which Section 23.23, Tax Code, applies the amount by which that amount exceeds the appraised value of those properties as calculated by the appraisal district under Section 23.23, Tax Code.

SECTION 24. Section 373A.151(b), Local Government Code, is amended to read as follows:

(b) In addition to other provisions of this subchapter that modify or supersede the application of Chapter 311, Tax Code, to a zone established under this subchapter, ~~Section [Sections]~~ 311.005 ~~[and 311.006]~~, Tax Code, does ~~do~~ not apply to a zone established under this subchapter.

SECTION 25. Sections 311.003(e), (f), and (g), 311.006, and 311.013(d) and (e), Tax Code, are repealed.

SECTION 26. (a) The legislature validates and confirms all governmental acts and proceedings of a municipality or county, the board of directors of a reinvestment zone, or an entity acting under Section 311.010(f), Tax Code, that were taken before the effective date of this Act and relate to or are associated with the designation, operation, or administration of a reinvestment zone or the implementation of a project plan or reinvestment zone financing plan under Chapter 311, Tax Code, including the extension of the term of a reinvestment zone, as of the dates on which they occurred. The acts and proceedings may not be held invalid because they were not in accordance with Chapter 311, Tax Code, or other law.

(b) Subsection (a) of this section does not apply to any matter that on the 30th day after the effective date of this Act:

(1) is involved in litigation if the litigation ultimately results in the matter being held invalid by a final judgment of a court; or

(2) has been held invalid by a final judgment of a court.

SECTION 27. (a) Section 311.002(1), Tax Code, as amended by this Act, applies to all costs described by that subdivision regardless of when they were incurred.

(b) Section 311.0091, Tax Code, as amended by this Act, applies only to an individual appointed by a conservation and reclamation district to the board of directors of a reinvestment zone on or after the effective date of this Act. An individual appointed by a conservation and reclamation district to the board of a reinvestment zone before the effective date of this Act is governed by Section 311.0091, Tax Code, as that section existed immediately before the effective date of this Act, and the former law is continued in effect for that purpose.

(c) Section 311.012(c), Tax Code, as amended by this Act, applies only to the determination of the tax increment base of a taxing unit for a tax year beginning on or after the effective date of this Act, except that if the tax increment base of a taxing unit for a tax year beginning before the effective date was determined in the manner provided by Section 311.012(c), Tax Code, as amended by this Act, the determination is validated as if the amendment were in accordance with Section 311.012(c), Tax Code, as that section existed immediately before the effective date of this Act.

SECTION 28. Section 42.2516, Education Code, as amended by this Act, applies as if Subsection (b)(4) of that section were in effect in the state fiscal year beginning September 1, 2006, and any amounts due a school district under Subsection (b)(4) of that section for the state fiscal years beginning September 1, 2006,

September 1, 2007, and September 1, 2008, shall be paid to the district in the state fiscal year beginning September 1, 2009, at the time payments are made to the district under Section 42.259(f), Education Code.

SECTION 29. 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, 2009.

The amendment was read.

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

The motion prevailed without objection.

The President asked if there were any motions to instruct the conference committee on **SB 313** before appointment.

There were no motions offered.

The President announced the appointment of the following conferees on the part of the Senate: Senators Wentworth, Chair; Ogden, Hinojosa, Deuell, and Zaffirini.

#### **CONFERENCE COMMITTEE ON HOUSE BILL 2647**

Senator Deuell called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 2647** and moved that the request be granted.

The motion prevailed without objection.

The President asked if there were any motions to instruct the conference committee on **HB 2647** before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate: Senators Deuell, Chair; West, Nichols, Gallegos, and Eltife.

#### **CONFERENCE COMMITTEE ON HOUSE BILL 2649**

Senator Deuell called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 2649** and moved that the request be granted.

The motion prevailed without objection.

The President asked if there were any motions to instruct the conference committee on **HB 2649** before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate: Senators Deuell, Chair; Wentworth, Watson, Lucio, and Jackson.

**CONFERENCE COMMITTEE ON HOUSE BILL 2571**

Senator Hinojosa called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 2571** and moved that the request be granted.

The motion prevailed without objection.

The President asked if there were any motions to instruct the conference committee on **HB 2571** before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate: Senators Hinojosa, Chair; Williams, Carona, Nelson, and Zaffirini.

**CONFERENCE COMMITTEE ON HOUSE BILL 1161**

Senator Harris called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 1161** and moved that the request be granted.

The motion prevailed without objection.

The President asked if there were any motions to instruct the conference committee on **HB 1161** before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate: Senators Harris, Chair; Watson, Lucio, Van de Putte, and Eltife.

**CONFERENCE COMMITTEE ON HOUSE BILL 1924**

Senator Seliger called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 1924** and moved that the request be granted.

The motion prevailed without objection.

The President asked if there were any motions to instruct the conference committee on **HB 1924** before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate: Senators Seliger, Chair; Nelson, Nichols, Uresti, and Van de Putte.

**CONFERENCE COMMITTEE ON HOUSE BILL 269**

Senator Van de Putte called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 269** and moved that the request be granted.

The motion prevailed without objection.

The President asked if there were any motions to instruct the conference committee on **HB 269** before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate: Senators Van de Putte, Chair; Shapleigh, Ogden, Duncan, and Zaffirini.

#### **CONFERENCE COMMITTEE ON HOUSE BILL 4409**

Senator Jackson called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 4409** and moved that the request be granted.

The motion prevailed without objection.

The President asked if there were any motions to instruct the conference committee on **HB 4409** before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate: Senators Jackson, Chair; Fraser, Huffman, Nichols, and Van de Putte.

#### **CONFERENCE COMMITTEE ON HOUSE BILL 2854**

Senator Deuell called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 2854** and moved that the request be granted.

The motion prevailed without objection.

The President asked if there were any motions to instruct the conference committee on **HB 2854** before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate: Senators Deuell, Chair; Wentworth, Averitt, Ellis, and Hinojosa.

#### **CONFERENCE COMMITTEE ON HOUSE BILL 3526**

Senator Averitt called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 3526** and moved that the request be granted.

The motion prevailed without objection.

The President asked if there were any motions to instruct the conference committee on **HB 3526** before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate: Senators Averitt, Chair; Hegar, Lucio, Seliger, and Hinojosa.

**CONFERENCE COMMITTEE ON HOUSE BILL 2682**

Senator Wentworth called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 2682** and moved that the request be granted.

The motion prevailed without objection.

The President asked if there were any motions to instruct the conference committee on **HB 2682** before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate: Senators Wentworth, Chair; Carona, Watson, Davis, and Ellis.

**CONFERENCE COMMITTEE ON HOUSE BILL 2644**

Senator Deuell called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 2644** and moved that the request be granted.

The motion prevailed without objection.

The President asked if there were any motions to instruct the conference committee on **HB 2644** before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate: Senators Deuell, Chair; Carona, Uresti, Nichols, and Nelson.

**CONFERENCE COMMITTEE ON HOUSE BILL 3676**

Senator Seliger called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 3676** and moved that the request be granted.

The motion prevailed without objection.

The President asked if there were any motions to instruct the conference committee on **HB 3676** before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate: Senators Seliger, Chair; Shapleigh, Eltife, Watson, and Shapiro.

**CONFERENCE COMMITTEE ON HOUSE BILL 853**

Senator Uresti called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 853** and moved that the request be granted.

The motion prevailed without objection.

The President asked if there were any motions to instruct the conference committee on **HB 853** before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate: Senators Uresti, Chair; Davis, Hinojosa, Nelson, and Whitmire.

#### **CONFERENCE COMMITTEE ON HOUSE JOINT RESOLUTION 127**

Senator Carona called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HJR 127** and moved that the request be granted.

The motion prevailed without objection.

The President asked if there were any motions to instruct the conference committee on **HJR 127** before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate: Senators Carona, Chair; Averitt, Deuell, Jackson, and Watson.

#### **SENATE BILL 379 WITH HOUSE AMENDMENT**

Senator Carona called **SB 379** from the President's table for consideration of the House amendment to the bill.

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

#### **Floor Amendment No. 1**

Amend **SB 379**, in SECTION 1 on page 1, line 6, after "Section 421.082, Government Code, is amended by adding Subsections (e), (f)," by removing "and" and adding "(g), and (h)..."

Amend **SB 379**, in SECTION 1 on page 2, line 19, after subsection (g), add "(h) Any information received by the center under Section 421.082, Government Code, that is stored, combined with other information, analyzed or disseminated shall be subject to the rules governing criminal intelligence in 28 C.F.R. part 23."

The amendment was read.

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

The motion prevailed without objection.

The President asked if there were any motions to instruct the conference committee on **SB 379** before appointment.

There were no motions offered.

The President announced the appointment of the following conferees on the part of the Senate: Senators Carona, Chair; Shapleigh, Huffman, Whitmire, and Patrick.



**CONFERENCE COMMITTEE ON HOUSE BILL 548**

Senator Carona called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 548** and moved that the request be granted.

The motion prevailed without objection.

The President asked if there were any motions to instruct the conference committee on **HB 548** before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate: Senators Carona, Chair; Davis, Huffman, Nichols, and Watson.

**CONFERENCE COMMITTEE ON HOUSE BILL 666**

Senator Uresti called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 666** and moved that the request be granted.

The motion prevailed without objection.

The President asked if there were any motions to instruct the conference committee on **HB 666** before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate: Senators Uresti, Chair; Whitmire, Seliger, Williams, and Hinojosa.

**CONFERENCE COMMITTEE ON HOUSE BILL 882**

Senator Eltife called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 882** and moved that the request be granted.

The motion prevailed without objection.

The President asked if there were any motions to instruct the conference committee on **HB 882** before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate: Senators Eltife, Chair; Van de Putte, Watson, Seliger, and Deuell.

**CONFERENCE COMMITTEE ON HOUSE BILL 770**

Senator Jackson called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 770** and moved that the request be granted.

The motion prevailed without objection.

The President asked if there were any motions to instruct the conference committee on **HB 770** before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate: Senators Jackson, Chair; Eltife, Huffman, Williams, and Wentworth.

#### **CONFERENCE COMMITTEE ON HOUSE BILL 2919**

Senator Fraser called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 2919** and moved that the request be granted.

The motion prevailed without objection.

The President asked if there were any motions to instruct the conference committee on **HB 2919** before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate: Senators Fraser, Chair; Wentworth, Uresti, Davis, and Van de Putte.

#### **CONFERENCE COMMITTEE ON HOUSE BILL 2531**

Senator Shapiro called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 2531** and moved that the request be granted.

The motion prevailed without objection.

The President asked if there were any motions to instruct the conference committee on **HB 2531** before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate: Senators Shapiro, Chair; Harris, Eltife, Davis, and Van de Putte.

#### **CONFERENCE COMMITTEE ON HOUSE BILL 469**

Senator Seliger called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 469** and moved that the request be granted.

The motion prevailed without objection.

The President asked if there were any motions to instruct the conference committee on **HB 469** before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate: Senators Seliger, Chair; Averitt, Fraser, Ogden, and Shapleigh.

**CONFERENCE COMMITTEE ON HOUSE BILL 103**

Senator Patrick called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 103** and moved that the request be granted.

The motion prevailed without objection.

The President asked if there were any motions to instruct the conference committee on **HB 103** before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate: Senators Patrick, Chair; Deuell, Duncan, Davis, and Ogden.

**CONFERENCE COMMITTEE ON HOUSE BILL 451**

Senator Lucio called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 451** and moved that the request be granted.

The motion prevailed without objection.

The President asked if there were any motions to instruct the conference committee on **HB 451** before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate: Senators Lucio, Chair; Carona, Deuell, Shapiro, and Van de Putte.

**CONFERENCE COMMITTEE ON HOUSE BILL 1218**

Senator Watson called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 1218** and moved that the request be granted.

The motion prevailed without objection.

The President asked if there were any motions to instruct the conference committee on **HB 1218** before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate: Senators Watson, Chair; Averitt, Deuell, Van de Putte, and Nelson.

**SENATE RULE 2.02 SUSPENDED  
(Restrictions on Admission)**

On motion of Senator Williams and by unanimous consent, Senate Rule 2.02 was suspended to grant floor privileges to two staff members for each Senator today to help with conference committee assignments.

(Senator Eltife in Chair)

**CONFERENCE COMMITTEE ON HOUSE BILL 2093**

Senator Hegar called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 2093** and moved that the request be granted.

The motion prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 2093** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Hegar, Chair; Patrick, Whitmire, West, and Seliger.

**CONFERENCE COMMITTEE ON HOUSE BILL 2003**

Senator Watson called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 2003** and moved that the request be granted.

The motion prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 2003** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Watson, Chair; Ellis, Whitmire, Wentworth, and Seliger.

**CONFERENCE COMMITTEE ON HOUSE JOINT RESOLUTION 14**

Senator Duncan called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HJR 14** and moved that the request be granted.

The motion prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HJR 14** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Duncan, Chair; Estes, Hegar, Van de Putte, and Whitmire.

**CONFERENCE COMMITTEE ON HOUSE BILL 498**

Senator Ellis called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 498** and moved that the request be granted.

The motion prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 498** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Ellis, Chair; Whitmire, Carona, Huffman, and Hegar.

#### **CONFERENCE COMMITTEE ON HOUSE BILL 1796**

Senator Watson called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 1796** and moved that the request be granted.

The motion prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 1796** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Watson, Chair; Averitt, Eltife, Davis, and Duncan.

#### **CONFERENCE COMMITTEE ON HOUSE BILL 1320**

Senator Ellis called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 1320** and moved that the request be granted.

The motion prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 1320** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Ellis, Chair; Whitmire, Averitt, Carona, and Hinojosa.

#### **SENATE BILL 1263 WITH HOUSE AMENDMENTS**

Senator Watson called **SB 1263** from the President's table for consideration of the House amendments to the bill.

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

#### **Amendment**

Amend **SB 1263** by substituting in lieu thereof the following:

#### **A BILL TO BE ENTITLED AN ACT**

relating to certain mass transit entities.

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

**SECTION 1.** Sections 451.0611(e) and (f), Transportation Code, are amended to read as follows:

(e) The notice required by Subsection (d)(2) may be included in a citation issued to the person under Article 14.06, Code of Criminal Procedure, or under Section 451.0612, in connection with an offense relating to the nonpayment of the appropriate fare or charge for the use of the public transportation system.

(f) An offense under Subsection (d) is:

- (1) a Class C misdemeanor; and
- (2) not a crime of moral turpitude.

SECTION 2. Subchapter B, Chapter 451, Transportation Code, is amended by adding Section 451.0612 to read as follows:

Sec. 451.0612. FARE ENFORCEMENT OFFICERS IN CERTAIN AUTHORITIES. (a) An authority confirmed before July 1, 1985, in which the principal municipality has a population of less than 750,000 may employ persons to serve as fare enforcement officers to enforce the payment of fares for use of the public transportation system by:

(1) requesting and inspecting evidence showing payment of the appropriate fare from a person using the public transportation system; and

(2) issuing a citation to a person described by Section 451.0611(d)(1).

(b) Before commencing duties as a fare enforcement officer a person must complete a 40-hour training course approved by the authority that is appropriate to the duties required of a fare enforcement officer.

(c) While performing duties, a fare enforcement officer shall:

(1) wear a distinctive uniform that identifies the officer as a fare enforcement officer; and

(2) work under the direction of the authority's manager of safety and security.

(d) A fare enforcement officer may:

(1) request evidence showing payment of the appropriate fare from passengers of the public transportation system;

(2) request personal identification from a passenger who does not produce evidence showing payment of the appropriate fare on request by the officer;

(3) request that a passenger leave the public transportation system if the passenger does not possess evidence of payment of the appropriate fare; and

(4) file a complaint in the appropriate court that charges the person with an offense under Section 451.0611(d).

(e) A fare enforcement officer may not carry a weapon while performing duties under this section.

(f) A fare enforcement officer is not a peace officer and has no authority to enforce a criminal law, other than the authority possessed by any other person who is not a peace officer.

SECTION 3. Section 451.108(c), Transportation Code, is amended to read as follows:

(c) A peace officer commissioned under this section, except as provided by Subsections (d) and (e), or a peace officer contracted for employment by an authority confirmed before July 1, 1985, in which the principal municipality has a population of less than 750,000, may:

(1) make an arrest in any county in which the transit authority system is located as necessary to prevent or abate the commission of an offense against the law of this state or a political subdivision of this state if the offense or threatened offense occurs on or involves the transit authority system;

(2) make an arrest for an offense involving injury or detriment to the transit authority system;

(3) enforce traffic laws and investigate traffic accidents that involve or occur in the transit authority system; and

(4) provide emergency and public safety services to the transit authority system or users of the transit authority system.

Section 451.061, Transportation Code, is amended by amending Subsection (d) and adding Subsection (d-1) to read as follows:

(d) Except as provided by Subsection (d-1), the [The] fares, tolls, charges, rents, and other compensation established by an authority in which the principal municipality has a population of less than 1.2 million may not take effect until approved by a majority vote of a committee composed of:

(1) five members of the governing body of the principal municipality, selected by that governing body;

(2) three members of the commissioners court of the county having the largest portion of the incorporated territory of the principal municipality, selected by that commissioners court; and

(3) three mayors of municipalities, other than the principal municipality, located in the authority, selected by:

(A) the mayors of all the municipalities, except the principal municipality, located in the authority; or

(B) the mayor of the most populous municipality, other than the principal municipality, in the case of an authority in which the principal municipality has a population of less than 300,000.

(d-1) The establishment of or a change to fares, tolls, charges, rents, and other compensation by an authority confirmed before July 1, 1985, in which the principal municipality has a population of less than 750,000, takes effect immediately on approval by a majority vote of the board, except that the establishment of or a change to a single-ride base fare takes effect on the 60th day after the date the board approves the fare or change to the fare, unless the policy board of the metropolitan planning organization that serves the area of the authority disapproves the fare or change to the fare by a majority vote.

SECTION 4. Section 451.071, Transportation Code, is amended by adding Subsections (g) and (h) to read as follows:

(g) This section does not require the authority to hold a referendum on a proposal to enter into a contract or interlocal agreement to build, operate, or maintain a fixed rail transit system for another entity. Notwithstanding Subsection (d) the authority may spend funds of the authority to enter into a contract and operate under that contract to build, operate, or maintain a fixed rail transit system if the other entity will reimburse the authority for the funds.

(h) A referendum held by a political subdivision, the authority or an entity other than the authority at which funding is approved for a fixed rail transit system is considered to meet the requirements of Subsections (d) and (e) and Section 451.3625 if the notice for the election called by the political subdivision, the authority or other entity contains the description required by Subsection (c). The referendum may allow for financial participation of more than one political subdivision or entity. The authority may only spend funds of the authority if the referendum authorizes that expenditure.

SECTION 5. Subchapter J, Chapter 451, Transportation Code, is amended by adding Sections 451.458, 451.459, and 451.460 to read as follows:

Sec. 451.458. INTERNAL AUDITOR. (a) This section applies only to an authority confirmed before July 1, 1985, in which the principal municipality has a population of less than 750,000.

(b) The board shall appoint a qualified individual to perform internal auditing services for a term of five years. The board may remove the auditor only on the affirmative vote of at least three-fourths of the members of the board.

(c) The auditor shall report directly to the board.

Sec. 451.459. SUNSET REVIEW. (a) An authority confirmed before July 1, 1985, in which the principal municipality has a population of less than 750,000 is subject to review under Chapter 325, Government Code (Texas Sunset Act), as if it were a state agency but may not be abolished under that chapter. The review shall be conducted as if the authority were scheduled to be abolished September 1, 2011. In addition, another review shall be conducted as if the authority were scheduled to be abolished September 1, 2017. The reviews conducted under this section must include an assessment of the governance, management, and operating structure of the authority and the authority's compliance with the duties and requirements placed on it by the legislature.

(b) The authority shall pay the cost incurred by the Sunset Advisory Commission in performing a review of the authority under this section. The Sunset Advisory Commission shall determine the cost, and the authority shall pay the amount promptly on receipt of a statement from the Sunset Advisory Commission detailing the cost.

Sec. 451.460. ANNUAL REPORT. (a) This section applies only to an authority confirmed before July 1, 1985, in which the principal municipality has a population of less than 750,000.

(b) The authority shall provide an annual report to each governing body of a municipality or county in the authority regarding the status of any financial obligation of the authority to the municipality or county.

SECTION 6. Section 451.5021, Transportation Code, is amended by amending Subsections (a), (b), (d), and (e) and adding Subsections (b-1), (d-1), (d-2), (d-3), and (e-1) to read as follows:

(a) This section applies only to the board of an authority created before July 1, 1985, in which the principal municipality has a population of less than 750,000 [~~in~~ which each member of the governing body of the principal municipality is elected at large].



(b) Members of the [The] board [is composed of seven members who] are appointed as follows:

(1) one member, who is an elected official, [two members representing the general public] appointed by the metropolitan planning organization designated by the governor that serves the area of the authority;

(2) one member, who is an elected official, [two members] appointed by the governing body of the principal municipality;

(3) one member jointly appointed by:

(A) the governing body of the principal municipality; and

(B) the commissioners court of the principal county;

(4) one member jointly appointed by:

(A) the governing body of the principal municipality; and

(B) the commissioners court of the county, excluding the principal county, that has the largest population of the counties in the authority [a panel composed of the mayors of all the municipalities in the authority located in the principal county of the authority, excluding the mayor of the principal municipality]; [and]

(5) one member, who is an elected official, appointed by a panel composed of[:

[(A)] the mayors of all municipalities in the authority [located outside the principal county of the authority], excluding the mayor of the principal municipality;

(6) one member, who has at least 10 years of experience as a financial or accounting professional, appointed by the metropolitan planning organization that serves the area in which the authority is located;

(7) one member, who has at least 10 years of experience in an executive-level position in a public or private organization, including a governmental entity, appointed by the metropolitan planning organization that serves the area in which the authority is located; and

(8) two members appointed by the metropolitan planning organization that serves the area in which the authority is located, if according to the most recent federal decennial census more than 35 percent of the population in the territory of the authority resides outside the principal municipality [(B) the county judges of the counties having unincorporated area in the authority, excluding the county judge of the principal county; and

[(C) the presiding officer of each municipal utility district that:

(i) has a majority of its territory located outside the principal county; and

(ii) is located wholly or partly in the authority].

(b-1) Notwithstanding Section 451.505, members of the board serve staggered three-year terms, with the terms of two or three members, as applicable, expiring June 1 of each year.

(d) A person appointed under Subsection (b)(1), (2) [(b)(2), (3), (4)], or (5):

(1) must be a member of the governing body:

(A) of the political subdivision that is entitled to make the appointment;

or

(B) over which a member of the panel entitled to make an appointment

presides;

(2) vacates the office of board member if the person ceases to be a member of the governing body described by Subdivision (1);

(3) serves on the board as an additional duty of the office held on the governing body described by Subdivision (1); and

(4) is not entitled to compensation for serving as a member of the board.

(d-1) At least two members appointed under Subsections (b)(1), (6), and (7) must be qualified voters residing in the principal municipality.

(d-2) A person appointed under Subsection (b)(3) must:

(1) have the person's principal place of occupation or employment in:

(A) the principal municipality; or

(B) the portion of the authority's service area that is located in the principal county; or

(2) be a qualified voter of:

(A) the principal municipality; or

(B) the portion of the authority's service area that is located in the principal county.

(d-3) A person appointed under Subsection (b)(4) must:

(1) have the person's principal place of occupation or employment in:

(A) the principal municipality; or

(B) the portion of the authority's service area that is located in the county, other than the principal county, that has the largest population of the counties in the authority; or

(2) be a qualified voter of:

(A) the principal municipality; or

(B) the portion of the authority's service area that is located in the county, other than the principal county, that has the largest population of the counties in the authority.

(e) A panel appointing a member under Subsection (b)(5) ~~[this section]~~ operates in the manner prescribed by Section 451.503.

(e-1) A joint appointment to fill a vacancy in a position under Subsection (b)(3) or (4) shall be made not later than the 60th day after the date a position becomes vacant.

SECTION 7. Section 451.505(b), Transportation Code, is amended to read as follows:

(b) The terms of members of a board are staggered if the authority was[-

~~[(+)]~~ created before 1980 and has a principal municipality with a population of less than 1.2 million[-~~or~~

~~[(2) confirmed before July 1, 1985, and has a principal municipality with a population of less than 750,000].~~

SECTION 8. Subsections (g) and (h), Section 451.5021, Transportation Code, are repealed.

SECTION 9. (a) This section applies only to a member of the board of a metropolitan rapid transit authority created before July 1, 1985, in which the principal municipality has a population of 750,000 or less.

(b) The term of a board member that is scheduled, under the law as it existed before the effective date of this Act, to expire:

(1) after the effective date of this Act but before January 1, 2010, is extended to December 31, 2009; and

(2) on or after January 1, 2010, expires on the date the term was scheduled to expire under this law as it existed before the effective date of this Act.

(c) As soon as practicable on or after the effective date of this Act, but not later than December 31, 2009, the persons and entities specified in Section 451.5021, Transportation Code, as amended by this Act, shall appoint the members of the board in compliance with that section, as amended, to serve terms that begin, as applicable and as subject to Subsection (d) of this section:

(1) January 1, 2010; or

(2) the day after a term expires under Subsection (b)(2) of this section.

(d) A vacancy created because of the expiration of a term under Subsection (b) of this section is filled in the following manner:

(1) for a member appointed under Section 451.5021(b)(1), Transportation Code, under the law as it existed before the effective date of this Act:

(A) one vacancy shall be filled by the appointing person or entity specified by Section 451.5021(b)(6), Transportation Code, as amended by this Act; and

(B) one vacancy shall be filled by the appointing person or entity specified by Section 451.5021(b)(7), Transportation Code, as amended by this Act;

(2) for a member appointed under Section 451.5021(b)(2), Transportation Code, under the law as it existed before the effective date of this Act:

(A) one vacancy shall be filled by the appointing person or entity specified by Section 451.5021(b)(1), Transportation Code, as amended by this Act; and

(B) one vacancy shall be filled by the appointing person or entity specified by Section 451.5021(b)(2), Transportation Code, as amended by this Act;

(3) for a member appointed under Section 451.5021(b)(3), Transportation Code, under the law as it existed before the effective date of this Act, the vacancy shall be filled by the appointing person or entity specified by Section 451.5021(b)(3), Transportation Code, as amended by this Act;

(4) for a member appointed under Section 451.5021(b)(4), Transportation Code, under the law as it existed before the effective date of this Act, the vacancy shall be filled by the appointing person or entity specified by Section 451.5021(b)(5), Transportation Code, as amended by this Act; and

(5) for a member appointed under Section 451.5021(b)(5), Transportation Code, under the law as it existed before the effective date of this Act, the vacancy shall be filled by the appointing person or entity specified by Section 451.5021(b)(4), Transportation Code, as amended by this Act.

(e) The members of the board appointed under Subsection (c) of this section shall draw lots to determine which terms of two members expire June 1, 2011, which terms of two members expire June 1, 2012, and which terms of three members expire June 1, 2013.

(f) As soon as practicable after the metropolitan planning organization specified by Section 451.5021(b)(8), Transportation Code, as added by this Act, determines that that subdivision applies to the metropolitan rapid transit authority, the metropolitan planning organization shall appoint:

(1) one member of the board of the authority for a term to expire June 1, 2011, or, if that date has passed, the following six-year anniversary of that date; and

(2) one member of the board of the authority for a term to expire June 1, 2013, or, if that date has passed, the following six-year anniversary of that date.

This subsection applies only to an authority created under Chapter 451, Transportation Code, that operates in an area in which the principal municipality has a population of 1.9 million or more. Notwithstanding any other law, an authority to which this subsection applies may not take private property through the use of eminent domain if the taking of the property is related to the construction of a segment of a fixed guideway transit system, including a light rail or bus rapid transit segment, authorized by the voters of the authority and:

(1) the planned route of the segment as approved in the ballot proposition submitted to the voters is changed by the authority after approval of the ballot proposition by the voters; or

(2) the ballot proposition submitted to the voters did not specifically describe the route of the segment.

(g) If a court in which a condemnation proceeding is initiated under Chapter 21, Property Code, determines that the condemnation proceeding was initiated in violation of Subsection (f), the court shall:

(1) determine that the condemnor does not have the right to condemn;

(2) dismiss the condemnation proceeding; and

(3) order the condemnor to pay all costs of the condemnation proceeding, including all reasonable attorney's fees incurred by the owner.

SECTION 10. Amend section 451.0711 (a) This Section applies only to an authority created under Chapter 451, Transportation Code, that operates in an area in which the principal municipality has a population of 1.9 million or more. Notwithstanding any other law, an authority to which this subsection applies may not vote to authorize the initiation of condemnation proceedings under this section if the proposed condemnation proceedings are related to the construction of a segment of a fixed guideway transit system, including a light rail or bus rapid transit segment, authorized by the voters of the authority and:

(1) the planned route of the segment as approved in the ballot proposition submitted to the voters is changed by the authority after approval of the ballot proposition by the voters; or

(2) the ballot proposition submitted to the voters did not specifically describe the route of the segment.

(b) If a court in which a condemnation proceeding is initiated under Chapter 21, Property Code, determines that the condemnation proceeding was authorized or initiated in violation of Subsection (a), the court shall:

(1) determine that the condemnor does not have the right to condemn;

(2) dismiss the condemnation proceeding; and

(3) order the condemnor to pay all costs of the condemnation proceeding, including all reasonable attorney's fees incurred by the owner.

SECTION 11. (a) Except as provided by this section, the changes in law made by Chapter 2206, Government Code, and Chapter 21, Property Code, as amended by this Act, apply only to a condemnation proceeding in which the petition is filed on or after the effective date of this Act and to any property condemned through the proceeding. A condemnation proceeding in which the petition is filed before the effective date of this Act and any property condemned through the proceeding is governed by the law in effect immediately before that date, and that law is continued in effect for that purpose.

(b) Section 2206.051, Government Code, as added by this Act, applies to a condemnation proceeding in which the petition is filed on or after the effective date of this Act or a condemnation proceeding pending on the effective date of this Act in which the petition was filed on or after May 15, 2007.

(c) Section 2206.103, Government Code, as added by this Act, applies to a condemnation proceeding authorized or initiated on or after May 15, 2007.

SECTION 12. This Act takes effect September 1, 2009.

### **Floor Amendment No. 1**

Amend **CSSB 1263** (House committee printing) as follows:

(1) On page 3, line 23, before "Section" insert "SECTION 4." and renumber subsequent SECTIONS of the bill accordingly.

(2) In SECTION 9(f) of the bill, strike the underlined language (page 13, line 27 through page 14, line 24).

(3) Strike SECTIONS 10 and 11 of the bill (page 4, line 25 through page 16, line 14) and renumber subsequent SECTIONS of the bill accordingly.

The amendments were read.

Senator Watson moved that the Senate do not concur in the House amendments, but that a conference committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **SB 1263** before appointment.

There were no motions offered.

The Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Watson, Chair; Carona, Ellis, Shapleigh, and Wentworth.

### **SENATE BILL 2274 WITH HOUSE AMENDMENTS**

Senator Seliger called **SB 2274** from the President's table for consideration of the House amendments to the bill.

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

### **Amendment**

Amend **SB 2274** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED  
AN ACT

relating to the authority of a school district to impose ad valorem taxes.

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

SECTION 1. Section 26.08, Tax Code, is amended by adding Subsection (p) to read as follows:

(p) This subsection applies only to a school district that borders another state of the United States, includes within its territory at least 75 percent but not more than 85 percent of the territory of a single county, and has at least 500 but not more than 1,000 students in average daily attendance as defined by Section 42.302, Education Code. Notwithstanding Subsections (i), (n), and (o), if for the preceding tax year the district adopted a maintenance and operations tax rate that was less than the district's effective maintenance and operations tax rate for that preceding tax year, the rollback tax rate of the district for the current tax year is calculated as if the district adopted a maintenance and operations tax rate for the preceding tax year that was equal to the district's effective maintenance and operations tax rate for that preceding tax year.

SECTION 2. Section 45.001(a), Education Code, is amended to read as follows:

(a) The governing board of an independent school district, including the city council or commission that has jurisdiction over a municipally controlled independent school district, the governing board of a rural high school district, and the commissioners court of a county, on behalf of each common school district under its jurisdiction, may:

(1) issue bonds for:

(A) the construction, acquisition, and equipment of school buildings in the district;

(B) the acquisition of property or the refinancing of property financed under a contract entered under Subchapter A, Chapter 271, Local Government Code, regardless of whether payment obligations under the contract are due in the current year or a future year;

(C) the purchase of the necessary sites for school buildings; and

(D) the purchase of new school buses; and

(2) may levy, pledge, assess, and collect annual ad valorem taxes sufficient to pay the principal of and interest on the bonds as or before the principal and interest become due, subject to Section 45.003.

SECTION 3. (a) The change in law made by this Act applies to the ad valorem tax rate of a school district beginning with the 2009 tax year, except as provided by Subsection (b) of this section.

(b) If the governing body of a school district adopted an ad valorem tax rate for the school district for the 2009 tax year before the effective date of this Act, the change in law made by this Act applies to the ad valorem tax rate of that school district beginning with the 2010 tax year, and the law in effect when the tax rate was adopted applies to the 2009 tax year with respect to that school district.

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, 2009.

**Floor Amendment No. 1**

Amend **CSSB 2274** (House committee report) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Section 11.42, Tax Code, is amended by amending Subsection (c) and adding Subsection (c-1) to read as follows:

(c) An exemption authorized by Section 11.13(c) or (d) is effective as of January 1 of the tax year in which the person qualifies for the exemption and applies to the entire tax year. If the individual acquired the property in that tax year, each other exemption authorized by Section 11.13 for which the individual qualifies the property in that tax year is also effective as of January 1 of the tax year and applies to the entire tax year.

(c-1) Except as provided by Subsection (c), if an individual acquires a property after January 1 of a tax year and qualifies the property during that tax year for one or more exemptions under Section 11.13, but the individual does not qualify for an exemption under Section 11.13(c) or (d) for an individual 65 years of age or older, and the property did not previously qualify for any exemption under Section 11.13 for any portion of the tax year in which the property was acquired, the individual may receive the exemptions for which the individual qualifies for the portion of that tax year for which the individual qualifies for the exemptions immediately on qualification for the exemptions.

SECTION \_\_\_\_\_. Section 26.10, Tax Code, is amended by adding Subsection (c) to read as follows:

(c) This section does not affect a residence homestead exemption other than an exemption under Section 11.13(c) or (d) for an individual 65 years of age or older, and for purposes of Subsection (b)(1)(B) the taxes shall be calculated taking into account any residence homestead exemption applicable to the property other than an exemption under Section 11.13(c) or (d) for an individual 65 years of age or older.

SECTION \_\_\_\_\_. Chapter 26, Tax Code, is amended by adding Section 26.1115 to read as follows:

Sec. 26.1115. CALCULATION OF TAXES ON RESIDENCE HOMESTEAD GENERALLY. (a) If an individual receives one or more exemptions under Section 11.13, other than an exemption under Section 11.13(c) or (d) for an individual 65 years of age or older, for a portion of a tax year as provided by Section 11.42(c-1), except as provided by Subsection (b) the amount of tax due on the property for that year is calculated by:

(1) subtracting:

(A) the amount of the taxes that otherwise would be imposed on the property for the entire year had the individual qualified for the exemptions for the entire year; from

(B) the amount of the taxes that otherwise would be imposed on the property for the entire year had the individual not qualified for the exemptions during the year;

(2) multiplying the remainder determined under Subdivision (1) by a fraction, the denominator of which is 365 and the numerator of which is the number of days in that year that elapsed before the date the individual first qualified the property for the exemptions; and

(3) adding the product determined under Subdivision (2) and the amount described by Subdivision (1)(A).

(b) If an individual receives one or more exemptions to which Subsection (a) applies for a portion of a tax year as provided by Section 11.42(c-1) and the exemptions terminate during the year in which the individual acquired the property, the amount of tax due on the property for that year is calculated by:

(1) subtracting:

(A) the amount of the taxes that otherwise would be imposed on the property for the entire year had the individual qualified for the exemptions for the entire year; from

(B) the amount of the taxes that otherwise would be imposed on the property for the entire year had the individual not qualified for the exemptions during the year;

(2) multiplying the remainder determined under Subdivision (1) by a fraction, the denominator of which is 365 and the numerator of which is the sum of:

(A) the number of days in that year that elapsed before the date the individual first qualified the property for the exemptions; and

(B) the number of days in that year that elapsed after the date the exemptions terminated; and

(3) adding the product determined under Subdivision (2) and the amount described by Subdivision (1)(A).

(c) If an individual qualifies to receive an exemption as described by Subsection (a) with respect to a property after the amount of tax due on the property is calculated and if the effect of the qualification is to reduce the amount of tax due on the property, the assessor for each taxing unit shall recalculate the amount of the tax due on the property and correct the tax roll. If the tax bill has been mailed and the tax on the property has not been paid, the assessor shall mail a corrected tax bill to the person in whose name the property is listed on the tax roll or to the person's authorized agent. If the tax on the property has been paid, the collector for the taxing unit shall refund to the person who paid the tax the amount by which the payment exceeded the tax due.

SECTION \_\_\_\_ . Section 26.112(a), Tax Code, is amended to read as follows:

(a) Except as provided by Section 26.10(b), if at any time during a tax year property is owned by an individual who qualifies for an exemption under Section 11.13(c) or (d), the amount of the tax due on the property for the tax year is calculated as if the person qualified for the exemption on January 1 and continued to qualify for the exemption for the remainder of the tax year. If the individual acquired the property in that tax year, the amount of the tax due on the property is calculated as if the person qualified on January 1 for each exemption for which the individual qualifies the property in that tax year under Section 11.13 and continued to qualify for each exemption for the remainder of the tax year.

The amendments were read.



Senator Seliger moved that the Senate do not concur in the House amendments, but that a conference committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **SB 2274** before appointment.

There were no motions offered.

The Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Seliger, Chair; Shapiro, Whitmire, Ogden, and Watson.

#### **CONFERENCE COMMITTEE ON HOUSE BILL 2521**

Senator West called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 2521** and moved that the request be granted.

The motion prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 2521** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators West, Chair; Watson, Deuell, Harris, and Eltife.

#### **CONFERENCE COMMITTEE ON HOUSE BILL 2347**

Senator Whitmire called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 2347** and moved that the request be granted.

The motion prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 2347** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Whitmire, Chair; Ogden, Zaffirini, Gallegos, and Duncan.

#### **CONFERENCE COMMITTEE ON HOUSE BILL 3065**

Senator Ellis called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 3065** and moved that the request be granted.

The motion prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 3065** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Ellis, Chair; Averitt, Carona, Wentworth, and West.

#### **CONFERENCE COMMITTEE ON HOUSE BILL 3389**

Senator Deuell called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 3389** and moved that the request be granted.

The motion prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 3389** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Deuell, Chair; West, Hegar, Whitmire, and Carona.

#### **CONFERENCE COMMITTEE ON HOUSE BILL 3452**

Senator Ogden called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 3452** and moved that the request be granted.

The motion prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 3452** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Ogden, Chair; Van de Putte, Huffman, Davis, and Estes.

#### **CONFERENCE COMMITTEE ON HOUSE BILL 3461**

Senator Watson called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 3461** and moved that the request be granted.

The motion prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 3461** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Watson, Chair; Seliger, Averitt, Carona, and Ogden.

**CONFERENCE COMMITTEE ON HOUSE BILL 3632**

Senator Averitt called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 3632** and moved that the request be granted.

The motion prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 3632** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Averitt, Chair; Eltife, Hegar, Uresti, and Duncan.

**CONFERENCE COMMITTEE ON HOUSE BILL 3653**

Senator Davis called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 3653** and moved that the request be granted.

The motion prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 3653** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Davis, Chair; Whitmire, Seliger, Carona, and Zaffirini.

**CONFERENCE COMMITTEE ON HOUSE BILL 3864**

Senator Seliger called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 3864** and moved that the request be granted.

The motion prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 3864** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Seliger, Chair; Deuell, Hinojosa, Eltife, and Shapleigh.

**CONFERENCE COMMITTEE ON HOUSE BILL 3646**

Senator Shapiro called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 3646** and moved that the request be granted.

The motion prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 3646** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Shapiro, Chair; Ogden, Duncan, Van de Putte, and Patrick.

#### **CONFERENCE COMMITTEE ON HOUSE BILL 4009**

Senator Van de Putte called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 4009** and moved that the request be granted.

The motion prevailed without objection.

The Presiding Officer, Senator Eltife in Chair, asked if there were any motions to instruct the conference committee on **HB 4009** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Van de Putte, Chair; Ogden, Hinojosa, Williams, and Whitmire.

#### **CONFERENCE COMMITTEE ON HOUSE BILL 756**

Senator Ellis called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 756** and moved that the request be granted.

The motion prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 756** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Ellis, Chair; Zaffrini, Duncan, Wentworth, and Deuell.

#### **CONFERENCE COMMITTEE ON HOUSE BILL 3309**

Senator Ogden called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 3309** and moved that the request be granted.

The motion prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 3309** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Ogden, Chair; Fraser, Williams, Lucio, and Estes.

**CONFERENCE COMMITTEE ON HOUSE BILL 1795**

Senator Uresti called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 1795** and moved that the request be granted.

The motion prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 1795** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Uresti, Chair; Zaffirini, Averitt, Williams, and Huffman.

**CONFERENCE COMMITTEE ON HOUSE BILL 4583**

Senator Ogden called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 4583** and moved that the request be granted.

The motion prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 4583** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Ogden, Chair; Duncan, Hinojosa, Whitmire, and Eltife.

**CONFERENCE COMMITTEE ON HOUSE BILL 1506**

Senator Hinojosa called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 1506** and moved that the request be granted.

The motion prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 1506** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Hinojosa, Chair; West, Averitt, Whitmire, and Seliger.

**CONFERENCE COMMITTEE ON HOUSE BILL 1801**

Senator Shapiro called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 1801** and moved that the request be granted.

The motion prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 1801** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Shapiro, Chair; Seliger, Williams, Hinojosa, and Duncan.

#### **CONFERENCE COMMITTEE ON HOUSE BILL 2153**

Senator Shapiro called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 2153** and moved that the request be granted.

The motion prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 2153** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Shapiro, Chair; Ellis, Duncan, Hinojosa, and Davis.

#### **CONFERENCE COMMITTEE ON HOUSE BILL 3872**

Senator Estes called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 3872** and moved that the request be granted.

The motion prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 3872** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Estes, Chair; Van de Putte, Patrick, Lucio, and Jackson.

#### **CONFERENCE COMMITTEE ON HOUSE BILL 715**

Senator Estes called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 715** and moved that the request be granted.

The motion prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 715** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Estes, Chair; Carona, West, Shapleigh, and Averitt.

**CONFERENCE COMMITTEE ON HOUSE BILL 1959**

Senator Hegar called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 1959** and moved that the request be granted.

The motion prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 1959** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Hegar, Chair; Hinojosa, Estes, Averitt, and Huffman.

**CONFERENCE COMMITTEE ON HOUSE BILL 2163**

Senator Uresti called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 2163** and moved that the request be granted.

The motion prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 2163** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Uresti, Chair; Deuell, Zaffirini, Nelson, and West.

**CONFERENCE COMMITTEE ON HOUSE BILL 3220**

Senator Patrick called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 3220** and moved that the request be granted.

The motion prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 3220** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Patrick, Chair; Shapiro, Williams, Van de Putte, and Lucio.

**CONFERENCE COMMITTEE ON HOUSE BILL 2774**

Senator Wentworth called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 2774** and moved that the request be granted.

The motion prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 2774** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Wentworth, Chair; Duncan, Eltife, Van de Putte, and Watson.

#### **CONFERENCE COMMITTEE ON HOUSE BILL 3221**

Senator Van de Putte called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 3221** and moved that the request be granted.

The motion prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 3221** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Van de Putte, Chair; Hegar, Watson, Averitt, and Harris.

#### **CONFERENCE COMMITTEE ON HOUSE BILL 2917**

Senator Shapiro called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 2917** and moved that the request be granted.

The motion prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 2917** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Shapiro, Chair; Huffman, Fraser, Nelson, and Carona.

#### **MESSAGES FROM THE HOUSE**

HOUSE CHAMBER

Austin, Texas

May 30, 2009

The Honorable President of the Senate  
Senate Chamber  
Austin, Texas

Mr. President:

I am directed by the House to inform the Senate that the House has taken the following action:



THE HOUSE HAS REFUSED TO CONCUR IN THE SENATE AMENDMENTS TO THE FOLLOWING MEASURES AND REQUESTS THE APPOINTMENT OF A CONFERENCE COMMITTEE TO ADJUST THE DIFFERENCES BETWEEN THE TWO HOUSES:

**HB 498** (non-record vote)

House Conferees: McClendon - Chair/Hodge/Moody/Pierson/Thompson

THE HOUSE HAS DISCHARGED ITS CONFEREES AND CONCURRED IN SENATE AMENDMENTS TO THE FOLLOWING MEASURES:

**HB 746** (143 Yeas, 0 Nays, 2 Present, not voting)

THE HOUSE HAS GRANTED THE REQUEST OF THE SENATE FOR THE APPOINTMENT OF A CONFERENCE COMMITTEE ON THE FOLLOWING MEASURES:

**SB 52** (non-record vote)

House Conferees: Coleman - Chair/Branch/Harless/King, Susan/Zerwas

**SB 78** (non-record vote)

House Conferees: Smithee - Chair/Eiland/Isett/Thompson/Zerwas

**SB 497** (non-record vote)

House Conferees: Hartnett - Chair/Hughes/Jackson, Jim/Martinez, "Mando"/McReynolds

**SB 537** (non-record vote)

House Conferees: Vaught - Chair/Fletcher/Kent/Moody/Riddle

**SB 546** (non-record vote)

House Conferees: Anchia - Chair/Geren/Keffer/Rose/Strama

**SB 968** (non-record vote)

House Conferees: Truitt - Chair/Harper-Brown/Kent/Kolkhorst/Miller, Doug

**SB 1068** (non-record vote)

House Conferees: Gallego - Chair/Christian/Fletcher/Miklos/Moody

**SB 1273** (non-record vote)

House Conferees: Fletcher - Chair/Cook/Gallego/Miklos/Phillips

**SB 1620** (non-record vote)

House Conferees: Paxton - Chair/Bohac/Hilderbran/Pena/Taylor

**SB 1757** (non-record vote)

House Conferees: Howard, Donna - Chair/Aycock/Burnam/Hopson/Shelton

**SB 1759** (non-record vote)

House Conferees: Pickett - Chair/Chisum/Guillen/Menendez/Otto

**SB 2440** (non-record vote)

House Conferees: Corte - Chair/Leibowitz/Martinez Fischer/Menendez/Ritter

**SB 2468** (non-record vote)

House Conferees: Coleman - Chair/Davis, John/Hernandez/Smith, Wayne/Walle

Respectfully,

/s/Robert Haney, Chief Clerk  
House of Representatives

## SENATE BILL 1970 WITH HOUSE AMENDMENTS

Senator Duncan called **SB 1970** from the President's table for consideration of the House amendments to the bill.

The Presiding Officer, Senator Eltife in Chair, laid the bill and the House amendments before the Senate.

### Amendment

Amend **SB 1970** by substituting in lieu thereof the following:

#### A BILL TO BE ENTITLED AN ACT

relating to certain election practices and procedures; providing penalties.

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

SECTION 1. Subsection (a), Section 2.051, Election Code, is amended to read as follows:

(a) Except as provided by Sections 2.055 and 2.056, this subchapter applies only to an election for officers of a political subdivision other than a county in which write-in votes may be counted only for names appearing on a list of write-in candidates and in which[=

~~[(1)]~~ each candidate for an office that is to appear on the ballot is unopposed, except as provided by Subsection (b)~~]; and~~

~~[(2) no proposition is to appear on the ballot].~~ For purposes of this section, a special election of a political subdivision is considered to be a separate election with a separate ballot from:

(1) a general election for officers of the political subdivision held at the same time as the special election; or

(2) another special election of the political subdivision held at the same time as the special election.

SECTION 2. Section 2.053, Election Code, is amended to read as follows:

Sec. 2.053. ACTION ON CERTIFICATION. (a) On receipt of the certification, the governing body of the political subdivision by order or ordinance may declare each unopposed candidate elected to the office. If no election is to be held on election day by the political subdivision, a copy of the order or ordinance shall be posted on election day at each polling place used or that would have been used in the election.

(b) If a declaration is made under Subsection (a), the election is not held. ~~[A copy of the order or ordinance shall be posted on election day at each polling place that would have been used in the election.]~~

(c) The ballots used at a separate election held at the same time as an election that would have been held if the candidates were not declared elected under this section shall include the offices and names of the candidates declared elected under this section listed separately after the measures or contested races in the separate election under the heading "Unopposed Candidates Declared Elected." The candidates shall be grouped in the same relative order prescribed for the ballot generally. No votes are cast in connection with the candidates.

(d) The secretary of state by rule may prescribe any additional procedures necessary to accommodate a particular voting system or ballot style and to facilitate the efficient and cost-effective implementation of this section.

(e) A certificate of election shall be issued to each candidate in the same manner and at the same time as provided for a candidate elected at the election. The candidate must qualify for the office in the same manner as provided for a candidate elected at the election.

SECTION 3. Subsection (a), Section 2.054, Election Code, is amended to read as follows:

(a) In an election that may be subject to this subchapter, a [A] person commits an offense if by intimidation or by means of coercion the person influences or attempts to influence a person to:

(1) not file an application for a place on the ballot or a declaration of write-in candidacy; or

(2) withdraw as a candidate [in an election that may be subject to this subchapter].

SECTION 4. Chapter 2, Election Code, is amended by adding Subchapter D to read as follows:

#### SUBCHAPTER D. CANCELLATION OF ELECTIONS

Sec. 2.081. CANCELLATION OF MOOT MEASURE. (a) If an authority that orders an election on a measure determines that the action to be authorized by the voters may not be taken, regardless of the outcome of the election, the authority may declare the measure moot and remove the measure from the ballot.

(b) If a measure is declared moot under this section and is removed from the ballot, the authority holding the election shall post notice of the declaration during early voting by personal appearance and on election day, at each polling place that would have been used for the election on the measure.

Sec. 2.082. SPECIFIC AUTHORITY FOR CANCELLATION REQUIRED. An authority that orders an election may cancel the election only if the power to cancel the election is specifically provided by statute.

SECTION 5. Subsection (a), Section 4.004, Election Code, is amended to read as follows:

(a) The notice of a general or special election must state:

(1) the nature and date of the election;

(2) except as provided by Subsection (c), the location of each polling place, including each early voting polling place;

(3) the hours that the polls will be open; and

(4) any other information required by other law.

SECTION 6. Subsection (a), Section 16.031, Election Code, is amended to read as follows:

(a) The registrar shall cancel a voter's registration immediately on receipt of:

(1) notice under Section 13.072(b) or 15.021 or a response under Section 15.053 that the voter's residence is outside the county;

(2) an abstract of the voter's death certificate under Section 16.001(a) or an abstract of an application indicating that the voter is deceased under Section 16.001(b);

(3) an abstract of a final judgment of the voter's total mental incapacity, partial mental incapacity without the right to vote, conviction of a felony, or disqualification under Section 16.002, 16.003, or 16.004;

(4) notice under Section 112.012 that the voter has applied for a limited ballot in another county;

(5) notice from a voter registration official in another state that the voter has registered to vote outside this state; ~~[or]~~

(6) notice from the early voting clerk under Section 101.0041 that a federal postcard application submitted by an applicant states a voting residence address located outside the registrar's county; or

(7) notice from the secretary of state that the voter has registered to vote in another county, as determined by the voter's driver's license number or personal identification card number issued by the Department of Public Safety or social security number.

SECTION 7. Section 67.010, Election Code, is amended by adding Subsection (d) to read as follows:

(d) The presiding officer may make a clerical correction to the officially canvassed returns based on any authorized amended county canvass filed with the presiding officer.

SECTION 8. Subsection (e), Section 85.001, Election Code, is amended to read as follows:

(e) For an election held on the uniform election date in May and any resulting runoff election, the period for early voting by personal appearance begins on the 12th day before election day and continues through the fourth day before election day.

SECTION 9. Section 85.004, Election Code, is amended to read as follows:

Sec. 85.004. PUBLIC NOTICE OF ~~[MAIN]~~ POLLING PLACE LOCATION. The election order and the election notice must state the location of each ~~[the main]~~ early voting polling place.

SECTION 10. Chapter 101, Election Code, is amended by adding Section 101.0041 to read as follows:

Sec. 101.0041. ACTION BY EARLY VOTING CLERK ON CERTAIN APPLICATIONS. The early voting clerk shall notify the voter registrar of a federal postcard application submitted by an applicant that states a voting residence address located outside the registrar's county.

SECTION 11. Subsection (a), Section 112.002, Election Code, is amended to read as follows:

(a) After changing residence to another county, a person is eligible to vote a limited ballot by personal appearance during the early voting period or by mail if:

(1) the person would have been eligible to vote in the county of former residence on election day if still residing in that county;

(2) the person ~~is~~ ~~[was]~~ registered to vote in the county of former residence at the time the person offers to vote in the county of new ~~[when the voter changed]~~ residence; and

(3) a voter registration for the person in the county of new residence is not effective on or before election day.

SECTION 12. Subchapter A, Chapter 125, Election Code, is amended by adding Section 125.010 to read as follows:

Sec. 125.010. PRESENCE OF VOTING SYSTEM TECHNICIAN AUTHORIZED. (a) In this section, "voting system technician" means a person who as a vocation repairs, assembles, maintains, or operates voting system equipment.

(b) On the request of the authority holding the election, a voting system technician may be present at a polling place, a meeting of the early voting ballot board, or a central counting station for the purpose of repairing, assembling, maintaining, or operating voting system equipment.

SECTION 13. Subchapter B, Chapter 141, Election Code, is amended by adding Section 141.040 to read as follows:

Sec. 141.040. NOTICE OF DEADLINES. Not later than the 30th day before the first day on which a candidate may file an application for a place on the ballot under this subchapter, the authority with whom the application must be filed shall post notice of the dates of the filing period in a public place in a building in which the authority has an office.

SECTION 14. Subsection (a), Section 146.0301, Election Code, as amended by Chapters 1107 (H.B. 2309) and 1109 (H.B. 2339), Acts of the 79th Legislature, Regular Session, 2005, is reenacted to read as follows:

(a) A write-in candidate may not withdraw from the election after the 67th day before election day.

SECTION 15. Subsection (b), Section 172.116, Election Code, is amended to read as follows:

(b) The committee shall convene to conduct the local canvass at the county seat [~~not earlier than 6 p.m.~~] on the second Thursday [~~or later than 1 p.m. on the second Friday~~] after election day at the hour specified by the county chair.

SECTION 16. Section 172.120, Election Code, is amended by amending Subsection (b) and adding Subsection (b-1) to read as follows:

(b) The state executive committee shall convene to conduct the state canvass for the general primary election not later than:

(1) ~~on~~ the second Sunday ~~[Wednesday]~~ after general primary election day, for an election in which three or more candidates are seeking election to the same office; or

(2) the 22nd day after general primary election day, for an election not described by Subdivision (1).

(b-1) Not later than the third ~~[second]~~ Saturday after runoff primary election day, the committee shall convene at the call of the state chair to conduct the state canvass of the runoff primary election.

SECTION 17. Section 192.031, Election Code, is amended to read as follows:

Sec. 192.031. PARTY CANDIDATE'S ENTITLEMENT TO PLACE ON BALLOT. (a) A political party is entitled to have the names of its nominees for president and vice-president of the United States placed on the ballot in a presidential general election if:

(1) the nominees possess the qualifications for those offices prescribed by federal law;

(2) ~~[before 5 p.m. of the 70th day before presidential election day,]~~ the party's state chair signs ~~[and delivers to the secretary of state]~~ a written certification of:

(A) the names of the party's nominees for president and vice-president; and

(B) the names and residence addresses of presidential elector candidates nominated by the party, in a number equal to the number of presidential electors that federal law allocates to this state; ~~[and]~~

(3) the party's state chair delivers the written certification to the secretary of state before the later of:

(A) 5 p.m. of the 70th day before presidential election day; or

(B) 5 p.m. of the first business day after the date of final adjournment of the party's national presidential nominating convention; and

(4) the party is:

(A) required or authorized by Subchapter A of Chapter 172 to make its nominations by primary election; or

(B) entitled to have the names of its nominees placed on the general election ballot under Chapter 181.

(b) If the state chair's certification of the party's nominees is delivered by mail, it is considered to be delivered at the time of its receipt by the secretary of state.

SECTION 18. Subsection (b), Section 192.033, Election Code, is amended to read as follows:

(b) The ~~[Not later than the 62nd day before presidential election day, the]~~ secretary of state shall deliver the certification to the authority responsible for having the official ballot prepared in each county before the later of the 62nd day before presidential election day or the second business day after the date of final adjournment of the party's national presidential nominating convention.

SECTION 19. Subsection (a), Section 201.054, Election Code, is amended to read as follows:

(a) Except as provided by Subsection (f), a candidate's application for a place on a special election ballot must be filed not later than:

(1) 5 p.m. of the 62nd ~~[67th]~~ day before election day, if election day is on or after the 70th day after the date the election is ordered;

(2) 5 p.m. of the 31st day before election day, if election day is on or after the 36th day and before the 70th day after the date the election is ordered; or

(3) 5 p.m. of a day fixed by the authority ordering the election, which day must be not earlier than the fifth day after the date the election is ordered and not later than the 20th day before election day, if election day is before the 36th day after the date the election is ordered.

SECTION 20. Section 212.112, Election Code, is amended to read as follows:

Sec. 212.112. AMOUNT OF DEPOSIT. ~~The [(a) Subject to Subsection (d), the]~~ amount of the recount deposit is ~~[determined by the number of precincts for which a recount is requested in the document that the deposit accompanies, in accordance with the following schedule]:~~

(1) \$60 [five times the maximum hourly rate of pay for election judges,] for each [a] precinct in which[=

~~[(A)] regular paper ballots were used; and~~

~~(2) \$100 for each precinct in which an electronic voting system was used~~  
~~[(B) electronic voting system ballots, other than printed images of ballots cast using~~  
~~direct recording electronic voting machines, are to be recounted manually; or~~

~~[(C) both write in votes and voting system votes are to be recounted;~~

~~[(2) 10 times the maximum hourly rate of pay for election judges, for a~~  
~~precinct in which printed images of ballots cast using direct recording electronic~~  
~~voting machines are to be recounted manually;~~

~~[(3) three times the maximum hourly rate of pay for election judges, for a~~  
~~precinct in which ballots are to be recounted by automatic tabulating equipment and~~  
~~no write in votes are to be recounted; and~~

~~[(4) two times the maximum hourly rate of pay for election judges, for a~~  
~~precinct in which:~~

~~[(A) voting machines were used and no write in votes are to be~~  
~~recounted; or~~

~~[(B) only the write in votes cast in connection with a voting system are~~  
~~to be recounted].~~

~~[(b) In a recount of an election for which a majority vote is required for~~  
~~nomination or election to an office, the rate prescribed by Subsection (a)(1)(C) applies~~  
~~to each precinct in which a voting system was used, regardless of whether any~~  
~~write in votes were cast in the precinct, if:~~

~~[(1) the original election results show that write in votes were cast in the~~  
~~election; and~~

~~[(2) an exclusion of write in votes from the recount is not obtained under~~  
~~Section 212.136.~~

~~[(c) If more than one method of voting is used for early voting, each additional~~  
~~method of voting used for the early voting shall be treated as constituting an~~  
~~additional precinct in determining the amount of a recount deposit for a recount of~~  
~~early voting votes.~~

~~[(d) The minimum amount of a deposit accompanying a petition for a recount is~~  
~~\$50.]~~

SECTION 21. Subsections (b), (c), (d), (e), (f), (g), (h), and (i), Section 213.013,  
Election Code, are amended to read as follows:

(b) In a recount of an election on an office, each candidate for the office is  
entitled to be present at the recount and have watchers ~~[representatives]~~ present in the  
number corresponding to the number of counting teams designated for the recount. If  
only one counting team is designated or the recount is conducted on automatic  
tabulating equipment, each candidate is entitled to two watchers ~~[representatives]~~.

(c) In a recount of an election on an office for which a political party has a  
nominee or for which a candidate is aligned with a political party, the party is entitled  
to have watchers ~~[representatives]~~ present in the same number prescribed for  
candidates under Subsection (b).

(d) In a recount of an election on a measure, watchers ~~[representatives]~~ may be  
appointed by the campaign treasurer or assistant campaign treasurer of a  
specific-purpose political committee that supports or opposes the measure in the  
number corresponding to the number of counting teams designated for the recount. If

only one counting team is designated or the recount is conducted on automatic tabulating equipment, each eligible specific-purpose political committee is entitled to two watchers [~~representatives~~].

(e) A watcher [~~representative~~] appointed to serve at a recount must deliver a certificate of appointment to the recount committee chair at the time the watcher [~~representative~~] reports for service. A watcher [~~representative~~] who presents himself or herself for service at any time immediately before or during the recount and submits a proper certificate of appointment must be accepted for service unless the number of appointees to which the appointing authority is entitled have already been accepted.

(f) The certificate must be in writing and must include:

- (1) the printed name and the signature of the watcher [~~representative~~];
- (2) the election subject to the recount;
- (3) the time and place of the recount;
- (4) the measure, candidate, or political party being represented;
- (5) the signature and the printed name of the person making the

appointment; and

(6) an indication of the capacity in which the appointing authority is acting.

(g) If the watcher [~~representative~~] is accepted for service, the recount committee chair shall keep the certificate and deliver it to the recount coordinator after the recount for preservation under Section 211.007. If the watcher [~~representative~~] is not accepted for service, the recount committee chair shall return the certificate to the watcher [~~representative~~] with a signed statement of the reason for the rejection.

(h) Each person entitled to be present at a recount is entitled to observe any activity conducted in connection with the recount. The person is entitled to sit or stand conveniently near the officers conducting the observed activity and near enough to an officer who is announcing the votes or examining or processing the ballots to verify that the ballots are counted or processed correctly or to an officer who is tallying the votes to verify that they are tallied correctly. Rules concerning a watcher's [~~representative's~~] rights, duties, and privileges are otherwise the same as those prescribed by this code for poll watchers to the extent they can be made applicable.

(i) No mechanical or electronic means of recording images or sound are allowed inside the room in which the recount is conducted, or in any hallway or corridor in the building in which the recount is conducted within 30 feet of the entrance to the room, while the recount is in progress. However, on request of a person entitled to appoint watchers [~~representatives~~] to serve at the recount, the recount committee chair shall permit the person to photocopy under the chair's supervision any ballot, including any supporting materials, challenged by the person or person's watcher [~~representative~~]. The person must pay a reasonable charge for making the copies and, if no photocopying equipment is available, may supply that equipment at the person's expense. The person shall provide a copy on request to another person entitled to appoint watchers [~~representatives~~] to serve at the recount.

SECTION 22. Section 213.016, Election Code, is amended to read as follows:

Sec. 213.016. PRINTING IMAGES OF BALLOTS CAST USING DIRECT RECORDING ELECTRONIC VOTING MACHINES. During any printing of images of ballots cast using direct recording electronic voting machines for the purpose of a recount, the full recount committee is not required to be present. The recount



committee chair shall determine how many committee members must be present during the printing of the images. Each candidate is entitled to be present and to have representatives present during the printing of the images in the same number as ~~[prescribed by]~~ Section 213.013(b) prescribes for watchers for a recount ~~[during the printing of the images]~~.

SECTION 23. Subsection (b), Section 221.014, Election Code, is amended to read as follows:

(b) The county shall pay the expenses of a new election ordered in the contest of a local option election ~~[held under the Alcoholic Beverage Code]~~ that was financed from money deposited by the applicants for the petition requesting the election.

SECTION 24. Subsections (a), (b), and (c), Section 271.002, Election Code, are amended to read as follows:

(a) If the elections ordered by the authorities of two or more political subdivisions are to be held on the same day in all or part of the same county ~~[territory]~~, the governing bodies of the political subdivisions may enter into an agreement to hold the elections jointly in the election precincts that can be served by common polling places, subject to Section 271.003.

(b) If an election ordered by the governor and the elections ordered by the authorities of one or more political subdivisions are to be held on the same day in all or part of the same county ~~[territory]~~, the commissioners court of a county in which the election ordered by the governor is to be held and the governing bodies of the other political subdivisions may enter into an agreement to hold the elections jointly in the election precincts that can be served by common polling places, subject to Section 271.003.

(c) If another law requires two or more political subdivisions to hold a joint election, the governing body of any other political subdivision holding an election on the same day in all or part of the same county ~~[territory]~~ in which the joint election is to be held may enter into an agreement to participate in the joint election with the governing bodies of the political subdivisions holding the joint election.

SECTION 25. Section 277.001, Election Code, is amended to read as follows:

Sec. 277.001. APPLICABILITY OF CHAPTER. This chapter applies to a petition authorized or required to be filed under a law outside this code in connection with an election~~[-except a petition for a local option election held under the Alcoholic Beverage Code]~~.

SECTION 26. The following provisions of the Election Code are repealed:

- (1) Section 1.016;
- (2) Subsection (d), Section 32.051;
- (3) Subsection (b), Section 33.031;
- (4) Subsection (b), Section 41.0041; and
- (5) Subsection (d), Section 65.002.

SECTION 27. The change in law made by the repeal of Section 1.016, Election Code, by this Act does not affect the validity of a person's action taken before the effective date of this Act, including a person's registration to vote, if the person was qualified to take such action before the effective date of this Act.

SECTION 28. The changes in law made by this Act apply only to an election ordered on or after September 1, 2009.

SECTION 29. This Act takes effect September 1, 2009.

**Floor Amendment No. 1**

Amend **CSSB 1970** by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Section 141.001(a), Election Code, is amended to read as follows:

(a) To be eligible to be a candidate for, or elected or appointed to, a public elective office in this state, a person must:

(1) be a United States citizen;

(2) be 18 years of age or older on the first day of the term to be filled at the election or on the date of appointment, as applicable;

(3) have not been determined by a final judgment of a court exercising probate jurisdiction to be:

(A) totally mentally incapacitated; or

(B) partially mentally incapacitated without the right to vote;

(4) have not been finally convicted of a felony from which the person has not been pardoned or otherwise released from the resulting disabilities or for which the person's sentence has not been commuted by the chief executive officer of the jurisdiction of conviction;

(5) have resided continuously in the state for 12 months and in the territory from which the office is elected for six months immediately preceding the following date:

(A) for a candidate whose name is to appear on a general primary election ballot, the date of the regular filing deadline for a candidate's application for a place on the ballot;

(B) for an independent candidate, the date of the regular filing deadline for a candidate's application for a place on the ballot;

(C) for a write-in candidate, the date of the election at which the candidate's name is written in;

(D) for a party nominee who is nominated by any method other than by primary election, the date the nomination is made; and

(E) for an appointee to an office, the date the appointment is made; and

(6) satisfy any other eligibility requirements prescribed by law for the office.

SECTION \_\_\_\_\_. Section 141.031(a), Election Code, is amended to read as follows:

(a) A candidate's application for a place on the ballot that is required by this code must:

(1) be in writing;

(2) be signed and sworn to by the candidate and indicate the date that the candidate swears to the application;

(3) be timely filed with the appropriate authority; and

(4) include:

(A) the candidate's name;

(B) the candidate's occupation;

(C) the office sought, including any place number or other distinguishing number;

(D) an indication of whether the office sought is to be filled for a full or unexpired term if the office sought and another office to be voted on have the same title but do not have place numbers or other distinguishing numbers;

(E) a statement that the candidate is a United States citizen;

(F) a statement that the candidate has not been determined by a final judgment of a court exercising probate jurisdiction to be:

(i) totally mentally incapacitated; or

(ii) partially mentally incapacitated without the right to vote;

(G) a statement that the candidate has not been finally convicted of a felony from which the candidate has not been pardoned or otherwise released from the resulting disabilities or for which the person's sentence has not been commuted by the chief executive officer of the jurisdiction of conviction;

(H) the candidate's date of birth;

(I) the candidate's residence address or, if the residence has no address, the address at which the candidate receives mail and a concise description of the location of the candidate's residence;

(J) the candidate's length of continuous residence in the state and in the territory from which the office sought is elected as of the date the candidate swears to the application;

(K) the statement: "I, \_\_\_\_\_, of \_\_\_\_\_ County, Texas, being a candidate for the office of \_\_\_\_\_, swear that I will support and defend the constitution and laws of the United States and of the State of Texas"; and

(L) a statement that the candidate is aware of the nepotism law, Chapter 573, Government Code.

The amendments were read.

Senator Duncan moved that the Senate do not concur in the House amendments, but that a conference committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **SB 1970** before appointment.

There were no motions offered.

The Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Duncan, Chair; Williams, Van de Putte, Estes, and Hinojosa.

#### CONFERENCE COMMITTEE ON HOUSE BILL 459

Senator Zaffirini called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 459** and moved that the request be granted.

The motion prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 459** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Zaffirini, Chair; Hinojosa, Eltife, Ellis, and Carona.

#### **CONFERENCE COMMITTEE ON HOUSE BILL 537**

Senator Hegar, on behalf of Senator Eltife, called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 537** and moved that the request be granted.

The motion prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 537** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Eltife, Chair; Watson, Huffman, Deuell, and Shapleigh.

#### **CONFERENCE COMMITTEE ON HOUSE BILL 1041**

Senator West called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 1041** and moved that the request be granted.

The motion prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 1041** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators West, Chair; Uresti, Shapiro, Nelson, and Averitt.

#### **CONFERENCE COMMITTEE ON HOUSE BILL 2730**

Senator Hinojosa called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 2730** and moved that the request be granted.

The motion prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 2730** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Hinojosa, Chair; Hegar, Carona, Whitmire, and Nelson.

**CONFERENCE COMMITTEE ON HOUSE BILL 3335**

Senator Averitt called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 3335** and moved that the request be granted.

The motion prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 3335** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Averitt, Chair; Williams, Uresti, Deuell, and Duncan.

**CONFERENCE COMMITTEE ON HOUSE BILL 2833**

Senator Shapleigh called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 2833** and moved that the request be granted.

The motion prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 2833** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Shapleigh, Chair; Averitt, Gallegos, Nichols, and Huffman.

**CONFERENCE COMMITTEE ON HOUSE BILL 2169**

Senator Hinojosa called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 2169** and moved that the request be granted.

The motion prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 2169** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Hinojosa, Chair; Eltife, Watson, Shapiro, and Williams.

**CONFERENCE COMMITTEE ON HOUSE BILL 3689**

Senator Hinojosa called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 3689** and moved that the request be granted.

The motion prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 3689** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Hinojosa, Chair; Whitmire, Hegar, West, and Ogden.

#### **CONFERENCE COMMITTEE ON HOUSE BILL 3737**

Senator Davis called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 3737** and moved that the request be granted.

The motion prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 3737** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Davis, Chair; Nelson, Eltife, Uresti, and Carona.

#### **CONFERENCE COMMITTEE ON HOUSE BILL 4275**

Senator West called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 4275** and moved that the request be granted.

The motion prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 4275** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators West, Chair; Nichols, Whitmire, Williams, and Shapleigh.

#### **CONFERENCE COMMITTEE ON HOUSE BILL 51**

Senator Zaffirini called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 51** and moved that the request be granted.

The motion prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 51** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Zaffirini, Chair; Duncan, Van de Putte, Williams, and Watson.

**CONFERENCE COMMITTEE ON HOUSE BILL 431**

Senator Hinojosa called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 431** and moved that the request be granted.

The motion prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 431** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Hinojosa, Chair; Nelson, Whitmire, Williams, and Averitt.

**CONFERENCE COMMITTEE ON HOUSE BILL 3876**

Senator Harris called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 3876** and moved that the request be granted.

The motion prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 3876** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Harris, Chair; Hinojosa, Wentworth, Watson, and Eltife.

**CONFERENCE COMMITTEE ON HOUSE BILL 3479**

Senator Uresti called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 3479** and moved that the request be granted.

The motion prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 3479** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Uresti, Chair; Shapleigh, West, Patrick, and Wentworth.

**CONFERENCE COMMITTEE ON HOUSE BILL 1935**

Senator Duncan called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 1935** and moved that the request be granted.

The motion prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 1935** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Duncan, Chair; Shapiro, Averitt, Zaffirini, and Ellis.

#### **CONFERENCE COMMITTEE ON HOUSE BILL 4424**

Senator Gallegos called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 4424** and moved that the request be granted.

The motion prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 4424** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Gallegos, Chair; Uresti, Hinojosa, Wentworth, and Harris.

#### **CONFERENCE COMMITTEE ON HOUSE BILL 432**

Senator Estes called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 432** and moved that the request be granted.

The motion prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 432** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Estes, Chair; Averitt, Williams, Van de Putte, and Watson.

#### **CONFERENCE COMMITTEE ON HOUSE BILL 2000**

Senator Van de Putte called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 2000** and moved that the request be granted.

The motion prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 2000** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Van de Putte, Chair; Duncan, Deuell, Watson, and Zaffirini.



**CONFERENCE COMMITTEE ON HOUSE BILL 2240**

Senator Nelson called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 2240** and moved that the request be granted.

The motion prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 2240** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Nelson, Chair; Whitmire, Seliger, Patrick, and Shapiro.

**CONFERENCE COMMITTEE ON HOUSE BILL 3827**

Senator Deuell called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 3827** and moved that the request be granted.

The motion prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 3827** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Deuell, Chair; Hegar, Averitt, Williams, and Estes.

**CONFERENCE COMMITTEE ON HOUSE BILL 3454**

Senator Williams called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 3454** and moved that the request be granted.

The motion prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 3454** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Williams, Chair; Ellis, Uresti, Eltife, and Deuell.

**CONFERENCE COMMITTEE ON HOUSE BILL 2752**

Senator Averitt called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 2752** and moved that the request be granted.

The motion prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 2752** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Averitt, Chair; Estes, Van de Putte, Ellis, and Williams.

**(President in Chair)**

**(Senator Eltife in Chair)**

#### **CONFERENCE COMMITTEE ON HOUSE BILL 764**

Senator Wentworth called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 764** and moved that the request be granted.

The motion prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 764** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Wentworth, Chair; Watson, Hinojosa, Williams, and Harris.

#### **CONFERENCE COMMITTEE ON HOUSE BILL 3076**

Senator West called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 3076** and moved that the request be granted.

The motion prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 3076** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators West, Chair; Watson, Averitt, Patrick, and Shapiro.

#### **CONFERENCE COMMITTEE ON HOUSE BILL 4244**

Senator Zaffirini called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 4244** and moved that the request be granted.

The motion prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 4244** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Zaffirini, Chair; Shapleigh, Seliger, Averitt, and Uresti.

#### **CONFERENCE COMMITTEE ON HOUSE BILL 3768**

Senator Wentworth called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 3768** and moved that the request be granted.

The motion prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 3768** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Wentworth, Chair; Eltife, Whitmire, Averitt, and Watson.

#### **CONFERENCE COMMITTEE ON HOUSE BILL 1357**

Senator Deuell called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 1357** and moved that the request be granted.

The motion prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 1357** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Deuell, Chair; Patrick, Williams, Uresti, and Van de Putte.

#### **CONFERENCE COMMITTEE ON HOUSE BILL 2582**

Senator Hegar called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 2582** and moved that the request be granted.

The motion prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 2582** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Hegar, Chair; Patrick, Averitt, Hinojosa, and Eltife.

**CONFERENCE COMMITTEE ON HOUSE BILL 3907**

Senator Whitmire called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 3907** and moved that the request be granted.

The motion prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 3907** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Whitmire, Chair; Hinojosa, Seliger, Hegar, and Zaffirini.

**CONFERENCE COMMITTEE ON HOUSE BILL 4833**

Senator Wentworth called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 4833** and moved that the request be granted.

The motion prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 4833** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Wentworth, Chair; Duncan, Harris, Hinojosa, and Ellis.

**CONFERENCE COMMITTEE ON HOUSE BILL 2555**

Senator Ogden called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 2555** and moved that the request be granted.

The motion prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 2555** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Ogden, Chair; Harris, Deuell, Wentworth, and Zaffirini.

**CONFERENCE COMMITTEE ON HOUSE BILL 3287**

Senator Ogden called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 3287** and moved that the request be granted.

The motion prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 3287** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Ogden, Chair; Nichols, West, Eltife, and Williams.

#### **CONFERENCE COMMITTEE ON HOUSE BILL 3612**

Senator Williams called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 3612** and moved that the request be granted.

The motion prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 3612** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Williams, Chair; West, Hinojosa, Carona, and Patrick.

#### **CONFERENCE COMMITTEE ON HOUSE BILL 1030**

Senator Ellis called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 1030** and moved that the request be granted.

The motion prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 1030** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Ellis, Chair; Patrick, Shapleigh, Wentworth, and Nichols.

#### **CONFERENCE COMMITTEE ON HOUSE BILL 635**

Senator Zaffirini called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 635** and moved that the request be granted.

The motion prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 635** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Zaffirini, Chair; Averitt, Ogden, Van de Putte, and Lucio.

### CONFERENCE COMMITTEE ON HOUSE BILL 2086

Senator Whitmire called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 2086** and moved that the request be granted.

The motion prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 2086** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Whitmire, Chair; Carona, Ellis, Ogden, and Seliger.

### CONFERENCE COMMITTEE ON HOUSE BILL 3621

Senator Carona called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 3621** and moved that the request be granted.

The motion prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 3621** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Carona, Chair; Averitt, Davis, Watson, and Wentworth.

### SENATE BILL 2080 WITH HOUSE AMENDMENTS

Senator Uresti called **SB 2080** from the President's table for consideration of the House amendments to the bill.

The Presiding Officer, Senator Eltife in Chair, laid the bill and the House amendments before the Senate.

#### Floor Amendment No. 1

Amend **SB 2080** by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill as appropriate:

SECTION \_\_\_\_\_. Chapter 1001, Health and Safety Code, is amended by adding Subchapter F to read as follows:

#### SUBCHAPTER F. TEXAS MEDICAL CHILD ABUSE RESOURCES AND EDUCATION SYSTEM (MEDCARES)

Sec. 1001.151. TEXAS MEDICAL CHILD ABUSE RESOURCES AND EDUCATION SYSTEM GRANT PROGRAM. (a) The department shall establish the Texas Medical Child Abuse Resources and Education System (MEDCARES) grant program to award grants for the purpose of developing and supporting regional programs to improve the assessment, diagnosis, and treatment of child abuse and neglect as described by the report submitted to the 80th Legislature by the committee

on pediatric centers of excellence relating to abuse and neglect in accordance with Section 266.0031, Family Code, as added by Chapter 1406 (S.B. 758), Acts of the 80th Legislature, Regular Session, 2007.

(b) The department may award grants to hospitals or academic health centers with expertise in pediatric health care and a demonstrated commitment to developing basic and advanced programs and centers of excellence for the assessment, diagnosis, and treatment of child abuse and neglect.

(c) The department shall encourage collaboration among grant recipients in the development of program services and activities.

Sec. 1001.152. USE OF GRANT. A grant awarded under this subchapter may be used to support:

(1) comprehensive medical evaluations, psychosocial assessments, treatment services, and written and photographic documentation of abuse;

(2) education and training for health professionals, including physicians, medical students, resident physicians, child abuse fellows, and nurses, relating to the assessment, diagnosis, and treatment of child abuse and neglect;

(3) education and training for community agencies involved with child abuse and neglect, law enforcement officials, child protective services staff, and children's advocacy centers involved with child abuse and neglect;

(4) medical case reviews and consultations and testimony regarding those reviews and consultations;

(5) research, data collection, and quality assurance activities, including the development of evidence-based guidelines and protocols for the prevention, evaluation, and treatment of child abuse and neglect;

(6) the use of telemedicine and other means to extend services from regional programs into underserved areas; and

(7) other necessary activities, services, supplies, facilities, and equipment as determined by the department.

Sec. 1001.153. MEDCARES ADVISORY COMMITTEE. The executive commissioner shall establish an advisory committee to advise the department and the executive commissioner in establishing rules and priorities for the use of grant funds awarded through the program. The advisory committee is composed of the following nine members:

(1) the state Medicaid director or the state Medicaid director's designee;

(2) the medical director for the Department of Family and Protective Services or the medical director's designee; and

(3) as appointed by the executive commissioner:

(A) two pediatricians with expertise in child abuse or neglect;

(B) a nurse with expertise in child abuse or neglect;

(C) a representative of a pediatric residency training program;

(D) a representative of a children's hospital;

(E) a representative of a children's advocacy center; and

(F) a member of the Governor's EMS and Trauma Advisory Council.

Sec. 1001.154. GIFTS AND GRANTS. The department may solicit and accept gifts, grants, and donations from any public or private source for the purposes of this subchapter.

Sec. 1001.155. REQUIRED REPORT. Not later than December 1 of each even-numbered year, the department, with the assistance of the advisory committee established under this subchapter, shall submit a report to the governor and the legislature regarding the grant activities of the program and grant recipients, including the results and outcomes of grants provided under this subchapter.

Sec. 1001.156. RULES. The executive commissioner may adopt rules as necessary to implement this subchapter.

Sec. 1001.157. APPROPRIATION REQUIRED. The department is not required to award a grant under this subchapter unless the department is specifically appropriated money for purposes of this subchapter.

SECTION \_\_\_\_\_. (a) Not later than November 1, 2009, the executive commissioner of the Health and Human Services Commission shall appoint the members of the advisory committee as required by Section 1001.153, Health and Safety Code, as added by this Act.

(b) Not later than January 1, 2010, the Department of State Health Services shall establish and implement a grant program as described by Subchapter F, Chapter 1001, Health and Safety Code, as added by this Act.

(c) Not later than December 1, 2010, the Department of State Health Services shall provide the initial report to the governor and the legislature as required by Section 1001.155, Health and Safety Code, as added by this Act.

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

Section \_\_\_\_\_. This Act does not make an appropriation. This Act takes effect only if a specific appropriation for the implementation of the Act is provided in a general appropriations act of the 81st Legislature.

### **Floor Amendment No. 2**

Amend **SB 2080** (House committee printing) as follows:

(1) In SECTION 2(a) of the bill (page 1, line 8), strike "15" and substitute "nine".

(2) In SECTION 2(a)(2) of the bill (page 1, line 11), strike "five" and substitute "two".

(1) In SECTION 2(a)(3) of the bill (page 1, line 13), strike "five" and substitute "two".

### **Floor Amendment No. 3**

Amend **SB 2080** (House committee printing) by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Section 162.3041, Family Code, is amended by adding Subsection (a-1) and amending Subsection (d) to read as follows:

(a-1) Notwithstanding Subsection (a), if the department first entered into an adoption assistance agreement with a child's adoptive parents after the child's 16th birthday, the department shall, in accordance with rules adopted by the executive



commissioner of the Health and Human Services Commission, offer adoption assistance after the child's 18th birthday to the child's adoptive parents under an existing adoption agreement until the last day of the month of the child's 21st birthday, provided the child is:

(1) regularly attending high school or enrolled in a program leading toward a high school diploma or high school equivalency certificate;

(2) regularly attending an institution of higher education or a postsecondary vocational or technical program;

(3) participating in a program or activity that promotes, or removes barriers to, employment;

(4) employed for at least 80 hours a month; or

(5) incapable of doing any of the activities described by Subdivisions (1) through (4) due to a documented medical condition.

(d) If the legislature does not appropriate sufficient money to provide adoption assistance to the adoptive parents of all children described by Subsection (a), the department shall provide adoption assistance only to the adoptive parents of children described by Subsection (a)(1). The department is not required to provide adoption assistance benefits under Subsection (a-1) unless the department is specifically appropriated funds for purposes of that subsection.

SECTION \_\_\_\_\_. Section 264.101, Family Code, is amended by amending Subsections (a-1) and (d) and adding Subsection (a-2) to read as follows:

(a-1) The department shall continue to pay the cost of foster care for a child for whom the department provides care, including medical care, until the last day of the month in which ~~later of:~~

[~~(4) the date~~] the child attains the age of 18. The department shall continue to pay the cost of foster care for a child after the month in which the child attains the age of 18 as long as the child is:

(1) regularly attending ~~[-or~~

[~~(2) the date the child graduates from~~] high school or [~~ceases to be~~] enrolled in a [~~secondary school in a~~] program leading toward a high school diploma or high school equivalency certificate;

(2) regularly attending an institution of higher education or a postsecondary vocational or technical program;

(3) participating in a program or activity that promotes, or removes barriers to, employment;

(4) employed for at least 80 hours a month; or

(5) incapable of performing the activities described by Subdivisions (1) through (4) due to a documented medical condition.

(a-2) The department shall continue to pay the cost of foster care under:

(1) Subsection (a-1)(1) until the last day of the month in which the child attains the age of 22; and

(2) Subsections (a-1)(2) through (5) until the last day of the month the child attains the age of 21.

(d) The executive commissioner of the Health and Human Services Commission may adopt rules that establish criteria and guidelines for the payment of foster care, including medical care, for a child and for providing care for a child after the child

becomes 18 years of age if the child meets the requirements for continued foster care under Subsection (a-1) [is regularly attending an institution of higher education or a vocational or technical program].

SECTION \_\_\_\_\_. Sections 264.751(1) and (3), Family Code, are amended to read as follows:

(1) "Designated caregiver" means an individual who has a longstanding and significant relationship with a child for whom the department has been appointed managing conservator and who:

(A) is appointed to provide substitute care for the child, but is not licensed by the department or verified by a licensed child-placing agency or the department [certified] to operate a foster home, foster group home, agency foster home, or agency foster group home under Chapter 42, Human Resources Code; or

(B) is subsequently appointed permanent managing conservator of the child after providing the care described by Paragraph (A).

(3) "Relative caregiver" means a relative who:

(A) provides substitute care for a child for whom the department has been appointed managing conservator, but who is not licensed by the department or verified by a licensed child-placing agency or the department [certified] to operate a foster home, foster group home, agency foster home, or agency foster group home under Chapter 42, Human Resources Code; or

(B) is subsequently appointed permanent managing conservator of the child after providing the care described by Paragraph (A).

SECTION \_\_\_\_\_. Subchapter I, Chapter 264, Family Code, is amended by adding Section 264.760 to read as follows:

Sec. 264.760. ELIGIBILITY FOR FOSTER CARE PAYMENTS AND PERMANENCY CARE ASSISTANCE. Notwithstanding any other provision of this subchapter, a relative or other designated caregiver who becomes licensed by the department or verified by a licensed child-placing agency or the department to operate a foster home, foster group home, agency foster home, or agency foster group home under Chapter 42, Human Resources Code, may receive foster care payments in lieu of the benefits provided by this subchapter, beginning with the first month in which the relative or other designated caregiver becomes licensed or is verified.

SECTION \_\_\_\_\_. Chapter 264, Family Code, is amended by adding Subchapter K to read as follows:

#### SUBCHAPTER K. PERMANENCY CARE ASSISTANCE PROGRAM

Sec. 264.851. DEFINITIONS. In this subchapter:

(1) "Foster child" means a child who is or was in the temporary or permanent managing conservatorship of the department.

(2) "Kinship provider" means a relative of a foster child, or another adult with a longstanding and significant relationship with a foster child before the child was placed with the person by the department, with whom the child resides for at least six consecutive months after the person becomes licensed by the department or verified by a licensed child-placing agency or the department to provide foster care.

(3) "Permanency care assistance agreement" means a written agreement between the department and a kinship provider for the payment of permanency care assistance benefits as provided by this subchapter.

(4) "Permanency care assistance benefits" means monthly payments paid by the department to a kinship provider under a permanency care assistance agreement.

(5) "Relative" means a person related to a foster child by consanguinity or affinity.

Sec. 264.852. PERMANENCY CARE ASSISTANCE AGREEMENTS. (a) The department shall enter into a permanency care assistance agreement with a kinship provider who is eligible to receive permanency care assistance benefits.

(b) The department may enter into a permanency care assistance agreement with a kinship provider who is the prospective managing conservator of a foster child only if the kinship provider meets the eligibility criteria under federal and state law and department rule.

(c) A court may not order the department to enter into a permanency care assistance agreement with a kinship provider unless the kinship provider meets the eligibility criteria under federal and state law and department rule, including requirements relating to the criminal history background check of a kinship provider.

(d) A permanency care assistance agreement may provide for reimbursement of the nonrecurring expenses a kinship provider incurs in obtaining permanent managing conservatorship of a foster child, including attorney's fees and court costs. The reimbursement of the nonrecurring expenses under this subsection may not exceed \$2,000.

Sec. 264.853. RULES. The executive commissioner shall adopt rules necessary to implement the permanency care assistance program. The rules must:

(1) establish eligibility requirements to receive permanency care assistance benefits under the program; and

(2) ensure that the program conforms to the requirements for federal assistance as required by the Fostering Connections to Success and Increasing Adoptions Act of 2008 (Pub. L. No. 110-351).

Sec. 264.854. MAXIMUM PAYMENT AMOUNT. The executive commissioner shall set the maximum monthly amount of assistance payments under a permanency care assistance agreement in an amount that does not exceed the amount of the monthly foster care maintenance payment the department would pay to a foster care provider caring for the child for whom the kinship provider is caring.

Sec. 264.855. CONTINUED ELIGIBILITY FOR PERMANENCY CARE ASSISTANCE BENEFITS AFTER AGE 18. If the department first entered into a permanency care assistance agreement with a foster child's kinship provider after the child's 16th birthday, the department may continue to provide permanency care assistance payments until the last day of the month of the child's 21st birthday, provided the child is:

(1) regularly attending high school or enrolled in a program leading toward a high school diploma or high school equivalency certificate;

(2) regularly attending an institution of higher education or a postsecondary vocational or technical program;

(3) participating in a program or activity that promotes, or removes barriers to, employment;

(4) employed for at least 80 hours a month; or

(5) incapable of any of the activities described by Subdivisions (1) through (4) due to a documented medical condition.

Sec. 264.856. APPROPRIATION REQUIRED. The department is not required to provide permanency care assistance benefits under this subchapter unless the department is specifically appropriated money for purposes of this subchapter.

Sec. 264.857. DEADLINE FOR NEW AGREEMENTS. The department may not enter into a permanency care assistance agreement after August 31, 2017. The department shall continue to make payments after that date under a permanency care assistance agreement entered into on or before August 31, 2017, according to the terms of the agreement.

SECTION \_\_\_\_\_. Not later than April 1, 2010, the executive commissioner of the Health and Human Services Commission shall adopt rules to implement and administer the permanency care assistance program under Subchapter K, Chapter 264, Family Code, as added by this Act.

SECTION \_\_\_\_\_. Sections 162.3041 and 264.101, Family Code, as amended by this Act, and Section 264.855, Family Code, as added by this Act, take effect October 1, 2010.

The amendments were read.

Senator Uresti moved that the Senate do not concur in the House amendments, but that a conference committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **SB 2080** before appointment.

There were no motions offered.

The Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Uresti, Chair; Huffman, West, Averitt, and Williams.

#### **CONFERENCE COMMITTEE ON HOUSE BILL 3751**

Senator Shapiro called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 3751** and moved that the request be granted.

The motion prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 3751** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Shapiro, Chair; Ogden, Patrick, Hinojosa, and Averitt.

**CONFERENCE COMMITTEE ON HOUSE BILL 171**

Senator Gallegos called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 171** and moved that the request be granted.

The motion prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 171** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Gallegos, Chair; Zaffirini, Watson, Shapiro, and Ogden.

**CONFERENCE COMMITTEE ON HOUSE BILL 1831**

Senator Carona called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 1831** and moved that the request be granted.

The motion prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 1831** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Carona, Chair; Nichols, Ellis, Whitmire, and Williams.

**SENATE BILL 361 WITH HOUSE AMENDMENTS**

Senator Patrick called **SB 361** from the President's table for consideration of the House amendments to the bill.

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

**Amendment**

Amend **SB 361** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED  
AN ACT

relating to the requirement that certain water service providers ensure emergency operations during an extended power outage.

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

SECTION 1. Subchapter E, Chapter 13, Water Code, is amended by adding Sections 13.1395 and 13.1396 to read as follows:

Sec. 13.1395. STANDARDS OF EMERGENCY OPERATIONS. (a) In this section:

(1) "Affected utility" means a retail public utility, exempt utility, or provider or conveyor of potable or raw water service that furnishes water service to more than one customer:

(A) in a county with a population of 3.3 million or more; or

(B) in a county with a population of 400,000 or more adjacent to a county with a population of 3.3 million or more.

(2) "Emergency operations" means the operation of a water system during an extended power outage at a minimum water pressure of 35 pounds per square inch.

(3) "Extended power outage" means a power outage lasting for more than 24 hours.

(b) An affected utility shall:

(1) ensure the emergency operation of its water system during an extended power outage as soon as safe and practicable following the occurrence of a natural disaster; and

(2) adopt and submit to the commission for its approval an emergency preparedness plan that demonstrates the utility's ability to provide emergency operations.

(c) The commission shall review an emergency preparedness plan submitted under Subsection (b). If the commission determines that the plan is not acceptable, the commission shall recommend changes to the plan. The commission must make its recommendations on or before the 90th day after the commission receives the plan. In accordance with commission rules, an emergency preparedness plan shall provide for one of the following:

(1) the maintenance of automatically starting auxiliary generators;

(2) the sharing of auxiliary generator capacity with one or more affected utilities;

(3) the negotiation of leasing and contracting agreements, including emergency mutual aid agreements with other retail public utilities, exempt utilities, or providers or conveyors of potable or raw water service, if the agreements provide for coordination with the division of emergency management in the governor's office;

(4) the use of portable generators capable of serving multiple facilities equipped with quick-connect systems;

(5) the use of on-site electrical generation or distributed generation facilities;

(6) hardening the electric transmission and distribution system serving the water system;

(7) for existing facilities, the maintenance of direct engine or right angle drives; or

(8) any other alternative determined by the commission to be acceptable.

(d) Each affected utility that supplies, provides, or conveys surface water shall include in its emergency preparedness plan under Subsection (b) provisions for the actual installation and maintenance of automatically starting auxiliary generators or distributive generation facilities for each raw water intake pump station, water treatment plant, pump station, and pressure facility necessary to provide water to its wholesale customers.

(e) The commission shall adopt rules to implement this section as an alternative to any rule requiring elevated storage.

(f) The commission shall provide an affected utility with access to the commission's financial, managerial, and technical contractors to assist the utility in complying with the applicable emergency preparedness plan submission deadline.

(g) The commission by rule shall create an emergency preparedness plan template for use by an affected utility when submitting a plan under this section. The emergency preparedness plan template shall contain:

(1) a list and explanation of the preparations an affected utility may make under Subsection (c) for the commission to approve the utility's emergency preparedness plan; and

(2) a list of all commission rules and standards pertaining to emergency preparedness plans.

(h) An emergency generator used as part of an approved emergency preparedness plan under Subsection (c) must be operated and maintained according to the manufacturer's specifications.

(i) The commission shall inspect each utility to ensure that the utility complies with the approved plan.

(j) The commission may grant a waiver of the requirements of this section to an affected utility if the commission determines that compliance with this section will cause a significant financial burden on customers of the affected utility.

(k) An affected utility may adopt and enforce limitations on water use while the utility is providing emergency operations.

(l) Except as specifically required by this section, information provided by an affected utility under this section is confidential and is not subject to disclosure under Chapter 552, Government Code.

Sec. 13.1396. COORDINATION OF EMERGENCY OPERATIONS. (a) In this section:

(1) "Affected utility" has the meaning assigned by Section 13.1395.

(2) "County judge" means a county judge or the person designated by a county judge.

(3) "Electric utility" means the electric transmission and distribution utility providing electric service to the water and wastewater facilities of an affected utility.

(4) "Retail electric provider" has the meaning assigned by Section 31.002, Utilities Code.

(b) An affected utility shall submit to the county judge, the office of emergency management of each county in which the utility has more than one customer, the Public Utility Commission of Texas, and the office of emergency management of the governor, a copy of:

(1) the affected utility's emergency preparedness plan approved under Section 13.1395; and

(2) the commission's notification to the affected utility that the plan is accepted.

(c) Each affected utility shall submit to the county judge and the office of emergency management of each county in which the utility has water and wastewater facilities that qualify for critical load status under rules adopted by the Public Utility Commission of Texas, and to the Public Utility Commission of Texas and the division of emergency management of the governor:

(1) information identifying the location and providing a general description of all water and wastewater facilities that qualify for critical load status; and

(2) emergency contact information for the affected utility, including:

(A) the person who will serve as a point of contact and the person's telephone number;

(B) the person who will serve as an alternative point of contact and the person's telephone number; and

(C) the affected utility's mailing address.

(d) An affected utility shall immediately update the information provided under Subsection (c) as changes to the information occur.

(e) Not later than February 1 of each year, the county judge of each county that receives the information required by Subsections (c) and (d) shall:

(1) submit the information for each affected utility to each retail electric provider that sells electric power to an affected utility and each electric utility that provides transmission and distribution service to an affected utility; and

(2) in cooperation with the affected utility, submit for each affected utility any forms reasonably required by an electric utility or retail electric provider for determining critical load status, including a critical care eligibility determination form or similar form.

(f) Not later than May 1 of each year, each electric utility and each retail electric provider shall determine whether the facilities of the affected utility qualify for critical load status under rules adopted by the Public Utility Commission of Texas.

(g) If an electric utility determines that an affected utility's facilities do not qualify for critical load status, the electric utility and the retail electric provider, not later than the 30th day after the date the electric utility or retail electric provider receives the information required by Subsections (c) and (d), shall provide a detailed explanation of the electric utility's determination to each county judge that submitted the information.

SECTION 2. (a) Not later than December 1, 2009, the Texas Commission on Environmental Quality shall adopt standards as required by Section 13.1395, Water Code, as added by this Act. As part of the rulemaking process, the commission shall conduct at least two public hearings in Harris County. The commission shall issue a report to the governor, lieutenant governor, and speaker of the house of representatives if the commission is unable to adopt the standards by the time provided by this subsection.

(b) Not later than November 1, 2009, each affected utility shall submit the information required by Section 13.1396, Water Code, as added by this Act, to:

- (1) each appropriate county judge and office of emergency management;
- (2) the Public Utility Commission of Texas; and
- (3) the office of emergency management of the governor.

(c) Not later than March 1, 2010, each affected utility shall submit to the Texas Commission on Environmental Quality the emergency preparedness plan required by Section 13.1395, Water Code, as added by this Act.

(d) Not later than July 1, 2010, each affected utility shall implement the emergency preparedness plan approved by the Texas Commission on Environmental Quality under Section 13.1395, Water Code, as added by this Act.



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, 2009.

### Floor Amendment No. 1

Amend **CSSB 361** at the end of Section 2 of the bill by adding the following:

(e) An affected utility may file with the Texas Commission on Environmental Quality a written request for an extension, not to exceed 90 days, of the date by which the affected utility is required under Subsection (c) of this section to submit the affected utility's emergency preparedness plan or of the date by which the affected utility is required under Subsection (d) of this section to implement the affected utility's emergency preparedness plan. The Texas Commission on Environmental Quality shall approve the requested extension for good cause shown.

The amendments were read.

Senator Patrick moved to concur in the House amendments to **SB 361**.

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

### SENATE BILL 44 WITH HOUSE AMENDMENT

Senator Zaffirini called **SB 44** from the President's table for consideration of the House amendment to the bill.

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

### Amendment

Amend **SB 44** by substituting in lieu thereof the following:

#### A BILL TO BE ENTITLED AN ACT

relating to the participation of students in funding awarded under the advanced research program.

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

SECTION 1. Section 142.001, Education Code, is amended by amending Subdivision (3) and adding Subdivision (3-a) to read as follows:

(3) "Eligible institution" means an institution of higher education[~~as defined by Section 61.003(8) of this code~~].

(3-a) "Institution of higher education" and "medical and dental unit" have the meanings assigned by Section 61.003.

SECTION 2. Section 142.002, Education Code, is amended to read as follows:

Sec. 142.002. PURPOSE. The advanced research program is established to encourage and provide support for basic research conducted by faculty members and students in astronomy, atmospheric science, biological and behavioral sciences, chemistry, computer sciences, earth sciences, engineering, information science, mathematics, material sciences, oceanography, physics, environmental issues affecting the Texas-Mexico border region, the reduction of industrial, agricultural, and domestic water use, social sciences, and related disciplines in eligible institutions.

SECTION 3. Subsection (c), Section 142.003, Education Code, is amended to read as follows:

(c) The guidelines and procedures developed by the coordinating board must:

(1) provide for awards on a competitive, peer review basis for specific projects at eligible institutions; and

(2) require that, as a condition of receiving an award, an eligible institution must use a portion of the award to support, in connection with the project for which the award is made, basic research conducted by:

(A) graduate or undergraduate students, if the eligible institution is a medical and dental unit; or

(B) undergraduate students, if the eligible institution is any other institution of higher education.

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, 2009.

The amendment was read.

Senator Zaffirini moved to concur in the House amendment to **SB 44**.

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

#### **SENATE BILL 683 WITH HOUSE AMENDMENTS**

Senator Wentworth called **SB 683** from the President's table for consideration of the House amendments to the bill.

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

#### **Amendment**

Amend **SB 683** by substituting in lieu thereof the following:

#### A BILL TO BE ENTITLED AN ACT

relating to the recusal or disqualification of a statutory probate court judge and subsequent assignment of another judge.

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

SECTION 1. Sections 25.0022(d) and (h), Government Code, are amended to read as follows:

(d) The presiding judge shall:

(1) ensure the promulgation of local rules of administration in accordance with policies and guidelines set by the supreme court;

(2) advise local statutory probate court judges on case flow management practices and auxiliary court services;

(3) perform a duty of a local administrative statutory probate court judge if the local administrative judge does not perform that duty;

(4) appoint an assistant presiding judge of the statutory probate courts;

(5) call and preside over annual meetings of the judges of the statutory probate courts at a time and place in the state as designated by the presiding judge;

(6) call and convene other meetings of the judges of the statutory probate courts as considered necessary by the presiding judge to promote the orderly and efficient administration of justice in the statutory probate courts;

(7) study available statistics reflecting the condition of the dockets of the probate courts in the state to determine the need for the assignment of judges under this section; ~~and~~

(8) compare local rules of court to achieve uniformity of rules to the extent practical and consistent with local conditions; and

(9) assign a judge or former or retired judge of a statutory probate court to hear a case under the circumstances described by Section 25.002201(b).

(h) Subject to Section 25.002201, a [A-] judge or a former or retired judge of a statutory probate court may be assigned by the presiding judge of the statutory probate courts to hold court in a statutory probate court, a county court, or any statutory court exercising probate jurisdiction when:

(1) a statutory probate judge requests assignment of another judge to the judge's court;

(2) a statutory probate judge is absent, disabled, or disqualified for any reason;

(3) a statutory probate judge is present or is trying cases as authorized by the constitution and laws of this state and the condition of the court's docket makes it necessary to appoint an additional judge;

(4) the office of a statutory probate judge is vacant;

(5) the presiding judge of an administrative judicial district requests the assignment of a statutory probate judge to hear a probate matter in a county court or statutory county court;

(6) the presiding judge of the administrative judicial district fails to timely assign a judge to replace a recused or disqualified statutory probate court judge as described by Section 25.002201(b) [a motion to recuse the judge of a statutory probate court has been filed];

(7) a county court judge requests the assignment of a statutory probate judge to hear a probate matter in the county court; or

(8) a local administrative statutory probate court judge requests the assignment of a statutory probate judge to hear a matter in a statutory probate court.

SECTION 2. Subchapter B, Chapter 25, Government Code, is amended by adding Section 25.002201 to read as follows:

Sec. 25.002201. ASSIGNMENT OF JUDGE ON RECUSAL OR DISQUALIFICATION. (a) Not later than the 15th day after the date an order of recusal or disqualification of a statutory probate court judge is issued in a case, the presiding judge of the administrative judicial district shall assign a statutory probate court judge or a former or retired judge of a statutory probate court to hear the case if:

(1) the judge of the statutory probate court recused himself or herself under Section 25.00255(g)(1)(A);

(2) the judge of the statutory probate court disqualified himself or herself under Section 25.00255(g-1);

(3) the order was issued under Section 25.00255(i-3)(1); or

(4) the presiding judge of the administrative judicial district receives notice and a request for assignment from the clerk of the statutory probate court under Section 25.00255(l).

(b) If the presiding judge of an administrative judicial district does not assign a judge under Subsection (a) within the time prescribed by that subsection, the presiding judge of the statutory probate courts may assign a judge to hear the case instead of the presiding judge of the administrative judicial district making the assignment under that subsection.

(c) The provisions of Section 25.0022 applicable to a judge assigned under that section apply to the same extent to a judge assigned under the authority of this section.

SECTION 3. Section 25.00255, Government Code, is amended by amending Subsections (f), (g), (h), and (i) and adding Subsections (g-1), (i-1), (i-2), (i-3), (i-4), (i-5), (l), and (m) to read as follows:

(f) Before further proceedings in a case in which a motion for the recusal or disqualification of a judge has been filed, the judge shall:

(1) recuse or disqualify himself or herself; or

(2) request the assignment of a judge to hear the motion by forwarding the motion and opposing and concurring statements to the presiding judge of the statutory probate courts as provided by Subsection (h).

(g) A judge who recuses himself or herself:

(1) shall enter an order of recusal and:

(A) if the judge serves a statutory probate court located in a county with only one statutory probate court, request that the presiding judge of the administrative judicial district assign [statutory probate courts request the assignment of] a judge under Section 25.002201 to hear the case; or

(B) subject to Subsection (l), if the judge serves a statutory probate court located in a county with more than one statutory probate court, request that the clerk who serves the statutory probate courts in that county randomly reassign the case to a judge of one of the other statutory probate courts located in the county [motion for recusal or disqualification as provided by Subsection (i)]; and

(2) may not take other action in the case except for good cause stated in the order in which the action is taken.

(g-1) A judge who disqualifies himself or herself:

(1) shall enter an order of disqualification and request that the presiding judge of the administrative judicial district assign a judge under Section 25.002201 to hear the case; and

(2) may not take other action in the case.

(h) A judge who does not recuse or disqualify himself or herself:

(1) shall forward to the presiding judge of the statutory probate courts, in either original form or certified copy, an order of referral, the motion for recusal or disqualification, and all opposing and concurring statements; and

(2) may not take other action in the case during the time after the filing of the motion for recusal or disqualification and before a hearing on the motion, except for good cause stated in the order in which the action is taken.

(i) After receiving a request under Subsection ~~[(g) or]~~ (h), the presiding judge of the statutory probate courts shall immediately forward the request to the presiding judge of the administrative judicial district and request that the presiding judge of the administrative judicial district assign a judge to hear the motion for recusal or disqualification. Not later than the 15th day after the date [On receipt of the request,] the presiding judge of the administrative judicial district receives the request, the presiding judge shall:

(1) ~~[immediately]~~ set a hearing before himself or herself or a judge designated by the presiding judge, except that the presiding judge may not designate a judge of a statutory probate court in the same county as the statutory probate court served by the judge who is the subject of the motion;

(2) give notice of the hearing to be given to all parties or their counsel to the case; and

(3) make other orders, including orders for interim or ancillary relief, in the pending case.

(i-1) If the presiding judge of the administrative judicial district does not assign a judge to hear a motion for recusal or disqualification within the time prescribed by Subsection (i), the presiding judge of the statutory probate courts may assign a judge to hear the motion and take other action under that subsection.

(i-2) A judge who hears a motion for recusal or disqualification under Subsection (i) or (i-1) may also hear any amended or supplemented motion for recusal or disqualification filed in the case.

(i-3) If a motion for recusal or disqualification is granted after a hearing conducted as provided by Subsection (i) or (i-1), the judge who heard the motion shall:

(1) if the judge subject to recusal or disqualification serves a statutory probate court located in a county with only one statutory probate court, enter an order of recusal or disqualification, as appropriate, and request that the presiding judge of the administrative judicial district assign a judge under Section 25.002201 to hear the case; or

(2) subject to Subsection (1), if the judge subject to recusal or disqualification serves a statutory probate court located in a county with more than one statutory probate court, enter an order of recusal or disqualification, as appropriate, and request that the clerk who serves the statutory probate courts in that county randomly reassign the case to a judge of one of the other statutory probate courts located in the county.

(i-4) The presiding judge of an administrative judicial district may delegate the judge's authority to make orders of interim or ancillary relief under Subsection (i)(3) to the presiding judge of the statutory probate courts.

(i-5) A judge assigned to hear a motion for recusal or disqualification under Subsection (i) is entitled to receive the same salary, compensation, and expenses, and to be paid in the same manner and from the same fund, as a judge otherwise assigned under Section 25.0022, except that a judge assigned under Subsection (i) shall provide the information required by Section 25.0022(1) to the presiding judge of the administrative judicial district, who shall immediately forward the information to the presiding judge of the statutory probate courts.

(l) If a clerk of a statutory probate court is unable to reassign a case as requested under Subsection (g)(1)(B) or (i-3)(2) because the other statutory probate court judges in the county have been recused or disqualified or are otherwise unavailable to hear the case, the clerk shall immediately notify the presiding judge of the administrative judicial district and request that the presiding judge of the administrative judicial district assign a judge under Section 25.002201 to hear the case.

(m) The clerk of a statutory probate court shall immediately notify and provide to the presiding judge of the statutory probate courts a copy of an order of recusal or disqualification issued with respect to the judge of the statutory probate court.

SECTION 4. This Act takes effect September 1, 2009.

### Floor Amendment No. 1

Amend **CSSB 683** (House committee printing) by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_ . Section 54.604, Government Code, is amended by amending Subsection (d) and adding Subsections (e), (f), (g), and (h) to read as follows:

(d) The appointment of the associate judge terminates if:

(1) ~~the appointing judge vacates the judge's office;~~

~~(2) the associate judge becomes a candidate for election to public office;~~

or

(2) ~~(3)~~ the commissioners court does not appropriate funds in the county's budget to pay the salary of the associate judge.

(e) If an associate judge serves a single court and the appointing judge vacates the judge's office, the associate judge's employment continues, subject to Subsections (d) and (h), unless the successor appointed or elected judge terminates that employment.

(f) If an associate judge serves two courts and one of the appointing judges vacates the judge's office, the associate judge's employment continues, subject to Subsections (d) and (h), unless the successor appointed or elected judge terminates that employment or the judge of the other court served by the associate judge terminates that employment as provided by Subsection (c).

(g) If an associate judge serves more than two courts and an appointing judge vacates the judge's office, the associate judge's employment continues, subject to Subsections (d) and (h), unless:

(1) if no successor judge has been elected or appointed, the majority of the judges of the other courts the associate judge serves vote to terminate that employment; or

(2) if a successor judge has been elected or appointed, the majority of the judges of the courts the associate judge serves, including the successor judge, vote to terminate that employment as provided by Subsection (b).

(h) Notwithstanding the powers of an associate judge provided by Section 54.610, an associate judge whose employment continues as provided by Subsection (e), (f), or (g) after the judge of a court served by the associate judge vacates the judge's office may perform administrative functions with respect to that court, but may not perform any judicial function, including any power prescribed by Section 54.610, with respect to that court until a successor judge is appointed or elected.

SECTION \_\_\_\_\_. Section 54.610, Government Code, is amended to read as follows:

Sec. 54.610. POWERS OF ASSOCIATE JUDGE. (a) Except as limited by an order of referral, an associate judge may:

- (1) conduct a hearing;
- (2) hear evidence;
- (3) compel production of relevant evidence;
- (4) rule on the admissibility of evidence;
- (5) issue a summons for the appearance of witnesses;
- (6) examine a witness;
- (7) swear a witness for a hearing;
- (8) make findings of fact on evidence;
- (9) formulate conclusions of law;
- (10) recommend an order to be rendered in a case;
- (11) regulate all proceedings in a hearing before the associate judge; ~~and~~
- (12) take action as necessary and proper for the efficient performance of the associate judge's duties;

(13) order the attachment of a witness or party who fails to obey a subpoena;

(14) order the detention of a witness or party found guilty of contempt, pending approval by the referring court as provided by Section 54.616;

(15) without prejudice to the right to a de novo hearing under Section 54.618, render and sign:

(A) a final order agreed to in writing as to both form and substance by all parties;

(B) a final default order;

(C) a temporary order;

(D) a final order in a case in which a party files an unrevoked waiver made in accordance with Rule 119, Texas Rules of Civil Procedure, that waives notice to the party of the final hearing or waives the party's appearance at the final hearing;

(E) an order specifying that the court clerk shall issue:

(i) letters testamentary or of administration; or

(ii) letters of guardianship; or

(F) an order for inpatient or outpatient mental health, mental retardation, or chemical dependency services; and

(16) sign a final order that includes a waiver of the right to a de novo hearing in accordance with Section 54.618.

(b) An associate judge may, in the interest of justice, refer a case back to the referring court regardless of whether a timely objection to the associate judge hearing the trial on the merits or presiding at a jury trial has been made by any party.

(c) An order described by Subsection (a)(15) that is rendered and signed by an associate judge constitutes an order of the referring court. The judge of the referring court shall sign the order not later than the 30th day after the date the associate judge signs the order.

(d) An answer filed by or on behalf of a party who previously filed a waiver described in Subsection (a)(15)(D) revokes that waiver.

SECTION \_\_\_\_\_. Section 54.612, Government Code, is amended by amending Subsections (a), (b), and (c) and adding Subsection (e) to read as follows:

(a) A court reporter may be provided [~~is not required~~] during a hearing held by an associate judge appointed under this subchapter unless required by other law. A court reporter is required to be provided when the associate judge presides over a jury trial.

(b) A party, the associate judge, or the referring court may provide for a reporter during the hearing, if one is not otherwise provided.

(c) Except as provided by Subsection (a), in the absence of a court reporter or on agreement of the parties, the [~~The~~] record [~~of a hearing before an associate judge~~] may be preserved by any means approved by the referring court.

(e) On a request for a de novo hearing, the referring court may consider testimony or other evidence in the record, if the record is taken by a court reporter, in addition to witnesses or other matters presented under Section 54.618.

SECTION \_\_\_\_\_. Section 54.614, Government Code, is amended to read as follows:

Sec. 54.614. REPORT. (a) The associate judge's report may contain the associate judge's findings, conclusions, or recommendations. The associate judge shall prepare a written report in the form directed by the referring court, including in the form of:

- (1) [~~The form may be~~] a notation on the referring court's docket sheet; or
- (2) a proposed order.

(b) After a hearing, the associate judge shall provide the parties participating in the hearing notice of the substance of the associate judge's report, including any proposed order.

(c) Notice may be given to the parties:

- (1) in open court, by an oral statement or a copy of the associate judge's written report; [~~or~~]
- (2) by certified mail, return receipt requested; or
- (3) by facsimile transmission.

(d) There is a rebuttable presumption that notice is received [~~The associate judge shall certify the date of mailing of notice by certified mail. Notice is considered given~~] on the [~~third day after the~~] date stated on:

- (1) the signed return receipt, if notice was provided by certified mail; or
- (2) the confirmation page produced by the facsimile machine, if notice was provided by facsimile transmission [~~of mailing~~].

(e) After a hearing conducted by an associate judge, the associate judge shall send the associate judge's signed and dated report, including any proposed order, and all other papers relating to the case to the referring court.

SECTION \_\_\_\_\_. The heading to Section 54.615, Government Code, is amended to read as follows:

Sec. 54.615. NOTICE OF RIGHT TO DE NOVO HEARING BEFORE REFERRING COURT [~~APPEAL~~].

SECTION \_\_\_\_\_. Section 54.615(a), Government Code, is amended to read as follows:



(a) An associate judge shall give all parties notice of the right to a de novo hearing before [of appeal to the judge of] the referring court.

SECTION \_\_\_\_\_. Section 54.616, Government Code, is amended to read as follows:

Sec. 54.616. ORDER OF COURT. (a) Pending a de novo hearing before [appeal of the associate judge's report to] the referring court, a proposed order or judgment [the decisions and recommendations] of the associate judge has [judge's report have] the force and effect, and is [are] enforceable as, an order or judgment of the referring court, except for an order [orders] providing for [incarceration or for] the appointment of a receiver.

(b) Except as provided by Section 54.610(c), if a request for a de novo hearing before [If an appeal to] the referring court is not timely filed or the right to a de novo hearing before [an appeal to] the referring court is waived, the proposed order or judgment [findings and recommendations] of the associate judge becomes [become] the order or judgment of the referring court at the time the judge of the referring court signs the proposed [an] order or judgment [conforming to the associate judge's report].

SECTION \_\_\_\_\_. Section 54.617, Government Code, is amended to read as follows:

Sec. 54.617. JUDICIAL ACTION ON ASSOCIATE JUDGE'S PROPOSED ORDER OR JUDGMENT [REPORT]. (a) Unless a party files a written request for a de novo hearing before the referring court [notice of appeal], the referring court may:

(1) adopt, modify, or reject the associate judge's proposed order or judgment [report];

(2) hear further evidence; or

(3) recommit the matter to the associate judge for further proceedings.

(b) The judge of the referring court shall sign a proposed order or judgment the court adopts as provided by Subsection (a)(1) not later than the 30th day after the date the associate judge signed the order or judgment.

SECTION \_\_\_\_\_. Section 54.618, Government Code, is amended to read as follows:

Sec. 54.618. DE NOVO HEARING BEFORE [APPEAL TO] REFERRING COURT. (a) A party may request a de novo hearing before the referring court [appeal an associate judge's report] by filing with the clerk of the referring court a written request [notice of appeal] not later than the seventh working [third] day after the date the party receives notice of the substance of the associate judge's report as provided by Section 54.614.

(b) A request for a de novo hearing under this section must specify the issues that will be presented [An appeal] to the referring court [must be made in writing and specify the findings and conclusions of the associate judge to which the party objects. The appeal is limited to the findings and conclusions specified in the written appeal].

(c) In the de novo hearing before the referring court, the [The] parties may present witnesses [on appeal to the referring court as in a hearing de novo] on the issues specified [raised] in the request for hearing [appeal]. The referring court may also consider the record from the hearing before the associate judge, including the charge to and verdict returned by a jury, if the record was taken by a court reporter.

(d) Notice of a request for a de novo hearing before ~~[an appeal to]~~ the referring court must be given to the opposing attorney in the manner provided by Rule 21a, Texas Rules of Civil Procedure.

(e) If a request for a de novo hearing before ~~[an appeal to]~~ the referring court is filed by a party, any other party may file a request for a de novo hearing before ~~[an appeal to]~~ the referring court not later than the seventh day after the date of filing of the initial request ~~[appeal]~~.

(f) The referring court, after notice to the parties, shall hold a de novo hearing ~~[on all appeals]~~ not later than the 30th day after the date on which the initial request for a de novo hearing ~~[appeal]~~ was filed with the clerk of the referring court, unless all of the parties agree to a later date.

(g) Before the start of a hearing conducted by an associate judge, the parties may waive the right of a de novo hearing before ~~[appeal to]~~ the referring court. The waiver may be in writing or on the record.

(h) The denial of relief to a party after a de novo hearing under this section or a party's waiver of the right to a de novo hearing before the referring court does not affect the right of a party to file a motion for new trial, motion for judgment notwithstanding the verdict, or other post-trial motion.

(i) A party may not demand a second jury in a de novo hearing before the referring court if the associate judge's proposed order or judgment resulted from a jury trial.

SECTION \_\_\_\_\_. Section 54.619, Government Code, is amended to read as follows:

Sec. 54.619. APPELLATE REVIEW. (a) A party's failure to request a de novo hearing before ~~[Failure to appeal to]~~ the referring court or a party's waiver of the right to request a de novo hearing before ~~[by waiver or otherwise, the approval by]~~ the referring court ~~[of an associate judge's report]~~ does not deprive the [a] party of the right to appeal to or request other relief from a court of appeals or the supreme court.

(b) Except as provided by Subsection (c), the ~~[The]~~ date the judge of a referring court signs an order or judgment is the controlling date for the purposes of appeal to or request for other relief from a court of appeals or the supreme court.

(c) The date an order described by Section 54.610(a)(15) is signed by an associate judge is the controlling date for the purpose of an appeal to or a request for other relief relating to the order from a court of appeals or the supreme court.

SECTION \_\_\_\_\_. The changes in law made by this Act to Chapter 54, Government Code, apply to a matter referred to a statutory probate court associate judge on or after the effective date of this Act. A matter referred to a statutory probate court associate judge before the effective date of this Act is governed by the law in effect on the date the matter was referred to the associate judge, and the former law is continued in effect for that purpose.

The amendments were read.

Senator Wentworth moved to concur in the House amendments to **SB 683**.

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

### SENATE BILL 939 WITH HOUSE AMENDMENT

Senator Watson called **SB 939** from the President's table for consideration of the House amendment to the bill.

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

#### Floor Amendment No. 1

Amend **SB 939** by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill as appropriate:

SECTION \_\_\_\_\_. Section 54.211, Education Code, is amended to read as follows:

Sec. 54.211. EXEMPTIONS FOR STUDENTS IN FOSTER OR OTHER RESIDENTIAL CARE. (a) A student is exempt from the payment of tuition and fees authorized in this chapter if the student:

(1) was in [~~foster care or other residential care under~~] the conservatorship of the Department of Family and Protective Services [~~on or after~~]:

(A) on the day preceding the student's 18th birthday;

(B) on or after the day of the student's 14th birthday, if the student was also eligible for adoption on or after that day; ~~or~~

(C) on the day the student graduated from high school or received the equivalent of a high school diploma; or

(D) on the day preceding:

(i) the date the student is adopted, if that date is on or after September 1, 2009; or

(ii) the date permanent managing conservatorship of the student is awarded to a person other than the student's parent, if that date is on or after September 1, 2009; and

(2) enrolls in an institution of higher education as an undergraduate student not later than ~~±~~:

~~[(A) the third anniversary of the date the student was discharged from the foster or other residential care, the date the student graduated from high school, or the date the student received the equivalent of a high school diploma, whichever date is earliest; or~~

~~[(B)]~~ the student's 25th [~~21st~~] birthday.

(b) The Texas Education Agency and the Texas Higher Education Coordinating Board shall develop outreach programs to ensure that students in the conservatorship of the Department of Family and Protective Services and [~~foster or other residential care~~] in grades 9-12 are aware of the availability of the exemption from the payment of tuition and fees provided by this section.

SECTION \_\_\_\_\_. Subsection (b), Section 261.312, Family Code, is amended to read as follows:

(b) A review team consists of at least five members who serve staggered two-year terms. Review team members are appointed by the director of the department and consist of volunteers who live in and are broadly representative of the region in which the review team is established and have expertise in the prevention and treatment of child abuse and neglect. At least two members of a review team [~~community representatives and private citizens who live in the region for which the~~

~~team is established. Each member~~ must be parents [a parent] who have [has] not been convicted of or indicted for an offense involving child abuse or neglect, have [has] not been determined by the department to have engaged in child abuse or neglect, and are [or is] not under investigation by the department for child abuse or neglect. A member of a review team is a department volunteer for the purposes of Section 411.114, Government Code.

SECTION \_\_\_\_\_. Section 263.3025, Family Code, is amended by adding Subsection (d) to read as follows:

(d) In accordance with department rules, a child's permanency plan must include concurrent permanency goals consisting of a primary permanency goal and at least one alternate permanency goal.

SECTION \_\_\_\_\_. Subchapter D, Chapter 263, Family Code, is amended by adding Section 263.3026 to read as follows:

Sec. 263.3026. PERMANENCY GOALS; LIMITATION. (a) The department's permanency plan for a child may include as a goal:

(1) the reunification of the child with a parent or other individual from whom the child was removed;

(2) the termination of parental rights and adoption of the child by a relative or other suitable individual;

(3) the award of permanent managing conservatorship of the child to a relative or other suitable individual; or

(4) another planned, permanent living arrangement for the child.

(b) If the goal of the department's permanency plan for a child is to find another planned, permanent living arrangement for the child, the department shall document that there is a compelling reason why the other permanency goals identified in Subsection (a) are not in the child's best interest.

SECTION \_\_\_\_\_. Subsection (b), Section 263.303, Family Code, is amended to read as follows:

(b) The permanency progress report must:

(1) recommend that the suit be dismissed; or

(2) recommend that the suit continue, and:

(A) identify the date for dismissal of the suit under this chapter;

(B) provide:

(i) the name of any person entitled to notice under Chapter 102 who has not been served;

(ii) a description of the efforts by the department or another agency to locate and request service of citation; and

(iii) a description of each parent's assistance in providing information necessary to locate an unserved party;

(C) evaluate the parties' compliance with temporary orders and with the service plan;

(D) evaluate whether the child's placement in substitute care meets the child's needs and recommend other plans or services to meet the child's special needs or circumstances;

(E) describe the permanency plan for the child and recommend actions necessary to ensure that a final order consistent with that permanency plan, including the concurrent permanency goals contained in that plan, is rendered before the date for dismissal of the suit under this chapter; and

(F) with respect to a child 16 years of age or older, identify the services needed to assist the child in the transition to adult life.

SECTION \_\_\_\_\_. Subsection (b), Section 263.306, Family Code, is amended to read as follows:

(b) The court shall also review the service plan, permanency report, and other information submitted at the hearing to:

(1) determine:

(A) the safety of the child;

(B) the continuing necessity and appropriateness of the placement;

(C) the extent of compliance with the case plan; ~~and~~

(D) the extent of progress that has been made toward alleviating or mitigating the causes necessitating the placement of the child in foster care; and

(E) whether the department has made reasonable efforts to finalize the permanency plan that is in effect for the child, including the concurrent permanency goals for the child; and

(2) project a likely date by which the child may be returned to and safely maintained in the child's home, placed for adoption, or placed in permanent managing conservatorship.

SECTION \_\_\_\_\_. Subsection (b), Section 263.501, Family Code, is amended to read as follows:

(b) If the department has been named as a child's managing conservator in a final order that terminates a parent's parental rights, the court shall conduct a placement review hearing not later than the 90th day after the date the court renders the final order. The court shall conduct additional [•] placement review hearings [hearing] at least once every six months until the date the child is adopted or the child becomes an adult.

SECTION \_\_\_\_\_. Section 263.502, Family Code, is amended by amending Subsection (c) and adding Subsection (d) to read as follows:

(c) The placement review report must identify the department's permanency goal for the child and must:

(1) evaluate whether the child's current placement is appropriate for meeting the child's needs;

(2) evaluate whether efforts have been made to ensure placement of the child in the least restrictive environment consistent with the best interest and special needs of the child if the child is placed in institutional care;

(3) contain a transition [discharge] plan for a child who is at least 16 years of age that identifies the services and specific tasks that are needed to assist the child in making the transition from substitute care to adult living and describes the services that are being provided [available] through the Transitional Living Services [Preparation for Adult Living] Program operated by the department;

(4) evaluate whether the child's current educational placement is appropriate for meeting the child's academic needs;

(5) identify other plans or services that are needed to meet the child's special needs or circumstances; ~~and~~

(6) describe the efforts of the department or authorized agency to place the child for adoption if parental rights to the child have been terminated and the child is eligible for adoption, including efforts to provide adoption promotion and support services as defined by 42 U.S.C. Section 629a and other efforts consistent with the federal Adoption and Safe Families Act of 1997 (Pub. L. No. 105-89); and

(7) for a child for whom the department has been named managing conservator in a final order that does not include termination of parental rights, describe the efforts of the department to find a permanent placement for the child, including efforts to:

(A) work with the caregiver with whom the child is placed to determine whether that caregiver is willing to become a permanent placement for the child;

(B) locate a relative or other suitable individual to serve as permanent managing conservator of the child; and

(C) evaluate any change in a parent's circumstances to determine whether:

(i) the child can be returned to the parent; or

(ii) parental rights should be terminated.

(d) If the goal of the department's permanency plan for a child is to find another planned, permanent living arrangement, the placement review report must document a compelling reason why adoption, permanent managing conservatorship with a relative or other suitable individual, or returning the child to a parent are not in the child's best interest.

SECTION \_\_\_\_\_. Section 263.503, Family Code, is amended to read as follows:

Sec. 263.503. PLACEMENT REVIEW HEARINGS; PROCEDURE. (a) At each placement review hearing, the court shall determine whether:

(1) the child's current placement is necessary, safe, and appropriate for meeting the child's needs, including with respect to a child placed outside of the state, whether the placement continues to be appropriate and in the best interest of the child;

(2) efforts have been made to ensure placement of the child in the least restrictive environment consistent with the best interest and special needs of the child if the child is placed in institutional care;

(3) the services that are needed to assist a child who is at least 16 years of age in making the transition from substitute care to independent living are available in the community;

(4) other plans or services are needed to meet the child's special needs or circumstances;

(5) the department or authorized agency has exercised due diligence in attempting to place the child for adoption if parental rights to the child have been terminated and the child is eligible for adoption; ~~and~~

(6) for a child for whom the department has been named managing conservator in a final order that does not include termination of parental rights, a permanent placement, including appointing a relative as permanent managing conservator or returning the child to a parent, is appropriate for the child;

(7) for a child whose permanency goal is another planned, permanent living arrangement, the department has:

(A) documented a compelling reason why adoption, permanent managing conservatorship with a relative or other suitable individual, or returning the child to a parent is not in the child's best interest; and

(B) identified a family or other caring adult who has made a permanent commitment to the child; and

(8) the department or authorized agency has made reasonable efforts to finalize the permanency plan that is in effect for the child.

(b) For a child for whom the department has been named managing conservator in a final order that does not include termination of parental rights, the court may order the department to provide services to a parent for not more than six months after the date of the placement review hearing if:

(1) the child has not been placed with a relative or other individual, including a foster parent, who is seeking permanent managing conservatorship of the child; and

(2) the court determines that further efforts at reunification with a parent are:

(A) in the best interest of the child; and

(B) likely to result in the child's safe return to the child's parent.

SECTION \_\_\_\_\_. (a) The changes in law made by this Act to Section 54.211, Education Code, apply beginning with tuition and fees imposed by a public institution of higher education for the 2009 fall semester. Tuition and fees for a term or semester before the 2009 fall semester are covered by the law in effect immediately before the effective date of this Act, and the former law is continued in effect for that purpose.

(b) The change in law made by this Act to Subsection (b), Section 263.501, Family Code, applies only to a child in the conservatorship of the Department of Family and Protective Services for whom a final order in a suit affecting the parent-child relationship is rendered on or after the effective date of this Act. A child in the conservatorship of the Department of Family and Protective Services for whom a final order in a suit affecting the parent-child relationship is rendered before the effective date of this Act is governed by the law in effect on the date the final order was rendered, and the former law is continued in effect for that purpose.

SECTION \_\_\_\_\_. Notwithstanding any other provision of this Act providing an effective date of this Act, this section and the section of this Act that amends Section 54.211, Education Code, take effect immediately if this Act receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, those sections take effect September 1, 2009.

The amendment was read.

Senator Watson moved to concur in the House amendment to **SB 939**.

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

### **SENATE BILL 292 WITH HOUSE AMENDMENT**

Senator Nelson called **SB 292** from the President's table for consideration of the House amendment to the bill.

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

### **Floor Amendment No. 1**

Amend **SB 292** (House committee report) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS accordingly:

SECTION \_\_\_\_\_. (a) Subtitle B, Title 3, Occupations Code, is amended by adding Chapter 167 to read as follows:

#### CHAPTER 167. TEXAS PHYSICIAN HEALTH PROGRAM

Sec. 167.001. DEFINITIONS. In this chapter:

(1) "Committee" means the Physician Health and Rehabilitation Advisory Committee established under this chapter.

(2) "Governing board" means the governing board of the program.

(3) "Medical director" means a person appointed under Section 167.002 to oversee the program.

(4) "Physician assistant board" means the Texas Physician Assistant Board established under Chapter 204.

(5) "Program" means the Texas Physician Health Program established under this chapter.

(6) "Program participant" means a physician or physician assistant who receives services under the program.

Sec. 167.002. MEDICAL DIRECTOR. (a) The board shall appoint a medical director for the program.

(b) The medical director must:

(1) be a physician licensed by the board; and

(2) have expertise in a field of medicine relating to disorders commonly affecting physicians or physician assistants, including substance abuse disorders.

(c) The medical director shall provide clinical and policy oversight for the program.

Sec. 167.003. GOVERNING BOARD. (a) The president of the board shall appoint persons to serve on the governing board of the program. The appointees shall include physicians, physician assistants, and other related professionals with experience addressing health conditions commonly found in the population of monitored physicians or physician assistants.

(b) The governing board shall:

(1) provide advice and counsel to the board; and

(2) establish policy and procedures for the operation and administration of the program.

(c) The board, with the advice and in consultation with the physician assistant board and Texas-based professional associations of physicians and physician assistants, shall adopt rules relating to the appointment of members to the governing board, including length of terms, procedures for filling a vacancy, and conflict-of-interest provisions.

Sec. 167.004. PHYSICIAN HEALTH AND REHABILITATION ADVISORY COMMITTEE. (a) The governing board shall appoint physicians to the Physician Health and Rehabilitation Advisory Committee who have experience in disorders commonly affecting physicians or physician assistants.



(b) The committee shall assist the governing board by making recommendations on the request of the governing board.

(c) The board, with the advice and in consultation with the physician assistant board and Texas-based professional associations of physicians and physician assistants, shall adopt rules relating to the appointment of members to the committee, including length of terms, procedures for filling a vacancy, and conflict-of-interest provisions.

(d) Chapter 2110, Government Code, does not apply to the committee.

Sec. 167.005. TEXAS PHYSICIAN HEALTH PROGRAM. (a) The Texas Physician Health Program is established to promote:

(1) physician and physician assistant wellness; and

(2) treatment of all health conditions that have the potential to compromise the physician's or physician assistant's ability to practice with reasonable skill and safety, including mental health issues, substance abuse issues, and addiction issues.

(b) The program is a confidential, nondisciplinary therapeutic program for physicians and physician assistants.

(c) The program is administratively attached to the board.

Sec. 167.006. RULES. The board, with the advice of and in consultation with the governing board, committee, and Texas-based professional associations of physicians and physician assistants, shall:

(1) adopt rules and policies as necessary to implement the program, including:

(A) policies for assessments under the program and guidelines for the validity of a referral to the program;

(B) policies and guidelines for initial contacts used to determine if there is a need for a physician or physician assistant to complete a clinically appropriate evaluation or to enter treatment, including policies and guidelines for arrangements for that evaluation or treatment; and

(C) policies and guidelines for interventions conducted under the program; and

(2) define applicable guidelines for the management of substance abuse disorders, psychiatric disorders, and physical illnesses and impairments.

Sec. 167.007. OPERATION OF PROGRAM. (a) The program must include provisions for:

(1) continuing care, monitoring, and case management of potentially impairing health conditions, including provisions for cooperation with the evaluating or treating facility;

(2) ongoing monitoring for relapse, including random drug testing, consultations with other physician health and rehabilitation committees, work site monitors, and treating health professionals, including mental health professionals; and

(3) other physician and physician assistant health and rehabilitation programs to operate under an agreement with the program, using established guidelines to ensure uniformity and credibility of services throughout this state.

(b) The program must ensure appropriate communications with the board, the physician assistant board, other state licensing boards, and physician health and rehabilitation programs.

(c) The program shall use physicians or other health care professional experts or consultants, as appropriate, when necessary to evaluate, recommend solutions for, or resolve a medical dispute.

Sec. 167.008. REFERRALS TO PROGRAM. (a) The program shall accept a self-referral from a physician or physician assistant and referrals from an individual, a physician health and rehabilitation committee, a physician assistant organization, a state physician health program, a hospital or hospital system licensed in this state, a residency program, the board, or the physician assistant board.

(b) A physician or physician assistant may refer the physician or physician assistant to the program.

(c) The program may not accept a referral, except as provided by board rules, for a violation of the standard of care as a result of drugs or alcohol or boundary violations with a patient or a patient's family.

Sec. 167.009. REFERRAL BY BOARD OR PHYSICIAN ASSISTANT BOARD AS PREREQUISITE FOR ISSUING OR MAINTAINING A LICENSE.

(a) The board or the physician assistant board, through an agreed order or after a contested proceeding, may make a referral to the program and require participation in the program by a specified physician or physician assistant as a prerequisite for issuing or maintaining a license under Chapter 155 or 204.

(b) The board or the physician assistant board may discipline a physician or physician assistant required to participate in the program under Subsection (a) who does not participate in the program.

(c) Each program participant is individually responsible for payment of the participant's own medical costs, including any required evaluations, primary treatment, and continuing care.

Sec. 167.010. CONFIDENTIALITY. (a) Each referral, proceeding, report, investigative file, record, or other information received, gathered, created, or maintained by the program or its employees, consultants, work site monitors, or agents relating to a physician or physician assistant is privileged and confidential and is not subject to disclosure under Chapter 552, Government Code, or to discovery, subpoena, or other means of legal compulsion for release to any person except as provided by this chapter.

(b) Notwithstanding Subsection (a), the program may report to the board or the physician assistant board, as appropriate, the name and pertinent information relating to impairment of a physician or physician assistant.

(c) Notwithstanding Subsection (a), the program shall make a report to the board or the physician assistant board, as appropriate, regarding a physician or physician assistant if the medical director or the governing board determines that the physician or physician assistant poses a continuing threat to the public welfare. If requested by the board or the physician assistant board, a report under this subsection must include all information in the possession or control of the program.

Sec. 167.011. FUNDING; FEES. (a) The Texas physician health program account is a special account in the general revenue fund. Funds in the account may be appropriated only to the board for administration of the program.

(b) The board by rule shall set and collect reasonable and necessary fees from program participants in amounts sufficient to offset, to the extent reasonably possible, the cost of administering this chapter.

(c) Each program participant shall pay an annual fee to partially offset the cost of participation and monitoring services.

(d) The board shall deposit fees collected under this section to the credit of the account established under Subsection (a).

(e) The board may grant a waiver to the fee imposed under Subsection (c). The board shall adopt rules relating to the issuance of a waiver under this subsection.

(b) Subsection (d), Section 153.051, Occupations Code, is amended to read as follows:

(d) The board may not set, charge, collect, receive, or deposit any of the following fees in excess of:

- (1) \$900 for a license;
- (2) \$400 for a first registration permit;
- (3) \$200 for a temporary license;
- (4) \$400 for renewal of a registration permit;
- (5) \$200 for a physician-in-training permit;
- (6) \$600 for the processing of an application and the issuance of a registration for anesthesia in an outpatient setting;
- (7) \$200 for an endorsement to other state medical boards;
- (8) \$200 for a duplicate license; ~~or~~
- (9) \$700 for a reinstated license after cancellation for cause; or
- (10) \$1,200 for an annual fee under Section 167.011(c) for a program

participant in the Texas Physician Health Program.

(c) Effective January 1, 2010, the following laws are repealed:

(1) Sections 164.202, 164.203, 164.204, and 164.205, Occupations Code; and

(2) Sections 204.305, 204.306, 204.307, and 204.3075, Occupations Code.

(d) A rehabilitation order under Chapter 167 or 204, Occupations Code, entered into on or before January 1, 2010, is governed by the law as it existed immediately before that date, and that law is continued in effect for that purpose.

The amendment was read.

Senator Nelson moved to concur in the House amendment to **SB 292**.

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

### **SENATE BILL 1629 WITH HOUSE AMENDMENT**

Senator Wentworth called **SB 1629** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer, Senator Eltife in Chair, laid the bill and the House amendment before the Senate.

#### **Floor Amendment No. 1**

Amend **SB 1629** (House committee printing) as follows:

(1) In SECTION 1 of the bill, amended Section 552.275(j), Government Code (page 1, lines 9 and 10), strike "a representative of" and substitute "an individual who, for a substantial portion of the individual's livelihood or for substantial financial gain, gathers, compiles, prepares, collects, photographs, records, writes, edits, reports, investigates, processes, or publishes news or information for and is seeking the information for [a representative of]".

(2) In SECTION 1 of the bill, amended Section 552.275(j)(1), Government Code (page 1, line 11), between "television" and "station", insert "broadcast".

(3) In SECTION 1 of the bill, amended Section 552.275(j)(1), Government Code (page 1, line 11), strike "license" and substitute "broadcast license for an assigned frequency".

(4) In SECTION 1 of the bill, amended Section 552.275(j), Government Code (page 1, lines 13 through 22), strike amended Subdivision (2) and substitute the following:

(2) a newspaper that is qualified under Section 2051.044 to publish legal notices or is a free newspaper of general circulation and that is published at least once a week and available and of interest to the general public in connection with the dissemination of news;

(5) In SECTION 1 of the bill, amended Section 552.275(j), Government Code (page 1, line 23 through page 2, line 1), strike amended Subdivision (3) and substitute the following:

(3) a newspaper of general circulation that is published on the Internet by a news medium engaged in the business of disseminating news or information to the general public; or

(4) a magazine that is published at least once a week or on the Internet by a news medium engaged in the business of disseminating news or information to the general public.

The amendment was read.

Senator Wentworth moved to concur in the House amendment to **SB 1629**.

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

### **SENATE BILL 2033 WITH HOUSE AMENDMENT**

Senator Nelson called **SB 2033** from the President's table for consideration of the House amendment to the bill.

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

#### **Amendment**

Amend **SB 2033** by substituting in lieu thereof the following:

#### A BILL TO BE ENTITLED AN ACT

relating to adoption of a school district grading policy.

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

SECTION 1. Subchapter B, Chapter 28, Education Code, is amended by adding Section 28.0216 to read as follows:

Sec. 28.0216. DISTRICT GRADING POLICY. A school district shall adopt a grading policy, including provisions for the assignment of grades on class assignments and examinations, before each school year. A district grading policy:

(1) must require a classroom teacher to assign a grade that reflects the student's relative mastery of an assignment;

(2) may not require a classroom teacher to assign a minimum grade for an assignment without regard to the student's quality of work; and

(3) may allow a student a reasonable opportunity to make up or redo a class assignment or examination for which the student received a failing grade.

SECTION 2. This Act applies beginning with the 2009-2010 school year.

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, 2009.

The amendment was read.

Senator Nelson moved to concur in the House amendment to **SB 2033**.

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

#### **SENATE BILL 1247 WITH HOUSE AMENDMENTS**

Senator Harris called **SB 1247** from the President's table for consideration of the House amendments to the bill.

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

#### **Amendment**

Amend **SB 1247** by substituting in lieu thereof the following:

#### **A BILL TO BE ENTITLED AN ACT**

relating to the imposition of the municipal hotel occupancy tax by certain eligible central municipalities.

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

SECTION 1. Section 351.001(7), Tax Code, is amended to read as follows:

(7) "Eligible central municipality" means a municipality with a population of more than 140,000 [~~440,000~~] but less than 1.5 million that is located in a county with a population of one million or more and that has adopted a capital improvement plan for the expansion of an existing convention center facility.

SECTION 2. Section 351.003(b), Tax Code, is amended to read as follows:

(b) The rate in an eligible central municipality may not exceed nine percent of the price paid for a room. This subsection does not apply to a municipality to which Section 351.106 applies or to an eligible central municipality with a population of less than 440,000.

SECTION 3. Sections 351.102(b) and (c), Tax Code, are amended to read as follows:

(b) An eligible central municipality may pledge the revenue derived from the tax imposed under this chapter from a hotel project that is owned by or located on land owned by the municipality or by a nonprofit corporation acting on behalf of an

eligible central municipality and that is located within 1,000 feet of a convention center facility owned by the municipality for the payment of bonds or other obligations issued or incurred to acquire, lease, construct, and equip the hotel and any facilities ancillary to the hotel, including convention center entertainment-related facilities, restaurants, shops, and parking facilities within 1,000 feet of the hotel or convention center facility. For bonds or other obligations issued under this subsection, an eligible central municipality may only pledge revenue or other assets of the hotel project benefiting from those bonds or other obligations.

(c) A municipality to which Subsection (b) applies is entitled to receive all funds from a project described by this section that an owner of a project may receive under Section 151.429(h) of this code, or Section 2303.5055, Government Code, and may pledge the funds for the payment of obligations issued under this section.

SECTION 4. Section 1504.001(b), Government Code, is amended to read as follows:

(b) An eligible central municipality, as defined by Section 351.001, Tax Code, may establish, acquire, lease as lessee or lessor, construct, improve, enlarge, equip, repair, operate, or maintain a hotel, and any facilities ancillary to the hotel, including convention center entertainment-related facilities, restaurants, shops, and parking facilities, that are owned by or located on land owned by the municipality or by a nonprofit corporation acting on behalf of the municipality, and that are [is] located within 1,000 feet of a hotel or a convention center facility owned by the municipality.

SECTION 5. The change in law made by this Act applies only to revenue derived from the tax to which this section applies that is pledged on or after the effective date of this Act. Revenue pledged before the effective date of this Act is governed by the law in effect when the revenue was pledged, and the former law is continued in effect for that purpose.

SECTION 6. This Act takes effect September 1, 2009.

### **Floor Amendment No. 1**

Amend **CSSB 1247** by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS accordingly:

SECTION \_\_\_\_\_. (a) Section 351.101(a), Tax Code, is amended to read as follows:

(a) Revenue from the municipal hotel occupancy tax may be used only to promote tourism and the convention and hotel industry, and that use is limited to the following:

(1) the acquisition of sites for and the construction, improvement, enlarging, equipping, repairing, operation, and maintenance of convention center facilities or visitor information centers, or both;

(2) the furnishing of facilities, personnel, and materials for the registration of convention delegates or registrants;

(3) advertising and conducting solicitations and promotional programs to attract tourists and convention delegates or registrants to the municipality or its vicinity;

(4) the encouragement, promotion, improvement, and application of the arts, including instrumental and vocal music, dance, drama, folk art, creative writing, architecture, design and allied fields, painting, sculpture, photography, graphic and

craft arts, motion pictures, radio, television, tape and sound recording, and other arts related to the presentation, performance, execution, and exhibition of these major art forms;

(5) historical restoration and preservation projects or activities or advertising and conducting solicitations and promotional programs to encourage tourists and convention delegates to visit preserved historic sites or museums:

(A) at or in the immediate vicinity of convention center facilities or visitor information centers; or

(B) located elsewhere in the municipality or its vicinity that would be frequented by tourists and convention delegates;

(6) for a municipality located in a county with a population of one million or less, expenses, including promotion expenses, directly related to a sporting event in which the majority of participants are tourists who substantially increase economic activity at hotels and motels within the municipality or its vicinity; ~~and~~

(7) subject to Section 351.1076, the promotion of tourism by the enhancement and upgrading of existing sports facilities or fields, including facilities or fields for baseball, softball, soccer, and flag football, if:

(A) the municipality owns the facilities or fields;

(B) the municipality:

(i) has a population of 80,000 or more and is located in a county that has a population of 350,000 or less;

(ii) has a population of at least 65,000 but not more than 70,000 and is located in a county that has a population of 155,000 or less; or

(iii) has a population of at least 34,000 but not more than 36,000 and is located in a county that has a population of 90,000 or less; and

(C) the sports facilities and fields have been used, in the preceding calendar year, a combined total of more than 10 times for district, state, regional, or national sports tournaments; and

(8) signage directing the public to sights and attractions that are visited frequently by hotel guests in the municipality.

(b) 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, 2009.

The amendments were read.

Senator Harris moved to concur in the House amendments to **SB 1247**.

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

#### **SENATE BILL 194 WITH HOUSE AMENDMENT**

Senator Shapleigh called **SB 194** from the President's table for consideration of the House amendment to the bill.

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

#### **Amendment**

Amend **SB 194** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED  
AN ACT

relating to a prohibition against certain activities by a person employed in the financial aid office of a public institution of higher education or of a career school or college.

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

SECTION 1. Subchapter Z, Chapter 51, Education Code, is amended by adding Section 51.9645 to read as follows:

Sec. 51.9645. PROHIBITION AGAINST CERTAIN ACTIVITIES BY FINANCIAL AID EMPLOYEES. (a) In this section:

(1) "Institution of higher education" has the meaning assigned by Section 61.003.

(2) "Student loan" means a loan for which the loan agreement requires that all or part of the loan proceeds be used to assist a person in attending an institution of higher education or other postsecondary institution.

(3) "Student loan lender" means a person whose primary business is:

(A) making, brokering, arranging, or accepting applications for student loans; or

(B) a combination of activities described by Paragraph (A).

(b) A person employed by an institution of higher education in the financial aid office of the institution may not:

(1) own stock or hold another ownership interest in a student loan lender, other than through ownership of shares in a publicly traded mutual fund or similar investment vehicle in which the person does not exercise any discretion regarding the investment of the assets of the fund or other investment vehicle; or

(2) solicit or accept any gift from a student loan lender.

(c) A person who violates this section is subject to dismissal or other appropriate disciplinary action.

SECTION 2. Subchapter F, Chapter 132, Education Code, is amended by adding Section 132.158 to read as follows:

Sec. 132.158. PROHIBITION AGAINST CERTAIN ACTIVITIES BY FINANCIAL AID EMPLOYEES. (a) In this section:

(1) "Student loan" means a loan for which the loan agreement requires that all or part of the loan proceeds be used to assist a person in attending an institution of higher education or other postsecondary institution, including a career school or college.

(2) "Student loan lender" means a person whose primary business is:

(A) making, brokering, arranging, or accepting applications for student loans; or

(B) a combination of activities described by Paragraph (A).

(b) A person employed by a career school or college in the financial aid office of the school or college may not:

(1) own stock or hold another ownership interest in a student loan lender, other than through ownership of shares in a publicly traded mutual fund or similar investment vehicle in which the person does not exercise any discretion regarding the investment of the assets of the fund or other investment vehicle; or

(2) solicit or accept any gift from a student loan lender.



(c) A career school or college may not knowingly employ a person who violates Subsection (b). If a career school or college discovers that its employee is in violation of Subsection (b), the school or college shall promptly take appropriate action to cure the violation, including appropriate disciplinary action, based on the severity of the violation and whether the violation was inadvertent.

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, 2009.

The amendment was read.

Senator Shapleigh moved to concur in the House amendment to **SB 194**.

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

### **SENATE BILL 1492 WITH HOUSE AMENDMENT**

Senator Williams called **SB 1492** from the President's table for consideration of the House amendment to the bill.

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

#### **Committee Amendment No. 1**

Amend **SB 1492** (engrossed version) as follows:

On page 4, line 26, add Subsection (i):

(i) Notwithstanding any other provision of this Subtitle, in awarding a certificate of convenience and necessity or allowing cost recovery for purchased power by an electric utility subject to this section, the Commission shall ensure in its determination that the provision of section 37.056(4)(d) and (e) are met.

The amendment was read.

Senator Williams moved to concur in the House amendment to **SB 1492**.

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

### **SENATE BILL 300 WITH HOUSE AMENDMENT**

Senator Patrick called **SB 300** from the President's table for consideration of the House amendment to the bill.

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

#### **Amendment**

Amend **SB 300** by substituting in lieu thereof the following:

#### **A BILL TO BE ENTITLED AN ACT**

relating to eliminating or modifying certain mandates on school districts.

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

SECTION 1. Subsection (d), Section 11.1513, Education Code, is amended to read as follows:

(d) The employment policy must provide that not later than the 10th school day before the date on which a district fills a vacant position for which a certificate or license is required as provided by Section 21.003, other than a position that affects the safety and security of students as determined by the board of trustees, the district must provide to each current district employee:

(1) notice of the position by posting the position on:

(A) a bulletin board at:

(i) a place convenient to the public in the district's central administrative office; and

(ii) the central administrative office of each campus in the district during any time the office is open; ~~or and~~

(B) the district's Internet website, if the district has a website; and

(2) a reasonable opportunity to apply for the position.

SECTION 2. Section 25.112, Education Code, is amended by amending Subsection (d) and adding Subsections (e), (f), and (g) to read as follows:

(d) On application of a school district, the commissioner may except the district from the limit in Subsection (a) if the commissioner finds the limit works an undue hardship on the district. An exception expires at the end of the school year ~~[semester]~~ for which it is granted, ~~and the commissioner may not grant an exception for:~~  
~~[(1) more than one semester at a time].~~

(e) A school district seeking an exception under Subsection (d) shall notify the commissioner and apply for the exception not later than the later of:

(1) October 1; or

(2) the 30th day after the first school day the district exceeds the limit in

Subsection (a).

(f) If a school district repeatedly fails to comply with this section, the commissioner may take any appropriate action authorized to be taken by the commissioner under Section 39.131.

(g) Not later than January 1, 2011, the agency shall report to the legislature the number of applications for exceptions under Subsection (d) submitted by each school district and for each application indicate whether the application was granted or denied. This subsection expires February 1, 2011.

SECTION 3. Section 34.0021, Education Code, is amended by amending Subsections (a) and (b) and adding Subsection (c-1) to read as follows:

(a) Pursuant to the safety standards established by the Department of Public Safety under Section 34.002, each school district may ~~[shall]~~ conduct a training session for students and teachers concerning procedures for evacuating a school bus during an emergency.

(b) A school district that chooses to conduct a training session under Subsection (a) is encouraged to [shall] conduct the school bus emergency evacuation training session [at least twice each school year, with one training session occurring] in the fall of the school year [and one training session occurring in the spring]. The school district is also encouraged to structure the training session so that the session applies to school bus passengers, a [A] portion of the [training] session occurs [must occur] on a school bus, and the [training] session lasts [must last] for at least one hour.

(c-1) Immediately before each field trip involving transportation by school bus, a school district is encouraged to review school bus emergency evacuation procedures with the school bus passengers, including a demonstration of the school bus emergency exits and the safe manner to exit.

SECTION 4. Section 44.902, Education Code, is amended to read as follows:

Sec. 44.902. LONG-RANGE ENERGY PLAN [GOAL] TO REDUCE CONSUMPTION OF ELECTRIC ENERGY. (a) The board of trustees of a school district shall establish a long-range energy plan [goal] to reduce the ~~[school]~~ district's annual electric consumption by five percent beginning with the 2008 [each] state fiscal year and consume electricity in subsequent fiscal years in accordance with the district's energy plan [for six years beginning September 1, 2007].

(b) The plan required under Subsection (a) must include:

(1) strategies for achieving energy efficiency that:

(A) result in net savings for the district; or

(B) can be achieved without financial cost to the district; and

(2) for each strategy identified under Subdivision (1), the initial, short-term capital costs and lifetime costs and savings that may result from implementation of the strategy.

(c) In determining under Subsection (b) whether a strategy may result in financial cost to the district, the board of trustees shall consider the total net costs and savings that may occur over the seven-year period following implementation of the strategy.

(d) The board of trustees may submit the plan required under Subsection (a) to the State Energy Conservation Office for the purposes of determining whether funds available through loan programs administered by the office are available to the district.

SECTION 5. Subsection (b), Section 44.901, Education Code, is repealed.

SECTION 6. This Act applies beginning with the 2009-2010 school year.

SECTION 7. 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, 2009.

The amendment was read.

Senator Patrick moved to concur in the House amendment to **SB 300**.

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

### **SENATE BILL 175 WITH HOUSE AMENDMENTS**

Senator Shapiro called **SB 175** from the President's table for consideration of the House amendments to the bill.

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

#### **Amendment**

Amend **SB 175** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED  
AN ACT

relating to limitations on the automatic admission of undergraduate students to general academic teaching institutions.

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

SECTION 1. Section 51.803, Education Code, is amended by amending Subsection (a) and adding Subsections (a-1) and (a-2) to read as follows:

(a) ~~Subject to Subsection (a-1), each~~ ~~[Each]~~ general academic teaching institution shall admit an applicant for admission to the institution as an undergraduate student if the applicant graduated with a grade point average in the top 10 percent of the student's high school graduating class in one of the two school years preceding the academic year for which the applicant is applying for admission and:

(1) the applicant graduated from a public or private high school in this state accredited by a generally recognized accrediting organization or from a high school operated by the United States Department of Defense;

(2) the applicant:

(A) successfully completed:

(i) at a public high school, the curriculum requirements established under Section 28.025 for the recommended or advanced high school program; or

(ii) at a high school to which Section 28.025 does not apply, a curriculum that is equivalent in content and rigor to the recommended or advanced high school program; or

(B) satisfied ACT's College Readiness Benchmarks on the ACT assessment applicable to the applicant or earned on the SAT assessment a score of at least 1,500 out of 2,400 or the equivalent; and

(3) if the applicant graduated from a high school operated by the United States Department of Defense, the applicant is a Texas resident under Section 54.052 or is entitled to pay tuition fees at the rate provided for Texas residents under Section 54.058(d) for the term or semester to which admitted.

(a-1) Beginning with admissions for the 2010-2011 academic year, a general academic teaching institution is not required to admit under Subsection (a) more than 50 percent of the institution's first-time resident undergraduate students in an academic year. If the number of applicants who qualify for automatic admission to a general academic teaching institution under Subsection (a) exceeds 50 percent of the institution's enrollment capacity designated for first-time resident undergraduate students, the institution may elect to offer admission to those applicants as provided by this subsection and not as otherwise required by Subsection (a). If the institution elects to offer admission under this subsection, the institution shall offer admission to those applicants by percentile rank according to high school graduating class standing based on grade point average, beginning with the top percentile rank, until the applicants qualified under Subsection (a) have been offered admission in the number estimated in good faith by the institution as sufficient to fill 40 percent of the institution's enrollment capacity designated for first-time resident undergraduate students, except that the institution must offer admission to all applicants with the same percentile rank. In addition to those admissions, until applicants qualified under Subsection (a) have been offered admission in the number estimated in good faith by

the institution as sufficient to fill 50 percent of the designated enrollment capacity described by this subsection, the institution shall offer to applicants qualified for automatic admission under Subsection (a) admission in the same manner as other applicants for admission as first-time undergraduate students in accordance with Section 51.805, except that the institution may not consider applicants other than those applicants qualified under Subsection (a). After the applicants qualified for automatic admission under Subsection (a) have been offered admission under this subsection in the number estimated in good faith as sufficient to fill 50 percent of the designated enrollment capacity described by this subsection, the institution shall consider any remaining applicants qualified for automatic admission under Subsection (a) in the same manner as other applicants for admission as first-time undergraduate students in accordance with Section 51.805.

(a-2) In the manner prescribed by the Texas Education Agency and not later than April 15, a general academic teaching institution shall provide to each school district, for dissemination of the information to high school junior-level students and their parents, notice of which percentile ranks of high school senior-level students are anticipated by the institution to be automatically offered admission under Subsection (a-1) during the next school year if:

(1) the number of applicants to the institution during the current school year who qualify for automatic admission to the institution under Subsection (a) exceeds 50 percent of the institution's enrollment capacity designated for first-time resident undergraduate students; and

(2) the institution plans to offer admission under Subsection (a-1) during the next school year.

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, 2009.

### **Floor Amendment No. 1**

Amend **CSSB 175** (House committee report) by striking all below the enacting clause and substituting the following:

SECTION 1. Section 51.803, Education Code, is amended by amending Subsection (a) and adding Subsections (a-1), (a-2), and (g) to read as follows:

(a) Subject to Subsection (a-1), each ~~Each~~ general academic teaching institution shall admit an applicant for admission to the institution as an undergraduate student if the applicant graduated with a grade point average in the top 10 percent of the student's high school graduating class in one of the two school years preceding the academic year for which the applicant is applying for admission and:

(1) the applicant graduated from a public or private high school in this state accredited by a generally recognized accrediting organization or from a high school operated by the United States Department of Defense;

(2) the applicant:

(A) successfully completed:

(i) at a public high school, the curriculum requirements established under Section 28.025 for the recommended or advanced high school program; or

(ii) at a high school to which Section 28.025 does not apply, a curriculum that is equivalent in content and rigor to the recommended or advanced high school program; or

(B) satisfied ACT's College Readiness Benchmarks on the ACT assessment applicable to the applicant or earned on the SAT assessment a score of at least 1,500 out of 2,400 or the equivalent; and

(3) if the applicant graduated from a high school operated by the United States Department of Defense, the applicant is a Texas resident under Section 54.052 or is entitled to pay tuition fees at the rate provided for Texas residents under Section 54.058(d) for the term or semester to which admitted.

(a-1) Beginning with admissions for the 2010-2011 academic year, a general academic teaching institution is not required to offer admission to applicants who qualify for automatic admission under Subsection (a) in excess of the number required to fill 60 percent of the institution's enrollment capacity designated for first-time resident undergraduate students in an academic year. If the number of applicants who qualify for automatic admission to a general academic teaching institution under Subsection (a) for an academic year exceeds 60 percent of the institution's enrollment capacity designated for first-time resident undergraduate students for that academic year, the institution may elect to offer admission to those applicants as provided by this subsection and not as otherwise required by Subsection (a). If the institution elects to offer admission under this subsection, the institution shall offer admission to those applicants by percentile rank according to high school graduating class standing based on grade point average, beginning with the top percentile rank, until the applicants qualified under Subsection (a) have been offered admission in the number estimated in good faith by the institution as sufficient to fill 50 percent of the institution's enrollment capacity designated for first-time resident undergraduate students, except that the institution must offer admission to all applicants with the same percentile rank. In addition to those admissions, until applicants qualified under Subsection (a) have been offered admission in the number estimated in good faith by the institution as sufficient to fill 60 percent of the designated enrollment capacity described by this subsection, the institution shall offer to applicants qualified for automatic admission under Subsection (a) admission in the same manner as other applicants for admission as first-time undergraduate students in accordance with Section 51.805, except that the institution may not consider applicants other than those applicants qualified under Subsection (a). After the applicants qualified for automatic admission under Subsection (a) have been offered admission under this subsection in the number estimated in good faith as sufficient to fill 60 percent of the designated enrollment capacity described by this subsection, the institution shall consider any remaining applicants qualified for automatic admission under Subsection (a) in the same manner as other applicants for admission as first-time undergraduate students in accordance with Section 51.805. A general academic teaching institution may not offer admission under this subsection for an academic year after the eighth consecutive academic year for which general academic teaching institutions have had the option of electing to offer admission to applicants under this subsection.

(a-2) If the number of applicants who apply to a general academic teaching institution during the current academic year for admission in the next academic year and who qualify for automatic admission to a general academic teaching institution under Subsection (a) exceeds 60 percent of the institution's enrollment capacity designated for first-time resident undergraduate students for that next academic year and the institution plans to offer admission under Subsection (a-1) during the next school year, the institution shall, in the manner prescribed by the Texas Education Agency and not later than April 15, provide to each school district, for dissemination of the information to high school junior-level students and their parents, notice of which percentile ranks of high school senior-level students who qualify for automatic admission under Subsection (a) are anticipated by the institution to be offered admission under Subsection (a-1) during the next school year.

(g) The Texas Higher Education Coordinating Board by rule shall develop and implement a program to increase and enhance the efforts of general academic teaching institutions in conducting outreach to academically high-performing high school seniors in this state who are likely to be eligible for automatic admission under Subsection (a) to provide to those students information and counseling regarding the operation of this section and other opportunities, including financial assistance, available to those students for success at public institutions of higher education in this state. Under the program, the coordinating board, after gathering information and recommendations from available sources and examining current outreach practices by institutions in this state and in other states, shall prescribe best practices guidelines and standards to be used by general academic teaching institutions in conducting the student outreach described by this subsection.

SECTION 2. Section 28.026, Education Code, is amended to read as follows:

Sec. 28.026. NOTICE OF AUTOMATIC COLLEGE ADMISSION. (a) The board of trustees of a school district shall require each high school in the district to post appropriate signs in each counselor's office, in each principal's office, and in each administrative building indicating the substance of Section 51.803 regarding automatic college admission. To assist in the dissemination of this information, the school district shall:

(1) require that each high school counselor and class advisor be provided a detailed explanation of the substance of Section 51.803;

(2) provide each district student, at the time the student first registers for one or more classes required for high school graduation, with a written notification of the substance of Section 51.803;

(3) require that each high school counselor and senior class advisor explain to eligible students the substance of Section 51.803; and

(4) [~~(3)~~] provide each eligible senior student under Section 51.803, at the commencement of a class's senior year, with a written notification of the student's eligibility with a detailed explanation of the substance of Section 51.803.

(b) The commissioner shall adopt forms to use in providing notice under Subsections (a)(2) and (4). In providing notice under Subsection (a)(2) or (4), a school district shall use the appropriate form adopted by the commissioner.

(c) The commissioner shall adopt procedures to ensure that, as soon as practicable after this subsection becomes law, each school district provides written notification of the substance of Section 51.803, as amended by the 81st Legislature, Regular Session, 2009, to each district student who, for the 2009-2010 school year, registers for one or more courses required for high school graduation. The commissioner may adopt rules under this subsection in the manner provided by law for emergency rules. Each district shall comply with the procedures adopted by the commissioner under this subsection. This subsection expires September 1, 2010.

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, 2009.

### **Floor Amendment No. 2**

Amend Floor Amendment No. 1 by Representative Branch to **CSSB 175** in SECTION 1 of the bill as follows:

(1) In added Section 51.803(a-1), Education Code (page 2, lines 5 and 6), strike "Beginning with admissions for the 2010-2011 academic year" and substitute "Beginning with admissions for the 2011-2012 academic year".

(2) In added Section 51.803(a-2), Education Code (page 3, line 27), strike "not later than April 15" and substitute "not later than September 15".

### **Floor Amendment No. 3**

Substitute the following Floor Amendment for No. 2 by Representative Branch to **CSSB 175** in SECTION 1 of the bill as follows:

(1) In added Section 51.803(a-1), Education Code (page 2, lines 5 and 6), strike "Beginning with admissions for the 2010-2011 academic year" and substitute "Beginning with admissions for the 2012-2013 academic year".

(2) In added Section 51.803(a-2), Education Code (page 3, line 27), strike "not later than April 15" and substitute "not later than September 15".

### **Floor Amendment No. 4**

Amend Floor Amendment No. 1 (floor substitute) by Representative Branch to **CSSB 175** by adding the following appropriately numbered SECTIONS to the bill and renumbering the remaining SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Subchapter U, Chapter 51, Education Code, is amended by adding Section 51.8035 to read as follows:

Sec. 51.8035. AUTOMATIC ADMISSION OF APPLICANTS COMPLETING CORE CURRICULUM AT ANOTHER INSTITUTION. (a) In this section:

(1) "Core curriculum" means the core curriculum adopted by an institution of higher education under Section 61.822.

(2) "General academic teaching institution" has the meaning assigned by Section 61.003.

(b) A general academic teaching institution shall admit an applicant for admission to the institution as a transfer undergraduate student who:



(1) graduated from high school not earlier than the fourth school year before the academic year for which the applicant seeks admission to the institution as a transfer student and:

(A) qualified for automatic admission to a general academic teaching institution under Section 51.803 at the time of graduation; or

(B) was previously offered admission under this subchapter to the institution to which the applicant seeks admission as a transfer student;

(2) first enrolled in a public junior college or other public or private lower-division institution of higher education not earlier than the third academic year before the academic year for which the applicant seeks admission;

(3) completed the core curriculum at a public junior college or other public or private lower-division institution of higher education with a cumulative grade point average of at least 2.5 on a four-point scale or the equivalent; and

(4) submits a completed application for admission as a transfer student before the expiration of any application filing deadline established by the institution.

(c) For purposes of this section, transfer semester credit hours from a different institution of higher education and semester credit hours earned by examination shall be included in determining whether the person completed the core curriculum at an institution of higher education.

(d) It is the responsibility of the applicant for admission under this section to:

(1) expressly and clearly claim in the application entitlement to admission under this section; and

(2) timely provide to the general academic teaching institution the documentation required by the institution to determine the student's entitlement to admission under this section.

SECTION \_\_\_\_ . Section 51.8035, Education Code, as added by this Act, applies beginning with admissions to a general academic teaching institution for the 2010 spring semester.

### **Floor Amendment No. 6**

Amend Floor Amendment No. 1 (floor substitute) by Representative Branch to **CSSB 175** by adding the following appropriately numbered SECTIONS to the bill and renumbering existing SECTIONS of the bill accordingly:

SECTION \_\_\_\_ . Chapter 56, Education Code, is amended by adding Subchapter R to read as follows:

#### SUBCHAPTER R. SCHOLARSHIPS FOR STUDENTS GRADUATING IN TOP 10 PERCENT OF HIGH SCHOOL CLASS

Sec. 56.481. PURPOSE. The purpose of this program is to encourage attendance at public institutions of higher education in this state by outstanding high school students in the top 10 percent of their graduating class.

Sec. 56.482. DEFINITIONS. In this subchapter:

(1) "Coordinating board" means the Texas Higher Education Coordinating Board.

(2) "Institution of higher education" has the meaning assigned by Section 61.003.

(3) "Program" means the scholarship program authorized by this subchapter.

Sec. 56.483. AWARD OF SCHOLARSHIP. (a) The coordinating board shall award scholarships to eligible students under this subchapter.

(b) An institution of higher education shall provide to a student who receives a scholarship under the program for a semester or other academic term:

(1) a credit in the amount of the scholarship, to be applied toward the payment of any amount of educational costs charged by the institution for that semester or term; and

(2) a check, electronic transfer, or other disbursement of any remaining scholarship amount.

(c) An amount paid under Subsection (b)(2) may be applied only to any usual and customary cost incurred by the student to attend the institution of higher education.

Sec. 56.484. INITIAL ELIGIBILITY FOR SCHOLARSHIP. To be eligible for a scholarship under this subchapter, a student must:

(1) have graduated from a public or accredited private high school in this state while ranked in the top 10 percent of the student's graduating class, subject to Section 56.487(b);

(2) have completed the recommended or advanced high school curriculum established under Section 28.025 or its equivalent;

(3) have applied for admission as a first-time freshman student for the 2010-2011 academic year or a subsequent academic year to an institution of higher education that has elected to offer admissions for that academic year to applicants as provided by Section 51.803(a-1);

(4) enroll as a first-time freshman student in an institution of higher education not later than the 16th month after the date of the student's high school graduation;

(5) have been awarded a TEXAS grant under Subchapter M, Chapter 56, Education Code, for the same semester or other academic term for which the scholarship will be awarded;

(6) be a Texas resident under Section 54.052; and

(7) comply with any other eligibility requirements established by coordinating board rule.

Sec. 56.485. INELIGIBILITY FOR SCHOLARSHIP. Notwithstanding Section 56.484, a student is not eligible for an initial or subsequent scholarship under this subchapter if the student was offered admission as a first-time freshman student to any institution of higher education for an academic year for which that institution made admissions under Section 51.803(a-1), regardless of whether the student subsequently enrolls at that institution.

Sec. 56.486. AMOUNT OF SCHOLARSHIP. (a) Except as provided by Subsection (b), the amount of a scholarship for each semester or other academic term in which an eligible student is enrolled at an institution of higher education is an amount sufficient to cover, but not exceed, the amount of tuition charged to the student for that semester or term.

(b) The amount of a scholarship for each semester or other academic term may not exceed the amount of student's unmet financial need for that semester or term after any other gift aid has been awarded.

(c) The coordinating board shall issue to each eligible student a certificate indicating the amount of the scholarship awarded to the student.

Sec. 56.487. APPLICATION PROCEDURE. (a) The coordinating board shall establish application procedures for the program. The procedures may require an officer of the applicable high school or school district to verify the eligibility of a student to receive a scholarship under the program.

(b) The coordinating board may permit a student to establish initial eligibility based on the student's class rank at the end of the student's seventh semester in high school. The board may revoke an initial scholarship awarded to a student who subsequently loses eligibility based on the student's class rank on graduation from high school.

(c) The coordinating board may consider applications received after the application deadline only if sufficient funding for scholarships remains after the board awards scholarships to all eligible students who applied on or before the deadline.

(d) The coordinating board shall establish procedures to notify each eligible student of the receipt of a scholarship under the program and to enable an institution of higher education to verify the award of a scholarship to a student who is enrolled at that institution.

Sec. 56.488. CONTINUING ELIGIBILITY FOR SCHOLARSHIP. (a) After establishing eligibility to receive an initial scholarship under the program, a student may continue to receive additional scholarships during each subsequent semester or other academic term in which the student is enrolled at an institution of higher education if the student:

(1) makes satisfactory academic progress as required by Section 56.489;

(2) submits to the institution transcripts for any coursework completed at other public or private institutions of higher education;

(3) has been awarded a TEXAS grant under Subchapter M, Chapter 56, Education Code, for the same semester or other academic term for which the scholarship will be awarded; and

(4) complies with any other eligibility requirements established by coordinating board rule.

(b) If a student fails to meet any of the requirements of Subsection (a) after completing a semester or other academic term, the student may not receive a scholarship during the next semester or other academic term in which the student enrolls. A student may become eligible to receive a scholarship in a subsequent semester or term if the student:

(1) completes a semester or term during which the student is not eligible for a scholarship; and

(2) meets all the requirements of Subsection (a).

(c) Except as provided by Section 56.490(b), a student's eligibility for a scholarship under the program ends on the fourth anniversary of the first day of the semester or other academic term for which the student was awarded an initial scholarship under the program.

Sec. 56.489. SATISFACTORY ACADEMIC PROGRESS. For each academic year in which a student receives one or more scholarships under the program, the student must:

(1) complete for that year:

(A) at least 75 percent of all credit hours attempted, as determined by the institution of higher education in which the student is enrolled; and

(B) at least 30 credit hours or the number of credit hours needed to complete the student's degree or certificate program, whichever is less; and

(2) maintain an overall grade point average of at least 3.25 on a four-point scale or its equivalent for all coursework attempted at any public or private institution of higher education.

Sec. 56.490. EXCEPTION FOR HARDSHIP OR OTHER GOOD CAUSE. (a) Each institution of higher education shall adopt a policy to allow a student who fails to make satisfactory academic progress as required by Section 56.489 to receive a scholarship in a subsequent semester or other academic term on a showing of hardship or other good cause, including:

(1) a showing of a severe illness or other debilitating condition that could affect the student's academic performance;

(2) an indication that the student is responsible for the care of a sick, injured, or needy person and that the student's provision of care could affect the student's academic performance; or

(3) any other cause considered acceptable by the coordinating board.

(b) An institution of higher education may extend the eligibility period described by Section 56.488(c) in the event of hardship or other good cause as provided by the institution's policy adopted under Subsection (a).

(c) An institution of higher education shall maintain documentation of each exception granted to a student under this section and shall provide timely notice of those exceptions to the coordinating board.

Sec. 56.491. PUBLICATION OF PROGRAM INFORMATION. (a) The coordinating board shall publish and disseminate general information and rules for the program as provided by Subsection (b) and as otherwise considered appropriate by the board.

(b) The coordinating board shall provide application instructions to:

(1) each school district and each institution of higher education; and

(2) an individual student on request.

Sec. 56.492. REIMBURSEMENT. (a) Each institution of higher education that provides scholarships under the program to eligible students enrolled at the institution is entitled to reimbursement by the coordinating board of the amounts provided. The institution must request reimbursement in the manner specified by coordinating board rule.

(b) On approval of an institution's request for reimbursement, the coordinating board shall direct the comptroller to transfer the appropriate amount to the institution. The institution may use the transferred funds as reimbursement for any credits provided to students under this subchapter, to reimburse students for charges previously paid to the institution, or to make scholarship payments to students, as applicable.

Sec. 56.493. RULES. The coordinating board shall adopt rules as necessary to administer the program under this subchapter.

SECTION \_\_\_\_\_. (a) The Texas Higher Education Coordinating Board shall adopt rules to administer Subchapter R, Chapter 56, Education Code, as added by this Act, as soon as practicable after the effective date of this Act. For that purpose, the coordinating board may adopt the initial rules in the manner provided by law for emergency rules.

(b) The Texas Higher Education Coordinating Board shall begin awarding scholarships under Subchapter R, Chapter 56, Education Code, as added by this Act, for the first academic year for which money is appropriated for that purpose, except that the coordinating board may not award scholarships under that subchapter for an academic year before the 2010-2011 academic year.

#### **Floor Amendment No. 7**

Amend Floor Amendment No. 1 (floor substitute) by Representative Branch to **CSSB 175** as follows:

(1) In the recital to SECTION 1 of the bill (page 1, lines 4 and 5), strike "Subsections (a-1), (a-2), and (g)" and substitute "Subsections (a-1), (a-2), (g), and (h)".

(2) In SECTION 1 of the bill, at the end of amended Section 51.803, Education Code (page 4, between lines 18 and 19), insert the following:

(h) A general academic teaching institution that elects to offer admission under Subsection (a-1) for an academic year may not offer admission to first-time undergraduate students who are not residents of this state for that academic year in excess of the number required to fill 12.5 percent of the institution's enrollment capacity designated for first-time undergraduate students for that academic year.

#### **Floor Amendment No. 8**

Amend Floor Amendment No. 1 by Representative Branch to **CSSB 175** as follows:

(1) On page 1, lines 4 and 5, strike "(a-1), (a-2), and (g)" and substitute "(a-1), (a-2), (g), and (h)".

(2) At the end of SECTION 1 of the bill (page 4, between lines 18 and 19), add the following:

(h) An institution that admits under this section an applicant qualified for automatic admission under Subsection (a) may admit the applicant for either the fall semester of the academic year for which the applicant applies or for the summer session preceding that fall semester, as determined by the institution.

#### **Floor Amendment No. 11**

Amend Floor Amendment No. 1 (floor substitute) by Representative Branch to **CSSB 175** as follows:

(1) In the recital to SECTION 1 of the bill (page 1, lines 4 and 5), strike "Subsections (a-1), (a-2), and (g)" and substitute "Subsections (a-1), (a-2), (g), and (h)".

(2) In SECTION 1 of the bill, at the end of amended Section 51.803, Education Code (page 4, between lines 18 and 19), insert the following:

(h) If a general academic teaching institution denies admission to an applicant for an academic year, in any letter or other communication the institution provides to the applicant notifying the applicant of that denial, the institution may not reference the provisions of this section, including using a description of a provision of this section such as the top 10 percent automatic admissions law, as a reason the institution is unable to offer admission to the applicant unless the number of applicants for admission to the institution for that academic year who qualify for automatic admission under Subsection (a) is sufficient to fill 100 percent of the institution's enrollment capacity designated for first-time resident undergraduate students.

#### **Floor Amendment No. 17**

Amend Floor Amendment No. 1 (floor substitute) by Representative Branch to **CSSB 175**, in SECTION 1 of the bill, as follows:

(1) Strike added Section 51.803(a-1), Education Code (page 2, line 5, through page 3, line 17), and substitute the following:

(a-1) Beginning with admissions for the 2011-2012 academic year, The University of Texas at Austin is not required to offer admission to applicants who qualify for automatic admission under Subsection (a) in excess of the number required to fill 75 percent of the university's enrollment capacity designated for first-time resident undergraduate students in an academic year. If the number of applicants who qualify for automatic admission to The University of Texas at Austin under Subsection (a) for an academic year exceeds 75 percent of the university's enrollment capacity designated for first-time resident undergraduate students for that academic year, the university may elect to offer admission to those applicants as provided by this subsection and not as otherwise required by Subsection (a). If the university elects to offer admission under this subsection, the university shall offer admission to those applicants by percentile rank according to high school graduating class standing based on grade point average, beginning with the top percentile rank, until the applicants qualified under Subsection (a) have been offered admission in the number estimated in good faith by the university as sufficient to fill 75 percent of the university's enrollment capacity designated for first-time resident undergraduate students, except that the university must offer admission to all applicants with the same percentile rank. After the applicants qualified for automatic admission under Subsection (a) have been offered admission under this subsection in the number estimated in good faith as sufficient to fill 75 percent of the designated enrollment capacity described by this subsection, the university shall consider any remaining applicants qualified for automatic admission under Subsection (a) in the same manner as other applicants for admission as first-time undergraduate students in accordance with Section 51.805.

(2) In added Section 51.803(a-2), Education Code (page 3, line 22), strike "60" and substitute "75".

#### **Floor Amendment No. 19**

Amend Floor Amendment No. 1 (floor substitute) by Representative Branch to **CSSB 175** as follows:

(1) In the recital to SECTION 1 of the bill (page 1, lines 4 and 5), strike "Subsections (a-1), (a-2), and (g)" and substitute "Subsections (a-1), (a-2), (g), and (h)".

(2) In SECTION 1 of the bill, at the end of amended Section 51.803, Education Code (page 4, between lines 18 and 19), insert the following:

(h) A general academic teaching institution that elects to offer admission under Subsection (a-1) for an academic year may not offer admission to first-time undergraduate students who are not residents of this state for that academic year in excess of the number required to fill 10 percent of the institution's enrollment capacity designated for first-time undergraduate students for that academic year.

#### **Floor Amendment No. 20**

Amend Floor Amendment No. 1 (floor substitute) by Representative Branch to **CSSB 175**, in SECTION 1 of the bill, as follows:

(1) In the recital (page 1, lines 4 and 5), strike "Subsections (a-1), (a-2), and (g)" and substitute "Subsections (a-1), (a-2), (a-3), and (g)".

(2) Immediately following added Section 51.803(a-2), Education Code (page 4, between lines 2 and 3), insert the following:

(a-3) Notwithstanding Subsection (a-1), The University of Texas at Austin may not offer admission under that subsection for an academic year after the 2015-2016 academic year.

#### **Floor Amendment No. 21**

Amend Floor Amendment No. 1 (floor substitute) by Representative Branch to **CSSB 175** as follows:

(1) In the recital to SECTION 1 of the bill (page 1, lines 4 and 5), strike "adding Subsections (a-1), (a-2), and (g)" and substitute "adding Subsections (a-1), (a-2), (a-3), and (g)".

(2) In SECTION 1 of the bill, immediately following added Section 51.803(a-2), Education Code (page 4, between lines 2 and 3), insert the following:

(a-3) If The University of Texas at Austin elects to offer admission to first-time resident undergraduate students under Subsection (a-1) for an academic year, the university must continue its practice of not considering an applicant's legacy status as a factor in the university's decisions relating to admissions for that academic year.

#### **Floor Amendment No. 24**

Amend Floor Amendment No. 1 (floor substitute) by Representative Branch to **CSSB 175** by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. The purpose of the reforms provided for in this Act is to continue and facilitate progress in general academic teaching institutions in this state with regard to the racial, ethnic, demographic, geographic, and rural/urban diversity of the student bodies of those institutions in undergraduate, graduate, and professional education, including the participation goals identified in the *Closing the Gaps* initiative, the state's master plan for higher education. Nothing in this Act prevents a general academic teaching institution in this state from engaging in appropriate individualized holistic review, consistent with that purpose, for the admission of students who are not entitled to automatic admission under Section 51.803, Education Code, as amended by this Act.

**Floor Amendment No. 25**

Amend Floor Amendment No. 1 (floor substitute) by Representative Branch to **CSSB 175** as follows:

(1) In the recital to SECTION 1 of the bill (page 1, lines 4 and 5), strike "Subsections (a-1), (a-2), and (g)" and substitute "Subsections (a-1), (a-2), (g), and (h)".

(2) In SECTION 1 of the bill, at the end of amended Section 51.803, Education Code (page 4, between lines 18 and 19), insert the following:

(h) A general academic teaching institution may not offer admission under Subsection (a-1) for an academic year if, on the date of the institution's general deadline for applications for admission of first-time undergraduate students for that academic year:

(1) a final court order applicable to the institution prohibits the institution from considering an applicant's race or ethnicity as a factor in the institution's decisions relating to first-time undergraduate admissions; or

(2) the institution's governing board by rule, policy, or other manner has provided that an applicant's race or ethnicity may not be considered as a factor in the institution's decisions relating to first-time undergraduate admissions, except that this subdivision does not apply to an institution that did not consider, on or before June 1, 2009, an applicant's race or ethnicity as a factor in its admissions of first-time resident undergraduate students for the 2009-2010 academic year.

**Floor Amendment No. 35**

Amend Floor Amendment No. 1 (floor substitute) by Representative Branch to **CSSB 175**, in SECTION 1 of the bill, as follows:

(1) In the recital (page 1, lines 4 and 5), strike "Subsections (a-1), (a-2), and (g)" and substitute "Subsections (a-1), (a-2), (g), and (h)".

(2) Immediately following added Section 51.803(g), Education Code (page 4, between lines 18 and 19), insert the following:

(h) The Texas Higher Education Coordinating Board shall publish an annual report on the impact of Subsection (a-1) on the state's goal of closing college access and achievement gaps under "Closing the Gaps," the state's master plan for higher education, with respect to students of an institution that offers admission under that subsection, disaggregated by race, ethnicity, socioeconomic status, and geographic region and by whether the high school from which the student graduated was a small school, as defined by the commissioner of education, or a public high school that is ranked among the lowest 20 percent of public high schools according to the percentage of each high school's graduates who enroll in a four-year institution, including a general academic teaching institution, in one of the two academic years following the year of the applicant's high school graduation. On request, a general academic teaching institution that offers admission under Subsection (a-1) shall provide the board with any information the board considers necessary for the completion of the report required by this subsection.

**Floor Amendment No. 39**

Amend Floor Amendment No. 1 (floor substitute) by Representative Branch to **CSSB 175**, by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:



SECTION \_\_\_\_\_. Section 33.007, Education Code, is amended by adding Subsection (c) to read as follows:

(c) At the beginning of grade 10 and 11, a school counselor certified under the rules of the State Board for Educator Certification shall explain the requirements of automatic admission to a general academic teaching institution under Section 51.803 to each student enrolled in a high school or at the high school level in an open-enrollment charter school who has a grade point average in the top 25 percent of the student's high school class.

#### **Floor Amendment No. 45**

Amend Floor Amendment No. 1 (floor substitute) by Representative Branch to **CSSB 175**, in SECTION 1 of the bill, as follows:

(1) In the recital (page 1, lines 4 and 5), strike "Subsections (a-1), (a-2), and (g)" and substitute "Subsections (a-1), (a-2), (a-3), and (g)".

(2) Immediately following added Section 51.803(a-2), Education Code (page 4, between lines 2 and 3), insert the following:

(a-3) A general academic teaching institution that offers admission to first-time resident undergraduate students under Subsection (a-1) shall require that a student admitted under that subsection complete a designated portion of not less than six semester credit hours of the student's coursework during evening hours or other low-demand hours as necessary to ensure the efficient use of the institution's available classrooms.

#### **Floor Amendment No. 46**

Amend Floor Amendment No. 1 (floor substitute) by Representative Branch to **CSSB 175**, as follows:

(1) Strike SECTION 2 of the bill, amending Section 28.026, Education Code (page 4, line 19, through page 5, line 25), and substitute the following:

SECTION 2. Section 28.026, Education Code, is amended to read as follows:

Sec. 28.026. NOTICE OF AUTOMATIC COLLEGE ADMISSION. (a) The board of trustees of a school district shall require each high school in the district to post appropriate signs in each counselor's office, in each principal's office, and in each administrative building indicating the substance of Section 51.803 regarding automatic college admission. To assist in the dissemination of this information, the school district shall:

(1) require that each high school counselor and class advisor be provided a detailed explanation of the substance of Section 51.803;

(2) provide each district student, at the time the student first registers for one or more classes required for high school graduation, with a written notification of the substance of Section 51.803;

(3) require that each high school counselor and senior class advisor explain to eligible students the substance of Section 51.803; and

(4) not later than the 14th day after the last day of classes for the fall semester or an equivalent date in the case of a school operated on a year-round system under Section 25.084, [(3)] provide each eligible senior student under Section 51.803 and each student enrolled in the junior year of high school who has a grade point average in the top 10 percent of the student's high school class, and the student's

parent or guardian [~~at the commencement of a class's senior year~~], with a written notification of the student's eligibility with a detailed explanation in plain language of the substance of Section 51.803.

(b) The commissioner shall adopt forms to use in providing notice under Subsections (a)(2) and (4). In providing notice under Subsection (a)(2) or (4), a school district shall use the appropriate form adopted by the commissioner. The notice to a student and the student's parent or guardian under Subsection (a)(4) must be on a single form that may contain one or more signature lines to indicate receipt of notice by the student or the student's parent or guardian.

(c) The commissioner shall adopt procedures to ensure that, as soon as practicable after this subsection becomes law, each school district provides written notification of the substance of Section 51.803, as amended by the 81st Legislature, Regular Session, 2009, to each district student who, for the 2009-2010 school year, registers for one or more courses required for high school graduation. The commissioner may adopt rules under this subsection in the manner provided by law for emergency rules. Each district shall comply with the procedures adopted by the commissioner under this subsection. This subsection expires September 1, 2010.

(2) Add the following appropriately numbered SECTION to the bill:

SECTION \_\_\_\_\_. The commissioner of education shall adopt a form for notifying eligible high school seniors and their parents or guardians of automatic college admission as required by Section 28.026, Education Code, as amended by this Act, as soon as practicable after the effective date of this Act.

(3) Renumber the SECTIONS of the bill accordingly.

#### **Floor Amendment No. 47**

Amend Floor Amendment No. 1 (floor substitute) by Representative Branch to **CSSB 175** by inserting into the bill the following appropriately numbered SECTION and renumbering subsequent SECTIONS of the bill to read as follows:

SECTION \_\_\_\_\_. Subchapter C, Chapter 61, Education Code, is amended by adding Section 61.07622 to read as follows:

Sec. 61.07622. HIGHER EDUCATION ASSISTANCE PLAN. (a) The board shall develop a plan under which each public high school in this state that is, as determined by the board in accordance with board rule, substantially below the state average in the number of graduates who attend public or private or independent institutions of higher education is required to:

(1) provide to prospective students information related to enrollment in public or private or independent institutions of higher education, including admissions and financial aid information; and

(2) assist those prospective students in completing applications related to enrollment in those institutions, including admissions and financial aid applications.

#### **Floor Amendment No. 58**

Amend Floor Amendment No. 1 (floor substitute) by Representative Branch to **CSSB 175**, in SECTION 1 of the bill, as follows:

(1) In the recital (page 1, lines 4 and 5), strike "Subsections (a-1), (a-2), and (g)" and substitute "Subsections (a-1), (a-2), (a-3), and (g)".

(2) Immediately following added Section 51.803(a-2), Education Code (page 4, between lines 2 and 3), insert the following:

(a-3) Not later than December 31 of each academic year in which The University of Texas at Austin offers admission under Subsection (a-1), the university shall deliver a written report to the governor, the lieutenant governor, and speaker of the house of representatives regarding the university's progress in each of the following matters:

(1) increasing geographic diversity of the entering freshman class;  
(2) counseling and outreach efforts aimed at students qualified for automatic admission under this section;

(3) recruiting Texas residents who graduate from other institutions of higher education to the university's graduate and professional degree programs;

(4) recruiting students who are members of underrepresented demographic segments of the state's population; and

(6) assessing and improving the university's regional recruitment centers.

The amendments were read.

Senator Shapiro moved to concur in the House amendments to **SB 175**.

The motion prevailed by the following vote: Yeas 27, Nays 4.

Yeas: Averitt, Carona, Davis, Deuell, Duncan, Ellis, Eltife, Estes, Fraser, Gallegos, Harris, Hegar, Hinojosa, Jackson, Lucio, Nelson, Nichols, Patrick, Seliger, Shapiro, Uresti, Van de Putte, Watson, Wentworth, West, Whitmire, Zaffirini.

Nays: Huffman, Ogden, Shapleigh, Williams.

### **SENATE BILL 636 WITH HOUSE AMENDMENTS**

Senator Seliger called **SB 636** from the President's table for consideration of the House amendments to the bill.

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

#### **Floor Amendment No. 1**

Amend **SB 636** (House committee printing) by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Subchapter C, Chapter 151, Tax Code, is amended by adding Section 151.0565 to read as follows:

Sec. 151.0565. TAXABLE ITEMS SOLD OR PROVIDED UNDER DESTINATION MANAGEMENT SERVICES CONTRACTS. (a) In this section:

(1) "Destination management services" means the following services when provided under a qualified destination management services contract:

(A) transportation management;

(B) booking and managing entertainers;

(C) coordination of tours or recreational activities;

(D) meeting, conference, or event registration;

(E) meeting, conference, or event staffing;

(F) event management; and

(G) meal coordination.

(2) "Qualified destination management company" means a business entity that:

(A) is incorporated or is a limited liability company;

(B) receives at least 80 percent of the entity's annual total revenue from providing or arranging for the provision of destination management services;

(C) maintains a permanent nonresidential office from which the destination management services are provided or arranged;

(D) has at least three full-time employees;

(E) spends at least one percent of the entity's annual gross receipts to market the destinations with respect to which destination management services are provided;

(F) has at least 80 percent of the entity's clients described by Subdivision (3)(A) located outside this state;

(G) other than office equipment used in the conduct of the entity's business, does not own equipment used to directly provide destination management services, including motor coaches, limousines, sedans, dance floors, decorative props, lighting, podiums, sound or video equipment, or equipment for catered meals;

(H) is not doing business as a caterer;

(I) does not provide services for weddings;

(J) does not own a venue at which events or activities for which destination management services are provided occur; and

(K) is not a subsidiary of another entity that, and is not a member of an affiliated group, as that term is defined by Section 171.0001, another member of which:

(i) is doing business as, or owns or operates another entity doing business as, a caterer; or

(ii) owns or operates a venue described by Paragraph (J).

(3) "Qualified destination management services contract" means a contract under which at least three of the destination management services listed in Subdivision (1) are provided:

(A) in this state to a client that is not an individual and that:

(i) is a corporation, partnership, limited liability company, trade association, or other business entity, other than a social club or fraternal organization;

(ii) has its principal place of business outside the county where the destination management services are to be provided; and

(iii) agrees to pay the qualified destination management company for all destination management services provided to the client under the terms of the contract; and

(B) by a qualified destination management company that pays or accrues liability for the payment of taxes imposed by this chapter on purchases of taxable items that will be consumed or used by the company in performing the contract.

(b) A qualified destination management company is the consumer of taxable items sold or otherwise provided under a qualified destination management services contract, and the destination management services provided under the contract are not considered taxable services, as that term is defined by Section 151.0101.

SECTION \_\_\_\_\_. (a) Section 171.1011, Tax Code, is amended by adding Subsection (g-6) to read as follows:

(g-6) A taxable entity that is a qualified destination management company as defined by Section 151.0565 shall exclude from its total revenue, to the extent included under Subsection (c)(1)(A), (c)(2)(A), or (c)(3), payments made to other persons to provide services, labor, or materials in connection with the provision of destination management services as defined by Section 151.0565.

(b) This section applies only to a report originally due on or after the effective date of this section.

(c) Notwithstanding any other provision of this Act, this section takes effect January 1, 2010.

## **Floor Amendment No. 2**

Amend **SB 636** by adding the following appropriately numbered sections to read as follows and renumbered the subsequent sections accordingly:

SECTION \_\_\_\_\_. Subdivision (3), Subsection (a), Section 321.002, Tax Code, is amended to read as follows:

(3) "Place of business of the retailer" means an established outlet, office, or location operated by the retailer or the retailer's agent or employee for the purpose of receiving orders for taxable items and includes any location at which three or more orders are received by the retailer during a calendar year. A warehouse, storage yard, or manufacturing plant is not a "place of business of the retailer" unless at least three orders are received by the retailer during the calendar year at the warehouse, storage yard, or manufacturing plant. An outlet, office, facility, or location that contracts with a retail or commercial business engaged in activities to which this chapter applies to process for that business invoices or bills of lading onto which sales tax is added is not a "place of business of the retailer" if the comptroller determines that the outlet, office, facility, or location functions or exists to avoid the tax imposed by this chapter or to rebate a portion of the tax imposed by this chapter to the contracting business. Notwithstanding any other provision of this subdivision, a kiosk is not a "place of business of the retailer." In this subdivision, "kiosk" means a small stand-alone area or structure that:

(A) is used solely to display merchandise or to submit orders for taxable items from a data entry device, or both;

(B) is located entirely within a location that is a place of business of another retailer, such as a department store or shopping mall; and

(C) at which taxable items are not available for immediate delivery to a customer.

SECTION \_\_\_\_\_. Section 321.203, Tax Code, is amended by amending Subsections (c) and (d) and adding Subsections (c-1), (c-2), and (c-3) to read as follows:

(c) If a retailer has more than one place of business in this state, each [a] sale of each [a] taxable item by the retailer is consummated at the [retailer's] place of business of the retailer in this state where the retailer first receives the order, provided that the order is placed in person by the purchaser or lessee of the taxable item at the place of business of the retailer in this state where the retailer first receives the order.

(c-1) If the retailer has more than one place of business in this state and Subsection (c) does not apply, the sale is consummated at the place of business of the retailer in this state:

(1) from which the retailer ships or delivers the item, if the retailer ships or delivers the item to a point designated by the purchaser or lessee; or

(2) where the purchaser or lessee takes possession of and removes the item, if the purchaser or lessee takes possession of and removes the item from a place of business of the retailer.

(c-2) Subsection (c) does not apply if:

(1) the taxable item is shipped or delivered from a warehouse:

(A) that is a place of business of the retailer;

(B) in relation to which the retailer has an economic development agreement with:

(i) the municipality in which the warehouse is located that was entered into under Chapter 380, 504, or 505, Local Government Code, or a predecessor statute, before January 1, 2009; or

(ii) the county in which the warehouse is located that was entered into under Chapter 381, Local Government Code, before January 1, 2009; and

(C) in relation to which the municipality provides information relating to the economic development agreement as required by Subsection (c-3) by the deadline prescribed by that subsection, or, if appropriate, the county complies with Section 323.203(c-3) by the deadline prescribed by that section; and

(2) the place of business of the retailer at which the retailer first receives the order in the manner described by Subsection (c) is a retail outlet identified in the information required by Subsection (c-3) or Section 323.203(c-3) as being served by the warehouse on January 1, 2009.

(c-3) Not later than September 1, 2009, a municipality that has entered into an economic development agreement described by Subsection (c-2) shall send to the comptroller information prescribed by the comptroller relating to the agreement that identifies each warehouse subject to the agreement and each retail outlet that, on January 1, 2009, was served by that warehouse. The comptroller shall prescribe the manner in which the information must be provided. The provision of information to the comptroller under this subsection does not affect whether information described by this subsection is confidential or excepted from required public disclosure. This subsection and Subsection (c-2) expire September 1, 2014.

(d) If the retailer has more than one place of business in this state and Subsections (c) and (c-1) do not apply [~~neither the possession of a taxable item is taken at nor shipment or delivery of the item is made from the retailer's place of business in this state~~], the sale is consummated at:

(1) the [retailer's] place of business of the retailer in this state where the order is received; or

(2) if the order is not received at a place of business of the retailer, the place of business from which the retailer's agent or employee who took the order operates.

SECTION \_\_\_\_\_. Section 323.203, Tax Code, is amended by amending Subsections (c) and (d) and adding Subsections (c-1), (c-2), and (c-3) to read as follows:

(c) If a retailer has more than one place of business in this state, each [a] sale of each [a] taxable item by the retailer is consummated at the [retailer's] place of business of the retailer in this state where the retailer first receives the order, provided that the order is placed in person by the purchaser or lessee of the taxable item at the place of business of the retailer in this state where the retailer first receives the order.

(c-1) If the retailer has more than one place of business in this state and Subsection (c) does not apply, the sale is consummated at the place of business of the retailer in this state:

(1) from which the retailer ships or delivers the item, if the retailer ships or delivers the item to a point designated by the purchaser or lessee; or

(2) where the purchaser or lessee takes possession of and removes the item, if the purchaser or lessee takes possession of and removes the item from a place of business of the retailer.

(c-2) Subsection (c) does not apply if:

(1) the taxable item is shipped or delivered from a warehouse:

(A) that is a place of business of the retailer;

(B) in relation to which the retailer has an economic development agreement with:

(i) the county in which the warehouse is located that was entered into under Chapter 381, Local Government Code, before January 1, 2009; or

(ii) the municipality in which the warehouse is located that was entered into under Chapter 380, 504, or 505, Local Government Code, or a predecessor statute, before January 1, 2009; and

(C) in relation to which the county provides information relating to the economic development agreement as required by Subsection (c-3) by the deadline prescribed by that subsection, or, if appropriate, the municipality complies with Section 321.203(c-3) by the deadline prescribed by that section; and

(2) the place of business of the retailer at which the retailer first receives the order in the manner described by Subsection (c) is a retail outlet identified in the information required by Subsection (c-3) or Section 321.203(c-3) as being served by the warehouse on January 1, 2009.

(c-3) Not later than September 1, 2009, a county that has entered into an economic development agreement described by Subsection (c-2) shall send to the comptroller information prescribed by the comptroller relating to the agreement that identifies each warehouse subject to the agreement and each retail outlet that, on January 1, 2009, was served by that warehouse. The comptroller shall prescribe the manner in which the information must be provided. The provision of information to the comptroller under this subsection does not affect whether information described by this subsection is confidential or excepted from required public disclosure. This subsection and Subsection (c-2) expire September 1, 2014.

(d) If the retailer has more than one place of business in this state and Subsections (c) and (c-1) do not apply ~~[neither the possession of a taxable item is taken at nor shipment or delivery of the item is made from the retailer's place of business in this state]~~, the sale is consummated at:

(1) the ~~[retailer's]~~ place of business of the retailer in this state where the order is received; or

(2) if the order is not received at a place of business of the retailer, the place of business from which the retailer's agent or employee who took the order operates.

SECTION \_\_\_\_\_. The change in law made by this Act does not affect tax liability accruing before the effective date of this Act. That liability continues in effect as if this Act had not been enacted, and the former law is continued in effect for the collection of taxes due and for civil and criminal enforcement of the liability for those taxes.

SECTION \_\_\_\_\_. Section 321.203, and Section 323.203, Tax Code, as added by this Act, take effect immediately if this Act receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, Section 321.203 and Section 323.203, Tax Code, as added by this Act, take effect August 31, 2009.

The amendments were read.

Senator Seliger moved that the Senate do not concur in the House amendments, but that a conference committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **SB 636** before appointment.

There were no motions offered.

The Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Seliger, Chair; Williams, Deuell, Eltife, and West.

### **SENATE BILL 2096 WITH HOUSE AMENDMENT**

Senator Wentworth called **SB 2096** from the President's table for consideration of the House amendment to the bill.

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

#### **Amendment**

Amend **SB 2096** by substituting in lieu thereof the following:

#### **A BILL TO BE ENTITLED**

#### **AN ACT**

relating to the creation of and the powers of a comprehensive multimodal urban transportation authority, including the power to impose taxes, issue bonds, and exercise limited eminent domain authority.



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

SECTION 1. Chapter 451, Transportation Code, is amended by adding Subchapter R to read as follows:

SUBCHAPTER R. URBAN TRANSPORTATION AUTHORITIES

Sec. 451.901. DEFINITIONS. (a) In this subchapter:

(1) "Advanced transportation district" means a district created or operating under Subchapter O.

(2) "Authority" means a rapid transit authority created or operating under this chapter.

(3) "Board" means the governing body of an urban transportation authority, except as otherwise provided by this subchapter.

(4) "Comprehensive advanced transportation" means the design, construction, extension, expansion, improvement, reconstruction, alteration, acquisition, financing, and maintenance of mass transit, light rail, commuter rail, intercity municipal rail, freight rail, fixed guideways, traffic management systems, bus ways, bus lanes, technologically advanced bus transit vehicles and systems, bus rapid transit vehicles and systems, passenger amenities, transit centers, stations, parking facilities and payment mechanisms, sidewalks, bicycle lanes, electronic transit-related information, fare collection and operating systems, high occupancy vehicle lanes, bridges, traffic signal prioritization and coordination systems, monitoring systems, tracks and rail line, switching and signaling equipment, operating equipment, depots, locomotives, rolling stock, maintenance facilities, other real and personal property associated with a rail operation and transit-oriented development, and other comprehensive advanced transportation facilities, equipment, operations, comprehensive transportation systems, and services, including planning, feasibility studies, operations, and professional and other services in connection with those facilities, equipment, operations, comprehensive transportation systems, and services.

(5) "Comprehensive mobility enhancement" means the design, construction, extension, expansion, improvement, reconstruction, alteration, acquisition, financing, and maintenance of:

(A) streets, roads, highways, high occupancy vehicle lanes, toll lanes, turnpike projects, pedestrian or bicycle facilities, bridges, grade separations, parking facilities and payment mechanisms, and infrastructure designed to improve mobility;

(B) traffic signal prioritization and street lighting;

(C) monitoring systems;

(D) other mobility enhancement facilities, equipment, systems, and services, including drainage improvements or drainage-related measures reasonable and necessary for the effective use of the transportation facility being constructed or maintained;

(E) an intermodal hub, air quality improvement initiative, and public utility facility; and

(F) a conveyance or acceptance of the exclusive rights to develop tolled infrastructure or other mobility-related assets, including concession fees.

(6) "Comprehensive transportation system" means a transportation project or a combination of transportation projects designated as a system by the board of an urban transportation authority.

(7) "Construction costs" means the costs of acquisition, construction, reconstruction, improvement, extension, or expansion of a transportation project under this subchapter. The term includes a construction cost as defined by Chapter 370.

(8) "Costs" means finance costs and construction costs.

(9) "Debt" means a bond, certificate, long-term or short-term note, commercial paper, loan, certificate of participation, agreement with a local government, or any other obligation with a variable or fixed interest rate authorized by this chapter or the constitution or another law of this state. The term includes a credit agreement issued under Chapter 1371, Government Code.

(10) "Finance costs" means any fee or expense associated with the financing of a transportation project, including any debt service requirement, capitalized interest, reserve fund requirement, professional or administrative cost, or other cost incurred by or relating to the issuance of debt under this subchapter relating to the design, construction, extension, expansion, improvement, reconstruction, alteration, financing, acquisition, or maintenance of a transportation project.

(11) "Regional mobility authority" means a regional mobility authority created or operating under Chapter 370.

(12) "Revenue" means revenue available to an urban transportation authority under this subchapter, including any source of taxes or revenue available under Chapter 370 or this chapter, including Subchapter O.

(13) "Transportation project" means a comprehensive advanced transportation project or a comprehensive mobility enhancement project.

(14) "Urban transportation authority" means an entity that has the powers of an authority, a regional mobility authority, and an advanced transportation district and is created under this subchapter.

(b) A word or phrase that is not defined in this subchapter but is defined in Subchapter O has the meaning in this subchapter that is assigned by that subchapter.

(c) A word or phrase that is not defined in this subchapter but is defined in Chapter 370 has the meaning in this subchapter that is assigned by that chapter.

Sec. 451.902. LIBERAL CONSTRUCTION. This subchapter shall be liberally construed to carry out its purposes. A provision of this subchapter that conflicts with Subchapter A or O or with Chapter 370 shall be construed to grant the broadest power.

Sec. 451.903. CREATION OF URBAN TRANSPORTATION AUTHORITY AUTHORIZED. (a) The governing body of an authority in which the principal municipality has a population of more than 700,000 and in the territory of which both an advanced transportation district and a regional mobility authority exist may approve and submit a petition to the governing bodies of the advanced transportation district and the regional mobility authority that seeks consent to the creation of an urban transportation authority under this subchapter.

(b) Creation of an urban transportation authority under this subchapter may occur if:

(1) the governing body of the principal municipality in the authority and the commissioners court of each county in which the authority is located and in which a sales and use tax is collected under this chapter consent to the creation of the urban transportation authority;

(2) the governing body of the regional mobility authority consents to the creation of the urban transportation authority;

(3) the commissioners court of each county in which the regional mobility authority is located consents to the creation of the urban transportation authority;

(4) the governing body of the advanced transportation district consents to the creation of the urban transportation authority; and

(5) the commissioners court of each county and the governing body of the principal municipality in which the advanced transportation district is located consent to the creation of the urban transportation authority.

(c) The petition of the authority and the consents described in Subsection (b) must:

(1) approve the transfer of the assets, liabilities, rights, and obligations of each entity to the urban transportation authority; or

(2) make adequate provision therefor by the applicable entity.

Sec. 451.904. EFFECT OF CREATION OF URBAN TRANSPORTATION AUTHORITY. (a) An urban transportation authority is created only after the occurrence of the actions required by Section 451.903. On the first day of the calendar month after the month in which the final action required by that section is taken, an urban transportation authority is considered to have been created. The urban transportation authority has the rights, powers, duties, and privileges granted to an authority under this chapter, to an urban transportation authority under this subchapter, to an advanced transportation district under Subchapter O, and to a regional mobility authority under Chapter 370, including the right to plan and develop transportation projects in any county in which the urban transportation authority is located.

(b) On the date the urban transportation authority is considered to have been created, the urban transportation authority becomes the successor entity to the authority, the advanced transportation district, and the regional mobility authority. On that date the authority, the advanced transportation district, and the regional mobility authority cease to exist.

(c) The urban transportation authority succeeds to and is obligated for all assets, liabilities, rights, and obligations not otherwise provided for of the authority, the advanced transportation district, and the regional mobility authority, on terms and conditions that, upon succession, are no less beneficial to employees than those extant immediately before the creation of the urban transportation authority, including continuation of all rights, privileges, and benefits such as pension rights and benefits, wages, and working conditions, afforded to employees under an existing agreement.

Sec. 451.905. POWERS. (a) An urban transportation authority has the powers necessary or convenient to implement this subchapter or to effect a purpose of this subchapter.

(b) An urban transportation authority through its board may plan, study, evaluate, design, finance, acquire, construct, maintain, repair, and operate a transportation project, individually or as one or more comprehensive transportation systems.

(c) An urban transportation authority has:

(1) all of the rights, powers, duties, and privileges granted to an authority by this chapter;

(2) all of the rights, powers, duties, and privileges granted to a regional mobility authority by Chapter 370; and

(3) all of the rights, powers, duties, and privileges granted to an advanced transportation district by Subchapter O.

(d) A right, power, duty, or privilege of an urban transportation authority described in Subsection (c) may be exercised independently or in combination to effect the purposes of this subchapter. Except as otherwise provided by this subchapter, in the event of a conflict, the most liberal provision applies.

(e) In the manner and to the extent that an authority is authorized by this chapter, an urban transportation authority may develop and operate a transit system, set fares and other charges, and develop stations or terminal complexes for the use of the transit system and related right-of-way.

(f) An urban transportation authority has any right, power, duty, or privilege granted by Chapter 370 to a regional mobility authority that relates to mass transit or a transit system and that is not in conflict with this subchapter.

(g) An urban transportation authority may impose any kind of tax or fee other than an ad valorem tax, including a sales and use tax. The applicable provisions of this chapter, including Subchapter O, and Chapter 370 apply to the imposition of a fee or tax by the urban transportation authority. If the legislature enacts provisions for local option transportation financing through a transportation finance authority or a centralized transportation finance entity, an urban transportation authority may serve as such an entity.

(h) An urban transportation authority may develop and operate a turnpike project. The turnpike project must be developed and operated under the provisions of Chapter 370, including any provision relating to the setting of toll rates.

(i) Unless otherwise provided by this subchapter, the board shall allocate the proceeds of the advanced transportation district sales and use tax in compliance with Subchapter O.

(j) Unless otherwise provided by this subchapter, an election relating to the sales and use tax or the boundaries of an advanced transportation district is governed by the provisions of Subchapter O relating to such an election of an advanced transportation district.

(k) An urban transportation authority may create a transportation corporation or local government corporation under Chapter 431.

(l) An urban transportation authority is a toll project entity and a local toll project entity to the same extent as a regional mobility authority under the provisions of this code.

(m) In its selection and prioritization of transportation projects, the board shall consider the geographic location of other transportation projects funded by this state or the United States so as to foster geographic equity in the planning and development of the projects.

Sec. 451.906. NATURE OF URBAN TRANSPORTATION AUTHORITY.

(a) An urban transportation authority:

- (1) is a body politic and corporate and a political subdivision of this state;
- (2) has perpetual succession; and
- (3) exercises public and essential governmental functions.

(b) The exercise of a right, power, or privilege granted by this subchapter is for a public purpose and is a matter of public necessity and is, in all respects, for the benefit of the people of the territory in which an urban transportation authority operates and of the people of this state, for the increase of their commerce and prosperity, and for the improvement of their health, living conditions, and public safety.

(c) An urban transportation authority is a governmental unit under Chapter 101, Civil Practice and Remedies Code. The operations of the urban transportation authority are not proprietary functions for any purpose.

(d) An urban transportation authority is:

- (1) a public entity under Section 222.1045; and
- (2) a governmental agency under Subchapter A, Chapter 271, Local

Government Code.

(e) The property, revenue, and income of an urban transportation authority are exempt from state and local taxes.

Sec. 451.907. GOVERNANCE OF URBAN TRANSPORTATION AUTHORITY; INITIAL BOARD OF DIRECTORS. (a) An urban transportation authority is governed by a board of directors. The board consists of:

(1) six members appointed by the governing body of the principal municipality, with one member designated to represent the interests of the transportation disadvantaged;

(2) four members appointed by the commissioners court of the county in which the urban transportation authority is located, or if the urban transportation authority is located in more than one county, jointly appointed by the commissioners courts of those counties;

(3) two members appointed by a panel composed of the mayors of the municipalities, other than the principal municipality, that are inside the boundaries of the authority and contribute sales and use tax revenue to the authority; and

(4) one member appointed by the governor.

(a-1) The members appointed under Subsection (a) shall select by majority vote one member to serve as presiding officer of the board.

(b) On the creation of the urban transportation authority, the initial board of the urban transportation authority shall be appointed from among the memberships of the governing body of the authority, the governing body of the advanced transportation district, and the governing body of the regional mobility authority, as extant immediately before the urban transportation authority was created.

(c) The board is responsible for the management, operation, and control of the urban transportation authority and the property of the urban transportation authority.

(d) A provision of this chapter that is applicable to the governing body of an authority and relates to vacancies, term limitations, residency requirements, compensation, surety bonds, nepotism, financial disclosure, indemnification, insurance, or removal applies to the board.

(e) Board meetings and actions are governed by the provisions of this chapter that are applicable to the governing body of an authority. Those meetings and actions are not governed by Chapter 370.

(f) To be eligible to serve as a director, an individual:

(1) may be a representative of an entity that is also represented on a metropolitan planning organization in the region where the principal municipality is located; and

(2) may not be:

(A) an elected official;

(B) an officer or employee of the department;

(C) an employee of a county or a municipality, including the principal municipality, that contributes sales and use tax revenue to the urban transportation authority; or

(D) a person who owns an interest in real property that will be acquired for a transportation project, if it is known at the time of the person's proposed appointment that the property will be acquired for the transportation project.

Sec. 451.908. PUBLIC ACCESS. An urban transportation authority shall:

(1) make and implement policies that provide the public with a reasonable opportunity to appear before the board to speak on any issue under the jurisdiction of the urban transportation authority; and

(2) prepare and maintain a written plan that describes how an individual who does not speak English or who has a physical, mental, or developmental disability may be provided reasonable access to the urban transportation authority's programs.

Sec. 451.909. STRATEGIC PLANS AND ANNUAL REPORTS. (a) An urban transportation authority shall develop a strategic plan for its operations. Before December 31 of each even-numbered year, the urban transportation authority shall issue a plan that covers the succeeding five fiscal years of the urban transportation authority, beginning with the next odd-numbered fiscal year.

(b) Not later than March 31 of each year, an urban transportation authority shall file with each county in which the urban transportation authority is located, the principal municipality, and the panel composed of the mayors of the municipalities in the urban transportation authority that contribute sales and use tax revenue to the authority, a written report on the urban transportation authority's activities that includes a description of anticipated issuances of debt during the next fiscal year, a description of the financial condition of the urban transportation authority, schedules for the development of approved projects, and the status of the urban transportation authority's performance under the most recent strategic plan.

(c) Notwithstanding Subsection (b), a failure to identify a debt issuance or a change in a project development schedule in a written report does not prevent the issuance of the debt or the change in the project development schedule, including the commencement of the operation of a project.

Sec. 451.910. ESTABLISHMENT OF COMPREHENSIVE TRANSPORTATION SYSTEM. (a) If the board determines that the mobility needs of the county or counties in which the urban transportation authority operates and of the surrounding region could be most efficiently and economically met by jointly operating two or more transportation projects as one operational and financial enterprise, the board may create one or more comprehensive transportation systems composed of those transportation projects.

(b) The board may:

(1) create more than one comprehensive transportation system; and

(2) combine two or more comprehensive transportation systems into a single comprehensive transportation system.

(c) An urban transportation authority may finance, acquire, construct, cross-collateralize, and operate a comprehensive transportation system if the board determines that:

(1) the transportation projects could most efficiently and economically be acquired or constructed as part of the comprehensive transportation system; and

(2) the transportation projects will benefit the comprehensive transportation system.

Sec. 451.911. ISSUANCE OF DEBT. (a) An urban transportation authority, or an entity created by the urban transportation authority for the purposes of issuing debt, by resolution of the board or the governing body of the entity, as applicable, may authorize the issuance of debt payable solely from revenue.

(b) Debt, any portion of which is payable from taxes, may not be issued by an urban transportation authority unless the issuance is authorized by a majority of the votes cast at an election ordered and held for that purpose.

(c) Debt issued by an urban transportation authority is fully negotiable. An urban transportation authority may make the debt redeemable before maturity at the price and subject to the terms and conditions provided in the proceedings that authorized the issuance or in a related legal document.

(d) Debt issued by an urban transportation authority under this subchapter may be sold at a public or private sale as determined by the board to be most advantageous and may have a maturity of not longer than 50 years.

(e) Costs attributable to a transportation project that were incurred before the issuance of debt to finance the transportation project may be reimbursed from the proceeds of debt that is subsequently issued.

Sec. 451.912. TRANSPORTATION PROJECT FINANCING. (a) An urban transportation authority may exercise the powers of a regional mobility authority, an authority, and an advanced transportation district and may issue debt or enter into other agreements or financial arrangements to pay all or part of the costs of a transportation project or to refund any debt previously issued for a transportation project.

(b) The powers described in Subsection (a) are cumulative and may be exercised by an urban transportation authority independently or in combination to develop, finance, operate, and pay the costs of a transportation project. Subject to other provisions of this subchapter, the urban transportation authority may pledge any

revenue available to the urban transportation authority under this subchapter, separately or in combination, for the payment of a debt, agreement, or financial arrangement described by Subsection (a).

(c) As authorized by Chapter 370 in connection with a regional mobility authority, the department may provide for or contribute to the payment of the costs of a financial or engineering and traffic feasibility study for a transportation project.

Sec. 451.913. SALES AND USE TAX. (a) When an authority that collects a sales and use tax becomes part of an urban transportation authority:

(1) the sales and use tax remains subject to the provisions of this chapter that relate to the sales and use tax of an authority; and

(2) any restriction, covenant, obligation, or pledge attributed to that sales and use tax remains in effect.

(b) When an advanced transportation district that collects a sales and use tax becomes part of an urban transportation authority:

(1) the sales and use tax remains subject to the provisions of Subchapter O that relate to the sales and use tax of an advanced transportation district; and

(2) any restriction, covenant, obligation, allocation, or pledge attributed to that sales and use tax remains in effect until the voters elect to increase, decrease, or otherwise alter the terms of the sales and use tax.

(c) The allocation of the proceeds of the sales and use tax adopted at the initial election of an advanced transportation district may not be altered unless a proposition for the reallocation is approved by a majority of the votes cast at an election ordered and held for that purpose under this subchapter.

(d) An urban transportation authority may order a subsequent advanced transportation district sales and use tax election to reallocate the proceeds of the tax or to increase or decrease the rate of the tax collected by the urban transportation authority. An election ordered under this section must be held for one or more transportation projects; the combined rate of all sales and use taxes imposed by the urban transportation authority and all other political subdivisions of this state may not exceed the statutory sales and use tax cap in any location in the urban transportation authority; and the proceeds of the sales and use tax under a subsequent election may be pledged only for:

(1) transportation project purposes as determined by the board, including debt service requirements, capitalized interest, reserve fund requirements, credit agreements, administrative costs, or other debt-related costs incurred by or relating to the issuance of obligations by the urban transportation authority relating to the purchase, design, construction, extension, expansion, improvement, reconstruction, alteration, financing, and maintenance of an advanced transportation facility, equipment, operations, a comprehensive transportation system, and services, including feasibility studies, operations, and professional or other services in connection with the facility, equipment, operations, system, or services;

(2) transportation project purposes in the territory of the urban transportation authority as determined by the governing bodies of each participating unit in proportion to the amount of sales and use tax proceeds that were collected in that participating unit; or



(3) as a local match for, or the local share of, a state or federal grant for transportation project purposes in the territory of the urban transportation authority or in connection with the transfer of money by the department or another entity of this state or the United States under an agreement with a county or municipality or a local government corporation created by a county or municipality under Chapter 431, for transportation project purposes in the territory of the urban transportation authority.

(e) At an election under this section, the ballot shall be prepared to permit voting for or against the proposition: "The imposition of a sales and use tax for comprehensive advanced transportation and comprehensive mobility enhancement in the (name of urban transportation authority), at the rate to be set by the governing body of the urban transportation authority."

(f) After a favorable subsequent election held under this subchapter, an allocation specified by Subchapter O ceases to be binding.

Sec. 451.914. USE OF FARE REVENUE. (a) All fare revenue generated by the mass transit operations of the urban transportation authority, other than fare revenue generated by a rail operation, must be dedicated exclusively to the support of mass transit operations.

(b) Fare revenue generated by a rail operation of the urban transportation authority may be used for any comprehensive advanced transportation or comprehensive mobility enhancement purpose.

Sec. 451.915. POWERS AND PROCEDURES OF URBAN TRANSPORTATION AUTHORITY IN ACQUIRING PROPERTY. An urban transportation authority has the same powers and may use the same procedures as a regional mobility authority operating under Chapter 370 in acquiring property.

Sec. 451.916. PUBLIC UTILITY FACILITIES. An urban transportation authority has the same powers and may use the same procedures as a regional mobility authority operating under Chapter 370 with regard to public utility facilities.

Sec. 451.917. TOLL COLLECTION AND VIOLATIONS. An urban transportation authority has the same powers and may use the same procedures as a regional mobility authority operating under Chapter 370 with regard to toll collections, transponders, enforcement, violations, and penalties.

Sec. 451.918. PROJECT DELIVERY. An urban transportation authority may procure, develop, finance, design, construct, maintain, or operate a transportation project using the rights, powers, duties, and privileges that are granted by Chapter 223, by Chapter 370 to a regional mobility authority, or by Subchapter H, Chapter 271, Local Government Code, including a right, power, duty, or privilege associated with:

- (1) a construction manager agent;
- (2) a construction manager-at-risk;
- (3) use of design build;
- (4) a pass-through agent; or
- (5) a comprehensive development agreement.

Sec. 451.919. MUNICIPAL TRANSPORTATION REINVESTMENT ZONES. A municipality located in the territory served by an urban transportation authority may:

(1) designate a municipal transportation reinvestment zone under Section 222.106 to promote a transportation project under this subchapter; and

(2) use money deposited to the tax increment account for the reinvestment zone to pay the urban transportation authority for a portion of the costs of the transportation project.

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, 2009.

The amendment was read.

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

The motion prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **SB 2096** before appointment.

There were no motions offered.

The Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Wentworth, Chair; Carona, Watson, Nichols, and Davis.

#### CONFERENCE COMMITTEE ON HOUSE BILL 2908

Senator Wentworth called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 2908** and moved that the request be granted.

The motion prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 2908** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Wentworth, Chair; Eltife, Whitmire, Williams, and Watson.

#### CONFERENCE COMMITTEE ON HOUSE BILL 1322

Senator Watson called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 1322** and moved that the request be granted.

The motion prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 1322** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Watson, Chair; Van de Putte, Davis, Ogden, and Shapiro.

#### **CONFERENCE COMMITTEE ON HOUSE BILL 148**

Senator Wentworth called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 148** and moved that the request be granted.

The motion prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 148** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Wentworth, Chair; Duncan, Watson, Hinojosa, and Harris.

#### **CONFERENCE COMMITTEE ON HOUSE BILL 963**

Senator Whitmire called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 963** and moved that the request be granted.

The motion prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 963** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Whitmire, Chair; Van de Putte, Fraser, Jackson, and Carona.

#### **CONFERENCE COMMITTEE ON HOUSE BILL 2139**

Senator Hinojosa called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 2139** and moved that the request be granted.

The motion prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 2139** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Hinojosa, Chair; Whitmire, Seliger, Huffman, and Ellis.

#### **SENATE BILL 1833 WITH HOUSE AMENDMENT**

Senator Patrick called **SB 1833** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer, Senator Eltife in Chair, laid the bill and the House amendment before the Senate.

### Amendment

Amend **SB 1833** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED  
AN ACT

relating to county participation in the enterprise zone program.

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

SECTION 1. Section 2303.003(8), Government Code, is amended to read as follows:

(8) "Qualified hotel project" means a hotel proposed to be constructed by a municipality, a county, or a nonprofit municipally sponsored or county-sponsored local government corporation created under the Texas Transportation Corporation Act, Chapter 431, Transportation Code, that is within 1,000 feet of a convention center owned by a municipality having a population of 1,500,000 or more or a county having a population of 3.3 million or more, as appropriate, including shops, parking facilities, and any other facilities ancillary to the hotel.

SECTION 2. Section 2303.505(a), Government Code, is amended to read as follows:

(a) To encourage the development of areas designated as enterprise zones, the governing body of a municipality or county through a program may refund its local sales and use taxes paid by a qualified business on all taxable items purchased for use at the qualified business site related to the project or activity.

SECTION 3. Section 2303.505(a), Government Code, as amended by this Act, applies only to the refund of local sales and use taxes paid on or after the effective date of this Act.

SECTION 4. This Act takes effect September 1, 2009.

The amendment was read.

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

The motion prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **SB 1833** before appointment.

There were no motions offered.

The Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Patrick, Chair; Harris, Ogden, Williams, and Eltife.

### CONFERENCE COMMITTEE ON HOUSE BILL 1343

Senator Van de Putte called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 1343** and moved that the request be granted.

The motion prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 1343** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Van de Putte, Chair; Uresti, Hinojosa, Shapiro, and Patrick.

#### **CONFERENCE COMMITTEE ON HOUSE BILL 2553**

Senator Davis called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 2553** and moved that the request be granted.

The motion prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 2553** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Davis, Chair; Carona, Watson, Ogden, and Williams.

#### **CONFERENCE COMMITTEE ON HOUSE BILL 2012**

Senator Carona called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 2012** and moved that the request be granted.

The motion prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 2012** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Carona, Chair; Deuell, Watson, Whitmire, and Williams.

#### **RECESS**

On motion of Senator Whitmire, the Senate at 4:45 p.m. recessed until 5:45 p.m. today.

#### **AFTER RECESS**

The Senate met at 5:49 p.m. and was called to order by the President.

#### **SENATE RULE 7.25 SUSPENDED (Limitation on Vote)**

Senator Williams moved to suspend Senate Rule 7.25, as it relates to the deadline for votes taken in the last 24 hours of the session, to extend the deadline to midnight Monday, June 1, 2009, in order to consider Conference Committee Reports and House amendments to Senate bills.

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

**MESSAGE FROM THE HOUSE****HOUSE CHAMBER**

Austin, Texas

May 30, 2009

The Honorable President of the Senate

Senate Chamber

Austin, Texas

Mr. President:

I am directed by the House to inform the Senate that the House has taken the following action:

**THE HOUSE HAS PASSED THE FOLLOWING MEASURES:**

**SCR 77**, Approving the system-wide settlement agreement with the United States Department of Justice resolving certain investigations of state mental retardation facilities.

**THE HOUSE HAS GRANTED THE REQUEST OF THE SENATE FOR THE APPOINTMENT OF A CONFERENCE COMMITTEE ON THE FOLLOWING MEASURES:****SB 313** (non-record vote)

House Conferees: Hamilton - Chair/Coleman/Hartnett/Isett/Villarreal

**SB 379** (non-record vote)

House Conferees: Guillen - Chair/Corte/Flynn/Gonzales/Raymond

**SB 1263** (non-record vote)

House Conferees: Rodriguez - Chair/Coleman/Gattis/Kleinschmidt/Thompson

**SB 1449** (non-record vote)

House Conferees: Deshotel - Chair/Anderson/Elkins/Guillen/Pena

**SB 1645** (non-record vote)

House Conferees: Hopson - Chair/Frost/Gonzalez Toureilles/Smith, Wayne/Swinford

**SB 1970** (non-record vote)

House Conferees: Smith, Todd - Chair/Anchia/Bohac/Heflin/Hilderbran

**SB 2080** (non-record vote)

House Conferees: McClendon - Chair/Coleman/Davis, John/Gattis/Kolkhorst

**SB 2274** (non-record vote)

House Conferees: Chisum - Chair/Aycock/Eissler/Gallego/Hochberg

**THE HOUSE HAS ADOPTED THE FOLLOWING CONFERENCE COMMITTEE REPORTS:****HB 4498** (145 Yeas, 0 Nays, 1 Present, not voting)**SB 488** (142 Yeas, 0 Nays, 2 Present, not voting)**SB 1182** (139 Yeas, 1 Nays, 2 Present, not voting)**SB 1206** (143 Yeas, 0 Nays, 2 Present, not voting)

Respectfully,

/s/Robert Haney, Chief Clerk  
House of Representatives

**SENATE BILL 870 WITH HOUSE AMENDMENTS**

Senator Lucio called **SB 870** from the President's table for consideration of the House amendments to the bill.

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

**Floor Amendment No. 1**

Amend **SB 870** (House committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Subchapter B, Chapter 531, Government Code, is amended by adding Section 531.0993 to read as follows:

Sec. 531.0993. OBESITY PREVENTION PILOT PROGRAM. (a) The commission and the Department of State Health Services shall coordinate to establish a pilot program designed to:

(1) decrease the rate of obesity in child health plan program enrollees and Medicaid recipients;

(2) improve the nutritional choices and increase physical activity levels of child health plan program enrollees and Medicaid recipients; and

(3) achieve long-term reductions in child health plan and Medicaid program costs incurred by the state as a result of obesity.

(b) The commission and the Department of State Health Services shall implement the pilot program for a period of at least 24 months in one or more health care service regions in this state, as selected by the commission. In selecting the regions for participation, the commission shall consider the degree to which child health plan program enrollees and Medicaid recipients in the region are at higher than average risk of obesity.

(c) In developing the pilot program, the commission and the Department of State Health Services shall identify measurable goals and specific strategies for achieving those goals. The specific strategies may be evidence-based to the extent evidence-based strategies are available for the purposes of the program.

(d) The commission shall submit a report on or before each November 1 that occurs during the period the pilot program is operated to the standing committees of the senate and house of representatives having primary jurisdiction over the child health plan and Medicaid programs regarding the results of the program. In addition, the commission shall submit a final report to the committees regarding those results not later than three months after the conclusion of the program. Each report must include:

(1) a summary of the identified goals for the program and the strategies used to achieve those goals;

(2) an analysis of all data collected in the program as of the end of the period covered by the report and the capability of the data to measure achievement of the identified goals;

(3) a recommendation regarding the continued operation of the program;  
and

(4) a recommendation regarding whether the program should be implemented statewide.

(e) The executive commissioner may adopt rules to implement this section.

**Floor Amendment No. 2**

Amend **SB 870** (House committee report) in SECTION 1 of the bill, by striking added Section 114.007, Health and Safety Code (page 2, line 26 through page 3, line 23), and renumbering subsequent sections of amended Chapter 114, Health and Safety Code, appropriately.

The amendments were read.

Senator Lucio moved to concur in the House amendments to **SB 870**.

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

**SENATE BILL 1304 WITH HOUSE AMENDMENT**

Senator Patrick called **SB 1304** from the President's table for consideration of the House amendment to the bill.

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

**Amendment**

Amend **SB 1304** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED  
AN ACT

relating to notice to students of a public institution of higher education of the required use of a portion of a student's tuition payments to provide student financial aid.

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

SECTION 1. Subchapter B, Chapter 56, Education Code, is amended by adding Section 56.014 to read as follows:

Sec. 56.014. NOTICE TO STUDENTS REGARDING TUITION SET ASIDE FOR FINANCIAL ASSISTANCE. (a) An institution of higher education that is required by this subchapter to set aside a portion of a student's tuition payments to provide financial assistance for students enrolled in the institution shall provide to each student of the institution who pays tuition from which a portion is required to be set aside for that purpose a notice regarding the specific amount that is required to be set aside by the institution.

(b) The institution shall provide the notice required by Subsection (a) to the student in a prominently printed statement that appears on or is included with:

(1) the student's tuition bill or billing statement, if the institution provides the student with a printed bill or billing statement for the payment of the student's tuition; or

(2) the student's tuition receipt, if the institution provides the student with a printed receipt evidencing the payment of the student's tuition.

(c) If for any semester or other academic term the institution does not provide the student with a printed tuition bill, tuition billing statement, or tuition receipt, the institution shall include the notice required by Subsection (a) for that semester or other term in a statement prominently displayed in an e-mail sent to the student. The notice may be included in any other e-mail sent to the student in connection with the student's tuition charges for that semester or other term.



(d) The Texas Higher Education Coordinating Board by rule shall prescribe minimum standards for the manner, form, and content of the notice required by this section.

SECTION 2. (a) Section 56.014, Education Code, as added by this Act, applies beginning with tuition charged for the 2010 spring semester.

(b) The Texas Higher Education Coordinating Board shall adopt the rules required by Section 56.014, Education Code, as added by this Act, as soon as practicable after the effective date of this Act. For that purpose, the coordinating board may adopt the initial rules in the manner provided by law for emergency rules.

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, 2009.

The amendment was read.

Senator Patrick moved to concur in the House amendment to **SB 1304**.

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

Nays: Davis.

### **SENATE BILL 771 WITH HOUSE AMENDMENTS**

Senator Williams called **SB 771** from the President's table for consideration of the House amendments to the bill.

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

#### **Amendment**

Amend **SB 771** by substituting in lieu thereof the following:

#### **A BILL TO BE ENTITLED AN ACT**

relating to the determination of the value of property for ad valorem tax purposes, including appeals through binding arbitration of appraisal review board orders determining protests of property value determinations.

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

SECTION 1. Section 23.01, Tax Code, is amended by amending Subsection (b) and adding Subsection (c) to read as follows:

(b) The market value of property shall be determined by the application of generally accepted appraisal methods and techniques. If the appraisal district determines the appraised value of a property using mass appraisal standards, the mass appraisal standards must comply with the Uniform Standards of Professional Appraisal Practice. The same or similar appraisal methods and techniques shall be used in appraising the same or similar kinds of property. However, each property shall be appraised based upon the individual characteristics that affect the property's market value, and all available evidence that is specific to the value of the property shall be taken into account in determining the property's market value.

(c) Notwithstanding any provision of this subchapter to the contrary, if the appraised value of property in a tax year is lowered under Subtitle F, the appraised value of the property as finally determined under that subtitle is considered to be the

appraised value of the property for that tax year. In the following tax year, the chief appraiser may not increase the appraised value of the property unless the increase by the chief appraiser is reasonably supported by substantial evidence when all of the reliable and probative evidence in the record is considered as a whole. If the appraised value is finally determined in a protest under Section 41.41(a)(2) or an appeal under Section 42.26, the chief appraiser may satisfy the requirement to reasonably support by substantial evidence an increase in the appraised value of the property in the following tax year by presenting evidence showing that the inequality in the appraisal of property has been corrected with regard to the properties that were considered in determining the value of the subject property. The burden of proof is on the chief appraiser to support an increase in the appraised value of property under the circumstances described by this subsection.

SECTION 2. Sections 23.013, 23.014, and 23.24, Tax Code, are amended to read as follows:

Sec. 23.013. MARKET DATA COMPARISON METHOD OF APPRAISAL.

(a) If the chief appraiser uses the market data comparison method of appraisal to determine the market value of real property, the chief appraiser shall use comparable sales data and shall adjust the comparable sales to the subject property.

(b) A sale is not considered to be a comparable sale unless the sale occurred within 24 months of the date as of which the market value of the subject property is to be determined, except that a sale that did not occur during that period may be considered to be a comparable sale if enough comparable properties were not sold during that period to constitute a representative sample.

(c) A sale of a comparable property must be appropriately adjusted for any change in the market value of the comparable property during the period between the date of the sale of the comparable property and the date as of which the market value of the subject property is to be determined.

(d) Whether a property is comparable to the subject property shall be determined based on similarities with regard to location, square footage of the lot and improvements, property age, property condition, property access, amenities, views, income, operating expenses, occupancy, and the existence of easements, deed restrictions, or other legal burdens affecting marketability.

Sec. 23.014. EXCLUSION OF PROPERTY AS REAL PROPERTY. Except as provided by Section 23.24(b), in [ ] determining the market value of real property, the chief appraiser shall analyze the effect on that value of, and exclude from that value the value of, any:

- (1) tangible personal property, including trade fixtures;
- (2) intangible personal property; or
- (3) other property that is not subject to appraisal as real property.

Sec. 23.24. FURNITURE, FIXTURES, AND EQUIPMENT. (a) If real property is appraised by a method that takes into account the value of furniture, fixtures, and equipment in or on the real property, the furniture, fixtures, and equipment shall not be subject to additional appraisal or taxation as personal property.

(b) In determining the market value of the real property appraised on the basis of rental income, the chief appraiser may not separately appraise or take into account any personal property valued as a portion of the income of the real property, and the market value of the real property must include the combined value of the real property and the personal property.

SECTION 3. Subchapter D, Chapter 23, Tax Code, is amended by adding Section 23.522 to read as follows:

Sec. 23.522. TEMPORARY CESSATION OF AGRICULTURAL USE DURING DROUGHT. The eligibility of land for appraisal under this subchapter does not end because the land ceases to be devoted principally to agricultural use to the degree of intensity generally accepted in the area if:

(1) a drought declared by the governor creates an agricultural necessity to extend the normal time the land remains out of agricultural production; and

(2) the owner of the land intends that the use of the land in that manner and to that degree of intensity be resumed when the declared drought ceases.

SECTION 4. Section 41A.01, Tax Code, is amended to read as follows:

Sec. 41A.01. RIGHT OF APPEAL BY PROPERTY OWNER. As an alternative to filing an appeal under Section 42.01, a property owner is entitled to appeal through binding arbitration under this chapter an appraisal review board order determining a protest filed under Section 41.41(a)(1) concerning the appraised or market value of [real] property if:

(1) the property qualifies as the owner's residence homestead under Section 11.13; or

(2) the appraised or market value, as applicable, of the property as determined by the order is \$1 million or less; ~~and~~

~~[(2) the appeal does not involve any matter in dispute other than the determination of the appraised or market value of the property].~~

SECTION 5. Section 41A.03(a), Tax Code, is amended to read as follows:

(a) To appeal an appraisal review board order under this chapter, a property owner must file with the appraisal district not later than the 45th day after the date the property owner receives notice of the order:

(1) a completed request for binding arbitration under this chapter in the form prescribed by Section 41A.04; and

(2) an arbitration deposit ~~[in the amount of \$500,]~~ made payable to the comptroller in the amount of:

(A) \$500; or

(B) \$250, if the property owner requests expedited arbitration under

Section 41A.031.

SECTION 6. Chapter 41A, Tax Code, is amended by adding Section 41A.031 to read as follows:

Sec. 41A.031. EXPEDITED ARBITRATION. (a) A property owner is entitled to an expedited arbitration if the property owner includes a request for expedited arbitration in the request filed under Section 41A.03 and pays the required deposit.

(b) An expedited arbitration must provide for not more than one hour of argument and testimony on behalf of the property owner and not more than one hour of argument and testimony on behalf of the appraisal district.

(c) The comptroller shall adopt rules and processes to assist in the conduct of an expedited arbitration.

SECTION 7. The heading to Section 41A.06, Tax Code, is amended to read as follows:

Sec. 41A.06. REGISTRY AND INITIAL QUALIFICATION [QUALIFICATIONS] OF ARBITRATORS.

SECTION 8. Section 41A.06(b), Tax Code, is amended to read as follows:

(b) To initially qualify to serve as an arbitrator under this chapter, a person must:

(1) meet the following requirements, as applicable:

(A) be licensed as an attorney in this state; or

(B) have:

(i) completed at least 30 hours of training in arbitration and alternative dispute resolution procedures from a university, college, or legal or real estate trade association; and

(ii) been licensed or certified continuously during the five years preceding the date the person agrees to serve as an arbitrator as:

(a) [~~2~~] be licensed as a real estate broker or salesperson under Chapter 1101, Occupations Code;

(b) [~~, or be licensed or certified as~~] a real estate appraiser under Chapter 1103, Occupations Code; or

(c) a certified public accountant under Chapter 901, Occupations Code; and

(2) [~~3~~] agree to conduct an arbitration for a fee that is not more than 90 percent of the amount of the arbitration deposit required by Section 41A.03.

SECTION 9. Chapter 41A, Tax Code, is amended by adding Section 41A.061 to read as follows:

Sec. 41A.061. CONTINUED QUALIFICATION OF ARBITRATOR; RENEWAL OF AGREEMENT. (a) The comptroller shall include a qualified arbitrator in the registry until the second anniversary of the date the person was added to the registry. To continue to be included in the registry after the second anniversary of the date the person was added to the registry, the person must renew the person's agreement with the comptroller to serve as an arbitrator on or as near as possible to the date on which the person's license or certification issued under Chapter 901, 1101, or 1103, Occupations Code, is renewed.

(b) To renew the person's agreement to serve as an arbitrator, the person must:

(1) file a renewal application with the comptroller at the time and in the manner prescribed by the comptroller;

(2) continue to meet the requirements provided by Section 41A.06(b); and

(3) during the preceding two years have completed at least eight hours of continuing education in arbitration and alternative dispute resolution procedures offered by a university, college, real estate trade association, or legal association.

(c) The comptroller shall remove a person from the registry if the person fails or declines to renew the person's agreement to serve as an arbitrator in the manner required by this section.

SECTION 10. Section 41A.08(b), Tax Code, as added by Chapters 372 (S.B. 1351) and 912 (H.B. 182), Acts of the 79th Legislature, Regular Session, 2005, is reenacted and amended to read as follows:

(b) The parties to an arbitration proceeding under this chapter may represent themselves or, at their own cost, may be represented by:

(1) an employee of the appraisal district;  
 (2) an attorney who is licensed in this state;  
 (3) a person who is licensed as a real estate broker or salesperson under Chapter 1101, Occupations Code, or is licensed or certified as a real estate appraiser under Chapter 1103, Occupations Code; ~~or~~

(4) a property tax consultant registered under Chapter 1152, Occupations Code; or

(5) an individual who is licensed as a certified public accountant under Chapter 901, Occupations Code.

SECTION 11. Section 41A.09(b), Tax Code, is amended to read as follows:

(b) An award under this section:

(1) must include a determination of the appraised or market value, as applicable, of the property that is the subject of the appeal;

(2) may include any remedy or relief a court may order under Chapter 42 in an appeal relating to the appraised or market value of property;

(3) shall specify the arbitrator's fee, which may not exceed the amount provided by Section 41A.06(b)(2) ~~[41A.06(b)(3)]~~;

(4) is final and may not be appealed except as permitted under Section 171.088, Civil Practice and Remedies Code, for an award subject to that section; and

(5) may be enforced in the manner provided by Subchapter D, Chapter 171, Civil Practice and Remedies Code.

SECTION 12. (a) Sections 41A.01, 41A.03, and 41A.08, Tax Code, as amended by this Act, and Section 41A.031, Tax Code, as added by this Act, apply only to an appeal through binding arbitration under Chapter 41A of that code that is requested on or after the effective date of this Act.

(b) Section 41A.06, Tax Code, as amended by this Act, applies only to a person who initially qualifies to serve as an arbitrator under Chapter 41A, Tax Code, on or after the effective date of this Act.

(c) Section 41A.061, Tax Code, as added by this Act, does not affect the eligibility of a person who is included on the registry list of qualified arbitrators on the effective date of this Act to continue to remain on that registry list before the date on which the person's license or certificate under Chapter 901, 1101, or 1103, Occupations Code, expires unless renewed.

SECTION 13. This Act applies only to the appraisal of property for a tax year beginning on or after the effective date of this Act.

SECTION 14. This Act takes effect January 1, 2010.

### **Floor Amendment No. 1**

Amend **CSSB 771** on page 9 after line 8 by adding a new SECTION 12 to read as follows:

SECTION 12. Section 6.411(c) and (d), Tax Code, are amended to read as follows:

(c) This section does not apply to communications [~~that do not discuss the specific evidence, argument, facts, merits, or property involved in a hearing currently pending before the appraisal review board or to communications~~] between the board and its legal counsel.

(d) An offense under this section is a Class A [C] misdemeanor.

The amendments were read.

Senator Williams moved to concur in the House amendments to **SB 771**.

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

### BILLS AND RESOLUTIONS SIGNED

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

**SB 1** (signed subject to Sec. 49-a, Art. III, Texas Constitution), **SB 28**, **SB 359**, **SB 390**, **SB 395**, **SB 397**, **SB 418**, **SB 448**, **SB 449**, **SB 470**, **SB 480**, **SB 521**, **SB 571**, **SB 572**, **SB 581**, **SB 646**, **SB 652**, **SB 671**, **SB 689**, **SB 698**, **SB 742**, **SB 876**, **SB 882**, **SB 883**, **SB 887**, **SB 904**, **SB 963**, **SB 1024**, **SB 1112**, **SB 1127**, **SB 1153**, **SB 1166**, **SB 1171**, **SB 1204**, **SB 1211**, **SB 1225**, **SB 1326**, **SB 1382**, **SB 1409**, **SB 1436**, **SB 1437**, **SB 1439**, **SB 1441**, **SB 1515**, **SB 1571**, **SB 1598**, **SB 1599**, **SB 1609**, **SB 1650**, **SB 1672**, **SB 1685**, **SB 1715**, **SB 1723**, **SB 1728**, **SB 1729**, **SB 1774**, **SB 1798**, **SB 1803**, **SB 1820**, **SB 1824**, **SB 1853**, **SB 1932**, **SB 1984**, **SB 2085**, **SB 2135**, **SB 2148**, **SB 2228**, **SB 2230**, **SB 2248**, **SB 2258**, **SB 2262**, **SB 2325**, **SB 2340**, **SB 2381**, **SB 2385**, **SB 2420**, **SB 2424**, **SB 2435**, **SB 2512**, **SB 2517**, **SB 2524**, **SB 2550**, **SB 2554**, **SB 2565**, **SCR 42**, **SCR 78**, **HB 118**, **HB 144**, **HB 176**, **HB 221**, **HB 233**, **HB 400**, **HB 434**, **HB 534**, **HB 585**, **HB 610**, **HB 646**, **HB 732**, **HB 765**, **HB 780**, **HB 781**, **HB 796**, **HB 821**, **HB 874**, **HB 878**, **HB 960**, **HB 965**, **HB 1003**, **HB 1056**, **HB 1063**, **HB 1083**, **HB 1145**, **HB 1146**, **HB 1177**, **HB 1193**, **HB 1230**, **HB 1233**, **HB 1256**, **HB 1265**, **HB 1286**, **HB 1295**, **HB 1321**, **HB 1360**, **HB 1372**, **HB 1448**, **HB 1457**, **HB 1460**, **HB 1461**, **HB 1470**, **HB 1473**, **HB 1474**, **HB 1518**, **HB 1551**, **HB 1600**, **HB 1686**, **HB 1688**, **HB 1691**, **HB 1730**, **HB 1739**, **HB 1750**, **HB 1757**, **HB 1783**, **HB 1843**, **HB 1850**, **HB 1884**, **HB 1925**, **HB 1960**, **HB 1972**, **HB 1973**, **HB 1995**, **HB 2002**, **HB 2022**, **HB 2031**, **HB 2035**, **HB 2052**, **HB 2082**, **HB 2102**, **HB 2168**, **HB 2228**, **HB 2232**, **HB 2236**, **HB 2237**, **HB 2242**, **HB 2276**, **HB 2385**, **HB 2435**, **HB 2449**, **HB 2456**, **HB 2465**, **HB 2502**, **HB 2846**, **HB 2847**, **HB 2916**, **HB 3001**, **HB 3003**, **HB 3069**, **HB 3070**, **HB 3075**, **HB 3080**, **HB 3098**, **HB 3112**, **HB 3128**, **HB 3136**, **HB 3140**, **HB 3147**, **HB 3206**, **HB 3316**, **HB 3450**, **HB 3464**, **HB 3468**, **HB 3496**, **HB 3593**, **HB 3597**, **HB 3599**, **HB 3601**, **HB 3602**, **HB 3623**, **HB 3638**, **HB 3649**, **HB 3666**, **HB 3671**, **HB 3767**, **HB 3802**, **HB 3829**, **HB 3844**, **HB 3857**, **HB 3918**, **HB 3945**, **HB 4002**, **HB 4136**, **HB 4257**, **HB 4281**, **HB 4343**, **HB 4353**, **HB 4359**, **HB 4360**, **HB 4376**, **HB 4402**, **HB 4685**, **HB 4698**, **HB 4710**, **HB 4712**, **HB 4713**, **HB 4719**, **HB 4790**, **HB 4793**, **HB 4798**.

### SENATE BILL 1440 WITH HOUSE AMENDMENT

Senator Watson called **SB 1440** from the President's table for consideration of the House amendment to the bill.

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

### Floor Amendment No. 1

Amend **SB 1440** by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill as appropriate:

SECTION \_\_\_\_\_. Section 261.302, Family Code, is amended by adding Subsection (g) to read as follows:

(g) The department, without filing suit, may seek a court order in aid of an investigation under Section 261.303.

SECTION \_\_\_\_\_. Section 261.303, Family Code, is amended by amending Subsections (a), (b), and (c) and adding Subsections (c-1), (c-2), (c-3), (f), (g), (h), (i), (j), (k), (l), and (m) to read as follows:

(a) A person may not interfere with an investigation of a report of child abuse or neglect conducted by the department or designated agency, and a court may render an order to assist the department in an investigation under this subchapter.

(b) If admission to the home, school, or any place where the child may be cannot be obtained, or if consent to transport a child for purposes relating to an interview or investigation cannot be obtained, then, on presentation of an application supported by an affidavit described by Subsection (c-2) that is executed by an investigator or authorized representative of the department, [for good cause shown] the court having family law jurisdiction, including any associate judge designated by the court, may, on finding that the affidavit is sufficient and without prior notice or a hearing, [shall] order the parent, the person responsible for the care of the children, or the person in charge of any place where the child may be to allow entrance, transport of the child, or both entrance and transport for the interview, examination, and investigation.

(c) If a parent or person responsible for the child's care does not consent to release of the child's prior medical, psychological, or psychiatric records or to a medical, psychological, or psychiatric examination of the child that is requested by the department or designated agency, then, on presentation of an application supported by an affidavit described by Subsection (c-2) that is executed by an investigator or authorized representative of the department, the court having family law jurisdiction, including any associate judge designated by the court, may, on finding that the affidavit is sufficient and without prior notice or a hearing, [shall, for good cause shown,] order the records to be released or the examination to be made at the times and places designated by the court.

(c-1) If a person having possession of records relating to a child that are relevant to an investigation does not consent to the release of the records on the request of the department or designated agency, then, on presentation of an application supported by an affidavit described by Subsection (c-2) that is executed by an investigator or authorized representative of the department, the court having family law jurisdiction, including any associate judge designated by the court, may, on finding that the affidavit is sufficient and without prior notice or a hearing, order the records to be released at the time and place designated by the court.

(c-2) An application filed under this section must be accompanied by an affidavit executed by an investigator or authorized representative of the department that states facts sufficient to lead a person of ordinary prudence and caution to believe that:

- (1) based on information available, a child's physical or mental health or welfare has been or may be adversely affected by abuse or neglect;
- (2) the requested order is necessary to aid in the investigation; and
- (3) there is a fair probability that allegations of abuse or neglect will be sustained if the order is issued and executed.

(c-3) An application and supporting affidavit used to obtain a court order in aid of an investigation under this section may be filed on any day, including Sunday.

(f) A court may designate an associate judge to render an order in aid of an investigation under this section. An order rendered by an associate judge is immediately effective without the ratification or signature of the court making the designation.

(g) As soon as practicable after executing the order or attempting to execute the order, as applicable, the department shall file with the clerk of the court that rendered the order a written report stating:

- (1) the facts surrounding the execution of the order, including the date and time the order was executed and the name of the investigator or authorized representative executing the order; or
- (2) the reasons why the department was unable to execute the order.

(h) A court issuing an order in aid of an investigation under this section shall keep a record of all the proceedings before the court under this subchapter, including a report filed with the court under Subsection (g). The record of proceedings, including any application and supporting affidavit presented to the court and any report filed with the court under Subsection (g), is confidential and may only be disclosed as provided by Subsection (i) or Section 261.201.

(i) If the department files a suit under Chapter 262, the department shall include with its original petition a copy of the record of all the proceedings before the court under this subchapter, including an application and supporting affidavit for an order under this section and any report relating to an order in aid of an investigation.

(j) As soon as practicable after the department obtains access to records of a child under an order in aid of an investigation, the department shall notify the child's parents or another person with legal custody of the child that the department has obtained the records.

(k) Access to a confidential record under this subchapter does not constitute a waiver of confidentiality.

(l) This section does not prevent a court from requiring notice and a hearing before issuance of an order in aid of an investigation under this section if the court determines that:

- (1) there is no immediate risk to the safety of the child; and



(2) notice and a hearing are required to determine whether the requested access to persons, records, or places or to transport the child is necessary to aid in the investigation.

(m) A court's denial of a request for an ex parte order under this section does not prevent the issuance of a criminal warrant.

The amendment was read.

Senator Watson moved to concur in the House amendment to **SB 1440**.

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

### **SENATE BILL 1199 WITH HOUSE AMENDMENT**

Senator Ogden called **SB 1199** from the President's table for consideration of the House amendment to the bill.

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

#### **Floor Amendment No. 1**

Amend **SB 1199** (House committee report) as follows by adding a new Section 2 as follows and renumbering other sections accordingly:

SECTION 2. Subchapter I, Chapter 151, Tax Code, is amended by adding a new section to read as follows:

Section 151.4261. Credit or Reimbursement In Return Transactions. A seller is entitled to a credit or reimbursement equal to the amount of sales tax refunded to a purchaser when the purchaser receives a full or partial refund of the sales price of a returned taxable item.

The amendment was read.

Senator Ogden moved to concur in the House amendment to **SB 1199**.

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

### **SENATE BILL 1343 WITH HOUSE AMENDMENT**

Senator Hinojosa called **SB 1343** from the President's table for consideration of the House amendment to the bill.

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

#### **Amendment No. 1**

Amend **SB 1343** as follows:

In amended Section 61.0595(d)(3), Education Code, insert the following between "contact hours," and "or another": "a dual credit course for which the student received credit toward a high school diploma,"

The amendment was read.

Senator Hinojosa moved to concur in the House amendment to **SB 1343**.

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

### **SENATE BILL 1735 WITH HOUSE AMENDMENT**

Senator West called **SB 1735** from the President's table for consideration of the House amendment to the bill.

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

**Floor Amendment No. 1**

Amend **SB 1735** (House committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering existing SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Sections 51.2125(a) and (c), Education Code, are amended to read as follows:

(a) This section applies only to a private institution of higher education that ~~has a full head count enrollment of more than 10,000 students and that~~ has under its control and jurisdiction property that is contiguous to, or located in any part within the boundaries of, a home-rule municipality that has [with] a population of 1.18 million or more and is located predominantly in a county that has a total area of less than 1,000 square miles [than one million]. For purposes of this section, a private institution of higher education is a private or independent institution of higher education as defined by Section 61.003.

(c) A mutual assistance agreement authorized by this section may designate the geographic area in which the campus peace officers are authorized to provide assistance to the peace officers of the municipality, except that if the agreement is entered into with a municipality described by Subsection (a) that elects all or part of the municipality's governing body from election districts [with a population of more than one million], the designated geographic area consists of each of the election districts of the municipality's governing body that contains any part of the campus of the institution and each of the election districts of the governing body that is contiguous to another municipality that contains any part of the campus of the institution.

The amendment was read.

Senator West moved to concur in the House amendment to **SB 1735**.

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

**SENATE BILL 2253 WITH HOUSE AMENDMENTS**

Senator Zaffirini called **SB 2253** from the President's table for consideration of the House amendments to the bill.

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

**Amendment**

Amend **SB 2253** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED  
AN ACT

relating to the authority of certain municipalities and counties to regulate platting requirements near an international border.

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

SECTION 1. Section 212.012, Local Government Code, is amended by amending Subsections (a), (c), (d), (e), and (f) and adding Subsections (j) and (k) to read as follows:

(a) Except as provided by Subsection (c), (d), or (j), an entity described by Subsection (b) may not serve or connect any land with water, sewer, electricity, gas, or other utility service unless the entity has been presented with or otherwise holds a certificate applicable to the land issued under Section 212.0115.

(c) An entity described by Subsection (b) may serve or connect land with water, sewer, electricity, gas, or other utility service regardless of whether the entity is presented with or otherwise holds a certificate applicable to the land issued under Section 212.0115 if:

(1) the land is covered by a development plat approved under Subchapter B or under an ordinance or rule relating to the development plat;

(2) the land was first served or connected with service by an entity described by Subsection (b)(1), (b)(2), or (b)(3) before September 1, 1987; or

(3) the land was first served or connected with service by an entity described by Subsection (b)(4), (b)(5), or (b)(6) before September 1, 1989; ~~or~~

~~[(4) the municipal authority responsible for approving plats issues a certificate stating that:~~

~~[(A) the land:~~

~~[(i) was sold or conveyed to the person requesting service by any means of conveyance, including a contract for deed or executory contract, before:~~

~~[(a) September 1, 1995, in a county defined under Section 232.022(a)(1); or~~

~~[(b) September 1, 2005, in a county defined under Section 232.022(a)(2);~~

~~[(ii) is located in a subdivision in which the entity has previously provided service;~~

~~[(iii) is located outside the limits of the municipality;~~

~~[(iv) is located in a county to which Subchapter B, Chapter 232, applies; and~~

~~[(v) is the site of construction of a residence, evidenced by at least the existence of a completed foundation, that was begun on or before:~~

~~[(a) May 1, 1997, in a county defined under Section 232.022(a)(1); or~~

~~[(b) September 1, 2005, in a county defined under Section 232.022(a)(2); or~~

~~[(B) the land was not subdivided after September 1, 1995, in a county defined under Section 232.022(a)(1), or September 1, 2005, in a county defined under Section 232.022(a)(2), and:~~

~~[(i) water service is available within 750 feet of the subdivided land; or~~

~~[(ii) water service is available more than 750 feet from the subdivided land and the extension of water service to the land may be feasible, subject to a final determination by the water service provider].~~

(d) In a county to which Subchapter B, Chapter 232, applies, an entity described by Subsection (b) may serve or connect land with water, sewer, electricity, gas, or other utility service that is located in the extraterritorial jurisdiction of a municipality regardless of whether the entity is presented with or otherwise holds a certificate applicable to the land issued under Section 212.0115, if the municipal authority responsible for approving plats issues a certificate stating that:

(1) the subdivided land:

(A) was sold or conveyed by a subdivider by any means of conveyance, including a contract for deed or executory contract, before:

(i) September 1, 1995, in a county defined under Section 232.022(a)(1);

(ii) September 1, 1999, in a county defined under Section 232.022(a)(1) if, on August 31, 1999, the subdivided land was located in the extraterritorial jurisdiction of a municipality as determined by Chapter 42; or

(iii) September 1, 2005, in a county defined under Section 232.022(a)(2);

(B) has not been subdivided after September 1, 1995, September 1, 1999, or September 1, 2005, as applicable under Paragraph (A);

(C) is the site of construction of a residence, evidenced by at least the existence of a completed foundation, that was begun on or before:

(i) May 1, 2003, in a county defined under Section 232.022(a)(1);

or

(ii) September 1, 2005, in a county defined under Section 232.022(a)(2); and

(D) has had adequate sewer services installed to service the lot or dwelling, as determined by an authorized agent responsible for the licensing or permitting of on-site sewage facilities under Chapter 366, Health and Safety Code;

(2) the subdivided land is a lot of record as defined by Section 232.021(6-a) that is located in a county defined by Section 232.022(a)(1) and has adequate sewer services installed that are fully operable to service the lot or dwelling, as determined by an authorized agent responsible for the licensing or permitting of on-site sewage facilities under Chapter 366, Health and Safety Code; or

(3) the land was not subdivided after September 1, 1995, in a county defined under Section 232.022(a)(1), or September 1, 2005, in a county defined under Section 232.022(a)(2), and:

(A) water service is available within 750 feet of the subdivided land; or

(B) water service is available more than 750 feet from the subdivided land and the extension of water service to the land may be feasible, subject to a final determination by the water service provider.

(e) An entity described by Subsection (b) may provide utility service to land described by Subsection (d)(1), (2), or (3) [~~(e)(4)(A)~~] only if the person requesting service:

(1) is not the land's subdivider or the subdivider's agent; and

(2) provides to the entity a certificate described by Subsection (d) [~~(e)(4)(A)~~].

(f) ~~(e)~~ A person requesting service may obtain a certificate under Subsection (d)(1), (2), or (3) ~~(e)(4)(A)~~ only if the person is the owner or purchaser of the subdivided land and provides to the municipal authority responsible for approving plats documentation containing ~~either~~:

(1) a copy of the means of conveyance or other documents that show that the land was sold or conveyed by a subdivider ~~to the person requesting service~~ before September 1, 1995, before September 1, 1999, or before September 1, 2005, as applicable under Subsection (d), and a notarized affidavit by that person that states that construction of a residence on the land, evidenced by at least the existence of a completed foundation, was begun on or before May 1, 1997, or on or before September 1, 2005, as applicable; ~~or~~

(2) for a certificate issued under Subsection (d)(1), a notarized affidavit by the person requesting service that states that ~~the property was sold or conveyed to that person before September 1, 1995, or before September 1, 2005, as applicable, and that~~ construction of a residence on the land, evidenced by at least the existence of a completed foundation, was begun on or before May 1, 2003, in a county defined by Section 232.022(a)(1) or September 1, 2005, in a county defined by Section 232.022(a)(2), and the request for utility connection or service is to connect or serve a residence described by Subsection (d)(1)(C);

(3) a notarized affidavit by the person requesting service that states that the subdivided land has not been further subdivided after September 1, 1995, September 1, 1999, or September 1, 2005, as applicable under Subsection (d); and

(4) evidence that adequate sewer service or facilities have been installed and are fully operable to service the lot or dwelling from an entity described by Subsection (b) or the authorized agent responsible for the licensing or permitting of on-site sewage facilities under Chapter 366, Health and Safety Code ~~May 1, 1997, or on or before September 1, 2005, as applicable.~~

~~(f) A person requesting service may obtain a certificate under Subsection (e)(4)(B) only if the person provides to the municipal authority responsible for approving plats an affidavit that states that the property was not sold or conveyed to that person from a subdivider or the subdivider's agent after September 1, 1995, or after September 1, 2005, as applicable.~~

(j) Except as provided by Subsection (k), this section does not prohibit a water or sewer utility from providing in a county defined by Section 232.022(a)(1) water or sewer utility connection or service to a residential dwelling that:

(1) is provided water or wastewater facilities under or in conjunction with a federal or state funding program designed to address inadequate water or wastewater facilities in colonias or to residential lots located in a county described by Section 232.022(a)(1);

(2) is an existing dwelling identified as an eligible recipient for funding by the funding agency providing adequate water and wastewater facilities or improvements;

(3) when connected, will comply with the minimum state standards for both water and sewer facilities and as prescribed by the model subdivision rules adopted under Section 16.343, Water Code; and

(4) is located in a project for which the municipality with jurisdiction over the project or the approval of plats within the project area has approved the improvement project by order, resolution, or interlocal agreement under Chapter 791, Government Code.

(k) A utility may not serve any subdivided land with water utility connection or service under Subsection (j) unless the entity receives a determination that adequate sewer services have been installed to service the lot or dwelling from the municipal authority responsible for approving plats, an entity described by Subsection (b), or the authorized agent responsible for the licensing or permitting of on-site sewage facilities under Chapter 366, Health and Safety Code.

SECTION 2. Section 232.021, Local Government Code, is amended by adding Subdivision (6-a) and amending Subdivision (12) to read as follows:

(6-a) "Lot of record" means:

(A) a lot, the boundaries of which were established by a plat recorded in the office of the county clerk before September 1, 1989, that has not been subdivided after September 1, 1989; or

(B) a lot, the boundaries of which were established by a metes and bounds description in a deed of conveyance, a contract of sale, or other executory contract to convey real property that has been legally executed and recorded in the office of the county clerk before September 1, 1989, that has not been subdivided after September 1, 1989.

(12) "Subdivider" means an individual, firm, corporation, or other legal entity [that owns any interest in land and] that directly or indirectly subdivides land into lots for sale or lease as part of a common promotional plan in the ordinary course of business.

SECTION 3. Subsection (b), Section 232.024, Local Government Code, is amended to read as follows:

(b) If any part of a plat applies to land intended for residential housing and any part of that land lies in a floodplain, the commissioners court shall not approve the plat unless:

(1) the subdivision is developed in compliance with the minimum requirements of the National Flood Insurance Program and local regulations or orders adopted under Section 16.315, Water Code; and

(2) the plat evidences a restrictive covenant prohibiting [as required by this subsection. The restrictive covenant shall prohibit] the construction of residential housing in any area of the subdivision that is in a floodplain unless the housing is developed in compliance with the minimum requirements of [qualifies for insurance under] the National Flood Insurance Program and local regulations or orders adopted under Section 16.315, Water Code [Act of 1968 (42 U.S.C. Sections 4001 through 4127)].

SECTION 4. Section 232.025, Local Government Code, is amended to read as follows:

Sec. 232.025. SUBDIVISION REQUIREMENTS. By an order adopted and entered in the minutes of the commissioners court, and after a notice is published in English and Spanish in a newspaper of general circulation in the county, the commissioners court shall for each subdivision:

- (1) require a right-of-way on a street or road that functions as a main artery in a subdivision, of a width of not less than 50 feet or more than 100 feet;
- (2) require a right-of-way on any other street or road in a subdivision of not less than 40 feet or more than 70 feet;
- (3) require that the shoulder-to-shoulder width on collectors or main arteries within the right-of-way be not less than 32 feet or more than 56 feet, and that the shoulder-to-shoulder width on any other street or road be not less than 18 [~~25~~] feet or more than 35 feet;
- (4) adopt, based on the amount and kind of travel over each street or road in a subdivision, reasonable specifications relating to the construction of each street or road;
- (5) adopt reasonable specifications to provide adequate drainage for each street or road in a subdivision in accordance with standard engineering practices;
- (6) require that each purchase contract made between a subdivider and a purchaser of land in the subdivision contain a statement describing how and when water, sewer, electricity, and gas services will be made available to the subdivision; and
- (7) require that the subdivider of the tract execute a bond in the manner provided by Section 232.027.

SECTION 5. Subchapter B, Chapter 232, Local Government Code, is amended by adding Section 232.0251 to read as follows:

Sec. 232.0251. STANDARD FOR ROADS IN SUBDIVISION. (a) Except as provided by Subsection (b) or (c), a county may not impose under Section 232.025 a higher standard for streets or roads in a subdivision than the county imposes on itself for the construction of streets or roads with a similar type and amount of traffic.

(b) A county may maintain a less stringent street or road construction standard for county roads or streets that were established, acquired, or constructed before September 1, 2009.

(c) A county may establish and maintain less stringent construction standards for roads or streets that are acquired, dedicated, or donated through an acquisition project undertaken by the county to convert an existing privately owned or maintained street or easement into a public right-of-way or easement for public access or utility purposes.

SECTION 6. Subsection (b), Section 232.028, Local Government Code, is amended to read as follows:

(b) On the commissioners court's own motion or on the written request of a subdivider, an owner or resident of a lot in a subdivision, or an entity that provides a utility service, the commissioners court shall make the following determinations regarding the land in which the entity or commissioners court is interested that is located within the jurisdiction of the county:

- (1) whether a plat has been prepared and whether it has been reviewed and approved by the commissioners court;
- (2) whether water service facilities have been constructed or installed to service the lot or subdivision under Section 232.023 and are fully operable;

(3) whether sewer service facilities have been constructed or installed to service the lot or subdivision under Section 232.023 and are fully operable, or if septic systems are used, whether the lot is served by a permitted on-site sewage facility or lots in the subdivision can be adequately and legally served by septic systems under Section 232.023; and

(4) whether electrical and gas facilities, if available, have been constructed or installed to service the lot or subdivision under Section 232.023.

SECTION 7. Section 232.029, Local Government Code, is amended by amending Subsections (b), (c), (d), (e), and (i) and adding Subsections (n) and (o) to read as follows:

(b) Except as provided by Subsections (c) and (k) or Section 232.037(c), a utility may not serve or connect any subdivided land with electricity or gas unless the entity receives a determination from the county commissioners court under Sections [Section] 232.028(b)(2) and (3) that adequate water and sewer services have been installed to service the lot or subdivision.

(c) An electric, gas, water, or sewer service utility may serve or connect subdivided land with water, sewer, electricity, gas, or other utility service regardless of whether the utility receives a certificate issued by the commissioners court under Section 232.028(a) or receives a determination from the commissioners court under Section 232.028(b) if the utility is provided with a certificate issued by the commissioners court that states that:

(1) the subdivided land:

(A) was sold or conveyed by a subdivider [to the person requesting service] by any means of conveyance, including a contract for deed or executory contract:

(i) before September 1, 1995; or

(ii) before September 1, 1999, if the subdivided land on August 31, 1999, was located in the extraterritorial jurisdiction of a municipality as determined by Chapter 42;

(B) has not been subdivided after September 1, 1995, or September 1, 1999, as applicable under Paragraph (A) [is located in a subdivision in which the utility has previously provided service]; [and]

(C) is the site of construction of a residence, evidenced by at least the existence of a completed foundation, that was begun[=

~~(i) on or before May 1, 1997; or~~

~~(ii) on or before May 1, 2003; and~~

(D) has had adequate sewer services installed to service the lot or dwelling, as determined by an authorized agent responsible for the licensing or permitting of on-site sewage facilities under Chapter 366, Health and Safety Code;

(2) the subdivided land is a lot of record and has adequate sewer services installed that are fully operable to service the lot or dwelling, as determined by an authorized agent responsible for the licensing or permitting of on-site sewage facilities under Chapter 366, Health and Safety Code~~[, if the subdivided land on August 31, 1999, was located in the extraterritorial jurisdiction of a municipality as determined by Chapter 42]; or~~

(3) [(2)] the land was not subdivided after September 1, 1995, and:



(A) water service is available within 750 feet of the subdivided land; or

(B) water service is available more than 750 feet from the subdivided land and the extension of water service to the land may be feasible, subject to a final determination by the water service provider.

(d) A utility may provide utility service to subdivided land described by Subsection (c)(1), (2), or (3) only if the person requesting service:

(1) is not the land's subdivider or the subdivider's agent; and

(2) provides to the utility a certificate described by Subsection (c) ~~[(e)(1)]~~.

(e) A person requesting service may obtain a certificate under Subsection (c)(1), (2), or (3) only if the person is the owner or purchaser of the subdivided land and provides to the commissioners court documentation containing [either]:

(1) ~~documentation containing:~~

~~[(A)] a copy of the means of conveyance or other documents that show that the land was sold or conveyed by a subdivider before September 1, 1995, or before September 1, 1999, as applicable under Subsection (c);~~

~~(2) [to the person requesting service:~~

~~[(i) before September 1, 1995; or~~

~~[(ii) before September 1, 1999, if the subdivided land on August 31, 1999, was located in the extraterritorial jurisdiction of a municipality as determined by Chapter 42; and~~

~~[(B)] a notarized affidavit by that person requesting service under Subsection (c)(1) that states that construction of a residence on the land, evidenced by at least the existence of a completed foundation, was begun[=~~

~~[(i) on or before May 1, 1997; or~~

~~[(ii) on or before May 1, 2003, and the request for utility connection or service is to connect or serve a residence described by Subsection (c)(1)(C);~~

~~(3) [if the subdivided land on August 31, 1999, was located in the extraterritorial jurisdiction of a municipality as determined by Chapter 42; or~~

~~[(2)] a notarized affidavit by the person requesting service that states that the subdivided land has not been further subdivided after[=~~

~~[(A) the property was sold or conveyed to that person:~~

~~[(i) before] September 1, 1995,[=] or~~

~~[(ii) before] September 1, 1999, as applicable under Subsection (c);~~

and

(4) evidence that adequate sewer service or facilities have been installed and are fully operable to service the lot or dwelling from an entity described by Section 232.021(14) or the authorized agent responsible for the licensing or permitting of on-site sewage facilities under Chapter 366, Health and Safety Code [if the subdivided land on August 31, 1999, was located in the extraterritorial jurisdiction of a municipality as determined by Chapter 42; and

[(B) construction of a residence on the land, evidenced by at least the existence of a completed foundation, was begun:

[(i) on or before May 1, 1997; or

~~[(ii) on or before May 1, 2003, if the subdivided land on August 31, 1999, was located in the extraterritorial jurisdiction of a municipality as determined by Chapter 42].~~

(i) The prohibition established by this section shall not prohibit a water, sewer, [an] electric, or gas utility from providing water, sewer, electric, or gas utility connection or service to a lot [being] sold, conveyed, or purchased through a contract for deed or executory contract or other device by a subdivider prior to July 1, 1995, or September 1, 1999, if on August 31, 1999, the subdivided land was located in the extraterritorial jurisdiction of a municipality that has adequate sewer services installed that are fully operable to service the lot, as determined by an authorized agent responsible for the licensing or permitting of on-site sewage facilities under Chapter 366, Health and Safety Code, [which is located within a subdivision where the utility has previously established service] and was subdivided by a plat approved prior to September 1, 1989.

(n) Except as provided by Subsection (o), this section does not prohibit a water or sewer utility from providing water or sewer utility connection or service to a residential dwelling that:

(1) is provided water or wastewater facilities under or in conjunction with a federal or state funding program designed to address inadequate water or wastewater facilities in colonias or to residential lots located in a county described by Section 232.022(a)(1);

(2) is an existing dwelling identified as an eligible recipient for funding by the funding agency providing adequate water and wastewater facilities or improvements;

(3) when connected, will comply with the minimum state standards for both water and sewer facilities and as prescribed by the model subdivision rules adopted under Section 16.343, Water Code; and

(4) is located in a project for which the municipality with jurisdiction over the project or the approval of plats within the project area has approved the improvement project by order, resolution, or interlocal agreement under Chapter 791, Government Code, if applicable.

(o) A utility may not serve any subdivided land with water utility connection or service under Subsection (n) unless the entity receives a determination from the county commissioners court under Section 232.028(b)(3) that adequate sewer services have been installed to service the lot or dwelling.

SECTION 8. Subsection (a), Section 232.031, Local Government Code, is amended to read as follows:

(a) Except as provided by Subsection (d), a subdivider may not sell or lease land in a subdivision first platted or replatted after July 1, 1995, unless the subdivision plat is approved by the commissioners court in accordance with Section 232.024. The subdivider may market, promote, advertise, and execute an earnest money contract in relation to the sale or lease of land in the subdivision before the subdivision plat is approved.

SECTION 9. Subchapter B, Chapter 232, Local Government Code, is amended by adding Section 232.045 to read as follows:

Sec. 232.045. COUNTY DEVELOPMENT PERMIT REQUIRED. (a) In this section:

(1) "Development or develop" means new construction or substantial improvement of any structure.

(2) "Structure" means a walled and roofed building that is principally above ground. The term includes manufactured homes, transportable structures, and recreational vehicles.

(3) "Substantial improvement" means:

(A) the reconstruction, rehabilitation, restoration, addition, remodeling, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the start of construction of the improvement; or

(B) a change in occupancy of a building that results in a change in the purpose or use of a structure from a nonresidential use to a residential use.

(b) This section applies to a tract of land that is 10 acres or less and that is located in the unincorporated area of a county described by Section 232.022(a).

(c) Notwithstanding any conflicting law, including any conflicting rule, regulation, or order adopted under that law, the platting requirements under Subchapter A apply to each tract of land covered by this section that is more than five acres but not more than 10 acres. The platting requirements under this subchapter apply to each tract of land covered by this section that is five acres or less.

(d) A person may not commence construction or a substantial improvement to a structure unless the person obtains a county development permit issued in accordance with this section and the applicable rules, regulations, or orders of the county in which the development is located. The commissioners court may adopt rules, regulations, and orders as necessary for the administration and enforcement of this section.

(e) A notice of the authorized use, residential or nonresidential, as appropriate, for each tract of land covered by this section that is more than five acres but not more than 10 acres must be included in both English and Spanish on the face of the plat if platting requirements must be met in relation to the tract under applicable law or a person otherwise chooses to file a plat. A uniform written notice, prescribed by the county in both English and Spanish, of the authorized use must be attached to contracts, deeds, and notices to purchasers that relate to the tract. The bilingual notice to a purchaser prescribed by the county in accordance with this subsection must also be attached to all written documents relating to the sale and must include a reference to the infrastructure requirements of this section and inform the purchaser that it is the purchaser's responsibility to satisfy the county that the infrastructure requirements of this section have or will be met before obtaining a development permit or occupying a residential structure constructed on the land subject to the permit.

(f) A person may not occupy a residential structure covered by this section if the structure is without infrastructure and services that comply with this section and with applicable rules, regulations, or orders of the county in which the residential structure is located.

(g) By order adopted and entered in the minutes of the commissioners court, the court may designate an official, department head, or county employee to perform the necessary duties and functions to administer a county order under this section. If a designation is made under this subsection, the commissioners court shall establish an

appeal procedure and sit as the appeal body for any appeal or grievance of an applicant for a development permit in regard to an action or decision of the court's designee.

(h) The commissioners court or the court's designee shall issue a development permit to a person submitting an application for the permit only if the person:

(1) has met the infrastructure and certification requirements for the land subject to the permit application;

(2) has met the applicable platting requirements under:

(A) Subchapter A, if the tract of land is more than five acres but not more than 10 acres; or

(B) this subchapter, if the tract of land is five acres or less;

(3) has complied, or will comply through development, with the minimum requirements of the National Flood Insurance Act of 1968 (42 U.S.C. Sections 4001-4127) and local regulations and orders of the county adopted under Section 16.315, Water Code;

(4) has connected, or will connect through development, to water and sewer service facilities in compliance with applicable state law and rules, orders, or regulations that the county shall establish to ensure that water and sewer service facilities are provided to residential structures covered by this section, including any rule adopted under Section 16.343 or 17.934, Water Code;

(5) has connected, or will connect through development, electricity and gas, if available, with connections that meet, or will meet, the minimum state standards;

(6) has complied, or will comply through development, with all plat restrictions, limitations, and conditions established by a recorded plat approved by the commissioners court;

(7) has complied, or will comply through development, with all building set-back requirements established by a recorded plat approved by the commissioners court or by county order under Section 233.032 or other law;

(8) has submitted applicable fees, required documentation, or other information established by the county for the issuance of a development permit under this section;

(9) if the tract of land is more than five acres but not more than 10 acres, has only a single residence on the tract or will have only a single residence on the tract after the construction allowed by the development permit is complete; and

(10) if the tract of land is more than five acres but not more than 10 acres and if platting requirements must be met in relation to the tract under applicable law or the person otherwise chooses to file a plat, has complied with the requirement to include a bilingual notice of authorized use on the face of the plat in accordance with Subsection (e).

(i) By order adopted and entered in the minutes of the commissioners court, the court may charge a reasonable fee to cover the costs of administering the issuance of development permits and enforcing the requirements under this section. Fees collected under this subsection may be used only to defray those costs.

(j) The commissioners court or the court's designee shall issue a written list of the documentation and other information that must be submitted as part of the development permit application. The documentation or other information must relate

to a requirement authorized under this section or other applicable law. If a person submits an application that does not include all of the documentation or other information required by this subsection, the commissioners court or the court's designee shall notify the applicant, not later than the 15th business day after the date of receipt by the commissioners court or the court's designee, of the missing documentation or other information. The county's orders adopted under this section must allow for a timely submission of the missing documentation or other information.

(k) A development permit application is considered to be complete when all documentation or other information required by Subsection (j) and all applicable fees charged under Subsection (i) are received by the county. Acceptance by the commissioners court or the court's designee of a completed application may not be construed as approval of the application.

(l) The commissioners court or the court's designee shall take final action on the approval or disapproval of an application for a development permit not later than the 30th day after the date a completed application is received by the commissioners court or the court's designee. If the application is disapproved, the commissioners court or the court's designee shall provide to the applicant a complete list of the reasons for the disapproval. If the commissioners court or the court's designee fails to take final action on the application for a development permit as required by this subsection, the permit application is approved by operation of law.

(m) The county may conduct inspections to ensure compliance with an application submitted or a permit issued under this section.

(n) The county's authority granted under this section is cumulative of and in addition to the authority granted under this chapter and under other law pertaining to county regulation of the subdivision or development of land.

(o) A person commits an offense if the person knowingly fails to obtain a development permit in accordance with this section or a rule, regulation, or order adopted in accordance with this section. A person commits an offense if the person knowingly fails to comply with a rule, regulation, or order adopted in accordance with this section or knowingly violates the prohibition on occupancy prescribed by Subsection (f). An offense under this subsection is a Class C misdemeanor, except that the offense is a Class B misdemeanor if it is shown on the trial of the offense that the defendant has knowingly caused five or more residential structures to be constructed, substantially improved, or occupied in violation of this section or a rule, regulation, or order adopted in accordance with this section.

(p) The county, in a suit brought by the appropriate attorney representing the county in a district court of that county, is entitled to appropriate injunctive relief to prevent the violation or threatened violation of a provision of this section from occurring or continuing.

SECTION 10. Subsection (f), Section 232.029, Local Government Code, is repealed.

SECTION 11. 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, 2009.

**Floor Amendment No. 1**

Amend **CSSB 2253** (House committee printing) as follows:

(1) Strike SECTION 4 of the bill, amended Section 232.025, Local Government Code (page 9, line 10, through page 10, line 11).

(2) Strike SECTION 5 of the bill, added Section 232.0251, Local Government Code (page 10, lines 12-27).

(3) Strike SECTION 8 of the bill, amended Section 232.031(a), Local Government Code (page 17, lines 12-20).

(4) Strike SECTION 9 of the bill, added Section 232.045, Local Government Code (page 17, line 21, through page 24, line 2).

(5) Renumber SECTIONS of the bill accordingly.

The amendments were read.

Senator Zaffirini moved to concur in the House amendments to **SB 2253**.

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

**SENATE BILL 1896 WITH HOUSE AMENDMENTS**

Senator Gallegos called **SB 1896** from the President's table for consideration of the House amendments to the bill.

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

**Floor Amendment No. 1**

Amend **SB 1896** (House committee printing) by inserting the following appropriately numbered SECTIONS and renumbering existing SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Section 147.002, Local Government Code, is amended to read as follows:

Sec. 147.002. DEFINITIONS. In this chapter:

(1) "Firefighter" means a firefighter employed by the municipality who is covered by the municipality's fire pension plan and is classified by the municipality as nonexempt [~~exempt~~]. The term does not include a firefighter with a rank that is above that of battalion chief or section chief.

(2) "Firefighter employee group" means an organization:

(A) in which, on or before September 1, 2007, firefighters of the municipality have participated and paid dues via automatic payroll deduction [~~for at least one year~~]; and

(B) that exists for the purpose, in whole or in part, of dealing with the municipality concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of employment affecting firefighters.

(3) "Police officer" means a sworn police officer employed by the municipality who is covered by the municipality's police pension plan and is classified by the municipality as nonexempt [~~exempt~~]. The term does not include a police officer with a rank above that of captain, a civilian, or a municipal marshal.

(4) "Police officer employee group" means an organization:

(A) in which, on or before September 1, 2007, at least three percent of the police officers of the municipality have participated and paid dues via automatic payroll deduction [~~for at least one year~~]; and

(B) that exists for the purpose, in whole or in part, of dealing with the municipality concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of employment affecting police officers.

### Floor Amendment No. 1 on Third Reading

Amend **SB 1896** on third reading by inserting the following appropriately numbered SECTIONS and renumbering existing SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Section 143.0052, Local Government Code, is added to read as follows:

(a) This section applies only to a municipality that: (1) has a population of more than 200,000 and less than 250,000; (2) is located in a county in which another municipality that has a population of more than one million is predominately located, and (3) whose emergency medical services are administered by a Fire Department.

(b) by resolution of its governing body, a municipality may establish a monthly fee for the costs of emergency medical services, including salary and overtime related to medical personnel. This fee is applicable to each and every customer served by a municipal water account and may be collected in conjunction with the bill for water services.

(c) a municipality acting under this section supersedes any authority established under Section 286 of the Health and Safety Code.

The amendments were read.

Senator Gallegos moved to concur in the House amendments to **SB 1896**.

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

### SENATE BILL 2324 WITH HOUSE AMENDMENT

Senator Duncan called **SB 2324** from the President's table for consideration of the House amendment to the bill.

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

### Amendment

Amend **SB 2324** by substituting in lieu thereof the following:

#### A BILL TO BE ENTITLED AN ACT

relating to the classification of certain types of marital property in regards to claims for payment of a criminal restitution judgment.

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

SECTION 1. Section 3.202, Family Code, is amended by adding Subsection (e) to read as follows:

(e) For purposes of this section, all retirement allowances, annuities, accumulated contributions, optional benefits, and money in the various public retirement system accounts of this state that are community property subject to the participating spouse's sole management, control, and disposition are not subject to

any claim for payment of a criminal restitution judgment entered against the nonparticipant spouse except to the extent of the nonparticipant spouse's interest as determined in a qualified domestic relations order under Chapter 804, Government Code.

SECTION 2. This Act applies only to a claim for payment of a criminal restitution judgment issued on or after the effective date of this Act. A claim for payment of a criminal restitution judgment issued before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 3. This Act takes effect September 1, 2009.

The amendment was read.

Senator Duncan moved to concur in the House amendment to **SB 2324**.

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

### **SENATE BILL 1764 WITH HOUSE AMENDMENT**

Senator Watson called **SB 1764** from the President's table for consideration of the House amendment to the bill.

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

#### **Amendment**

Amend **SB 1764** by substituting in lieu thereof the following:

#### A BILL TO BE ENTITLED AN ACT

relating to the dissemination of information regarding the cost of attending public and private institutions of higher education and regarding the availability of financial aid to assist in paying that cost.

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

SECTION 1. Subchapter C, Chapter 61, Education Code, is amended by adding Section 61.0777 to read as follows:

Sec. 61.0777. UNIFORM STANDARDS FOR PUBLICATION OF COST OF ATTENDANCE INFORMATION. (a) The board shall prescribe uniform standards intended to ensure that information regarding the cost of attendance at institutions of higher education is available to the public in a manner that is consumer-friendly and readily understandable to prospective students and their families. In developing the standards, the board shall examine common and recommended practices regarding the publication of such information and shall solicit recommendations and comments from institutions of higher education and interested private or independent institutions of higher education.

(b) The uniform standards must:

(1) address all of the elements that constitute the total cost of attendance, including tuition and fees, room and board costs, book and supply costs, transportation costs, and other personal expenses; and

(2) prescribe model language to be used to describe each element of the cost of attendance.



(c) Each institution of higher education that offers an undergraduate degree or certificate program shall:

(1) prominently display on the institution's Internet website in accordance with the uniform standards prescribed under this section information regarding the cost of attendance at the institution by a full-time entering first-year student; and

(2) conform to the uniform standards in any electronic or printed materials intended to provide to prospective undergraduate students information regarding the cost of attendance at the institution.

(d) Each institution of higher education shall consider the uniform standards prescribed under this section when providing information to the public or to prospective students regarding the cost of attendance at the institution by nonresident students, graduate students, or students enrolled in professional programs.

(e) The board shall prescribe requirements for an institution of higher education to provide on the institution's Internet website consumer-friendly and readily understandable information regarding student financial aid opportunities. The required information must be provided in connection with the information displayed under Subsection (c)(1) and must include a link to the primary federal student financial aid Internet website intended to assist persons applying for student financial aid.

(f) The board shall provide on the board's Internet website a program or similar tool that will compute for a person accessing the website the estimated net cost of attendance for a full-time entering first-year student attending an institution of higher education. The board shall require each institution to provide the board with the information the board requires to administer this subsection.

(g) The board shall prescribe the initial standards and requirements under this section not later than January 1, 2010. Institutions of higher education shall comply with the standards and requirements not later than April 1, 2010. This subsection expires January 1, 2011.

(h) The board shall encourage private or independent institutions of higher education approved under Subchapter F to participate in the tuition equalization grant program, to the greatest extent practicable, to prominently display the information described by Subsections (a) and (b) on their Internet websites in accordance with the standards established under those subsections, and to conform to those standards in electronic and printed materials intended to provide to prospective undergraduate students information regarding the cost of attendance at the institutions. The board shall also encourage those institutions to include on their Internet websites a link to the primary federal student financial aid Internet website intended to assist persons applying for student financial aid.

(i) The board shall make the program or tool described by Subsection (f) available to private or independent institutions of higher education described by Subsection (h), and those institutions shall make that program or tool, or another program or tool that complies with the requirements for the net price calculator required under Section 132(h)(3), Higher Education Act of 1965 (20 U.S.C. Section 1015a), available on their Internet websites not later than the date by which the institutions are required by Section 132(h)(3) to make the net price calculator publicly available on their Internet websites.

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, 2009.

The amendment was read.

Senator Watson moved to concur in the House amendment to **SB 1764**.

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

### SENATE BILL 2064 WITH HOUSE AMENDMENT

Senator West called **SB 2064** from the President's table for consideration of the House amendment to the bill.

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

#### Amendment

Amend **SB 2064** by substituting in lieu thereof the following:

#### A BILL TO BE ENTITLED AN ACT

relating to the issuance of state and local government securities, including the powers and duties of the Bond Review Board and the issuance of private activity bonds.

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

SECTION 1. Section 1231.062, Government Code, is amended by amending Subsection (a) and adding Subsection (d) to read as follows:

(a) Not later than December [~~October~~] 31 of each even-numbered year, the board shall submit to the legislature a statistical report relating to:

- (1) state securities; and
- (2) bonds and other debt obligations issued by local governments.

(d) The board may enter into a contract for the procurement of services related to the collection and maintenance of information on the indebtedness of local governments and state agencies necessary to prepare the statistical report.

SECTION 2. Subsection (c), Section 1231.063, Government Code, is amended to read as follows:

(c) Not later than February 15 [~~December 1~~] of each year, the board shall submit the annual study to:

- (1) the governor;
- (2) the comptroller;
- (3) the presiding officer of each house of the legislature; and
- (4) the Senate Committee on Finance and House Appropriations Committee.

SECTION 3. The heading to Chapter 1372, Government Code, is amended to read as follows:

CHAPTER 1372. PRIVATE ACTIVITY BONDS AND CERTAIN OTHER BONDS

SECTION 4. Section 1372.001, Government Code, is amended by amending Subdivisions (1) and (2) and adding Subdivisions (1-a), (1-b), (4-a), and (8-a) to read as follows:

(1) "Additional state ceiling" means authorization under federal law for the issuance of bonds that are tax-exempt private activity bonds subject to the limits imposed by Section 146, Internal Revenue Code (26 U.S.C. Section 146), in an amount in addition to the state ceiling, including the additional tax-exempt private activity bonds authorized by Section 3021 of the Housing and Economic Recovery Act of 2008 (Pub. L. No. 110-289).

(1-a) "Applicable official" means the state official or state agency designated by federal law to allocate a miscellaneous bond ceiling or designate bonds entitled to the federal subsidy limited by a miscellaneous bond ceiling or, in the absence of designation by federal law, the governor.

(1-b) "Board" means the Bond Review Board.

(2) "Bonds" means all obligations, including bonds, certificates, or notes, that are:

(A) authorized to be issued by:

- (i) the constitution or a statute of this state; or
- (ii) the charter of a home-rule municipality; and

(B) either:

(i) subject to the limitations of Section 146, Internal Revenue Code (26 U.S.C. Section 146); or

(ii) with respect to Subchapter D, otherwise entitled to a federal subsidy only if designated for the exemption, credit, or other subsidy, or allocated a portion of a limited amount of obligations for which the exemption, credit, or other subsidy is authorized, by this state or an applicable official or by an issuer to which this state or the applicable official has made an allocation, including exemptions, credits, and other subsidies authorized by:

(a) the Heartland Disaster Tax Relief Act of 2008 (Pub. L. No. 110-343), regarding Hurricane Ike disaster area bonds;

(b) the American Recovery and Reinvestment Act of 2009 (Pub. L. No. 111-5); or

(c) any other federal law authorizing a federal subsidy.

(4-a) "Federal subsidy" means an exclusion of interest on a bond from gross income for federal income tax purposes, a federal income tax credit associated with a bond, a direct federal subsidy of interest on a bond, or any other federally authorized financial benefit associated with a bond.

(8-a) "Miscellaneous bond ceiling" means the maximum amount of bonds of any type that may be issued by issuers in this state during a calendar year, or cumulatively, that are entitled to a federal subsidy only if designated for the federal subsidy, or allocated a portion of a limited amount of bonds other than bonds subject to the limits imposed by Section 146, Internal Revenue Code (26 U.S.C. Section 146), for which the federal subsidy is authorized, by:

(A) this state or the applicable official; or

(B) an issuer to which this state or the applicable official has made an allocation.

SECTION 5. Section 1372.002, Government Code, is amended by amending Subsection (a) and adding Subsection (e) to read as follows:

(a) For purposes of this chapter, a project is:

(1) an eligible facility or facilities that are proposed to be financed, in whole or in part, by an issue of qualified residential rental project bonds;

(2) in connection with an issue of qualified mortgage bonds or qualified student loan bonds, the providing of financial assistance to qualified mortgagors or students located in all or any part of the jurisdiction of the issuer; or

(3) an eligible facility or facilities that are ~~are~~ proposed to be financed, in whole or in part, by an issue of bonds other than bonds described by Subdivision (1) or (2).

(e) For purposes of Subsection (a)(3), and only for applications for the financing of sewage facilities, solid waste disposal facilities, and qualified hazardous waste facilities, an application under this chapter may include multiple facilities in multiple jurisdictions. In such an application, the number of facilities may be reduced as needed without affecting their status as a project for purposes of the application.

SECTION 6. Subsection (a), Section 1372.006, Government Code, is amended to read as follows:

(a) An application for a reservation under Subchapter B or a carryforward designation under Subchapter C must be accompanied by a nonrefundable fee in the amount of \$500, except that:

(1) for projects that include multiple facilities authorized under Section 1372.002(e), the application must be accompanied by a nonrefundable fee in an amount of \$500 for each facility included in the application for the project; and

(2) for issuers of qualified residential rental project bonds the application must be accompanied by a nonrefundable fee of \$5,000, of which the board shall retain \$1,000 to offset the costs of the private activity bond allocation program and the administration of that program and of which the board shall transfer \$4,000 through an interagency agreement to the Texas Department of Housing and Community Affairs for use in the affordable housing research and information program as provided by Section 2306.259.

SECTION 7. Section 1372.022, Government Code, is amended to read as follows:

Sec. 1372.022. AVAILABILITY OF STATE CEILING TO ISSUERS. (a) If the state ceiling is computed on the basis of \$75 per capita or a greater amount, before August 15 of each year:

(1) 28.0 percent of the state ceiling is available exclusively for reservations by issuers of qualified mortgage bonds;

(2) 8 percent of the state ceiling is available exclusively for reservations by issuers of state-voted issues;

(3) 2.0 percent of the state ceiling is available exclusively for reservations by issuers of qualified small issue bonds and enterprise zone facility bonds;

(4) 22.0 percent of the state ceiling is available exclusively for reservations by issuers of qualified residential rental project bonds;

(5) 10.5 percent of the state ceiling is available exclusively for reservations by issuers of qualified student loan bonds authorized by Section 53B.47 ~~[53.47]~~, Education Code, that are nonprofit corporations able to issue a qualified scholarship funding bond as defined by Section 150(d)(2), Internal Revenue Code (26 U.S.C. Section 150(d)(2)); and

(6) 29.5 percent of the state ceiling is available exclusively for reservations by any other issuer of bonds that require an allocation.

(b) On and after August 15 [~~but before September 1~~], that portion of the state ceiling available for reservations becomes available for all applications for reservations in the order determined by the board by lot. If all applicants for a reservation have been offered a portion of the available state ceiling, then the board shall grant reservations in the order in which the applications for those reservations are received, ~~subject to Section 1372.0321. On and after September 1, that portion of the state ceiling available for reservations becomes available to any issuer for any bonds that require an allocation, subject to the provisions of this subchapter.~~

SECTION 8. Section 1372.026, Government Code, is amended to read as follows:

Sec. 1372.026. LIMITATION ON AMOUNT OF STATE CEILING AVAILABLE TO HOUSING FINANCE CORPORATIONS. (a) The maximum amount of the state ceiling that may be reserved before August 15 by a housing finance corporation for the issuance of qualified mortgage bonds may not exceed the amount computed as follows:

(1) if the local population of the housing finance corporation is 300,000 or more, \$36 [~~\$22.5~~] million plus the product of the amount by which the local population exceeds 300,000 multiplied by \$40 [~~\$11.25~~];

(2) if the local population of the housing finance corporation is 200,000 or more but less than 300,000, \$32 [~~\$20~~] million plus the product of the amount by which the local population exceeds 200,000 multiplied by \$40 [~~\$22.5~~];

(3) if the local population of the housing finance corporation is 100,000 or more but less than 200,000, \$24 [~~\$15~~] million plus the product of the amount by which the local population exceeds 100,000 multiplied by \$80 [~~\$50~~]; or

(4) if the local population of the housing finance corporation is less than 100,000, the product of the local population multiplied by \$240 [~~\$150~~].

(b) A housing finance corporation may not receive an allocation for the issuance of qualified mortgage bonds in an amount that exceeds \$40 [~~\$25~~] million.

(c) For purposes of this section, the local population of a housing finance corporation is the population of the local government or local governments on whose behalf a housing finance corporation is created. If two local governments that have a population of at least 50,000 [~~20,000~~] each and that have overlapping territory have created housing finance corporations that have the power to issue bonds to provide financing for home mortgages, the population of the housing finance corporation created on behalf of the larger local government is computed by subtracting from the population of the larger local government the population of the part of the smaller local government that is located in the larger local government. The reduction of population provided by this subsection is not required if the smaller local government assigns its authority to issue bonds, based on its population, to the larger local government.

SECTION 9. Section 1372.0261, Government Code, is amended by amending Subsections (c) and (d) and adding Subsections (e), (f), and (g) to read as follows:

(c) If a housing finance corporation's utilization percentage is less than 80 ~~[95]~~ percent but at least 25 percent, the next time the corporation becomes eligible for a reservation of the state ceiling, the maximum amount of the state ceiling that may be reserved for the corporation is equal to the amount for which the corporation would otherwise be eligible under Section 1372.026 multiplied by the utilization percentage of the corporation's last bond issue that used an allocation of the state ceiling.

(d) A housing finance corporation may not be penalized under Subsection (c) if:

(1) the corporation fails to use:

(A) bond proceeds recycled from previous allocations of the state ceiling; or

(B) taxable bond proceeds; or

(2) as the result of an issuance of bonds, the corporation's utilization percentage is 80 ~~[95]~~ percent or greater.

(e) If a housing finance corporation's utilization percentage is less than 25 percent, the next time the corporation becomes eligible for a reservation of the state ceiling, the maximum amount of the state ceiling that may be reserved for the corporation is equal to the amount for which the corporation would otherwise be eligible under Section 1372.026 multiplied by 25 percent.

(f) A housing finance corporation may not be penalized under Subsection (c) in a program year if, by December 31 of the preceding program year, an amount equal to or less than 50 percent of the aggregate state ceiling available for reservations by issuers of qualified mortgage bonds under Section 1372.022(a)(1):

(1) has been used in connection with bond issues that have closed on or before that date; or

(2) has had carryforward elections filed on or before that date.

(g) An issuer that has carryforward available from the state ceiling created by the Housing and Economic Recovery Act of 2008 (Pub. L. No. 110-289) is not restricted by project limits for the state ceiling. An issuer who uses the carryforward to issue qualified mortgage bonds or mortgage credit certificates is not subject to the utilization percentage calculation in determining the amount of the issuer's reservation request.

SECTION 10. Subsection (b), Section 1372.028, Government Code, is amended to read as follows:

(b) An issuer may apply for a reservation for a program year not earlier than October 5 of the preceding year. An issuer may not submit an application for a program year after November 15 ~~[December 1]~~ of that year.

SECTION 11. Subsection (a), Section 1372.035, Government Code, is amended to read as follows:

(a) The board may not grant a reservation of a portion of the state ceiling for a program year before January 2 or after November 15 ~~[December 1]~~ of that year.

SECTION 12. Subsection (a), Section 1372.037, Government Code, is amended to read as follows:

(a) Except as provided by Subsection (b), before August 15 the board may not grant for any single project a reservation for that year that is greater than:

(1) \$40 [~~\$25~~] million, if the issuer is an issuer of qualified mortgage bonds, other than the Texas Department of Housing and Community Affairs or the Texas State Affordable Housing Corporation;

(2) \$50 million, if the issuer is an issuer of a state-voted issue, other than the Texas Higher Education Coordinating Board, or \$75 million, if the issuer is the Texas Higher Education Coordinating Board;

(3) the amount to which the Internal Revenue Code limits issuers of qualified small issue bonds and enterprise zone facility bonds, if the issuer is an issuer of those bonds;

(4) the lesser of \$20 [~~\$15~~] million or 15 percent of the amount set aside for reservation by issuers of qualified residential rental project bonds, if the issuer is an issuer of those bonds;

(5) the amount as prescribed in Sections 1372.033(d), (e), and (f), if the issuer is an issuer authorized by Section 53B.47 [~~53.47~~], Education Code, to issue qualified student loan bonds; or

(6) \$50 million, if the issuer is any other issuer of bonds that require an allocation.

SECTION 13. Section 1372.042, Government Code, is amended by adding Subsection (e) to read as follows:

(e) In addition to any other fees required by this chapter, an issuer shall submit to the board a nonrefundable fee in the amount of \$500 before receiving a carryforward designation under Subsection (c).

SECTION 14. Subchapter B, Chapter 1372, Government Code, is amended by adding Section 1372.045 to read as follows:

Sec. 1372.045. RESERVATION, ALLOCATION, AND CARRYFORWARD DESIGNATION BY BOARD OF ADDITIONAL STATE CEILING. (a) The board is authorized to establish and administer programs for the reservation, allocation, and carryforward designation of additional state ceiling in accordance with the federal law that establishes the additional state ceiling and, to the extent consistent with the federal law, as the board determines will achieve the purposes for which the additional state ceiling is authorized by federal law.

(b) The board may adopt rules and procedures the board considers necessary to effectively administer programs authorized under this section.

(c) The board may prescribe forms and applications as needed to effectively implement and administer programs authorized under this section.

(d) The board may adopt emergency rules in connection with the programs authorized under this section when the board determines that the emergency rules are necessary for the state to obtain the full benefits of the additional state ceiling.

SECTION 15. Subchapter C, Chapter 1372, Government Code, is amended by adding Section 1372.073 to read as follows:

Sec. 1372.073. DESIGNATION BY BOARD OF UNENCUMBERED STATE CEILING. Notwithstanding any other provision of this chapter, the board on the last business day of the year may assign as carryforward to state agencies at their request and in the order received any state ceiling that is not reserved or designated as carryforward and for which no application for carryforward is pending.

SECTION 16. Chapter 1372, Government Code, is amended by adding Subchapter D to read as follows:

SUBCHAPTER D. ALLOCATION OF MISCELLANEOUS BOND CEILING

Sec. 1372.101. PROGRAM ADMINISTRATION. (a) The applicable official may designate bonds as entitled to a portion of a miscellaneous bond ceiling or allocate a portion of a miscellaneous bond ceiling to an issuer of bonds:

(1) in accordance with the federal law that establishes the federal subsidy for which the miscellaneous bond ceiling is established; and

(2) to the extent consistent with the federal law, as the applicable official determines will achieve the purposes for which the federal subsidy is authorized by federal law.

(b) The board is authorized to administer programs established by the applicable official for the allocation of a miscellaneous bond ceiling or the designation of bonds entitled to the federal subsidy limited by a miscellaneous bond ceiling.

Sec. 1372.102. RULES AND PROCEDURES. (a) Unless otherwise provided by law, the board may adopt rules and procedures the board considers necessary to effectively administer programs established by the applicable official for allocation of a miscellaneous bond ceiling or for designating bonds as entitled to the federal subsidy limited by the miscellaneous bond ceiling.

(b) The board may adopt emergency rules in connection with the programs described in Subsection (a) when the board determines that the emergency rules are necessary for the state to obtain the full benefits of the federal subsidy that is limited by the miscellaneous bond ceiling.

(c) The board may prescribe forms and applications as needed to effectively implement and administer programs described in Subsection (a).

(d) This section does not prevent an applicable official from adopting rules and procedures in connection with the allocations and designations when required by federal or state law or from administering a program independently of the board.

Sec. 1372.103. APPLICATION FEES. In connection with programs established by the applicable official for the allocation of a miscellaneous bond ceiling or the designation of bonds entitled to the federal subsidy limited by a miscellaneous bond ceiling, the board may charge an application fee for each application it receives under this subchapter.

SECTION 17. Section 1372.0235, Government Code, is repealed.

SECTION 18. Subsection (a), Section 2306.6703, Government Code, is amended to read as follows:

(a) An application is ineligible for consideration under the low income housing tax credit program if:

(1) at the time of application or at any time during the two-year period preceding the date the application round begins, the applicant or a related party is or has been:

(A) a member of the board; or

(B) the director, a deputy director, the director of housing programs, the director of compliance, the director of underwriting, or the low income housing tax credit program manager employed by the department;



(2) the applicant proposes to replace in less than 15 years any private activity bond financing of the development described by the application, unless:

(A) at least one-third of all the units in the development are public housing units or Section 8 project-based units and the applicant proposes to maintain for a period of 30 years or more 100 percent of the [development] units supported by housing tax credits as rent-restricted and exclusively for occupancy by individuals and families earning not more than 50 percent of the area median income, adjusted for family size; and

~~[(B) at least one third of all the units in the development are public housing units or Section 8 project based units];~~

(B) the applicable private activity bonds will be redeemed only in an amount consistent with their proportionate amortization; or

(C) if the redemption of the applicable private activity bonds will occur in the first five years of the operation of the development and is required to comply with Section 42(h)(4), Internal Revenue Code of 1986:

(i) on the date the certificate of reservation is issued, the Bond Review Board determines that there is not a waiting list for private activity bonds in the same subpriority level established under Section 1372.0321 or, if applicable, in the same uniform state service region, as referenced in Section 1372.0231, that is served by the proposed development; and

(ii) the applicable private activity bonds will be redeemed according to underwriting criteria, if any, established by the department;

(3) the applicant proposes to construct a new development that is located one linear mile or less from a development that:

(A) serves the same type of household as the new development, regardless of whether the developments serve families, elderly individuals, or another type of household;

(B) has received an allocation of housing tax credits for new construction at any time during the three-year period preceding the date the application round begins; and

(C) has not been withdrawn or terminated from the low income housing tax credit program; or

(4) the development is located in a municipality or, if located outside a municipality, a county that has more than twice the state average of units per capita supported by housing tax credits or private activity bonds, unless the applicant:

(A) has obtained prior approval of the development from the governing body of the appropriate municipality or county containing the development; and

(B) has included in the application a written statement of support from that governing body referencing this section and authorizing an allocation of housing tax credits for the development.

SECTION 19. (a) In this section, "additional state ceiling," "applicable official," and "miscellaneous bond ceiling" have the meanings assigned by Section 1372.001, Government Code, as amended by this Act.

(b) All reservations, allocations, and carryforward designations by the Bond Review Board of additional state ceiling authorized by Section 3021 of the Housing and Economic Recovery Act of 2008 (Pub. L. No. 110-289), and by applicable

officials of miscellaneous bond ceiling authorized by the Heartland Disaster Tax Relief Act of 2008 (Pub. L. No. 110-343), regarding Hurricane Ike disaster area bonds, or by the American Recovery and Reinvestment Act of 2009 (Pub. L. No. 111-5), before the effective date of this Act are validated.

(c) An issuer that has carryforward available from additional state ceiling authorized by the Housing and Economic Recovery Act of 2008 (Pub. L. No. 110-289) is not restricted by the project limits for the state ceiling established by Chapter 1372, Government Code. An issuer that uses the carryforward to issue qualified mortgage bonds or mortgage credit certificates is not subject to the utilization percentage calculation established by Chapter 1372, Government Code, in determining the amount of the issuer's reservation request.

SECTION 20. 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, 2009.

The amendment was read.

Senator West moved to concur in the House amendment to **SB 2064**.

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

#### **SENATE BILL 1369 WITH HOUSE AMENDMENT**

Senator Lucio called **SB 1369** from the President's table for consideration of the House amendment to the bill.

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

#### **Floor Amendment No. 1**

Amend **SB 1369** by adding the following appropriately numbered SECTIONS to the bill and renumbering the remaining SECTIONS of the bill appropriately:

SECTION \_\_\_\_\_. Section 264.601(2), Family Code, is amended to read as follows:

(2) "Volunteer advocate program" means a volunteer-based, nonprofit program that:

(A) provides advocacy services to abused or neglected children with the goal of obtaining a permanent placement for a child that is in the child's best interest; and

(B) complies with recognized standards for volunteer advocate programs.

SECTION \_\_\_\_\_. Section 264.602, Family Code, is amended by amending Subsection (a) and adding Subsection (f) to read as follows:

(a) The statewide organization with which the attorney general contracts under Section 264.603 shall contract for services with eligible volunteer advocate programs to provide advocacy services to abused or neglected children [~~expand the existing services of the programs~~].

(f) Expenses incurred by a volunteer advocate program to promote public awareness of the need for volunteer advocates or to explain the work performed by volunteer advocates that are paid with money from the attorney general volunteer advocate program account under Section 504.611, Transportation Code, are not considered administrative expenses for the purpose of Section 264.603(b).

SECTION \_\_\_\_\_. Section 264.603(a), Family Code, is amended to read as follows:

(a) The attorney general shall contract with one statewide organization of individuals or groups of individuals who have expertise in the dynamics of child abuse and neglect and experience in operating volunteer advocate programs to provide training, technical assistance, and evaluation services for the benefit of local volunteer advocate programs. The contract shall:

(1) include [require] measurable goals and objectives relating to the number of:

(A) volunteer advocates in the program; and

(B) children receiving services from the program; and

(2) follow practices designed to ensure compliance with standards referenced in the contract [for expanding local volunteer child advocate programs to areas of the state in which those programs do not exist].

SECTION \_\_\_\_\_. Section 264.604(a), Family Code, is amended to read as follows:

(a) A person is eligible for a contract under Section 264.602 only if the person is a public or private nonprofit entity that operates a volunteer advocate program that:

(1) uses individuals appointed as volunteer advocates or guardians ad litem by the court to provide for the needs of abused or neglected children;

(2) has provided court-appointed advocacy services for at least six months [~~two years~~];

(3) provides court-appointed advocacy services for at least 10 children each month; and

(4) has demonstrated that the program has local judicial support.

SECTION \_\_\_\_\_. Sections 264.607(b) and (c), Family Code, are repealed.

The amendment was read.

Senator Lucio moved to concur in the House amendment to **SB 1369**.

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

### **SENATE BILL 1693 WITH HOUSE AMENDMENTS**

Senator Ogden called **SB 1693** from the President's table for consideration of the House amendments to the bill.

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

#### **Amendment**

Amend **SB 1693** by substituting in lieu thereof the following:

#### A BILL TO BE ENTITLED AN ACT

relating to the regulation of poultry facilities and poultry litter.

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

SECTION 1. Subchapter C, Chapter 382, Health and Safety Code, is amended by adding Section 382.068 to read as follows:

Sec. 382.068. POULTRY FACILITY ODOR; RESPONSE TO COMPLAINTS.

(a) In this section, "poultry facility" and "poultry litter" have the meanings assigned by Section 26.301, Water Code.

(b) The commission shall respond and investigate not later than 18 hours after receiving:

(1) a second complaint against a poultry facility concerning odor associated with:

(A) the facility; or

(B) the application of poultry litter to land by the poultry facility; or

(2) a complaint concerning odor from a poultry facility at which the commission has substantiated odor nuisance conditions in the previous 12 months.

(c) If after the investigation the commission determines that a poultry facility is violating the terms of its air quality authorization or is creating a nuisance, the commission shall issue a notice of violation.

(d) The commission by rule or order shall require the owner or operator of a poultry facility for which the commission has issued three notices of violation under this section during a 12-month period to enter into a comprehensive compliance agreement with the commission. The compliance agreement must include an odor control plan that the executive director determines is sufficient to control odors.

(e) The owner or operator of a new poultry facility shall complete a poultry facility training course on the prevention of poultry facility odor nuisances from the poultry science unit of the Texas AgriLife Extension Service not later than the 90th day after the date the facility first accepts poultry to raise. The owner or operator of a new poultry facility shall maintain records of the training and make the records available to the commission for inspection.

(f) The poultry science unit of the Texas AgriLife Extension Service may charge an owner or operator of a poultry facility a training fee to offset the direct cost of providing the training.

SECTION 2. Section 26.302, Water Code, is amended by adding Subsections (b-2) and (b-3) to read as follows:

(b-2) The State Soil and Water Conservation Board in consultation with the Texas Commission on Environmental Quality by rule shall establish criteria to determine the geographic, seasonal, and agronomic factors that the board will consider to determine whether a persistent nuisance odor condition is likely to occur when assessing the siting and construction of new poultry facilities.

(b-3) The State Soil and Water Conservation Board may not certify a water quality management plan for a poultry facility located less than one-half of one mile from a business, off-site permanently inhabited residence, or place of worship if the presence of the facility is likely to create a persistent odor nuisance for such neighbors, unless the poultry facility provides an odor control plan the executive director determines is sufficient to control odors. This subsection does not apply to:

(1) a revision of a previously certified and existing water quality management plan unless the revision is necessary because of an increase in poultry production of greater than 50 percent than the amount included in the existing certified water quality management plan for the facility; or

(2) any poultry facility located more than one-half of one mile from a surrounding business, permanently inhabited off-site residence, or place of worship established before the date of construction of the poultry facility.

SECTION 3. Subchapter H, Chapter 26, Water Code, is amended by adding Sections 26.304 and 26.305 to read as follows:

Sec. 26.304. RECORDS OF SALE, PURCHASE, TRANSFER, OR APPLICATION OF POULTRY LITTER. (a) A poultry facility that sells or transfers poultry litter for off-site application must maintain until the second anniversary of the date of sale or transfer a record regarding:

(1) the identity of the purchaser or applicator;

(2) the physical destination of the poultry litter identified by the purchaser or transferee;

(3) the date the poultry litter was removed from the poultry facility; and

(4) the number of tons of poultry litter removed.

(b) A person that purchases or obtains poultry litter for land application must maintain until the second anniversary of the date of application a signed and dated proof of delivery document for every load of poultry litter applied to land. The landowner or the owner's tenant or agent shall note on the document the date or dates on which the poultry litter was applied to land.

(c) Subsection (b) does not apply to poultry litter that is:

(1) taken to a composting facility;

(2) used as a bio-fuel;

(3) used in a bio-gasification process; or

(4) otherwise beneficially used without being applied to land.

Sec. 26.305. INSPECTION OF RECORDS. The commission may inspect any record required to be maintained under this subchapter.

SECTION 4. The change in law made by Section 382.068(e), Health and Safety Code, as added by this Act, applies only to an owner or operator of a poultry facility the construction of which begins on or after the effective date of this Act. An owner or operator of a poultry facility the construction of which began before the effective date of this Act is governed by the law in effect at the time the construction of the facility began, and the former law is continued in effect for that purpose.

SECTION 5. This Act takes effect September 1, 2009.

### **Floor Amendment No. 1**

Amend **CSSB 1693** (House committee printing) by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS accordingly:

SECTION \_\_\_\_\_. Section 5.1175, Water Code, is amended to read as follows:

Sec. 5.1175. **PAYMENT OF PENALTY BY INSTALLMENT.** (a) The commission by rule may ~~shall~~ allow a person who ~~[small business that]~~ owes a monetary civil or administrative penalty imposed for a violation of law within the commission's jurisdiction or for a violation of a license, permit, or order issued or rule

adopted by the commission to pay the penalty in periodic installments. The rule must provide a procedure for a person [~~qualified small business~~] to apply for permission to pay the penalty over time.

(b) [~~The rule must classify small businesses by their net annual receipts and number of employees. A business that is a wholly owned subsidiary of a corporation may not qualify as a small business under this section.~~

~~(c)~~ The rule may vary the period over which the penalty may be paid or the amount of the periodic installments according to the amount of the penalty owed and the size of the business that owes the penalty. The period over which the penalty may be paid may not exceed 36 [~~42~~] months.

SECTION \_\_\_\_\_. Section 7.002, Water Code, is amended to read as follows:

Sec. 7.002. ENFORCEMENT AUTHORITY. The commission may initiate an action under this chapter to enforce provisions of this code and the Health and Safety Code within the commission's jurisdiction as provided by Section 5.013 of this code and rules adopted under those provisions. The commission or the executive director may institute legal proceedings to compel compliance with the relevant provisions of this code and the Health and Safety Code and rules, orders, permits, or other decisions of the commission. The commission may delegate to the executive director the authority to issue an administrative order, including an administrative order that assesses penalties or orders corrective measures, to ensure compliance with the provisions of this code and the Health and Safety Code within the commission's jurisdiction as provided by Section 5.013 of this code and rules adopted under those provisions.

SECTION \_\_\_\_\_. Section 26.0135(h), Water Code, is amended to read as follows:

(h) The commission shall apportion, assess, and recover the reasonable costs of administering the water quality management programs under this section [~~from users of water and wastewater permit holders in the watershed according to the records of the commission generally in proportion to their right, through permit or contract, to use water from and discharge wastewater in the watershed~~]. Irrigation water rights, non-priority hydroelectric rights of a water right holder that owns or operates privately owned facilities that collectively have a capacity of less than two megawatts, and water rights held in the Texas Water Trust for terms of at least 20 years will not be subject to this assessment. The cost to river authorities and others to conduct water quality monitoring and assessment shall be subject to prior review and approval by the commission as to methods of allocation and total amount to be recovered. The commission shall adopt rules to supervise and implement the water quality monitoring, assessment, and associated costs. The rules shall ensure that water users and wastewater dischargers do not pay excessive amounts, [~~that program funds are equitably apportioned among basins,~~] that a river authority may recover no more than the actual costs of administering the water quality management programs called for in this section, and that no municipality shall be assessed cost for any efforts that duplicate water quality management activities described in Section 26.177. [~~The rules concerning the apportionment and assessment of reasonable costs shall provide for a recovery of not more than \$5,000,000 annually. Costs recovered by the commission are to be deposited to the credit of the water resource management account and may~~

~~be used only to accomplish the purposes of this section. The commission may apply not more than 10 percent of the costs recovered annually toward the commission's overhead costs for the administration of this section and the implementation of regional water quality assessments. The commission, with the assistance and input of each river authority, shall file a written report accounting for the costs recovered under this section with the governor, the lieutenant governor, and the speaker of the house of representatives on or before December 1 of each even numbered year.]~~

The amendments were read.

Senator Ogden moved to concur in the House amendments to **SB 1693**.

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

### **SENATE BILL 978 WITH HOUSE AMENDMENT**

Senator West called **SB 978** from the President's table for consideration of the House amendment to the bill.

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

#### **Floor Amendment No. 1**

Amend **SB 978** (House committee report) as follows:

(1) In SECTION 1 of the bill, in amended Section 372.003(b), Local Government Code, in proposed Subdivision (13) of that subsection (page 6, line 17), strike "and".

(2) In SECTION 1 of the bill, in amended Section 372.003(b), Local Government Code, after proposed Subdivision (14) of that subsection (page 7, line 3), strike "[~~and~~]" and substitute the following:

; and

(15) acquisition, construction, or improvement of a rainwater harvesting system

The amendment was read.

Senator West moved to concur in the House amendment to **SB 978**.

The motion prevailed by the following vote: Yeas 29, Nays 2.

Yeas: Averitt, Carona, Davis, Deuell, Duncan, Ellis, Eltife, Estes, Fraser, Gallegos, Harris, Hegar, Hinojosa, Huffman, Jackson, Lucio, Nelson, Nichols, Seliger, Shapiro, Shapleigh, Uresti, Van de Putte, Watson, Wentworth, West, Whitmire, Williams, Zaffirini.

Nays: Ogden, Patrick.

### **SENATE BILL 1458 WITH HOUSE AMENDMENT**

Senator Seliger called **SB 1458** from the President's table for consideration of the House amendment to the bill.

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

#### **Amendment**

Amend **SB 1458** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED  
AN ACT

relating to the authority of the governing body of a municipality or the commissioners court of a county to enter into an ad valorem tax abatement agreement.

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

SECTION 1. Section 312.006, Tax Code, as amended by Chapters 1029 (H.B. 1449) and 1505 (H.B. 1200), Acts of the 77th Legislature, Regular Session, 2001, is reenacted and amended to read as follows:

Sec. 312.006. EXPIRATION DATE. If not continued in effect, this chapter expires September 1, 2019 ~~[2009]~~.

SECTION 2. Subchapter A, Chapter 312, Tax Code, is amended by adding Section 312.007 to read as follows:

Sec. 312.007. DEFERRAL OF COMMENCEMENT OF ABATEMENT PERIOD. (a) In this section, "abatement period" means the period during which all or a portion of the value of real property or tangible personal property that is the subject of a tax abatement agreement is exempt from taxation.

(b) Notwithstanding any other provision of this chapter, the governing body of the taxing unit granting the abatement and the owner of the property that is the subject of the agreement may agree to defer the commencement of the abatement period until a date that is subsequent to the date the agreement is entered into, except that the duration of an abatement period may not exceed 10 years.

SECTION 3. Section 312.402, Tax Code, is amended by amending Subsection (a) and adding Subsections (a-1), (a-2), and (a-3) to read as follows:

(a) The commissioners court may execute a tax abatement agreement with the owner of taxable real property located in a reinvestment zone designated under this subchapter or with the owner of tangible personal property located on real property in a reinvestment zone to exempt from taxation all or a portion of the value of the real property, all or a portion of the value of the tangible personal property located on the real property, or all or a portion of the value of both~~]. The court may execute a tax abatement agreement with the owner of a leasehold interest in tax exempt real property or leasehold interests or improvements on tax exempt real property that is located in a reinvestment zone designated under this subchapter to exempt a portion of the value of tangible personal property or leasehold interests or improvements on tax exempt real property located on the real property. The execution, duration, and other terms of an agreement made under this section are governed by the provisions of Sections 312.204, 312.205, and 312.211 applicable to a municipality. Section 312.2041 applies to an agreement made by a county under this section in the same manner as it applies to an agreement made by a municipality under Section 312.204 or 312.211].~~

(a-1) The commissioners court may execute a tax abatement agreement with the owner of a leasehold interest in tax-exempt real property located in a reinvestment zone designated under this subchapter to exempt all or a portion of the value of the leasehold interest in the real property. The court may execute a tax abatement agreement with the owner of tangible personal property or an improvement located on



tax-exempt real property that is located in a designated reinvestment zone to exempt all or a portion of the value of the tangible personal property or improvement located on the real property.

(a-2) The execution, duration, and other terms of an agreement entered into under this section are governed by the provisions of Sections 312.204, 312.205, and 312.211 applicable to a municipality. Section 312.2041 applies to an agreement entered into under this section in the same manner as that section applies to an agreement entered into under Section 312.204 or 312.211.

(a-3) The commissioners court may execute a tax abatement agreement with a lessee of taxable real property located in a reinvestment zone designated under this subchapter to exempt from taxation all or a portion of the value of the fixtures, improvements, or other real property owned by the lessee and located on the property that is subject to the lease, all or a portion of the value of tangible personal property owned by the lessee and located on the real property that is the subject of the lease, or all or a portion of the value of both the fixtures, improvements, or other real property and the tangible personal property described by this subsection.

SECTION 4. Section 312.007, Tax Code, as added by this Act, is intended to clarify rather than change existing law.

SECTION 5. An ad valorem tax abatement agreement that was executed before the effective date of this Act by the commissioners court of a county and an owner of taxable real property or tangible personal property or an owner of a leasehold interest in tax-exempt real property, under Section 312.402, Tax Code, as that section existed before the effective date of this Act, that provides for an exemption from taxation of all or a portion of the value of real property, tangible personal property, or both, or of all or a portion of the value of a leasehold interest in tax-exempt real property, that is not invalid for a reason other than an inconsistency with Section 312.402, Tax Code, as that section existed before the effective date of this Act, and that is consistent with Section 312.402, Tax Code, as amended by this Act, is ratified and validated as of the date the agreement was executed.

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, 2009.

The amendment was read.

Senator Seliger moved to concur in the House amendment to **SB 1458**.

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

### **SENATE BILL 2543 WITH HOUSE AMENDMENT**

Senator Hegar called **SB 2543** from the President's table for consideration of the House amendment to the bill.

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

#### **Floor Amendment No. 1**

Amend **SB 2543** (House committee report) as follows:

(1) On page 1, lines 8 - 9, strike ", including a political subdivision,";

(2) On page 2, line 12, strike "including a political subdivision".

The amendment was read.

Senator Hegar moved to concur in the House amendment to **SB 2543**.

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

### **SENATE BILL 1317 WITH HOUSE AMENDMENT**

Senator Wentworth called **SB 1317** from the President's table for consideration of the House amendment to the bill.

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

#### **Amendment**

Amend **SB 1317** by substituting in lieu thereof the following:

#### A BILL TO BE ENTITLED AN ACT

relating to education and examination requirements for the issuance of a driver's license to certain persons.

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

SECTION 1. Section 521.142(d), Transportation Code, is amended to read as follows:

(d) If the applicant is under 25 years of age, the application must state whether the applicant has completed a driver education course required by Section 521.1601 [approved by the department].

SECTION 2. The heading to Subchapter H, Chapter 521, Transportation Code, is amended to read as follows:

#### SUBCHAPTER H. EDUCATION AND EXAMINATION REQUIREMENTS

SECTION 3. Subchapter H, Chapter 521, Transportation Code, is amended by adding Sections 521.1601 and 521.167 to read as follows:

Sec. 521.1601. DRIVER EDUCATION REQUIRED. The department may not issue a driver's license to a person who is younger than 25 years of age unless the person submits to the department a driver education certificate issued under Chapter 1001, Education Code, that states that the person has completed and passed:

(1) a driver education and traffic safety course approved by the Texas Education Agency under Section 29.902, Education Code, or a driver education course approved by that agency under Section 1001.101(a)(1) of that code or approved by the department under Section 521.205; or

(2) if the person is 18 years of age or older, a driver education course approved by the Texas Education Agency under Section 1001.101(a)(1) or (2), Education Code.

Sec. 521.167. WAIVER OF CERTAIN EDUCATION AND EXAMINATION REQUIREMENTS. A person who has completed and passed a driver education course approved by the Texas Education Agency under Section 1001.101(a)(2), Education Code, is not required to take the highway sign and traffic law parts of the examination required under Section 521.161 if those parts have been successfully completed as determined by a licensed driver education instructor.

SECTION 4. Section 1001.004, Education Code, is amended to read as follows:

Sec. 1001.004. COST OF ADMINISTERING CHAPTER. (a) Except as provided by Subsection (b), the ~~[The]~~ cost of administering this chapter shall be included in the state budget allowance for the agency.

(b) The commissioner may charge a fee to each driver education school in an amount not to exceed the actual expense incurred in the regulation of driver education courses established under Section 1001.101(a)(2).

SECTION 5. Section 1001.055(a), Education Code, is amended to read as follows:

(a) The agency shall print and supply to each licensed or exempt driver education school driver education certificates to be used for certifying completion of an approved driver education course to satisfy the requirements of Sections ~~[Section]~~ 521.204(a)(2) and 521.1601, Transportation Code. The certificates must be numbered serially.

SECTION 6. Section 1001.101, Education Code, is amended to read as follows:

Sec. 1001.101. DRIVER EDUCATION COURSE CURRICULUM AND EDUCATIONAL MATERIALS ~~[TEXTBOOKS]~~. (a) The commissioner by rule shall establish the curriculum and designate the educational materials ~~[textbooks]~~ to be used in:

(1) a driver education course for minors and adults; and

(2) a driver education course exclusively for adults.

(b) A driver education course under Subsection (a)(2) must:

(1) be a six-hour course; and

(2) include instruction in:

(A) alcohol and drug awareness;

(B) the traffic laws of this state;

(C) highway signs, signals, and markings that regulate, warn, or direct traffic; and

(D) the issues commonly associated with motor vehicle accidents, including poor decision-making, risk taking, impaired driving, distraction, speed, failure to use a safety belt, driving at night, failure to yield the right-of-way, and using a wireless communication device while operating a vehicle.

(c) A course approved under Subsection (a)(2) may be offered as an online course.

(d) A driving safety course or a drug and alcohol driving awareness program may not be approved as a driver education course under Subsection (a)(2).

SECTION 7. The changes in law made by this Act apply to an application for the issuance of a driver's license filed on or after the effective date of this Act. An application for the issuance of a driver's license filed before the effective date of this Act is governed by the law in effect on the date of the filing, and that law is continued in effect for that purpose.

SECTION 8. This Act takes effect March 1, 2010.

The amendment was read.

Senator Wentworth moved to concur in the House amendment to **SB 1317**.

The motion prevailed by the following vote: Yeas 23, Nays 8.

Yeas: Averitt, Carona, Davis, Deuell, Duncan, Ellis, Estes, Harris, Huffman, Lucio, Nelson, Nichols, Ogden, Seliger, Shapiro, Shapleigh, Uresti, Van de Putte, Watson, Wentworth, West, Williams, Zaffirini.

Nays: Eltife, Fraser, Gallegos, Hegar, Hinojosa, Jackson, Patrick, Whitmire.

### **SENATE BILL 1844 WITH HOUSE AMENDMENT**

Senator Van de Putte called **SB 1844** from the President's table for consideration of the House amendment to the bill.

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

#### **Floor Amendment No. 1 on Third Reading**

Amend **SB 1844** on third reading by striking SECTION 3 of the bill and substituting the following:

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, 2009.

The amendment was read.

Senator Van de Putte moved to concur in the House amendment to **SB 1844**.

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

### **SENATE BILL 1616 WITH HOUSE AMENDMENTS**

Senator Wentworth called **SB 1616** from the President's table for consideration of the House amendments to the bill.

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

#### **Floor Amendment No. 1**

Amend **SB 1616** (engrossed version) in SECTION 7 of the bill as follows:

(1) On page 5, line 20, strike "this chapter [~~subchapter~~]" and substitute "Subchapters G and I [~~this subchapter~~]".

(2) On page 6, line 16 through page 7, line 6, strike Subsections (c-1) and (j) and substitute the following:

(c-1) Subsections (b) and (c) do not apply to the sale at auction of a specialty plate or personalized specialty plate that is not used on a motor vehicle.

(j) From amounts received by the department under the contract described by Subsection (a), the department shall deposit to the credit of the state highway fund an amount sufficient to enable the department to recover its administrative costs for all license plates issued under this section, ~~including~~ any payments to the vendor under the contract ~~Subsection (a)~~, and any other amounts allocated by law to the state highway fund ~~by another law~~. To the extent that the disposition of other amounts received by ~~from~~ the department is ~~vendor are~~ governed by another law, those amounts shall be deposited in accordance with the other law ~~and for each type of license plate the amount charged for the license plate may not be less than the amount~~

~~in effect on January 1, 2003].~~ Any additional amount received by ~~[from]~~ the department under the contract ~~[vendor]~~ shall be deposited to the credit of the general revenue fund.

### Floor Amendment No. 2

Amend **SB 1616** (House committee report) by adding an appropriately numbered Section \_\_\_\_ to read as follows and renumber the subsequent sections accordingly:

SECTION \_\_\_\_ . Subchapter G, Chapter 504, Transportation Code, is amended by adding Section 504.660 to read as follows:

Sec. 504.660. SEXUAL ASSAULT AWARENESS LICENSE PLATES. (a) The department shall design and issue specialty license plates to support victims of sexual assault.

(b) The license plates must include the words "Speak up. Speak out." and an image of a blue ribbon.

(c) After deduction of the department's administrative costs, the remainder of the fee for issuance of the license plates shall be deposited to the credit of the sexual assault program fund established by Section 420.008, Government Code.

### Floor Amendment No. 3

Amend **SB 1616** by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_ . Section 504.409, Transportation Code, is amended to read as follows:

Sec. 504.409. ~~[VOLUNTEER]~~ FIREFIGHTERS. (a) The department shall issue specialty license plates for:

(1) volunteer firefighters certified by:

(A) ~~[(1)]~~ the Texas Commission on Fire Protection; or

(B) ~~[(2)]~~ the State Firemen's and Fire Marshals' Association of Texas;

and

(2) fire protection personnel as that term is defined by Section 419.021, Government Code.

(b) The fee for issuance of each set of [the] license plates is:

(1) \$4 for volunteer firefighters; and

(2) \$30 for fire protection personnel.

(c) A person may be issued not more than three sets ~~[only one set]~~ of ~~[the]~~ license plates.

The amendments were read.

Senator Wentworth moved to concur in the House amendments to **SB 1616**.

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

### CONFERENCE COMMITTEE REPORT ON SENATE BILL 58 ADOPTED

Senator Zaffirini called from the President's table the Conference Committee Report on **SB 58**. The Conference Committee Report was filed with the Senate on Friday, May 29, 2009.

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

### SENATE BILL 1003 WITH HOUSE AMENDMENT

Senator Deuell called **SB 1003** from the President's table for consideration of the House amendment to the bill.

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

#### Amendment

Amend **SB 1003** by substituting in lieu thereof the following:

#### A BILL TO BE ENTITLED AN ACT

relating to the continuation and functions of the Office of State-Federal Relations and the administrative attachment of that agency to the office of the governor.

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

SECTION 1. Section 751.002(a), Government Code, is amended to read as follows:

(a) The Office of State-Federal Relations is an agency of the state and operates within the executive department. The office is administratively attached to the office of the governor. The governor's office shall provide human resources and other administrative support for the office. The office is funded by appropriations made to the office of the governor.

SECTION 2. Section 751.003, Government Code, is amended to read as follows:

Sec. 751.003. SUNSET PROVISION. The Office of State-Federal Relations is subject to Chapter 325 (Texas Sunset Act). Unless continued in existence as provided by that chapter, the office is abolished and this chapter expires September 1, 2015 ~~[2009]. [In the review of the office by the Sunset Advisory Commission, as required by this section, the sunset commission shall limit its review to the appropriateness of recommendations made to the 80th Legislature. In its report to the 81st Legislature, the sunset commission may include any recommendations it considers appropriate.]~~

SECTION 3. The heading to Section 751.005, Government Code, is amended to read as follows:

Sec. 751.005. GENERAL POWERS AND DUTIES OF OFFICE ~~[DIRECTOR]~~.

SECTION 4. Section 751.005, Government Code, is amended by amending Subsections (a), (b), and (c) and adding Subsection (e) to read as follows:

(a) The office ~~[director]~~ shall exercise the powers and carry out the duties prescribed by this section in order to act as a liaison from the state to the federal government.

(b) The office ~~[director]~~ shall:

(1) ~~help~~ coordinate state and federal programs dealing with the same subject;

(2) inform the governor and the legislature of federal programs that may be carried out in the state or that affect state programs;

(3) provide federal agencies and the United States Congress with information about state policy and state conditions on matters that concern the federal government;

(4) provide the legislature with information useful in measuring the effect of federal actions on the state and local programs;

(5) prepare and supply to the governor and all members of the legislature an annual report that:

(A) describes the office's operations;

(B) contains the office's priorities and strategies for the following year;

(C) details projects and legislation pursued by the office;

(D) discusses issues in the following congressional session of interest to this state; and

(E) contains an analysis of federal funds availability and formulae;

~~and~~

(6) prepare annually a complete and detailed written report accounting for all funds received and disbursed by the office during the preceding fiscal year;

(7) notify the governor, the lieutenant governor, the speaker of the house of representatives, and the legislative standing committees in each house with primary jurisdiction over intergovernmental affairs of federal activities relevant to the state and inform the Texas congressional delegation of state activities;

(8) conduct frequent conference calls with the lieutenant governor and the speaker of the house of representatives or their designees regarding state-federal relations and programs;

(9) respond to requests for information from the legislature, the United States Congress, and federal agencies;

(10) coordinate with the Legislative Budget Board regarding the effects of federal funding on the state budget; and

(11) report to, and on request send appropriate representatives to appear before, the legislative standing committees in each house with primary jurisdiction over intergovernmental affairs.

(c) The office ~~[director]~~ may maintain office space at locations inside and outside the state as chosen by the office ~~[director]~~.

(e) The report required under Subsection (b)(5) must include an evaluation of the performance of the office based on performance measures that are developed by the board.

SECTION 5. Section 751.006(g), Government Code, is amended to read as follows:

(g) The director and the staff of the office working in Washington, D.C., may receive a ~~[the same]~~ cost-of-living salary adjustment ~~[as is established for an employee of another state agency under Section 751.012(d)].~~

SECTION 6. Subchapter A, Chapter 751, Government Code, is amended by adding Sections 751.015 and 751.016 to read as follows:

Sec. 751.015. CONTRACTS BETWEEN OFFICE AND CONSULTANTS. (a) If the office elects to contract with federal-level government relations consultants, the office shall adopt written procedures for those contracts. The procedures must include:

(1) guidelines regarding contract management;

(2) a competitive procurement process and method to assess the effectiveness of a prospective consultant;

(3) a technique for assigning a value to a prospective consultant's ability to provide services at a reasonable price and level of experience;

(4) a process for determining a prospective consultant's ability to work with influential members of the United States Congress and serve as an effective advocate on behalf of the state; and

(5) a method to verify that the interests of a prospective consultant or the consultant's other clients do not create a conflict of interest that may jeopardize the state's interest.

(b) A contract between the office and a federal-level government relations consultant must include:

(1) an agreement regarding the goals of the service to be provided by the consultant and targeted performance measures;

(2) a provision governing the manner in which the contract may be terminated by the parties to the contract; and

(3) a provision allowing the office, the state auditor's office as provided by Section 2262.003, and other specified oversight entities to audit the contractor's performance under the contract.

(c) All three members of the board must sign any contract between the office and a federal-level government relations consultant.

Sec. 751.016. CONTRACTS BY STATE AGENCIES OR POLITICAL SUBDIVISIONS. (a) In this section, "political subdivision" includes a river authority.

(b) An agency or political subdivision of the state shall report to the office on any contract between the agency or subdivision and a federal-level government relations consultant. A state agency or political subdivision shall submit one report under this section not later than the 30th day after the date the contract is executed and a second report not later than the 30th day after the date the contract is terminated.

The report must include:

(1) the name of the consultant or consulting firm;

(2) the issue on which the consultant was hired to consult; and

(3) the amount of compensation paid or to be paid to the consultant under the contract.

(b-1) A state agency or political subdivision contracting with a federal-level government relations consultant before September 1, 2009, shall, if the contract has not terminated before that date, submit a report as required by Subsection (b) not later than September 30, 2009. This subsection expires September 1, 2010.

(c) If a state agency contracts with a federal-level government relations consultant and the consultant subcontracts the work to another firm or individual, the state agency shall report the subcontract to the office.

(d) This section does not apply to a political subdivision whose federal-level government relations consultant is required by other law to disclose, report, and make available the information required by Subsection (b) to:

(1) the public; and

(2) a federal or state entity.

SECTION 7. The following provisions of the Government Code are repealed:



- (1) Sections 751.006(b), (c), (d), (e), and (f);
- (2) Sections 751.012(b), (e), and (f); and
- (3) Sections 751.013, 751.014, and 751.024.

SECTION 8. The Office of State-Federal Relations and the office of the governor shall establish a plan for the administrative attachment of the Office of State-Federal Relations to the office of the governor.

SECTION 9. This Act takes effect September 1, 2009.

The amendment was read.

Senator Deuell moved to concur in the House amendment to **SB 1003**.

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

#### **CONFERENCE COMMITTEE REPORT ON SENATE BILL 482 ADOPTED**

Senator Ellis called from the President's table the Conference Committee Report on **SB 482**. The Conference Committee Report was filed with the Senate on Wednesday, May 20, 2009.

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

#### **CONFERENCE COMMITTEE REPORT ON SENATE BILL 2423 ADOPTED**

Senator Deuell called from the President's table the Conference Committee Report on **SB 2423**. The Conference Committee Report was filed with the Senate on Tuesday, May 26, 2009.

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

#### **CONFERENCE COMMITTEE REPORT ON SENATE BILL 1152 ADOPTED**

Senator Hinojosa called from the President's table the Conference Committee Report on **SB 1152**. The Conference Committee Report was filed with the Senate on Wednesday, May 27, 2009.

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

#### **CONFERENCE COMMITTEE REPORT ON SENATE BILL 2306 ADOPTED**

Senator Williams called from the President's table the Conference Committee Report on **SB 2306**. The Conference Committee Report was filed with the Senate on Wednesday, May 20, 2009.

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

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 2196 ADOPTED**

Senator Deuell called from the President's table the Conference Committee Report on **HB 2196**. The Conference Committee Report was filed with the Senate on Tuesday, May 26, 2009.

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

**SENATE BILL 2453 WITH HOUSE AMENDMENT**

Senator Williams called **SB 2453** from the President's table for consideration of the House amendment to the bill.

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

**Amendment**

Amend **SB 2453** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED  
AN ACT

relating to the East Montgomery County Improvement District.

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

SECTION 1. (a) This section takes effect only if the Act of the 81st Legislature, Regular Session, 2009, relating to nonsubstantive additions to and corrections in enacted codes becomes law.

(b) Subdivision (3), Section 3846.001, Special District Local Laws Code, is amended to read as follows:

(3) "Venue" means a convention center facility or related improvement such as a convention center, civic center, civic center building, civic center hotel, auditorium, theater, opera house, music hall, exhibition hall, rehearsal hall, park, zoological park, museum, aquarium, tourist development area along an inland waterway, or plaza.

SECTION 2. (a) This section takes effect only if the Act of the 81st Legislature, Regular Session, 2009, relating to nonsubstantive additions to and corrections in enacted codes does not become law.

(b) Subdivision (1), Subsection (a), Section 33, Chapter 1316, Acts of the 75th Legislature, Regular Session, 1997, as added by Section 11, Chapter 950, Acts of the 80th Legislature, Regular Session, 2007, is amended to read as follows:

(1) "Venue" means a convention center facility or related improvement such as a convention center, civic center, civic center building, civic center hotel, auditorium, theater, opera house, music hall, exhibition hall, rehearsal hall, park, zoological park, museum, aquarium, tourist development area along an inland waterway, or plaza.

SECTION 3. Subsections (d) and (e), Section 3846.155, Special District Local Laws Code, are amended to read as follows:

(d) If as a result of the imposition or increase in a sales and use tax by the district as provided under this section or Section 3846.152, the overlapping local sales and use taxes in a municipality or political subdivision located in the boundaries of

the district will exceed two percent, the municipality's or political subdivision's sales and use tax is automatically reduced in that municipality or political subdivision to a rate that, when added to the district's rate, does not exceed two percent.

(e) If the tax rate of a municipality or political subdivision is reduced in accordance with Subsection (d), the comptroller shall withhold from the district's monthly sales and use tax allocation an amount equal to the amount that would have been collected by the municipality or political subdivision had the district not imposed or increased its sales and use tax less amounts that the municipality or political subdivision collects following the district's imposition of or increase in its sales and use tax. The comptroller shall withhold and pay the amount withheld to the municipality or political subdivision under policies or procedures that the comptroller considers reasonable.

SECTION 4. Section 3846.162, Special District Local Laws Code, is amended to read as follows:

Sec. 3846.162. BORROWING MONEY. The district may borrow money for the corporate purposes of the district and may issue bonds as authorized by Section 3846.164 for any district purpose, including for the purpose of an economic development program under Section 3846.106.

SECTION 5. (a) This section takes effect only if the Act of the 81st Legislature, Regular Session, 2009, relating to nonsubstantive additions to and corrections in enacted codes becomes law.

(b) Sections 3846.253 and 3846.260, Special District Local Laws Code, are amended to read as follows:

Sec. 3846.253. DEVELOPMENT ZONES AUTHORIZED. The board, on its own motion or on receipt of a petition signed by the owners of all real property in a defined area of the district consisting of one tract of land containing at least 25 ~~or more~~ contiguous acres and any additional smaller or larger tracts, as appropriate ~~of land~~, by resolution may create, designate, describe, assign a name to, and appoint the governing body for a development zone in the district to promote development or redevelopment of the area, if the board finds that the creation of the zone will further the public purposes of:

- (1) the development and diversification of the economy of the district and the state;
- (2) the elimination of unemployment or underemployment in the district and the state;
- (3) the development or expansion of transportation or commerce in the district and the state; or
- (4) the promotion and stimulation of business, commercial, and economic activity in the district and the state.

Sec. 3846.260. DEVELOPMENT ZONE BOUNDARIES. The boundaries of a development zone may be reduced or enlarged in the manner provided by this subchapter for creation of a zone, except that the boundaries may not be reduced to less than 25 contiguous acres. A development zone may be enlarged to include noncontiguous tracts only if on the date the zone is enlarged the zone contains at least one tract consisting of at least 25 contiguous acres. A confirmation election is not required for an enlargement if:

(1) all landowners of the area proposed to be added consent to the enlargement and the tax authorization in the zone; and

(2) the enlarged area does not have any registered voters who reside in the area.

SECTION 6. (a) This section takes effect only if the Act of the 81st Legislature, Regular Session, 2009, relating to nonsubstantive additions to and corrections in enacted codes does not become law.

(b) Subsections (b) and (j), Section 30, Chapter 1316, Acts of the 75th Legislature, Regular Session, 1997, as added by Section 9, Chapter 950, Acts of the 80th Legislature, Regular Session, 2007, are amended to read as follows:

(b) The board, on its own motion or on receipt of a petition signed by the owners of all real property in a defined area of the district consisting of one tract of land containing at least 25 [or more] contiguous acres and any additional smaller or larger tracts, as appropriate [of land], by resolution may create, designate, describe, assign a name to, and appoint the governing body for a development zone in the district to promote development or redevelopment of the area, if the board finds that the creation of the zone will further the public purposes of:

(1) the development and diversification of the economy of the district and the state;

(2) the elimination of unemployment or underemployment in the district and the state;

(3) the development or expansion of transportation or commerce in the district and the state; or

(4) the promotion and stimulation of business, commercial, and economic activity in the district and the state.

(j) The boundaries of a development zone may be reduced or enlarged in the manner provided by this section for creation of a zone, except that the boundaries may not be reduced to less than 25 contiguous acres. A development zone may be enlarged to include noncontiguous tracts only if on the date the zone is enlarged the zone contains at least one tract consisting of at least 25 contiguous acres. A confirmation election is not required for an enlargement if:

(1) all landowners of the area proposed to be added consent to the enlargement and the tax authorization in the zone; and

(2) the enlarged area does not have any registered voters who reside in the area.

SECTION 7. (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 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 are fulfilled and accomplished.

SECTION 8. This Act takes effect September 1, 2009.

The amendment was read.

Senator Williams moved to concur in the House amendment to **SB 2453**.

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

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 2626 ADOPTED**

Senator Zaffirini called from the President's table the Conference Committee Report on **HB 2626**. The Conference Committee Report was filed with the Senate on Monday, May 25, 2009.

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

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 562 ADOPTED**

Senator Jackson called from the President's table the Conference Committee Report on **SB 562**. The Conference Committee Report was filed with the Senate on Thursday, May 21, 2009.

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

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 2030 ADOPTED**

Senator Deuell called from the President's table the Conference Committee Report on **HB 2030**. The Conference Committee Report was filed with the Senate on Monday, May 25, 2009.

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

**MESSAGE FROM THE HOUSE**

HOUSE CHAMBER

Austin, Texas

May 30, 2009

The Honorable President of the Senate  
Senate Chamber  
Austin, Texas

Mr. President:

I am directed by the House to inform the Senate that the House has taken the following action:

THE HOUSE HAS PASSED THE FOLLOWING MEASURES:

**HCR 177**, Directing state agencies to initiate emission reduction policies and programs in order to help Central and South Central Texas meet the 2008 National Ambient Air Quality Standard for ground-level ozone.

**HCR 183**, Urging Congress to reject provisions of President Barack Obama's budget that would eliminate certain deductions presently available to the oil and natural gas exploration industry.

**HCR 222**, Directing the Texas Facilities Commission to submit a proposal to the presiding officers of the Texas Legislature to name Building A at the DPS Headquarters Complex in Austin in honor of Thomas A. Davis, Jr., former director of the Texas Department of Public Safety.

**SCR 38**, Memorializing Congress to restore the presumption of a service connection for Agent Orange exposure to veterans who served on the inland waterways, territorial waters, and in the airspace of the Republic of Vietnam.

THE HOUSE HAS GRANTED THE REQUEST OF THE SENATE FOR THE APPOINTMENT OF A CONFERENCE COMMITTEE ON THE FOLLOWING MEASURES:

**SB 636** (non-record vote)

House Conferees: Rose - Chair/Hartnett/Lucio III/Strama/Thompson

**SB 1833** (non-record vote)

House Conferees: Smith, Wayne - Chair/Callegari/Dutton/Harless/Taylor

**SB 2096** (non-record vote)

House Conferees: McClendon - Chair/Farias/Gutierrez/Leibowitz/Martinez Fischer

Respectfully,

/s/Robert Haney, Chief Clerk  
House of Representatives

### CONFERENCE COMMITTEE REPORT ON SENATE BILL 727 ADOPTED

Senator Patrick called from the President's table the Conference Committee Report on **SB 727**. The Conference Committee Report was filed with the Senate on Monday, May 25, 2009.

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

### SENATE BILL 2442 WITH HOUSE AMENDMENTS

Senator Uresti called **SB 2442** from the President's table for consideration of the House amendments to the bill.

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

### Floor Amendment No. 1

Amend **SB 2442** (House committee printing) as follows:

(1) In SECTION 1 of the bill, following reenacted and amended Section 11.18(d)(21), Tax Code (page 5, line 1), strike "or" and substitute "[~~or~~]".

(2) In SECTION 1 of the bill, in reenacted and amended Section 11.18(d)(22), Tax Code, between "land bank" and the period (page 5, line 4), insert the following:

; or

(23) operating a radio station that broadcasts educational, cultural, or other public interest programming, including classical music, and that in the preceding five years has received or been selected to receive one or more grants from the Corporation for Public Broadcasting under 47 U.S.C. Section 396, as amended

### **Floor Amendment No. 1 on Third Reading**

Amend **SB 2442** on third reading as follows:

(1) Insert the following appropriately-numbered SECTION and renumber any subsequent SECTIONS accordingly:

SECTION \_\_\_\_\_. Section 11.11, Tax Code, is amended by adding Subsection (k) to read as follows:

(k) For purposes of this section, any portion of a facility located on public property by a person, including a charitable organization, under a contract or other agreement with a governmental entity to capture and convert waste, including gas, from public property is public property if the person, for benefit to the governmental entity, processes and delivers the waste to a common carrier to displace a natural resource, reduces pollution, or processes and converts the waste to electrical or other useful energy.

The amendments were read.

Senator Uresti moved that the Senate do not concur in the House amendments, but that a conference committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed without objection.

The President asked if there were any motions to instruct the conference committee on **SB 2442** before appointment.

There were no motions offered.

The President announced the appointment of the following conferees on the part of the Senate: Senators Uresti, Chair; Ogden, Shapiro, Williams, and Zaffirini.

### **SENATE BILL 1143 WITH HOUSE AMENDMENT**

Senator Carona called **SB 1143** from the President's table for consideration of the House amendment to the bill.

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

### **Floor Amendment No. 1 on Third Reading**

Amend **SB 1143** (House committee report) on third reading as follows:

(1) On page 3, between line 18 and line 19, insert new SECTION 3, as follows:

SECTION 3. Chapter 32, Insurance Code, is amended by adding new Section 32.0221, to read as follows:

Sec. 32.0221. TEXAS HEALTH BENEFITS STUDY. (a) The department shall study the disparity in patient co-payments between orally- and intravenously-administered chemotherapies, the reasons for the disparity, and the patient benefits in establishing co-payment parity between oral and infused chemotherapy agents.

(b) Not later than August 1, 2010, the department shall submit to the governor, the lieutenant governor, the speaker of the house of representatives, and the appropriate standing committees of the legislature a report regarding the results of the study conducted under Subsection (a), together with any recommendation for legislation.

(2) On page 3, line 19, between between "by" and "this", insert "SECTION 1 and SECTION 2 of".

(3) Renumber the remaining sections of the bill as appropriate.

The amendment was read.

Senator Carona moved to concur in the House amendment to **SB 1143**.

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

#### **SENATE BILL 1145 WITH HOUSE AMENDMENT**

Senator Zaffirini called **SB 1145** from the President's table for consideration of the House amendment to the bill.

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

#### **Floor Amendment No. 1 on Third Reading**

Amend **SB 1145** on third reading by adding the following SECTION to the bill and renumbering the other SECTIONS accordingly:

SECTION 1. This Act shall be known as the Rod Welsh Act, in honor of Rod Welsh, Sergeant-at-Arms of the Texas House of Representatives, who is primarily responsible for developing the method of folding the state flag of Texas established by this Act.

The amendment was read.

Senator Zaffirini moved to concur in the House amendment to **SB 1145**.

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

#### **SENATE BILL 704 WITH HOUSE AMENDMENTS**

Senator Nelson called **SB 704** from the President's table for consideration of the House amendments to the bill.

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

#### **Floor Amendment No. 1**

Amend **SB 704** (House committee printing) in SECTION 1 of the bill, by striking proposed Section 2158.403, Government Code (page 2, lines 13 through 20), and substituting the following:



Sec. 2158.403. CONFIDENTIALITY. The information received by a state agency under this subchapter may not be disclosed to a person outside of the state agency or its agents.

### **Floor Amendment No. 2**

Amend **SB 704** by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Subchapter B, Chapter 1369, Insurance Code, is amended by adding Section 1369.0551 to read as follows:

Sec. 1369.0551. STUDY. (a) The department shall conduct a study to evaluate the ways in which pharmacy benefit managers use prescription drug information to manage therapeutic drug interchange programs and other drug substitution recommendations made by pharmacy benefit managers or other similar entities. The study must include information regarding pharmacy benefit managers:

(1) intervening in the delivery or transmission of a prescription from a prescribing health care practitioner to a pharmacist for purposes of influencing the prescribing health care practitioner's choice of therapy;

(2) recommending that a prescribing health care practitioner change from the originally prescribed medication to another medication, including generic substitutions and therapeutic interchanges;

(3) changing a drug or device prescribed by a health care practitioner without the consent of the prescribing health care practitioner;

(4) changing a patient cost-sharing obligation for the cost of a prescription drug or device, including placing a drug or device on a higher formulary tier than the initial contracted benefit level; and

(5) removing a drug or device from a group health benefit plan formulary without providing proper enrollee notice.

(b) Not later than August 1, 2010, the department shall submit to the governor, the lieutenant governor, the speaker of the house of representatives, and the appropriate standing committees of the legislature a report regarding the results of the study required by Subsection (a), together with any recommendations for legislation.

(c) This section expires September 1, 2010.

### **Floor Amendment No. 3**

Amend **SB 704** (House committee printing) by adding the following appropriately numbered SECTIONS to the bill and renumbering remaining SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Subchapter B, Chapter 1551, Insurance Code, is amended by adding Section 1551.067 to read as follows:

Sec. 1551.067. PHARMACY BENEFIT MANAGER CONTRACTS. (a) In awarding a contract to provide pharmacy benefit manager services under this chapter, the board of trustees is not required to select the lowest bid but must select a contract that meets the criteria established by this section.

(b) The contract must state that:

(1) the board of trustees is entitled to audit the pharmacy benefit manager to verify costs and discounts associated with drug claims, pharmacy benefit manager compliance with contract requirements, and services provided by subcontractors;

(2) the audit must be conducted by an independent auditor in accordance with established auditing standards; and

(3) to conduct the audit, the board of trustees and the independent auditor are entitled access to information related to the services and the costs associated with the services performed under the contract, including access to the pharmacy benefit manager's facilities, records, contracts, medical records, and agreements with subcontractors.

(c) The contract must define the information that the pharmacy benefit manager is required to provide to the board of trustees concerning the audit of the retail, independent, and mail order pharmacies performing services under the contract and describe how the results of these audits must be reported to the board of trustees, including how often the results must be reported. The contract must state whether the pharmacy benefit manager is required to return recovered overpayments to the board of trustees.

(d) The contract must state that any audit of a mail order pharmacy owned by the pharmacy benefit manager must be conducted by an independent auditor selected by the board of trustees in accordance with established auditing standards.

SECTION \_\_\_\_ . Subchapter C, Chapter 1575, Insurance Code, is amended by adding Section 1575.110 to read as follows:

Sec. 1575.110. PHARMACY BENEFIT MANAGER CONTRACTS. (a) In awarding a contract to provide pharmacy benefit manager services under this chapter, the trustee is not required to select the lowest bid but must select a contract that meets the criteria established by this section.

(b) The contract must state that:

(1) the trustee is entitled to audit the pharmacy benefit manager to verify costs and discounts associated with drug claims, pharmacy benefit manager compliance with contract requirements, and services provided by subcontractors;

(2) the audit must be conducted by an independent auditor in accordance with established auditing standards; and

(3) to conduct the audit, the trustee and the independent auditor are entitled access to information related to the services and the costs associated with the services performed under the contract, including access to the pharmacy benefit manager's facilities, records, contracts, medical records, and agreements with subcontractors.

(c) The contract must define the information that the pharmacy benefit manager is required to provide to the trustee concerning the audit of the retail, independent, and mail order pharmacies performing services under the contract and describe how the results of these audits must be reported to the trustee, including how often the results must be reported. The contract must state whether the pharmacy benefit manager is required to return recovered overpayments to the trustee.

(d) The contract must state that any audit of a mail order pharmacy owned by the pharmacy benefit manager must be conducted by an independent auditor selected by the trustee in accordance with established auditing standards.

SECTION \_\_\_\_ . Subchapter B, Chapter 1579, Insurance Code, is amended by adding Section 1579.057 to read as follows:

Sec. 1579.057. PHARMACY BENEFIT MANAGER CONTRACTS. (a) In awarding a contract to provide pharmacy benefit manager services under this chapter, the trustee is not required to select the lowest bid but must select a contract that meets the criteria established by this section.

(b) The contract must state that:

(1) the trustee is entitled to audit the pharmacy benefit manager to verify costs and discounts associated with drug claims, pharmacy benefit manager compliance with contract requirements, and services provided by subcontractors;

(2) the audit must be conducted by an independent auditor in accordance with established auditing standards; and

(3) to conduct the audit, the trustee and the independent auditor are entitled access to information related to the services and the costs associated with the services performed under the contract, including access to the pharmacy benefit manager's facilities, records, contracts, medical records, and agreements with subcontractors.

(c) The contract must define the information that the pharmacy benefit manager is required to provide to the trustee concerning the audit of the retail, independent, and mail order pharmacies performing services under the contract and describe how the results of these audits must be reported to the trustee, including how often the results must be reported. The contract must state whether the pharmacy benefit manager is required to return recovered overpayments to the trustee.

(d) The contract must state that any audit of a mail order pharmacy owned by the pharmacy benefit manager must be conducted by an independent auditor selected by the trustee in accordance with established auditing standards.

SECTION \_\_\_\_ . Subchapter B, Chapter 1601, Insurance Code, is amended by adding Section 1601.064 to read as follows:

Sec. 1601.064. PHARMACY BENEFIT MANAGER CONTRACTS. (a) In awarding a contract to provide pharmacy benefit manager services under this chapter, a system is not required to select the lowest bid but must select a contract that meets the criteria established by this section.

(b) The contract must state that:

(1) the system is entitled to audit the pharmacy benefit manager to verify costs and discounts associated with drug claims, pharmacy benefit manager compliance with contract requirements, and services provided by subcontractors;

(2) the audit must be conducted by an independent auditor in accordance with established auditing standards; and

(3) to conduct the audit, the system and the independent auditor are entitled access to information related to the services and the costs associated with the services performed under the contract, including access to the pharmacy benefit manager's facilities, records, contracts, medical records, and agreements with subcontractors.

(c) The contract must define the information that the pharmacy benefit manager is required to provide to the system concerning the audit of the retail, independent, and mail order pharmacies performing services under the contract and describe how the results of these audits must be reported to the system, including how often the results must be reported. The contract must state whether the pharmacy benefit manager is required to return recovered overpayments to the system.

(d) The contract must state that any audit of a mail order pharmacy owned by the pharmacy benefit manager must be conducted by an independent auditor selected by the system in accordance with established auditing standards.

SECTION \_\_\_\_\_. Sections 1551.067, 1575.110, 1579.057, and 1601.064, Insurance Code, as added by this Act, apply only to a contract with a pharmacy benefit manager executed or renewed on or after the effective date of this Act.

#### **Floor Amendment No. 4**

Amend **SB 704** by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Subtitle H, Title 8, Insurance Code, is amended by adding Chapter 1560 to read as follows:

#### CHAPTER 1560. DELIVERY OF PRESCRIPTION DRUGS BY MAIL

Sec. 1560.001. DEFINITIONS. In this chapter:

(1) "Community retail pharmacy" means a pharmacy that is licensed as a Class A pharmacy under Chapter 560, Occupations Code.

(2) "Mail order pharmacy" means a pharmacy that is licensed under Chapter 560, Occupations Code, and that primarily delivers prescription drugs to an enrollee through the United States Postal Service or a commercial delivery service.

Sec. 1560.002. APPLICABILITY OF CHAPTER. This chapter applies only to a health benefit plan that provides benefits for medical or surgical expenses incurred as a result of a health condition, accident, or sickness, including an individual, group, blanket, or franchise insurance policy or insurance agreement, a group hospital service contract, or an individual or group evidence of coverage or similar coverage document that is offered or administered by:

(1) the Teacher Retirement System of Texas under Chapter 1575 or 1579; or

(2) the Employees Retirement System of Texas under Chapter 1551.

Sec. 1560.003. MULTIPLE-MONTH SUPPLY OF PRESCRIPTION DRUG.

(a) In this section, "multiple-month supply" means a supply for 60 or more days.

(b) Notwithstanding any other law, an issuer of a health benefit plan that provides pharmacy benefits to enrollees must allow an enrollee to obtain from a community retail pharmacy a multiple-month supply of any prescription drug under the same terms and conditions applicable when the prescription drug is obtained from a mail order pharmacy, if the community retail pharmacy agrees to accept reimbursement on exactly the same terms and conditions that apply to a mail order pharmacy.

(c) This section does not require:

(1) the issuer of a health benefit plan to contract with:

(A) a retail pharmacy that does not agree to accept reimbursement on exactly the same terms and conditions that apply to a mail order pharmacy; or

(B) more than one mail order pharmacy; or

(2) a community retail pharmacy to:

(A) provide a multiple-month supply of a prescription drug under the same terms and conditions applicable when the prescription drug is obtained from a mail order pharmacy; or

(B) agree to accept reimbursement on exactly the same terms and conditions that apply to a mail order pharmacy.

Sec. 1560.004. PRESCRIPTION DRUG REIMBURSEMENT RATES. (a) An issuer of a health benefit plan that provides pharmacy benefits to enrollees shall reimburse pharmacies participating in the health plan using prescription drug reimbursement rates, for both brand name and generic prescription drugs, that are based on a current and nationally recognized benchmark index that includes average wholesale price and maximum allowable cost.

(b) Regardless of whether a pharmacy is a mail order pharmacy or a community retail pharmacy, an issuer of a health benefit plan shall use the same benchmark index, including the same average wholesale price, maximum allowable cost, and national prescription drug codes, to reimburse all pharmacies participating in the health benefit plan.

SECTION \_\_\_\_\_. Section 1551.224, Insurance Code, is amended to read as follows:

Sec. 1551.224. MAIL ORDER REQUIREMENT FOR PRESCRIPTION DRUG COVERAGE PROHIBITED. (a) The board of trustees or a health benefit plan under this chapter that provides benefits for prescription drugs may not require a participant in the group benefits program to purchase a prescription drug through a mail order program.

(b) Except as provided by Subsection (c), the ~~The~~ board of trustees or a health benefit plan shall require that a participant who chooses to obtain a prescription drug through a retail pharmacy or other method other than by mail order pay a deductible, copayment, coinsurance, or other cost-sharing obligation to cover the additional cost of obtaining a prescription drug through that method rather than by mail order.

(c) The board of trustees or a health benefit plan may not require a participant who obtains a multiple-month supply of a prescription drug from a retail pharmacy under Section 1560.003 to pay a deductible, copayment, coinsurance, or other cost-sharing obligation that differs from the amount the participant pays for a multiple-month supply of that drug through a mail order program.

SECTION \_\_\_\_\_. Chapter 1560, Insurance Code, as added by this Act, and Section 1551.224, Insurance Code, as amended by this Act apply only to a health benefit plan that is delivered, issued for delivery, or renewed on or after January 1, 2010. A health benefit plan that is delivered, issued for delivery, or renewed before January 1, 2010, is covered by the law in effect at the time the health benefit plan was delivered, issued for delivery, or renewed, and that law is continued in effect for that purpose.

The amendments were read.

Senator Nelson moved to concur in the House amendments to **SB 704**.

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

Nays: Hinojosa.

#### **SENATE BILL 958 WITH HOUSE AMENDMENT**

Senator Hegar called **SB 958** from the President's table for consideration of the House amendment to the bill.

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

### Floor Amendment No. 1

Amend **SB 958** (House committee printing) by adding the following appropriately numbered SECTION and renumbering subsequent SECTIONS accordingly:

SECTION \_\_\_\_\_. Section 151.328, Tax Code, is amended by amending Subsections (a) and (b) and adding Subsection (h) to read as follows:

(a) Aircraft are exempted from the taxes imposed by this chapter if:

(1) sold to a person using the aircraft as a certificated or licensed carrier of persons or property;

(2) sold to a person who:

(A) has a sales tax permit issued under this chapter; and

(B) uses the aircraft for the purpose of providing flight instruction that

is:

(i) recognized by the Federal Aviation Administration;

(ii) under the direct or general supervision of a flight instructor certified by the Federal Aviation Administration; and

(iii) designed to lead to a pilot certificate or rating issued by the Federal Aviation Administration or otherwise required by a rule or regulation of the Federal Aviation Administration;

(3) sold to a foreign government; ~~or~~

(4) sold in this state to a person for use and registration in another state or nation before any use in this state other than flight training in the aircraft and the transportation of the aircraft out of this state; or

(5) sold in this state to a person for use exclusively in connection with an agricultural use, as defined by Section 23.51, and used for:

(A) predator control;

(B) wildlife or livestock capture;

(C) wildlife or livestock surveys;

(D) census counts of wildlife or livestock;

(E) animal or plant health inspection services; or

(F) crop dusting, pollination, or seeding.

(b) Repair, remodeling, and maintenance services to aircraft, including an engine or other component part of aircraft, operated by a person described by Subsection (a)(1), ~~or~~ (a)(2), or (a)(5) are exempted from the taxes imposed by this chapter.

(h) For purposes of the exemption under Subsection (a)(5), an aircraft is considered to be for use exclusively in connection with an agricultural use if 95 percent of the use of the aircraft is for a purpose described by Subsections (a)(5)(A) through (F). Travel of less than 30 miles each way to a location to perform a service described by Subsections (a)(5)(A) through (F) does not disqualify an aircraft from the exemption under Subsection (a)(5). A person who claims an exemption under Subsection (a)(5) must maintain and make available to the comptroller flight records for all uses of the aircraft.

SECTION \_\_\_\_\_. The changes in law made by this Act to Section 151.328, Tax Code, are a clarification of existing law and do not imply that the former law may be construed as inconsistent with the law as amended by this Act.

The amendment was read.

Senator Hegar moved to concur in the House amendment to **SB 958**.

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

### **SENATE BILL 2047 WITH HOUSE AMENDMENT**

Senator Williams called **SB 2047** from the President's table for consideration of the House amendment to the bill.

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

#### **Committee Amendment No. 1**

Amend **SB 2047** by striking all of SECTION 5, line 18, page 4 and replace with the following:

SECTION 5. Subsection (a), Section 14, Article 18.21, Code of Criminal Procedure, is amended to read as follows:

(a) A district judge may issue an order for the installation and use [~~within the judge's judicial district~~] of a mobile tracking device in the same judicial district as the site of:

(1) the investigation; or

(2) the person, vehicle, container, item, or object the movement of which will be tracked by the mobile tracking device.

The amendment was read.

Senator Williams moved to concur in the House amendment to **SB 2047**.

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

### **SENATE RULE 8.02 SUSPENDED (Referral to Committee)**

Senator Averitt moved to suspend Senate Rule 8.02 to take up for consideration **HCR 252** at this time.

The motion prevailed by the following vote: Yeas 25, Nays 5.

Yeas: Averitt, Carona, Davis, Duncan, Ellis, Eltife, Estes, Fraser, Gallegos, Harris, Hegar, Hinojosa, Jackson, Lucio, Ogden, Seliger, Shapleigh, Uresti, Van de Putte, Watson, Wentworth, West, Whitmire, Williams, Zaffirini.

Nays: Deuell, Huffman, Nelson, Nichols, Patrick.

Absent: Shapiro.

### **HOUSE CONCURRENT RESOLUTION 252**

The President laid before the Senate the following resolution:

WHEREAS, The horse and greyhound racing industry in Texas has brought enormous economic benefits to the state's agricultural businesses and local communities over the past two decades; according to the Texas Racing Commission, the industry provides more than 36,000 jobs, \$5.5 billion in annual expenditures, \$2.5 billion in annual gross product, and \$148 million in annual state revenue; and

WHEREAS, Even so, in recent years horse and greyhound racing in Texas has struggled to compete with other forms of entertainment; attendance at horse and dog tracks has dropped 35 percent since 1998, and the amount of money wagered on races has fallen 28 percent during that period; and

WHEREAS, Several industry groups, including horse and dog owners and trainers and racetrack owners and workers, have expressed a desire to revitalize the industry through innovative advertising and marketing strategies and other initiatives; and

WHEREAS, Although the Texas Racing Commission provides regulation and oversight of the racing industry, the commission does not have the statutory authority to promote the very industry it oversees; as a result, another forum is needed to explore ways of stimulating Texas' horse and dog racing programs; now, therefore, be it

RESOLVED, That the 81st Legislature of the State of Texas hereby request the governor to appoint a Governor's Task Force on Horse and Greyhound Racing to:

(1) support and promote horse and greyhound racing and breeding programs in Texas;

(2) review the Texas Racing Act;

(3) establish guidelines for increasing revenue and creating more jobs within the industry;

(4) improve the working and living conditions of the people who work and reside in and around the racetracks; and

(5) develop methods to enhance participation in and enjoyment of the sport; and, be it further

RESOLVED, That the members of the task force be appointed by and serve at the pleasure of the governor, who may designate one member as the chair, and that the chair be authorized to determine the times and places for the task force to meet and to designate subcommittees to address specific issues; and, be it further

RESOLVED, That the governor's appointments to the task force include representatives from the training and breeding industries, the business community, the regulatory community, and other experts with an interest in horse and greyhound racing and that the membership also reflect the demographic diversity of the state; and, be it further

RESOLVED, That the governor's office and other state agencies may provide staff and funding to assist the task force in its work and the task force may consult with individuals familiar with the racing industry and may review and consider the horse and greyhound racing industries in other states; and, be it further

RESOLVED, That the task force submit a full report, including findings, recommendations, and possible legislation, to the governor, the lieutenant governor, and the speaker of the house of representatives before the convening of the 82nd Legislature on January 11, 2011; and, be it further

RESOLVED, That the task force be abolished not later than October 1, 2011.

AVERITT

**HCR 252** was read.



On motion of Senator Averitt, the resolution was considered immediately and was adopted by the following vote: Yeas 24, Nays 6.

Yeas: Averitt, Carona, Davis, Duncan, Ellis, Eltife, Estes, Fraser, Gallegos, Harris, Hinojosa, Jackson, Lucio, Ogden, Seliger, Shapleigh, Uresti, Van de Putte, Watson, Wentworth, West, Whitmire, Williams, Zaffirini.

Nays: Deuell, Hegar, Huffman, Nelson, Nichols, Patrick.

Absent: Shapiro.

**SENATE RULE 8.02 SUSPENDED**  
**(Referral to Committee)**

On motion of Senator Averitt and by unanimous consent, Senate Rule 8.02 was suspended to take up for consideration **HCR 181** at this time.

**HOUSE CONCURRENT RESOLUTION 181**

The President laid before the Senate the following resolution:

WHEREAS, The Brazos River is the longest river in Texas, with a watershed stretching from New Mexico to the Gulf of Mexico; intertwined with the history of the Lone Star State, the Brazos was well-known to early Spanish explorers, who called it "Los Brazos de Dios," or "the Arms of God"; and

WHEREAS, In its 840-mile journey from the confluence of the Salt and Double Mountain Forks in Stonewall County, the Brazos crosses most of the physiographic regions of Texas, including the High Plains, the West Texas Rolling Plains, the Western Cross Timbers, the Grand Prairie, and the Gulf Coastal Plain; one of the loveliest stretches, between Possum Kingdom Reservoir and Lake Whitney, was immortalized by John Graves in his acclaimed and enduringly popular book *Goodbye to a River*, first published in 1960; the 79th Texas Legislature recognized the author's contributions to literature and to public awareness of the Brazos by designating as the John Graves Scenic Riverway the portion of the river basin downstream of the Morris Shepard Dam to the county line between Parker and Hood Counties; and

WHEREAS, Equally picturesque is the neighboring section of the Brazos that meanders through the eastern third of Somervell County, where Mr. Graves has lived for decades on a Glen Rose farm; the riverbanks are lush with cedar, live oaks, and post oaks, and limestone cliffs and outcroppings provide a dramatic backdrop as kayakers and canoeists enjoy the gentle, winding course of the water, which is well suited to families and novice paddlers; the landscape here is characterized by vistas of rocky hills and small, fertile valleys, and the idyllic, agrarian setting is populated by a wide variety of wildlife, such as white-tailed deer, turkey, fox, and rabbits; bird-watchers delight in the region's great horned owls, whip-poor-wills, and waterfowl; visitors to this resort area can also witness some of the state's most vibrant fall colors and enjoy an abundance of wildflowers in the spring; and

WHEREAS, Generations of Texans have rejoiced in the unforgettable beauty of the Brazos River Basin in Somervell County, and nearly half a century after John Graves wrote his eloquent tribute, this part of the Brazos remains a natural treasure; now, therefore, be it

RESOLVED, That the 81st Legislature of the State of Texas hereby designate the section of the Brazos River Basin and its contributing watershed within Somervell County as the Scenic Riverway of Somervell County.

AVERITT

**HCR 181** was read.

On motion of Senator Averitt, the resolution was considered immediately and was adopted by the following vote: Yeas 31, Nays 0.

**SENATE RULE 8.02 SUSPENDED  
(Referral to Committee)**

On motion of Senator Hinojosa and by unanimous consent, Senate Rule 8.02 was suspended to take up for consideration **HCR 258** at this time.

**HOUSE CONCURRENT RESOLUTION 258**

The President laid before the Senate the following resolution:

WHEREAS, The display of the flag of the Socialist Republic of Vietnam on the central campus of the University of Houston, as well as on other campuses of higher learning, has caused great distress to many members of the Vietnamese American community; and

WHEREAS, This flag, which features a yellow star on a red background, was first adopted by the Indochinese Communist Party in the mid-20th century; it represents a source of anguish to countless people who fled to the United States as a welcoming haven of liberty and tolerance; to these esteemed citizens, the display of this flag is interpreted as a lack of respect for their historic struggles; and

WHEREAS, In contrast, the Freedom and Heritage Flag symbolizes both the Vietnamese cultural heritage and a deeply rooted resilience and yearning for democracy; this flag, which bears three red stripes on a background of golden yellow, was flown for the first time at a ceremony marking the official recognition by France of Vietnamese unity and independence; and

WHEREAS, The University of Houston and other institutions of higher learning can express their respect for Vietnamese American culture and their support for the ideals of liberty and democracy by replacing the flag of the Socialist Republic of Vietnam with the Freedom and Heritage Flag; now, therefore, be it

RESOLVED, That the 81st Legislature of the State of Texas hereby urge the University of Houston and other institutions of higher education to cease displaying the red flag of the Socialist Republic of Vietnam and to instead fly the golden yellow Freedom and Heritage Flag that has been embraced by the Vietnamese American community; and, be it further

RESOLVED, That the secretary of state forward an official copy of this resolution to the commissioner of higher education as an expression of the sentiment of the house of representatives and senate.

HINOJOSA

**HCR 258** was read.

On motion of Senator Hinojosa, the resolution was considered immediately and was adopted by the following vote: Yeas 31, Nays 0.

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 2298 ADOPTED**

Senator Watson called from the President's table the Conference Committee Report on **SB 2298**. The Conference Committee Report was filed with the Senate on Monday, May 25, 2009.

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

**AT EASE**

The President at 8:08 p.m. announced the Senate would stand At Ease subject to the call of the Chair.

**IN LEGISLATIVE SESSION**

The President at 8:44 p.m. called the Senate to order as In Legislative Session.

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 1206 ADOPTED**

Senator Hinojosa called from the President's table the Conference Committee Report on **SB 1206**. The Conference Committee Report was filed with the Senate on Friday, May 29, 2009.

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

**CONFERENCE COMMITTEE ON HOUSE BILL 3224**

Senator Whitmire called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 3224** and moved that the request be granted.

The motion prevailed without objection.

The President asked if there were any motions to instruct the conference committee on **HB 3224** before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate: Senators Whitmire, Chair; Hegar, Williams, Van de Putte, and Seliger.

**MESSAGE FROM THE HOUSE**

HOUSE CHAMBER  
Austin, Texas  
May 30, 2009

The Honorable President of the Senate  
Senate Chamber  
Austin, Texas

Mr. President:

I am directed by the House to inform the Senate that the House has taken the following action:

THE HOUSE HAS GRANTED THE REQUEST OF THE SENATE FOR THE APPOINTMENT OF A CONFERENCE COMMITTEE ON THE FOLLOWING MEASURES:

**SB 1742** (non-record vote)

House Conferees: Paxton - Chair/Laubenberg/Madden/McCall/Parker

**SB 2442** (non-record vote)

House Conferees: Gallego - Chair/Farabee/Miklos/Moody/Naishtat

Respectfully,

/s/Robert Haney, Chief Clerk  
House of Representatives

(Senator Williams in Chair)

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 1009**

Senator Deuell submitted the following Conference Committee Report:

Austin, Texas  
May 29, 2009

Honorable David Dewhurst  
President of the Senate

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 **SB 1009** 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.

DEUELL  
ELTIFE  
WHITMIRE  
On the part of the Senate

HARPER-BROWN  
J. DAVIS  
MORRISON  
On the part of the House

**A BILL TO BE ENTITLED  
AN ACT**

relating to the continuation and functions of the Commission on Jail Standards.

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

SECTION 1. Section 511.003, Government Code, is amended to read as follows:

Sec. 511.003. SUNSET PROVISION. The Commission on Jail Standards 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, 2021 [2009].

SECTION 2. Subsections (g), (h), (i), and (j), Section 511.004, Government Code, are amended to read as follows:

(g) A person is not eligible for appointment as a public member of the commission if the person or the person's spouse:

(1) is registered, certified, or licensed by a ~~[an occupational]~~ regulatory agency in the field of law enforcement;

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

(3) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization regulated by the commission or receiving funds from the commission; or

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

(h) A person who is appointed to and qualifies for [To be eligible to take] office as a member of the commission may not vote, deliberate, or be counted as a member in attendance at a meeting of the commission until the [—a] person completes [appointed to the commission must complete at least one course of] a training program that complies with Subsection (i).

(i) The training program required by Subsection (h) must provide information to the person regarding:

(1) this chapter [the enabling legislation that created the commission];

(2) the programs, functions, rules, and budget of [operated by] the commission;

(3) the results of the most recent formal audit [role and functions] of the commission;

(4) the requirements of laws relating to open meetings, public information, administrative procedure, and conflicts of interest [rules of the commission with an emphasis on the rules that relate to disciplinary and investigatory authority]; and

(5) [the current budget for the commission;

(6) the results of the most recent formal audit of the commission;

(7) the requirements of the:

[(A) open meetings law, Chapter 551;

(B) open records law, Chapter 552; and

(C) administrative procedure law, Chapter 2001;

(8) the requirements of the conflict of interests laws and other laws relating to public officials; and

(9) any applicable ethics policies adopted by the commission or the Texas Ethics Commission.

(j) A person appointed to the commission is entitled to reimbursement, [for travel expenses incurred in attending the training program required by Subsection (h)] as provided by the General Appropriations Act, for the travel expenses incurred in attending the training program required by Subsection (h) regardless of whether attendance at the program occurs before or after [and as if] the person qualifies for office [were a member of the commission].

SECTION 3. Subsection (a), Section 511.0041, Government Code, is amended to read as follows:

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

(1) does not have at the time of taking office [~~appointment~~] the qualifications required by Section 511.004;

(2) does not maintain during service on the commission the qualifications required by Section 511.004;

(3) is ineligible for membership under [~~violates a prohibition established by~~] Section 511.004(g) or 511.0042;

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

(5) is absent from more than half of the regularly scheduled commission meetings that the member is eligible to attend during a calendar year without an excuse approved [~~unless the absence is excused~~] by a majority vote of the commission.

SECTION 4. Section 511.0042, Government Code, is amended to read as follows:

Sec. 511.0042. CONFLICT OF INTEREST. (a) A person may not be a member of the commission and may not be a commission employee employed in a "bona fide executive, administrative, or professional capacity," as that phrase is used for purposes of establishing an exemption to the overtime provisions of the federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.), if:

(1) the person is an [An] officer, employee, or paid consultant of a Texas trade association in the field of county corrections; or

(2) the person's [may not be a member of the commission or an employee of the commission who is exempt from the state's position classification plan or is compensated at or above the amount prescribed by the General Appropriations Act for step 1, salary group 17, of the position classification salary schedule.

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

(b) In [(c) For the purposes of] this section, "Texas trade association" means [a Texas trade association is] a [nonprofit,] cooperative[;] and voluntarily joined statewide association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest.

(c) [(d)] A person may not be [serve as] a member of the commission or act as the general counsel to the commission 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.

SECTION 5. Chapter 511, Government Code, is amended by adding Section 511.0061 to read as follows:

Sec. 511.0061. USE OF TECHNOLOGY. The commission shall implement a policy requiring the commission to use appropriate technological solutions to improve the commission's ability to perform its functions. The policy must ensure that the public is able to interact with the commission on the Internet.

SECTION 6. Section 511.0071, Government Code, is amended by amending Subsections (a), (d), (e), and (f) and adding Subsection (a-1) to read as follows:

(a) The commission shall prepare information of public interest describing the functions of the commission and the commission's procedures by which complaints regarding the commission and complaints regarding jails under the commission's jurisdiction are filed with and resolved by the commission. The commission shall make the information available:

(1) to the public, inmates, county officials, and appropriate state agencies;  
and

(2) on any publicly accessible Internet website maintained by the commission.

(a-1) The commission shall adopt rules and procedures regarding the receipt, investigation, resolution, and disclosure to the public of complaints regarding the commission and complaints regarding jails under the commission's jurisdiction that are filed with the commission. The commission shall:

(1) prescribe a form or forms on which written complaints regarding the commission and complaints regarding jails under the commission's jurisdiction may be filed with the commission;

(2) keep an information file in accordance with Subsection (f) regarding each complaint filed with the commission regarding the commission or a jail under the commission's jurisdiction;

(3) develop procedures for prioritizing complaints filed with the commission and a reasonable time frame for responding to those complaints;

(4) maintain a system for promptly and efficiently acting on complaints filed with the commission;

(5) develop a procedure for tracking and analyzing all complaints filed with the commission, according to criteria that must include:

(A) the reason for or origin of complaints;

(B) the average number of days that elapse between the date on which complaints are filed, the date on which the commission first investigates or otherwise responds to complaints, and the date on which complaints are resolved;

(C) the outcome of investigations or the resolution of complaints, including dismissals and commission actions resulting from complaints;

(D) the number of pending complaints at the close of each fiscal year;  
and

(E) a list of complaint topics that the commission does not have jurisdiction to investigate or resolve; and

(6) regularly prepare and distribute to members of the commission a report containing a summary of the information compiled under Subdivision (5).

(d) [~~The commission shall keep an information file about each complaint filed with the commission that the commission has authority to resolve. The commission is not required to keep an information file about a complaint to the commission from or related to a prisoner of a county or municipal jail.~~] The commission shall adopt rules and procedures regarding the referral of ~~refer~~ a complaint filed with the commission

from or related to a prisoner to the appropriate local agency for investigation and resolution. The commission ~~and~~ may perform a special inspection of a facility named in the complaint to determine compliance with commission requirements.

(e) If a written complaint is filed with the commission that the commission has authority to resolve, the commission at least quarterly and until final disposition of the complaint shall notify the parties to the complaint of the status of the complaint, unless the notice would jeopardize an undercover investigation. This subsection does not apply to a complaint referred to a local agency under Subsection (d).

(f) The commission shall collect and maintain information about each complaint received by the commission regarding the commission or a jail under the commission's jurisdiction, including:

- (1) the date the complaint is received;
- (2) the name of the complainant;
- (3) the subject matter of the complaint;
- (4) a record of all persons contacted in relation to the complaint;
- (5) a summary of the results of the review or investigation of the complaint;

and

(6) for a complaint for which the agency took no action, an explanation of the reason the complaint was closed without action.

SECTION 7. Subsection (e), Section 511.008, Government Code, is amended to read as follows:

(e) The commission shall develop and implement policies that clearly separate the policymaking responsibilities of the commission and the management responsibilities of the executive director ~~[define the respective responsibilities of the commission]~~ and the staff of the commission.

SECTION 8. Chapter 511, Government Code, is amended by adding Section 511.0085 to read as follows:

Sec. 511.0085. RISK FACTORS; RISK ASSESSMENT PLAN. (a) The commission shall develop a comprehensive set of risk factors to use in assessing the overall risk level of each jail under the commission's jurisdiction. The set of risk factors must include:

(1) a history of the jail's compliance with state law and commission rules, standards, and procedures;

(2) the population of the jail;

(3) the number and nature of complaints regarding the jail, including complaints regarding a violation of any required ratio of correctional officers to inmates;

(4) problems with the jail's internal grievance procedures;

(5) available mental and medical health reports relating to inmates in the jail, including reports relating to infectious disease or pregnant inmates;

(6) recent turnover among sheriffs and jail staff;

(7) inmate escapes from the jail;

(8) the number and nature of inmate deaths at the jail, including the results of the investigations of those deaths; and



(9) whether the jail is in compliance with commission rules, standards developed by the Texas Correctional Office on Offenders with Medical or Mental Impairments, and the requirements of Article 16.22, Code of Criminal Procedure, regarding screening and assessment protocols for the early identification of and reports concerning persons with mental illness.

(b) The commission shall use the set of risk factors developed under Subsection (a) to guide the inspections process for all jails under the commission's jurisdiction by:

(1) establishing a risk assessment plan to use in assessing the overall risk level of each jail; and

(2) regularly monitoring the overall risk level of each jail.

SECTION 9. Subsection (a), Section 511.009, Government Code, is amended to read as follows:

(a) The commission shall:

(1) adopt reasonable rules and procedures establishing minimum standards for the construction, equipment, maintenance, and operation of county jails;

(2) adopt reasonable rules and procedures establishing minimum standards for the custody, care, and treatment of prisoners;

(3) adopt reasonable rules establishing minimum standards for the number of jail supervisory personnel and for programs and services to meet the needs of prisoners;

(4) adopt reasonable rules and procedures establishing minimum requirements for programs of rehabilitation, education, and recreation in county jails;

(5) revise, amend, or change rules and procedures if necessary;

(6) provide to local government officials consultation on and technical assistance for county jails;

(7) review and comment on plans for the construction and major modification or renovation of county jails;

(8) require that the sheriff and commissioners of each county submit to the commission, on a form prescribed by the commission, an annual report on the conditions in each county jail within their jurisdiction, including all information necessary to determine compliance with state law, commission orders, and the rules adopted under this chapter;

(9) review the reports submitted under Subdivision (8) and require commission employees to inspect county jails regularly to ensure compliance with state law, commission orders, and rules and procedures adopted under this chapter;

(10) adopt a classification system to assist sheriffs and judges in determining which defendants are low-risk and consequently suitable participants in a county jail work release program under Article 42.034, Code of Criminal Procedure;

(11) adopt rules relating to requirements for segregation of classes of inmates and to capacities for county jails;

(12) require that the chief jailer of each municipal lockup submit to the commission, on a form prescribed by the commission, an annual report of persons under 17 years of age securely detained in the lockup, including all information necessary to determine compliance with state law concerning secure confinement of children in municipal lockups;

(13) at least annually determine whether each county jail is in compliance with the rules and procedures adopted under this chapter;

(14) require that the sheriff and commissioners court of each county submit to the commission, on a form prescribed by the commission, an annual report of persons under 17 years of age securely detained in the county jail, including all information necessary to determine compliance with state law concerning secure confinement of children in county jails; ~~and~~

(15) schedule announced and unannounced inspections of jails under the commission's ~~its~~ jurisdiction using the risk assessment plan established under Section 511.0085 to guide the inspections process;

(16) adopt a policy for gathering and distributing to jails under the commission's jurisdiction information regarding:

(A) common issues concerning jail administration;

(B) examples of successful strategies for maintaining compliance with state law and the rules, standards, and procedures of the commission; and

(C) solutions to operational challenges for jails;

(17) report to the Texas Correctional Office on Offenders with Medical or Mental Impairments on a jail's compliance with Article 16.22, Code of Criminal Procedure;

(18) adopt reasonable rules and procedures establishing minimum requirements for jails to:

(A) determine if a prisoner is pregnant; and

(B) ensure that the jail's health services plan addresses medical and mental health care, including nutritional requirements, and any special housing or work assignment needs for persons who are confined in the jail and are known or determined to be pregnant; and

(19) provide guidelines to sheriffs regarding contracts between a sheriff and another entity for the provision of food services to or the operation of a commissary in a jail under the commission's jurisdiction, including specific provisions regarding conflicts of interest and avoiding the appearance of impropriety ~~[based on the jail's history of compliance with commission standards and other high-risk factors identified by the commission].~~

SECTION 10. Subsection (a), Section 511.0101, Government Code, is amended to read as follows:

(a) Each county shall submit to the commission on or before the fifth day of each month a report containing the following information:

(1) the number of prisoners confined in the county jail on the first day of the month, classified on the basis of the following categories:

(A) total prisoners;

(B) pretrial Class C misdemeanor offenders;

(C) pretrial Class A and B misdemeanor offenders;

(D) convicted misdemeanor offenders;

(E) felony offenders whose penalty has been reduced to a misdemeanor;

(F) pretrial felony offenders;

(G) convicted felony offenders;

(H) prisoners detained on bench warrants;

(I) prisoners detained for parole violations;

(J) prisoners detained for federal officers;

(K) prisoners awaiting transfer to the institutional division of the Texas Department of Criminal Justice following conviction of a felony or revocation of probation, parole, or release on mandatory supervision and for whom paperwork and processing required for transfer have been completed;

(L) prisoners detained after having been transferred from another jail and for whom the commission has made a payment under Subchapter F, Chapter 499, Government Code; and

(M) other prisoners;

(2) the total capacity of the county jail on the first day of the month; ~~and~~

(3) the total number of prisoners who were confined in the county jail during the preceding month, based on a count conducted on each day of that month, who were known or had been determined to be pregnant; and

(4) certification by the reporting official that the information in the report is accurate.

SECTION 11. Chapter 511, Government Code, is amended by adding Section 511.0115 to read as follows:

Sec. 511.0115. PUBLIC INFORMATION ABOUT COMPLIANCE STATUS OF JAILS. The commission shall provide information to the public concerning whether jails under the commission's jurisdiction are in compliance with state law and the rules, standards, and procedures of the commission:

(1) on any publicly accessible Internet website maintained by the commission; and

(2) through other formats, including newsletters or press releases, as determined by the commission.

SECTION 12. Chapter 511, Government Code, is amended by adding Section 511.018 to read as follows:

Sec. 511.018. ALTERNATIVE DISPUTE RESOLUTION. (a) The commission shall develop and implement a policy to encourage the use of:

(1) negotiated rulemaking procedures under Chapter 2008 for the adoption of commission rules; and

(2) appropriate alternative dispute resolution procedures under Chapter 2009 to assist in the resolution of internal and external disputes under the commission's jurisdiction.

(b) The commission's procedures relating to alternative dispute resolution must conform, to the extent possible, to any model guidelines issued by the State Office of Administrative Hearings for the use of alternative dispute resolution by state agencies.

(c) The commission shall designate a trained person to:

(1) coordinate the implementation of the policy adopted under Subsection (a);

(2) serve as a resource for any training needed to implement the procedures for negotiated rulemaking or alternative dispute resolution; and

(3) collect data concerning the effectiveness of those procedures, as implemented by the commission.

SECTION 13. Subsection (c), Section 511.0071, Government Code, is repealed.

SECTION 14. The change in law made by Subsection (h), Section 511.004, Government Code, as amended by this Act, regarding training for members of the Commission on Jail Standards does not affect the entitlement of a member serving on the commission immediately before September 1, 2009, to continue to serve and function as a member of the commission for the remainder of the member's term, unless otherwise removed as provided by law. The change in law described by Subsection (h), Section 511.004, Government Code, applies only to a member appointed or reappointed on or after September 1, 2009.

SECTION 15. The changes in law made by this Act in the prohibitions or qualifications applying to a member of the Commission on Jail Standards do not affect the entitlement of a member serving on the commission immediately before September 1, 2009, to continue to serve and function as a member of the commission for the remainder of the member's term, unless otherwise removed as provided by law. Those changes in law apply only to a member appointed on or after September 1, 2009.

SECTION 16. This Act takes effect September 1, 2009.

The Conference Committee Report on **SB 1009** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 328**

Senator Carona submitted the following Conference Committee Report:

Austin, Texas  
May 29, 2009

Honorable David Dewhurst  
President of the Senate

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 **SB 328** 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.

CARONA  
ZAFFIRINI  
WATSON  
SHAPLEIGH  
NICHOLS  
On the part of the Senate

PHILLIPS  
FLETCHER  
GATTIS  
MOODY  
PEÑA  
On the part of the House

A BILL TO BE ENTITLED  
AN ACT

relating to operating a motor vehicle or a watercraft while intoxicated or under the influence of alcohol.

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

SECTION 1. This Act shall be known as the Nicole "Lilly" Lalime Act.

SECTION 2. The heading to Section 106.041, Alcoholic Beverage Code, is amended to read as follows:

Sec. 106.041. DRIVING OR OPERATING WATERCRAFT UNDER THE INFLUENCE OF ALCOHOL BY MINOR.

SECTION 3. Subsections (a) and (g), Section 106.041, Alcoholic Beverage Code, are amended to read as follows:

(a) A minor commits an offense if the minor operates a motor vehicle in a public place, or a watercraft, while having any detectable amount of alcohol in the minor's system.

(g) An offense under this section is not a lesser included offense under Section 49.04, 49.045, or 49.06, Penal Code.

SECTION 4. Subsection (j), Section 106.041, Alcoholic Beverage Code, is amended by adding Subdivision (4) to read as follows:

(4) "Watercraft" has the meaning assigned by Section 49.01, Penal Code.

SECTION 5. Article 18.01, Code of Criminal Procedure, is amended by amending Subsection (c) and adding Subsection (j) to read as follows:

(c) A search warrant may not be issued under Article 18.02(10) ~~[pursuant to Subdivision (10) of Article 18.02 of this code]~~ unless the sworn affidavit required by Subsection (b) ~~[of this article]~~ sets forth sufficient facts to establish probable cause: (1) that a specific offense has been committed, (2) that the specifically described property or items that are to be searched for or seized constitute evidence of that offense or evidence that a particular person committed that offense, and (3) that the property or items constituting evidence to be searched for or seized are located at or on the particular person, place, or thing to be searched. Except as provided by Subsections (d), ~~[and] (i), and (j) [of this article]~~, only a judge of a municipal court of record or a county court who is an attorney licensed by the State of Texas, a statutory county court judge, a district court judge, a judge of the Court of Criminal Appeals, including the presiding judge, or a justice of the Supreme Court of Texas, including the chief justice, may issue warrants under Article 18.02(10) ~~[pursuant to Subdivision (10), Article 18.02 of this code]~~.

(j) Any magistrate who is an attorney licensed by this state may issue a search warrant under Article 18.02(10) to collect a blood specimen from a person who:

(1) is arrested for an offense under Section 49.04, 49.045, 49.05, 49.06, 49.065, 49.07, or 49.08, Penal Code; and

(2) refuses to submit to a breath or blood alcohol test.

SECTION 6. Subsections (h) and (n), Section 13, Article 42.12, Code of Criminal Procedure, are amended to read as follows:

(h) If a person convicted of an offense under Sections 49.04-49.08, Penal Code, is placed on community supervision, the judge shall require, as a condition of the community supervision, that the defendant attend and successfully complete before the 181st day after the day community supervision is granted an educational program jointly approved by the Texas Commission on Alcohol and Drug Abuse, the Department of Public Safety, the Traffic Safety Section of the Texas Department of Transportation, and the community justice assistance division of the Texas

Department of Criminal Justice designed to rehabilitate persons who have driven while intoxicated. The Texas Commission on Alcohol and Drug Abuse shall publish the jointly approved rules and shall monitor, coordinate, and provide training to persons providing the educational programs. The Texas Commission on Alcohol and Drug Abuse is responsible for the administration of the certification of approved educational programs and may charge a nonrefundable application fee for the initial certification of approval and for renewal of a certificate. The judge may waive the educational program requirement or may grant an extension of time to successfully complete the program that expires not later than one year after the beginning date of the person's community supervision, however, if the defendant by a motion in writing shows good cause. In determining good cause, the judge may consider but is not limited to: the defendant's school and work schedule, the defendant's health, the distance that the defendant must travel to attend an educational program, and the fact that the defendant resides out of state, has no valid driver's license, or does not have access to transportation. The judge shall set out the finding of good cause for waiver in the judgment. If a defendant is required, as a condition of community supervision, to attend an educational program or if the court waives the educational program requirement, the court clerk shall immediately report that fact to the Department of Public Safety, on a form prescribed by the department, for inclusion in the person's driving record. If the court grants an extension of time in which the person may complete the program, the court clerk shall immediately report that fact to the Department of Public Safety on a form prescribed by the department. The report must include the beginning date of the person's community supervision. Upon the person's successful completion of the educational program, the person's instructor shall give notice to the Department of Public Safety for inclusion in the person's driving record and to the community supervision and corrections department. The community supervision and corrections department shall then forward the notice to the court clerk for filing. If the Department of Public Safety does not receive notice that a defendant required to complete an educational program has successfully completed the program within the period required by this section, as shown on department records, the department shall revoke the defendant's driver's license, permit, or privilege or prohibit the person from obtaining a license or permit, as provided by Sections 521.344(e) and (f), Transportation Code. The Department of Public Safety may not reinstate a license suspended under this subsection unless the person whose license was suspended makes application to the department for reinstatement of the person's license and pays to the department a reinstatement fee of \$100 [~~\$50~~]. The Department of Public Safety shall remit all fees collected under this subsection to the comptroller for deposit in the general revenue fund. This subsection does not apply to a defendant if a jury recommends community supervision for the defendant and also recommends that the defendant's driver's license not be suspended.

(n) Notwithstanding any other provision of this section or other law, the judge who places on community supervision a defendant who was [~~is~~] younger than 21 years of age at the time of the offense and was convicted for an offense under Sections 49.04-49.08, Penal Code, shall:

(1) order that the defendant's driver's license be suspended for 90 days beginning on the date that the person is placed on community supervision; and

(2) require as a condition of community supervision that the defendant not operate a motor vehicle unless the vehicle is equipped with the device described by Subsection (i) of this section.

SECTION 7. Section 521.341, Transportation Code, is amended to read as follows:

Sec. 521.341. REQUIREMENTS FOR AUTOMATIC LICENSE SUSPENSION. Except as provided by Sections 521.344(d)-(i), a license is automatically suspended on final conviction of the license holder of:

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

(2) an offense under Section 38.04, Penal Code, if the holder used a motor vehicle in the commission of the offense;

(3) an offense under Section 49.04, 49.045, or 49.08, Penal Code;

(4) an offense under Section 49.07, Penal Code, if the holder used a motor vehicle in the commission of the offense;

(5) an offense punishable as a felony under the motor vehicle laws of this state;

(6) an offense under Section 550.021;

(7) an offense under Section 521.451 or 521.453; or

(8) an offense under Section 19.04, Penal Code, if the holder used a motor vehicle in the commission of the offense.

SECTION 8. Subsections (a) and (b), Section 521.342, Transportation Code, are amended to read as follows:

(a) Except as provided by Section 521.344, the license of a person who was under 21 years of age at the time of the offense, other than an offense classified as a misdemeanor punishable by fine only, is automatically suspended on conviction of:

(1) an offense under Section 49.04, 49.045, or 49.07, Penal Code, committed as a result of the introduction of alcohol into the body;

(2) an offense under the Alcoholic Beverage Code, other than an offense to which Section 106.071 of that code applies, involving the manufacture, delivery, possession, transportation, or use of an alcoholic beverage;

(3) a misdemeanor offense under Chapter 481, Health and Safety Code, for which Subchapter P does not require the automatic suspension of the license;

(4) an offense under Chapter 483, Health and Safety Code, involving the manufacture, delivery, possession, transportation, or use of a dangerous drug; or

(5) an offense under Chapter 485, Health and Safety Code, involving the manufacture, delivery, possession, transportation, or use of an abusable volatile chemical.

(b) The department shall suspend for one year the license of a person who is under 21 years of age and is convicted of an offense under Section 49.04, 49.045, 49.07, or 49.08, Penal Code, regardless of whether the person is required to attend an educational program under Section 13(h), Article 42.12, Code of Criminal Procedure, that is designed to rehabilitate persons who have operated motor vehicles while intoxicated, unless the person is placed under community supervision under that article and is required as a condition of the community supervision to not operate a motor vehicle unless the vehicle is equipped with the device described by Section

13(i) of that article. If the person is required to attend such a program and does not complete the program before the end of the person's suspension, the department shall suspend the person's license or continue the suspension, as appropriate, until the department receives proof that the person has successfully completed the program. On the person's successful completion of the program, the person's instructor shall give notice to the department and to the community supervision and corrections department in the manner provided by Section 13(h), Article 42.12, Code of Criminal Procedure.

SECTION 9. Subsections (a), (c), and (i), Section 521.344, Transportation Code, are amended to read as follows:

(a) Except as provided by Sections 521.342(b) and 521.345, and by Subsections (d)-(i), if a person is convicted of an offense under Section 49.04, 49.045, or 49.07, Penal Code, the license suspension:

(1) begins on a date set by the court that is not earlier than the date of the conviction or later than the 30th day after the date of the conviction, as determined by the court; and

(2) continues for a period set by the court according to the following schedule:

(A) not less than 90 days or more than one year, if the person is punished under Section 49.04, 49.045, or 49.07, Penal Code, except that if the person's license is suspended for a second or subsequent offense under Section 49.07 committed within five years of the date on which the most recent preceding offense was committed, the suspension continues for a period of one year;

(B) not less than 180 days or more than two years, if the person is punished under Section 49.09(a) or (b), Penal Code; or

(C) not less than one year or more than two years, if the person is punished under Section 49.09(a) or (b), Penal Code, and is subject to Section 49.09(h) of that code.

(c) The court shall credit toward the period of suspension a suspension imposed on the person for refusal to give a specimen under Chapter 724 if the refusal followed an arrest for the same offense for which the court is suspending the person's license under this chapter. The court may not extend the credit to a person:

(1) who has been previously convicted of an offense under Section 49.04, 49.045, 49.07, or 49.08, Penal Code; or

(2) whose period of suspension is governed by Section 521.342(b).

(i) On the date that a suspension order under Section 521.343(c) is to expire, the period of suspension or the corresponding period in which the department is prohibited from issuing a license is automatically increased to two years unless the department receives notice of successful completion of the educational program as required by Section 13, Article 42.12, Code of Criminal Procedure. At the time a person is convicted of an offense under Section 49.04 or 49.045, Penal Code, the court shall warn the person of the effect of this subsection. On the person's successful completion of the program, the person's instructor shall give notice to the department and to the community supervision and corrections department in the manner required



by Section 13, Article 42.12, Code of Criminal Procedure. If the department receives proof of completion after a period has been extended under this subsection, the department shall immediately end the suspension or prohibition.

SECTION 10. Subdivision (3), Section 524.001, Transportation Code, is amended to read as follows:

(3) "Alcohol-related or drug-related enforcement contact" means a driver's license suspension, disqualification, or prohibition order under the laws of this state or another state resulting from:

(A) a conviction of an offense prohibiting the operation of a motor vehicle or watercraft while:

- (i) intoxicated;
- (ii) under the influence of alcohol; or
- (iii) under the influence of a controlled substance;

(B) a refusal to submit to the taking of a breath or blood specimen following an arrest for an offense prohibiting the operation of a motor vehicle or an offense prohibiting the operation of a watercraft, if the watercraft was powered with an engine having a manufacturer's rating of 50 horsepower or more, while:

- (i) intoxicated;
- (ii) under the influence of alcohol; or
- (iii) under the influence of a controlled substance; or

(C) an analysis of a breath or blood specimen showing an alcohol concentration of a level specified by Section 49.01, Penal Code, following an arrest for an offense prohibiting the operation of a motor vehicle or watercraft while intoxicated.

SECTION 11. Subsection (a), Section 524.011, Transportation Code, is amended to read as follows:

(a) An officer arresting a person shall comply with Subsection (b) if:

(1) the person is arrested for an offense under Section 49.04, 49.045, or 49.06, Penal Code, or an offense under Section 49.07 or 49.08 of that code involving the operation of a motor vehicle or watercraft, submits to the taking of a specimen of breath or blood and an analysis of the specimen shows the person had an alcohol concentration of a level specified by Section 49.01(2)(B), Penal Code; or

(2) the person is a minor arrested for an offense under Section 106.041, Alcoholic Beverage Code, or Section 49.04, 49.045, or 49.06, Penal Code, or an offense under Section 49.07 or 49.08, Penal Code, involving the operation of a motor vehicle or watercraft and:

(A) the minor is not requested to submit to the taking of a specimen; or  
(B) the minor submits to the taking of a specimen and an analysis of the specimen shows that the minor had an alcohol concentration of greater than .00 but less than the level specified by Section 49.01(2)(B), Penal Code.

SECTION 12. Subsection (b), Section 524.012, Transportation Code, is amended to read as follows:

(b) The department shall suspend the person's driver's license if the department determines that:

(1) the person had an alcohol concentration of a level specified by Section 49.01(2)(B), Penal Code, while operating a motor vehicle in a public place or while operating a watercraft; or

(2) the person was ~~is~~ a minor on the date that the breath or blood specimen was obtained and had any detectable amount of alcohol in the minor's system while operating a motor vehicle in a public place or while operating a watercraft.

SECTION 13. Subsection (b), Section 524.015, Transportation Code, is amended to read as follows:

(b) A suspension may not be imposed under this chapter on a person who is acquitted of a criminal charge under Section 49.04, 49.045, 49.06, 49.07, or 49.08, Penal Code, or Section 106.041, Alcoholic Beverage Code, arising from the occurrence that was the basis for the suspension. If a suspension was imposed before the acquittal, the department shall rescind the suspension and shall remove any reference to the suspension from the person's computerized driving record.

SECTION 14. Subsection (b), Section 524.022, Transportation Code, is amended to read as follows:

(b) A period of suspension under this chapter for a minor is:

(1) 60 days if the minor has not been previously convicted of an offense under Section 106.041, Alcoholic Beverage Code, or Section 49.04, 49.045, or 49.06, Penal Code, or an offense under Section 49.07 or 49.08, Penal Code, involving the operation of a motor vehicle or a watercraft;

(2) 120 days if the minor has been previously convicted once of an offense listed by Subdivision (1); or

(3) 180 days if the minor has been previously convicted twice or more of an offense listed by Subdivision (1).

SECTION 15. Section 524.023, Transportation Code, is amended to read as follows:

Sec. 524.023. APPLICATION OF SUSPENSION UNDER OTHER LAWS.

(a) If a person is convicted of an offense under Section 106.041, Alcoholic Beverage Code, or Section 49.04, 49.045, 49.06, 49.07, or 49.08, Penal Code, and if any conduct on which that conviction is based is a ground for a driver's license suspension under this chapter and Section 106.041, Alcoholic Beverage Code, Subchapter O, Chapter 521, or Subchapter H, Chapter 522, each of the suspensions shall be imposed.

(b) The court imposing a driver's license suspension under Section 106.041, Alcoholic Beverage Code, or Chapter 521 or 522 as required by Subsection (a) shall credit a period of suspension imposed under this chapter toward the period of suspension required under Section 106.041, Alcoholic Beverage Code, or Subchapter O, Chapter 521, or Subchapter H, Chapter 522, unless the person was convicted of an offense under Article 67011-1, Revised Statutes, as that law existed before September 1, 1994, Section 19.05(a)(2), Penal Code, as that law existed before September 1, 1994, Section 49.04, 49.045, 49.06, 49.07, or 49.08, Penal Code, or Section 106.041, Alcoholic Beverage Code, before the date of the conviction on which the suspension is based, in which event credit may not be given.

SECTION 16. Subsections (a) and (d), Section 524.035, Transportation Code, are amended to read as follows:

(a) The issues that must be proved at a hearing by a preponderance of the evidence are:

(1) whether:

(A) the person had an alcohol concentration of a level specified by Section 49.01(2)(B), Penal Code, while operating a motor vehicle in a public place or while operating a watercraft; or

(B) the person was ~~[is]~~ a minor on the date that the breath or blood specimen was obtained and had any detectable amount of alcohol in the minor's system while operating a motor vehicle in a public place or while operating a watercraft; and

(2) whether reasonable suspicion to stop or probable cause to arrest the person existed.

(d) An administrative law judge may not find in the affirmative on the issue in Subsection (a)(1) if:

(1) the person is an adult and the analysis of the person's breath or blood determined that the person had an alcohol concentration of a level below that specified by Section 49.01, Penal Code, at the time the specimen was taken; or

(2) the person was ~~[is]~~ a minor on the date that the breath or blood specimen was obtained and the administrative law judge does not find that the minor had any detectable amount of alcohol in the minor's system when the minor was arrested.

SECTION 17. Subsection (a), Section 524.042, Transportation Code, is amended to read as follows:

(a) A suspension of a driver's license under this chapter is stayed on the filing of an appeal petition only if:

(1) the person's driver's license has not been suspended as a result of an alcohol-related or drug-related enforcement contact during the five years preceding the date of the person's arrest; and

(2) the person has not been convicted during the 10 years preceding the date of the person's arrest of an offense under:

(A) Article 67011-1, Revised Statutes, as that law existed before September 1, 1994;

(B) Section 19.05(a)(2), Penal Code, as that law existed before September 1, 1994;

(C) Section 49.04, 49.045, or 49.06, Penal Code;

(D) Section 49.07 or 49.08, Penal Code, if the offense involved the operation of a motor vehicle or a watercraft; or

(E) Section 106.041, Alcoholic Beverage Code.

SECTION 18. Subsections (b) and (d), Section 724.012, Transportation Code, are amended to read as follows:

(b) A peace officer shall require the taking of a specimen of the person's breath or blood under any of the following circumstances if[-:

~~[(+)]~~ the officer arrests the person for an offense under Chapter 49, Penal Code, involving the operation of a motor vehicle or a watercraft and the person refuses the officer's request to submit to the taking of a specimen voluntarily:[-]

(1) ~~[(2)]~~ the person was the operator of a motor vehicle or a watercraft involved in an accident that the officer reasonably believes occurred as a result of the offense and, ~~[;~~

~~[(2)]~~ at the time of the arrest, the officer reasonably believes that as a direct result of the accident:

(A) any individual has died or will die; ~~[or]~~

(B) an individual other than the person has suffered serious bodily injury; or

(C) an individual other than the person has suffered bodily injury and been transported to a hospital or other medical facility for medical treatment;

(2) the offense for which the officer arrests the person is an offense under Section 49.045, Penal Code; or

(3) at the time of the arrest, the officer possesses or receives reliable information from a credible source that the person:

(A) has been previously convicted of or placed on community supervision for an offense under Section 49.045, 49.07, or 49.08, Penal Code, or an offense under the laws of another state containing elements substantially similar to the elements of an offense under those sections; or

(B) on two or more occasions, has been previously convicted of or placed on community supervision for an offense under Section 49.04, 49.05, 49.06, or 49.065, Penal Code, or an offense under the laws of another state containing elements substantially similar to the elements of an offense under those sections ~~and~~

~~[(4) the person refuses the officer's request to submit to the taking of a specimen voluntarily].~~

(d) In this section, "bodily injury" and "serious bodily injury" have [has] the meanings ~~[meaning]~~ assigned by Section 1.07, Penal Code.

SECTION 19. Section 724.017, Transportation Code, is amended by amending Subsection (b) and adding Subsection (d) to read as follows:

(b) If the blood specimen was taken according to recognized medical procedures, the [The] person who takes the blood specimen under this chapter, the facility that employs the person who takes the blood specimen, or the hospital where the blood specimen is taken[;] is immune from civil liability ~~[not liable]~~ for damages arising from the taking of the blood specimen at the request or order of the peace officer or pursuant to a search warrant ~~[to take the blood specimen]~~ as provided by this chapter and is not subject to discipline by any licensing or accrediting agency or body ~~[if the blood specimen was taken according to recognized medical procedures].~~

This subsection does not relieve a person from liability for negligence in the taking of a blood specimen. The taking of a specimen from a person who objects to the taking of the specimen or who is resisting the taking of the specimen does not in itself constitute negligence and may not be considered evidence of negligence.

(d) A person whose blood specimen is taken under this chapter in a hospital is not considered to be present in the hospital for medical screening or treatment unless the appropriate hospital personnel determine that medical screening or treatment is required for proper medical care of the person.

SECTION 20. (a) The change in law to Article 18.01, Code of Criminal Procedure, applies only to a search warrant issued on or after the effective date of this Act. A search warrant issued before the effective date of this Act is governed by the law in effect on the date the warrant was issued, and the former law is continued in effect for that purpose.

(b) The changes in law to Chapters 521 and 524 and Section 724.012, Transportation Code, and Section 13, Article 42.12, Code of Criminal Procedure, apply 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 covered by the law in effect when 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 was committed before that date.

SECTION 21. This Act takes effect September 1, 2009.

The Conference Committee Report on **SB 328** was filed with the Secretary of the Senate.

### CONFERENCE COMMITTEE REPORT ON SENATE BILL 1557

Senator Duncan submitted the following Conference Committee Report:

Austin, Texas  
May 29, 2009

Honorable David Dewhurst  
President of the Senate

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 **SB 1557** 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.

DUNCAN  
CARONA  
HINOJOSA  
SELIGER  
WHITMIRE

On the part of the Senate

GALLEGO  
MOODY  
MIKLOS  
FLETCHER  
CHRISTIAN

On the part of the House

### A BILL TO BE ENTITLED AN ACT

relating to the early identification of criminal defendants who are or may be persons with mental illness or mental retardation.

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

SECTION 1. Article 16.22, Code of Criminal Procedure, is amended to read as follows:

Art. 16.22. EARLY IDENTIFICATION ~~[EXAMINATION AND TRANSFER]~~  
OF DEFENDANT SUSPECTED OF HAVING MENTAL ILLNESS OR MENTAL  
RETARDATION. (a)(1) Not later than 72 hours after receiving credible information  
~~[evidence or a statement]~~ that may establish reasonable cause to believe that a  
defendant committed to the sheriff's custody has a mental illness or is a person with  
mental retardation, including observation of the defendant's behavior immediately  
before, during, and after the defendant's arrest and the results of any previous  
assessment of the defendant, the sheriff shall provide written or electronic notice of  
the information to the ~~[notify a]~~ magistrate ~~[of that fact]. [A defendant's behavior or~~  
~~the result of a prior evaluation indicating a need for referral for further mental health~~  
~~or mental retardation assessment must be considered in determining whether~~  
~~reasonable cause exists to believe the defendant has a mental illness or is a person~~  
~~with mental retardation.]~~ On a determination that there is reasonable cause to believe  
that the defendant has a mental illness or is a person with mental retardation, the  
magistrate, except as provided by Subdivision (2), shall order ~~[an examination of the~~  
~~defendant by]~~ the local mental health or mental retardation authority or another  
qualified mental health or mental retardation expert to:

(A) collect information regarding ~~[determine]~~ whether the defendant  
has a mental illness as defined by Section 571.003, Health and Safety Code, or is a  
person with mental retardation as defined by Section 591.003, Health and Safety  
Code, including information obtained from any previous assessment of the defendant;  
and

(B) provide to the magistrate a written assessment of the information  
collected under Paragraph (A).

(2) The magistrate is not required to order the collection of information  
under ~~[an examination described by]~~ Subdivision (1) if the defendant in the year  
preceding the defendant's applicable date of arrest has been ~~[evaluated and]~~  
determined to have a mental illness or to be a person with mental retardation by the  
local mental health or mental retardation authority or another mental health or mental  
retardation expert described by Subdivision (1). A court that elects to use the results  
of that previous determination ~~[evaluation]~~ may proceed under Subsection (c).

(3) If the defendant fails or refuses to submit to the collection of information  
regarding the defendant as ~~[an examination]~~ required under Subdivision (1), the  
magistrate may order the defendant to submit to an examination in a mental health  
facility determined to be appropriate by the local mental health or mental retardation  
authority for a reasonable period not to exceed 21 days. The magistrate may order a  
defendant to a facility operated by the Department of State Health Services or the  
Department of Aging and Disability Services for examination only on request of the  
local mental health or mental retardation authority and with the consent of the head of  
the facility. If a defendant who has been ordered to a facility operated by the  
Department of State Health Services or the Department of Aging and Disability  
Services for examination remains in the facility for a period exceeding 21 days, the  
head of that facility shall cause the defendant to be immediately transported to the  
committing court and placed in the custody of the sheriff of the county in which the

committing court is located. That county shall reimburse the facility for the mileage and per diem expenses of the personnel required to transport the defendant calculated in accordance with the state travel regulations in effect at the time.

(b) A written assessment of the information collected under Subsection (a)(1)(A) ~~[report of the examination]~~ shall be provided ~~[submitted]~~ to the magistrate not later than the 30th day after the date of any order ~~[of examination]~~ issued under Subsection (a) in a felony case and not later than the 10th day after the date of any order ~~[of examination]~~ issued under that subsection in a misdemeanor case, and the magistrate shall provide copies of the written assessment ~~[report]~~ to the defense counsel, ~~[and]~~ the prosecuting attorney, and the trial court. The written assessment ~~[report]~~ must include a description of the procedures used in the collection of information under Subsection (a)(1)(A) ~~[examination]~~ and the applicable expert's ~~[examiner's]~~ observations and findings pertaining to:

(1) whether the defendant is a person who has a mental illness or is a person with mental retardation;

(2) whether there is clinical evidence to support a belief that the defendant may be incompetent to stand trial and should undergo a complete competency examination under Subchapter B, Chapter 46B; and

(3) recommended treatment.

(c) After the trial court receives the applicable ~~[examining]~~ expert's written assessment ~~[report]~~ relating to the defendant under Subsection (b) or elects to use the results of a previous determination as ~~[an evaluation]~~ described by Subsection (a)(2), the trial court may, as applicable:

(1) resume criminal proceedings against the defendant, including any appropriate proceedings related to the defendant's release on personal bond under Article 17.032; ~~[or]~~

(2) resume or initiate competency proceedings, if required, as provided by Chapter 46B or other proceedings affecting the defendant's receipt of appropriate court-ordered mental health or mental retardation services, including proceedings related to the defendant's receipt of outpatient mental health services under Section 574.034, Health and Safety Code; or

(3) consider the written assessment during the punishment phase after a conviction of the offense for which the defendant was arrested, as part of a presentence investigation report, or in connection with the impositions of conditions following placement on community supervision, including deferred adjudication community supervision.

(d) This article does not prevent ~~[Nothing in this article prevents]~~ the applicable court from, before, during, or after the collection of information regarding the defendant ~~[pending an evaluation of the defendant]~~ as described by this article:

(1) releasing a mentally ill or mentally retarded defendant from custody on personal or surety bond; or

(2) ordering an examination regarding the defendant's competency to stand trial.

SECTION 2. Subsection (b), Article 17.032, Code of Criminal Procedure, is amended to read as follows:

(b) A magistrate shall release a defendant on personal bond unless good cause is shown otherwise if the:

(1) defendant is not charged with and has not been previously convicted of a violent offense;

(2) defendant is examined by the local mental health or mental retardation authority or another mental health expert under Article 16.22 of this code;

(3) applicable ~~[examining]~~ expert, in a written assessment ~~[report]~~ submitted to the magistrate under Article 16.22:

(A) concludes that the defendant has a mental illness or is a person with mental retardation and is nonetheless competent to stand trial; and

(B) recommends mental health treatment for the defendant; and

(4) magistrate determines, in consultation with the local mental health or mental retardation authority, that appropriate community-based mental health or mental retardation services for the defendant are available through the Texas Department of Mental Health and Mental Retardation under Section 534.053, Health and Safety Code, or through another mental health or mental retardation services provider.

SECTION 3. Subsection (d), Section 11, Article 42.12, Code of Criminal Procedure, is amended to read as follows:

(d) If the judge places a defendant on community supervision and the defendant is determined to have a mental illness or be a person with mental retardation as provided by ~~[an examining expert under]~~ Article 16.22 or Chapter 46B or in a psychological evaluation conducted under Section 9(i) of this article, the judge may require the defendant as a condition of community supervision to submit to outpatient or inpatient mental health or mental retardation treatment if the:

(1) defendant's:

(A) mental impairment is chronic in nature; or

(B) ability to function independently will continue to deteriorate if the defendant does not receive mental health or mental retardation services; and

(2) judge determines, in consultation with a local mental health or mental retardation services provider, that appropriate mental health or mental retardation services for the defendant are available through the Texas Department of Mental Health and Mental Retardation under Section 534.053, Health and Safety Code, or through another mental health or mental retardation services provider.

SECTION 4. The change in law made by this Act applies only to a defendant charged with an offense committed on or after the effective date of this Act. A defendant charged with an offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. 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 5. This Act takes effect September 1, 2009.

The Conference Committee Report on **SB 1557** was filed with the Secretary of the Senate.



**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 1659**

Senator Patrick submitted the following Conference Committee Report:

Austin, Texas  
May 29, 2009

Honorable David Dewhurst  
President of the Senate  
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 1659** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

PATRICK  
ELLIS  
HUFFMAN  
WILLIAMS

On the part of the Senate

P. KING  
FROST  
DRIVER  
VO

On the part of the House

The Conference Committee Report on **HB 1659** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 1924**

Senator Seliger submitted the following Conference Committee Report:

Austin, Texas  
May 30, 2009

Honorable David Dewhurst  
President of the Senate  
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 1924** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

SELIGER  
NICHOLS  
URESTI  
VAN DE PUTTE

On the part of the Senate

HEFLIN  
HOPSON  
CHISUM  
SWINFORD

On the part of the House

The Conference Committee Report on **HB 1924** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 3637**

Senator Wentworth submitted the following Conference Committee Report:

Austin, Texas  
May 29, 2009

Honorable David Dewhurst  
President of the Senate

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 3637** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

WENTWORTH  
HINOJOSA  
WATSON  
WILLIAMS  
On the part of the Senate

HUGHES  
EILAND  
SMITHEE  
S. TURNER  
On the part of the House

The Conference Committee Report on **HB 3637** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 1914**

Senator Nichols submitted the following Conference Committee Report:

Austin, Texas  
May 27, 2009

Honorable David Dewhurst  
President of the Senate

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 1914** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

NICHOLS  
WHITMIRE  
SHAPLEIGH  
PATRICK  
On the part of the Senate

MCREYNOLDS  
CHRISTIAN  
ENGLAND  
HODGE  
MADDEN  
On the part of the House

The Conference Committee Report on **HB 1914** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 2644**

Senator Deuell submitted the following Conference Committee Report:

Austin, Texas  
May 29, 2009

Honorable David Dewhurst  
President of the Senate

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 2644** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

DEUELL  
CARONA  
URESTI

KENT  
SHELTON  
ANCHIA  
MARQUEZ  
FROST

On the part of the Senate

On the part of the House

The Conference Committee Report on **HB 2644** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 2330**

Senator Zaffirini submitted the following Conference Committee Report:

Austin, Texas  
May 29, 2009

Honorable David Dewhurst  
President of the Senate

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 2330** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

ZAFFIRINI  
DEUELL  
VAN DE PUTTE  
NICHOLS

GUILLEN  
NAISHTAT  
KOLKHORST  
ZERWAS

SHAPLEIGH  
On the part of the Senate

S. KING  
On the part of the House

The Conference Committee Report on **HB 2330** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 3218**

Senator Zaffirini submitted the following Conference Committee Report:

Austin, Texas  
May 24, 2009

Honorable David Dewhurst  
President of the Senate

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 3218** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

ZAFFIRINI  
CARONA  
DEUELL  
DUNCAN  
VAN DE PUTTE  
On the part of the Senate

NAISHTAT  
HERRERO  
PHILLIPS  
PATRICK  
T. KING  
On the part of the House

The Conference Committee Report on **HB 3218** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 72**

Senator Zaffirini submitted the following Conference Committee Report:

Austin, Texas  
May 28, 2009

Honorable David Dewhurst  
President of the Senate

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 72** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

ZAFFIRINI  
CARONA

GUILLEN  
PHILLIPS

ELTIFE  
HINOJOSA  
WENTWORTH  
On the part of the Senate

GONZALEZ TOUREILLES  
HUNTER  
GONZALES  
On the part of the House

The Conference Committee Report on **HB 72** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 2571**

Senator Hinojosa submitted the following Conference Committee Report:

Austin, Texas  
May 29, 2009

Honorable David Dewhurst  
President of the Senate  
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 2571** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

HINOJOSA  
NELSON  
CARONA  
ZAFFIRINI  
WILLIAMS  
On the part of the Senate

GONZALES  
PHILLIPS  
MCCLENDON  
T. SMITH  
PICKETT  
On the part of the House

The Conference Committee Report on **HB 2571** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 2649**

Senator Deuell submitted the following Conference Committee Report:

Austin, Texas  
May 30, 2009

Honorable David Dewhurst  
President of the Senate  
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 2649** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

DEUELL  
WATSON  
WENTWORTH  
LUCIO

On the part of the Senate

W. SMITH  
HARLESS  
CALLEGARI  
ANDERSON  
HOMER

On the part of the House

The Conference Committee Report on **HB 2649** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 1495**

Senator Williams submitted the following Conference Committee Report:

Austin, Texas  
May 30, 2009

Honorable David Dewhurst  
President of the Senate

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 **SB 1495** 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.

WILLIAMS  
AVERITT  
CARONA  
HINOJOSA  
WEST

On the part of the Senate

OLIVEIRA  
HARTNETT  
KEFFER  
OTTO  
PEÑA

On the part of the House

**A BILL TO BE ENTITLED  
AN ACT**

relating to the taxation of motor fuels; providing penalties.

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

SECTION 1. Subsection (b), Section 101.009, Tax Code, is amended to read as follows:

(b) Cigarette tax revenue allocated under Section 154.603(b) [~~of this code~~] shall be allocated as provided by Section 154.603 [~~of this code~~]. Motor fuel tax revenue shall be allocated and deposited as provided by Subchapter F, Chapter 162 [~~of Chapter 153 of this code~~].

SECTION 2. Subsection (g), Section 111.006, Tax Code, is amended to read as follows:

(g) Information made confidential by Subsection (a)(2) that relates to a taxpayer's responsibilities under Chapter 162 [~~153~~] may be examined by an official of another state or of the United States if:

(1) the official has information that would assist the comptroller in administering Chapter 162 [~~153~~];

(2) the comptroller is conducting or may conduct an examination or a criminal investigation of the taxpayer that is the subject of the information made confidential by Subsection (a)(2); and

(3) a reciprocal agreement exists allowing the comptroller to examine information under the control of the official in a manner substantially equivalent to the official's access to information under this subsection.

SECTION 3. Subsection (d), Section 111.060, Tax Code, is amended to read as follows:

(d) Subsection (c) does not apply to the taxes imposed by Chapters 152 and 211 or under an agreement made under Section 162.003 [~~153.017~~].

SECTION 4. Subsection (d), Section 111.064, Tax Code, is amended to read as follows:

(d) This section does not apply to an amount paid to the comptroller under Title 6, Property Code, or under an agreement made under Section 162.003 [~~153.017~~].

SECTION 5. Subsection (a), Section 111.107, Tax Code, is amended to read as follows:

(a) Except as otherwise expressly provided, a person may request a refund or a credit or the comptroller may make a refund or issue a credit for the overpayment of a tax imposed by this title at any time before the expiration of the period during which the comptroller may assess a deficiency for the tax and not thereafter unless the refund or credit is requested:

(1) under Subchapter B of Chapter 112 and the refund is made or the credit is issued under a court order;

(2) under the provision of Section 111.104(c)(3) applicable to a refund claim filed after a jeopardy or deficiency determination becomes final; or

(3) under Chapter 162 [~~153~~], except Section 162.126(f) [~~153.1195(e)~~], 162.128(d) [~~153.121(d)~~], 162.228(f) [~~153.2225(e)~~], or 162.230(d) [~~153.224(d)~~].

SECTION 6. Section 151.308, Tax Code, is amended to read as follows:

Sec. 151.308. ITEMS TAXED BY OTHER LAW. (a) The following are exempted from the taxes imposed by this chapter:

(1) oil as taxed by Chapter 202;

(2) sulphur as taxed by Chapter 203;

(3) motor fuels and special fuels as defined, taxed, or exempted by Chapter 162 [~~153~~];

(4) cement as taxed by Chapter 181;

(5) motor vehicles, trailers, and semitrailers as defined, taxed, or exempted by Chapter 152, other than a mobile office as defined by Section 152.001(16);

(6) mixed beverages, ice, or nonalcoholic beverages and the preparation or service of these items if the receipts are taxable by Chapter 183;

(7) alcoholic beverages when sold to the holder of a private club registration permit or to the agent or employee of the holder of a private club registration permit if the holder or agent or employee is acting as the agent of the members of the club and if the beverages are to be served on the premises of the club;

(8) oil well service as taxed by Subchapter E, Chapter 191; and

(9) insurance premiums subject to gross premiums taxes.

(b) Natural gas is exempted under Subsection (a)(3) only to the extent that the gas is taxed as a motor fuel under Chapter 162 ~~[453]~~.

SECTION 7. Section 162.001, Tax Code, is amended by amending Subdivisions (7), (9), (11), (19), (20), (29), (31), (42), (43), and (55) and adding Subdivision (10-a) to read as follows:

(7) "Biodiesel fuel" means any motor fuel or mixture of motor fuels, other than gasoline blended fuel, that is:

(A) derived wholly or partly from agricultural products, vegetable oils, recycled greases, or animal fats, or the wastes of those products or fats; and

(B) advertised, offered for sale, sold, used, or capable of ~~[suitable for] use[, or used]~~ as ~~[a motor]~~ fuel for a diesel-powered [in an internal combustion] engine.

(9) "Blending" means the mixing together of liquids that produces a product that is offered for sale, sold, used, or ~~[one or more petroleum products with another product, regardless of the original character of the product blended, if the product obtained by the blending is]~~ capable of use as fuel for a gasoline-powered engine or diesel-powered engine ~~[in the generation of power for the propulsion of a motor vehicle]~~. The term does not include mixing that occurs in the process of refining by the original refiner of crude petroleum or the commingling of products during transportation in a pipeline.

(10-a) "Bulk storage" means a container of more than 10 gallons.

(11) "Bulk transfer" means a transfer of motor fuel from one location to another by pipeline ~~[tender]~~ or marine movement ~~[delivery]~~ within a bulk transfer/terminal system, including:

(A) a marine vessel movement of motor fuel from a refinery or terminal to a terminal;

(B) a pipeline movement of motor fuel from a refinery or terminal to a terminal;

(C) a book transfer or in-tank transfer of motor fuel within a terminal between licensed suppliers before completion of removal across the rack; and

(D) a two-party exchange between licensed suppliers or between licensed suppliers and permissive suppliers.

(19) "Diesel fuel" means kerosene or another liquid, or a combination of liquids blended together, offered for sale, sold, ~~[that is suitable for or]~~ used, or capable of use as fuel for the propulsion of a diesel-powered engine ~~[motor vehicles]~~. The term includes products commonly referred to as kerosene, light cycle oil, #1 diesel fuel, #2 diesel fuel, dyed or undyed diesel fuel, aviation jet fuel, biodiesel, distillate fuel, cutter stock, or heating oil, but does not include gasoline, aviation gasoline, or liquefied gas.

(20) "Distributor" means a person who ~~[acquires motor fuel from a licensed supplier, permissive supplier, or another licensed distributor and who]~~ makes sales of motor fuel at wholesale. A distributor's [and whose] activities may also include sales of motor fuel at retail.



(29) "Gasoline" means any liquid or combination of liquids blended together, offered for sale, sold, ~~or~~ used, or capable of use as ~~the~~ fuel for a gasoline-powered engine. The term includes gasohol, aviation gasoline, and blending agents, but does not include racing gasoline, diesel fuel, aviation jet fuel, or liquefied gas.

(31) "Gasoline blended fuel" means a mixture composed of gasoline and other liquids, including gasoline blend stocks, gasohol, ethanol, methanol, fuel grade alcohol, and resulting blends, other than a de minimus amount of a product such as carburetor detergent or oxidation inhibitor, that is offered for sale, sold, ~~can be~~ used, or capable of use as fuel for a gasoline-powered engine ~~[gasoline in a motor vehicle]~~.

(42) "Motor fuel" means gasoline, diesel fuel, liquefied gas, gasoline blended fuel, and other products that are offered for sale, sold, ~~can be~~ used, or capable of use as fuel for a gasoline-powered engine or a diesel-powered engine ~~[to propel a motor vehicle]~~.

(43) "Motor fuel transporter" means a person who transports gasoline, diesel fuel, ~~or~~ gasoline blended fuel, aviation fuel, or any other motor fuel, except liquefied gas, outside the bulk transfer/terminal system by means of a transport vehicle, a railroad tank car, or a marine vessel. The term does not include a person who:

(A) is licensed under this chapter as a supplier, permissive supplier, or distributor; and

(B) exclusively transports gasoline, diesel fuel, gasoline blended fuel, aviation fuel, or any other motor fuel to which the person retains ownership while the fuel is being transported by the person.

(55) "Shipping document" means a delivery document issued ~~[by a terminal or bulk plant operator]~~ in conjunction with the sale, transfer, or transport ~~[removal]~~ of motor fuel ~~[from the terminal or bulk plant]~~. A shipping document issued by a terminal operator shall be machine printed. All other shipping documents ~~[A shipping document issued by a bulk plant]~~ shall be typed or handwritten on a preprinted form or machine printed.

SECTION 8. Section 162.004, Tax Code, is amended by amending Subsections (a) and (b) and adding Subsections (a-1) and (h) to read as follows:

(a) A person may not transport in this state any motor fuel by barge, vessel, railroad tank car, or transport vehicle unless the person has a shipping document for the motor fuel that complies with this section.

(a-1) A terminal operator or operator of a bulk plant shall give a shipping document to the person who operates the barge, vessel, railroad tank car, or transport vehicle into which motor fuel is loaded at the terminal rack or bulk plant rack.

(b) A ~~[The]~~ shipping document ~~[issued by the terminal operator or operator of a bulk plant]~~ shall contain the following information and any other information required by the comptroller:

(1) the terminal control number of the terminal or physical address of the terminal or bulk plant from which the motor fuel was received;

(2) the name ~~[and license number]~~ of the purchaser;

(3) the date the motor fuel was loaded;

(4) the net gallons loaded, or the gross gallons loaded if the fuel was purchased from a bulk plant;

(5) the destination state of the motor fuel, as represented by the purchaser of the motor fuel or the purchaser's agent; and

(6) a description of the product being transported.

(h) This section does not apply to motor fuel that is delivered into the fuel supply tank of a motor vehicle.

SECTION 9. Subsections (a), (b), (d), and (e), Section 162.016, Tax Code, are amended to read as follows:

(a) A person may not import motor fuel to a destination in this state or export motor fuel to a destination outside this state by any means unless the person possesses a shipping document for that fuel ~~[created by the terminal or bulk plant at which the fuel was received]~~. The shipping document must include:

(1) the name and physical address of the terminal or bulk plant from which the motor fuel was received for import or export;

(2) the name ~~[and federal employer identification number, or the social security number if the employer identification number is not available,]~~ of the carrier transporting the motor fuel;

(3) the date the motor fuel was loaded;

(4) the type of motor fuel;

(5) the number of gallons:

(A) in temperature-adjusted gallons if purchased from a terminal for export or import; or

(B) in temperature-adjusted gallons or in gross gallons if purchased from a bulk plant;

(6) the destination of the motor fuel as represented by the purchaser of the motor fuel and the number of gallons of the fuel to be delivered, if delivery is to only one state;

(7) the name ~~[, federal employer identification number, license number,]~~ and physical address of the purchaser of the motor fuel;

(8) the name of the person responsible for paying the tax imposed by this chapter, as given to the terminal by the purchaser if different from the licensed supplier or distributor; ~~and]~~

(9) the destination state of each portion of a split load of motor fuel if the motor fuel is to be delivered to more than one state; and

(10) any other information that, in the opinion of the comptroller, is necessary for the proper administration of this chapter.

(b) The ~~[terminal or bulk plant shall provide the]~~ shipping documents shall be provided to the importer or exporter.

(d) A seller, transporter, or receiver of [terminal, a bulk plant, the carrier, the licensed distributor or supplier, and the person that received the] motor fuel shall:

(1) retain a copy of the shipping document until at least the fourth anniversary of the date the fuel is received; and

(2) provide a copy of the document to the comptroller or any law enforcement officer not later than the 10th working day after the date a request for the copy is received.

(e) An importer or exporter shall keep in the person's possession the shipping document [~~issued by the terminal or bulk plant~~] when transporting motor fuel imported into this state or for export from this state. The importer or exporter shall show the document to the comptroller or a peace officer on request. The comptroller may delegate authority to inspect the document to other governmental agencies. The importer or exporter shall provide a copy of the shipping document to the person that receives the fuel when it is delivered.

SECTION 10. Subsections (a) through (e), Section 162.101, Tax Code, are amended to read as follows:

(a) A tax is imposed on the removal of gasoline from the terminal using the terminal rack, other than by bulk transfer. The supplier or permissive supplier is liable for and shall collect the tax imposed by this subchapter from the person who orders the withdrawal at the terminal rack.

(b) A tax is imposed at the time gasoline is imported into this state, other than by a bulk transfer, for delivery to a destination in this state. The supplier or permissive supplier is liable for and shall collect the tax imposed by this subchapter from the person who imports the gasoline into this state. If the seller is not a supplier or permissive supplier, then the person who imports the gasoline into this state is liable for and shall pay the tax.

(c) A tax is imposed on the removal [~~sale or transfer~~] of gasoline from [~~in~~] the bulk transfer/terminal system in this state [~~by a supplier to a person who does not hold a supplier's license~~]. The supplier is liable for and shall collect the tax imposed by this subchapter from the person who orders the removal from [~~sale or transfer in~~] the bulk transfer terminal system.

(d) A tax is imposed on gasoline brought into this state in a motor fuel supply tank or tanks of a motor vehicle operated by a person required to be licensed as an interstate trucker. The interstate trucker is liable for and shall pay the tax.

(e) A tax is imposed on the blending of gasoline at the point gasoline blended fuel is made in this state outside the bulk transfer/terminal system. The blender is liable for and shall pay the tax. The number of gallons of gasoline blended fuel on which the tax is imposed is equal to the difference between the number of gallons of blended fuel made and the number of gallons of previously taxed gasoline used to make the blended fuel.

SECTION 11. Subchapter B, Chapter 162, Tax Code, is amended by adding Section 162.1025 to read as follows:

Sec. 162.1025. SEPARATE STATEMENT OF TAX COLLECTED FROM PURCHASER. (a) In each subsequent sale of gasoline on which the tax has been paid, the tax imposed by this subchapter shall be collected from the purchaser so that the tax is paid ultimately by the person who uses the gasoline. Gasoline is considered to be used when it is delivered into a fuel supply tank.

(b) The tax imposed by this subchapter must be stated separately from the sales price of gasoline and identified as gasoline tax on the invoice or receipt issued to a purchaser. Backup gasoline tax may be identified as gasoline tax. The tax must be separately stated and identified in the same manner on a shipping document, if the shipping document includes the sales price of the gasoline.

(c) Except as provided by Subsection (d), the sales price of gasoline stated on an invoice, receipt, or shipping document is presumed to be exclusive of the tax imposed by this subchapter. The seller or purchaser may overcome the presumption by using the seller's records to show that the tax imposed by this subchapter was included in the sales price.

(d) Subsection (b) does not apply to a sale of gasoline by a licensed dealer to a person who delivers the gasoline at the dealer's place of business into a fuel supply tank or into a container having a capacity of not more than 10 gallons.

SECTION 12. Subsections (a) and (d), Section 162.103, Tax Code, are amended to read as follows:

(a) A backup tax is imposed at the rate prescribed by Section 162.102 on:

(1) a person who obtains a refund of tax on gasoline by claiming the gasoline was used for an off-highway purpose, but actually uses the gasoline to operate a motor vehicle on a public highway;

(2) a person who operates a motor vehicle on a public highway using gasoline on which tax has not been paid; ~~and~~

(3) a person who sells to the ultimate consumer gasoline on which tax has not been paid and who knew or had reason to know that the gasoline would be used for a taxable purpose; and

(4) a person, other than a person exempted under Section 162.104, who acquires gasoline on which tax has not been paid from any source in this state.

(d) A person who sells gasoline in this state, other than by a bulk transfer, on which tax has not been paid for any purpose other than a purpose exempt under Section 162.104 shall at the time of sale collect the tax from the purchaser or recipient of gasoline in addition to the selling price and is liable to this state for the taxes imposed ~~collected at the time and~~ in the manner provided by this chapter.

SECTION 13. Subsections (b) and (c), Section 162.112, Tax Code, are amended to read as follows:

(b) A licensed supplier, ~~or~~ permissive supplier, or distributor who sells gasoline tax-free to a person whose supplier's, ~~or~~ permissive supplier's, or aviation fuel dealer's license has been canceled or revoked under this chapter is liable for any tax due on gasoline sold after receiving notice of the cancellation or revocation.

(c) The comptroller shall notify all license holders under this chapter when a canceled or revoked license is subsequently reinstated and include in the notice the effective date of the reinstatement. Sales to the supplier, ~~or~~ permissive supplier, or aviation fuel dealer after the effective date of the reinstatement may be made tax-free.

SECTION 14. Section 162.115, Tax Code, is amended by adding Subsection (n) to read as follows:

(n) In addition to the records specifically required by this chapter, a license holder, a dealer, or a person required to hold a license shall keep any other record required by the comptroller.

SECTION 15. Section 162.117, Tax Code, is amended to read as follows:

Sec. 162.117. DUTIES OF SELLER OF GASOLINE [~~SUPPLIER OR PERMISSIVE SUPPLIER~~]. (a) A seller [~~supplier or permissive supplier~~] who receives or collects tax holds the amount received or collected in trust for the benefit of this state and has a fiduciary duty to remit to the comptroller the amount of tax received or collected.

(b) A seller [~~supplier or permissive supplier~~] shall furnish the purchaser with an invoice, bill of lading, or other documentation as evidence of the number of gallons received by the purchaser.

(c) A seller [~~supplier or permissive supplier~~] who receives a payment of tax may not apply the payment of tax to a debt that the person making the payment owes for gasoline purchased from the seller [~~supplier or permissive supplier~~].

(d) A person required to receive or collect a tax under this chapter is liable for and shall pay the tax in the manner provided by this chapter.

SECTION 16. Section 162.122, Tax Code, is amended to read as follows:

Sec. 162.122. INFORMATION REQUIRED ON EXPORTER'S RETURN AND PAYMENT OF TAX ON EXPORTS. The monthly return and supplements of an exporter shall contain for the period covered by the return:

(1) the number of net gallons of gasoline acquired from a supplier and exported during the month, including supplier name, terminal control number, and product code;

(2) the number of net gallons of gasoline acquired from a bulk plant and exported during the month, including bulk plant name and product code;

(3) the number of net gallons of gasoline acquired from a source other than a supplier or bulk plant and exported during the month, including the name of the source from which the gasoline was acquired and the name and address of the person receiving the gasoline;

(4) the destination state of the gasoline exported during the month; and

(5) [(4)] any other information required by the comptroller.

SECTION 17. Section 162.125, Tax Code, is amended by adding Subsection (j) to read as follows:

(j) A license holder may take a credit on a return for the tax included in the retail purchase price of gasoline for the period in which the purchase occurred when made by one of the following purchasers, if the purchase was made by acceptance of a credit card not issued by the license holder, the credit card issuer did not collect the tax from the purchaser, and the license holder reimbursed the credit card issuer for the amount of tax included in the retail purchase price:

(1) the United States government for its exclusive use;

(2) a public school district in this state for the district's exclusive use;

(3) a commercial transportation company that provides public school transportation services to a public school district under Section 34.008, Education Code, for its exclusive use to provide those services;

(4) a nonprofit electric cooperative corporation organized under Chapter 161, Utilities Code; and

(5) a nonprofit telephone cooperative corporation organized under Chapter 162, Utilities Code.

SECTION 18. Subsection (d), Section 162.128, Tax Code, is amended to read as follows:

(d) A supplier, ~~or~~ permissive supplier, distributor, importer, exporter, or blender that determines taxes were erroneously reported and remitted or that paid more taxes than were due this state because of a mistake of fact or law may take a credit on the monthly tax report on which the error has occurred and tax payment made to the comptroller. The credit must be taken before the expiration of the applicable period of limitation as provided by Chapter 111.

SECTION 19. Subsections (a) through (e), Section 162.201, Tax Code, are amended to read as follows:

(a) A tax is imposed on the removal of diesel fuel from the terminal using the terminal rack other than by bulk transfer. The supplier or permissive supplier is liable for and shall collect the tax imposed by this subchapter from the person who orders the withdrawal at the terminal rack.

(b) A tax is imposed at the time diesel fuel is imported into this state, other than by a bulk transfer, for delivery to a destination in this state. The supplier or permissive supplier is liable for and shall collect the tax imposed by this subchapter from the person who imports the diesel fuel into this state. If the seller is not a supplier or permissive supplier, the person who imports the diesel fuel into this state is liable for and shall pay the tax.

(c) A tax is imposed on the removal ~~[sale or transfer]~~ of diesel fuel from ~~[in]~~ the bulk transfer/terminal system in this state ~~[by a supplier to a person who does not hold a supplier's license]~~. The supplier is liable for and shall collect the tax imposed by this subchapter from the person who orders the removal from [sale or transfer in] the bulk transfer/terminal system.

(d) A tax is imposed on diesel fuel brought into this state in the motor fuel supply tank or tanks of a motor vehicle operated by a person required to be licensed as an interstate trucker. The interstate trucker is liable for and shall pay the tax.

(e) A tax is imposed on the blending of diesel fuel at the point blended diesel fuel is made in this state outside the bulk transfer/terminal system. The blender is liable for and shall pay the tax. The number of gallons of blended diesel fuel on which the tax is imposed is equal to the difference between the number of gallons of blended fuel made and the number of gallons of previously taxed diesel fuel used to make the blended fuel.

SECTION 20. Subchapter C, Chapter 162, Tax Code, is amended by adding Section 162.2025 to read as follows:

Sec. 162.2025. SEPARATE STATEMENT OF TAX COLLECTED FROM PURCHASER. (a) In each subsequent sale of diesel fuel on which the tax has been paid, the tax imposed by this subchapter shall be collected from the purchaser so that the tax is paid ultimately by the person who uses the diesel fuel. Diesel fuel is considered to be used when it is delivered into a fuel supply tank.

(b) The tax imposed by this subchapter must be stated separately from the sales price of diesel fuel and identified as diesel fuel tax on the invoice or receipt issued to a purchaser. Backup diesel fuel tax may be identified as diesel fuel tax. The tax must be separately stated and identified in the same manner on a shipping document, if the shipping document includes the sales price of the diesel fuel.

(c) Except as provided by Subsection (d), the sales price of diesel fuel stated on an invoice, receipt, or shipping document is presumed to be exclusive of the tax imposed by this subchapter. The seller or purchaser may overcome the presumption by using the seller's records to show that the tax imposed by this subchapter was included in the sales price.

(d) Subsection (b) does not apply to a sale of diesel fuel by a licensed dealer to a person who delivers the diesel fuel at the dealer's place of business into a fuel supply tank or into a container having a capacity of not more than 10 gallons.

SECTION 21. Subsections (a) and (d), Section 162.203, Tax Code, are amended to read as follows:

(a) A backup tax is imposed at the rate prescribed by Section 162.202 on:

(1) a person who obtains a refund of tax on diesel fuel by claiming the diesel fuel was used for an off-highway purpose, but actually uses the diesel fuel to operate a motor vehicle on a public highway;

(2) a person who operates a motor vehicle on a public highway using diesel fuel on which tax has not been paid; ~~and~~

(3) a person who sells to the ultimate consumer diesel fuel on which a tax has not been paid and who knew or had reason to know that the diesel fuel would be used for a taxable purpose; and

(4) a person, other than a person exempted under Section 162.204, who acquires diesel fuel on which tax has not been paid from any source in this state.

(d) A person who sells diesel fuel in this state, other than by a bulk transfer, on which tax has not been paid for any purpose other than a purpose exempt under Section 162.204 shall at the time of sale collect the tax from the purchaser or recipient of diesel fuel in addition to the selling price and is liable to this state for the taxes imposed ~~collected at the time and~~ in the manner provided by this chapter.

SECTION 22. Subsection (b), Section 162.205, Tax Code, is amended to read as follows:

(b) A person must obtain a license as a dyed diesel fuel bonded user to purchase dyed diesel fuel in amounts that exceed the limitations prescribed by Section 162.206(c). This subsection does not affect the right of a purchaser to purchase not more than the number of [10,000] gallons of dyed diesel fuel prescribed by Section 162.206(c) each month for the purchaser's own use using a signed statement ~~[under Section 162.206].~~

SECTION 23. Section 162.206, Tax Code, is amended by amending Subsections (c), (d), and (j) and adding Subsections (c-1), (g-1), and (k) to read as follows:

(c) A person may not make a tax-free purchase and a licensed supplier or distributor may not make a tax-free sale to a purchaser of any dyed diesel fuel under this section using a signed statement for the first sale or purchase and for any subsequent sale or purchase[-

~~(1) for the purchase or the sale of more than 7,400 gallons of dyed diesel fuel in a single delivery; or~~

~~(2) in a calendar month for [in which the person has previously purchased from all sources or in which the licensed supplier has previously sold to that purchaser] more than:~~

(1) ~~[(A)]~~ 10,000 gallons of dyed diesel fuel;

(2) ~~[(B)]~~ 25,000 gallons of dyed diesel fuel if the purchaser stipulates in the signed statement that all of the fuel will be consumed by the purchaser in the original production of, or to increase the production of, oil or gas and furnishes the licensed supplier or distributor with a letter of exception issued by the comptroller; or

(3) ~~[(C)]~~ 25,000 gallons of dyed diesel fuel if the purchaser stipulates in the signed statement that all of the fuel will be consumed by the purchaser in agricultural off-highway equipment.

(c-1) The monthly limitations prescribed by Subsection (c) apply regardless of whether the dyed diesel fuel is purchased in a single transaction during that month or in multiple transactions during that month.

(d) Any gallons purchased or sold in excess of the limitations prescribed by Subsection (c) constitute a taxable purchase or sale. ~~[The purchaser paying the tax on dyed diesel fuel in excess of the limitations prescribed by Subsection (c) may claim a refund of the tax paid on any dyed diesel fuel used for nonhighway purposes under Section 162.227.]~~ A purchaser that exceeds the limitations prescribed by Subsection (c) shall be required to obtain a dyed diesel fuel bonded user license.

(g-1) For purposes of this section, the purchaser is considered to have temporarily furnished the signed statement to the licensed supplier or distributor if the supplier or distributor verifies that the purchaser has an end user number issued by the comptroller. The licensed supplier or distributor shall use the comptroller's Internet website or other materials provided or produced by the comptroller to verify this information until the purchaser provides to the supplier or distributor a completed signed statement.

(j) A taxable use of any part of the dyed diesel fuel purchased under a signed statement shall, in addition to application of any criminal penalty, forfeit the right of the person to purchase dyed diesel fuel tax-free for a period of one year from the date of the offense. Any tax, interest, and penalty found to be due through false or erroneous execution or continuance of a promissory statement by the purchaser, if assessed to the licensed supplier or distributor, is a debt of the purchaser to the licensed supplier or distributor until paid and is recoverable at law in the same manner as the purchase price of the fuel. ~~[The person may, however, claim a refund of the tax paid on any dyed diesel fuel used for nonhighway purposes under Section 162.227.]~~

(k) Properly completed signed statements should be in the possession of the licensed supplier or distributor at the time the sale of dyed diesel fuel occurs. If the licensed supplier or distributor is not in possession of the signed statements within 60 days after the date written notice requiring possession of them is given to the licensed supplier or distributor by the comptroller, exempt sales claimed by the licensed supplier or distributor that require delivery of the signed statements shall be disallowed. If the licensed supplier or distributor delivers the signed statements to the comptroller within the 60-day period, the comptroller may verify the reason or basis for the signed statements before allowing the exempt sales. An exempt sale may not be granted on the basis of signed statements delivered to the comptroller after the 60-day period.

SECTION 24. Subsections (b) and (c), Section 162.213, Tax Code, are amended to read as follows:



(b) A licensed supplier or permissive supplier who sells diesel fuel tax-free to a supplier, ~~or~~ permissive supplier, or aviation fuel dealer whose license has been canceled or revoked under this chapter, or who sells dyed diesel fuel to a distributor or dyed diesel fuel bonded user whose license has been canceled or revoked under this chapter, is liable for any tax due on diesel fuel sold after receiving notice of the cancellation or revocation.

(c) The comptroller shall notify all license holders under this chapter when a canceled or revoked license is subsequently reinstated and include in the notice the effective date of the reinstatement. Sales to a supplier, permissive supplier, distributor, aviation fuel dealer, or dyed diesel fuel bonded user after the effective date of the reinstatement may be made tax-free.

SECTION 25. Section 162.216, Tax Code, is amended by adding Subsection (o) to read as follows:

(o) In addition to the records specifically required by this chapter, a license holder, a dealer, or a person required to hold a license shall keep any other record required by the comptroller.

SECTION 26. Section 162.218, Tax Code, is amended to read as follows:

Sec. 162.218. DUTIES OF SELLER OF DIESEL FUEL ~~[SUPPLIER OR PERMISSIVE SUPPLIER]~~. (a) A seller ~~[supplier or permissive supplier]~~ who receives or collects tax holds the amount received or collected in trust for the benefit of this state and has a fiduciary duty to remit to the comptroller the amount of tax received or collected.

(b) A seller ~~[supplier or permissive supplier]~~ shall furnish the purchaser with an invoice, bill of lading, or other documentation as evidence of the number of gallons received by the purchaser.

(c) A seller ~~[supplier or permissive supplier]~~ who receives a payment of tax may not apply the payment of tax to a debt that the person making the payment owes for diesel fuel purchased from the seller ~~[supplier or permissive supplier]~~.

(d) A person required to receive or collect a tax under this chapter is liable for and shall pay the tax in the manner provided by this chapter.

SECTION 27. Section 162.223, Tax Code, is amended to read as follows:

Sec. 162.223. INFORMATION REQUIRED ON EXPORTER'S RETURN AND PAYMENT OF TAX ON IMPORTS. The monthly return and supplements of an exporter shall contain for the period covered by the return:

(1) the number of net gallons of diesel fuel acquired from a supplier and exported during the month, including supplier name, terminal control number, and product code;

(2) the number of net gallons of diesel fuel acquired from a bulk plant and exported during the month, including bulk plant name and product code;

(3) the number of net gallons of diesel fuel acquired from a source other than a supplier or bulk plant and exported during the month, including the name of the source from which the diesel fuel was acquired and the name and address of the person receiving the diesel fuel;

(4) the destination state of the diesel fuel exported during the month; and

(5) [(4)] any other information the comptroller requires.

SECTION 28. Section 162.227, Tax Code, is amended by adding Subsection (j) to read as follows:

(j) A license holder may take a credit on a return for the tax included in the retail purchase price of diesel fuel for the period in which the purchase occurred when made by one of the following purchasers, if the purchase was made by acceptance of a credit card not issued by the license holder, the credit card issuer did not collect the tax from the purchaser, and the license holder reimbursed the credit card issuer for the amount of tax included in the retail purchase price:

(1) the United States government for its exclusive use;

(2) a public school district in this state for the district's exclusive use;

(3) a commercial transportation company that provides public school transportation services to a public school district under Section 34.008, Education Code, for its exclusive use to provide those services;

(4) a nonprofit electric cooperative corporation organized under Chapter 161, Utilities Code; and

(5) a nonprofit telephone cooperative corporation organized under Chapter 162, Utilities Code.

SECTION 29. Subsection (d), Section 162.230, Tax Code, is amended to read as follows:

(d) A supplier, ~~[or]~~ permissive supplier, distributor, importer, exporter, or blender that determines taxes were erroneously reported and remitted or that paid more taxes than were due to this state because of a mistake of fact or law may take a credit on the monthly tax report on which the error has occurred and tax payment made to the comptroller. The credit must be taken before the expiration of the applicable period of limitation as provided by Chapter 111.

SECTION 30. Subsection (a), Section 162.308, Tax Code, is amended to read as follows:

(a) A licensed dealer or a person required to hold a dealer's license who makes a sale or delivery of liquefied gas into a fuel supply tank of a motor vehicle on which the tax is required to be collected is liable to this state for the tax imposed and shall report and pay the tax in the manner required by this subchapter.

SECTION 31. Subsections (a) and (c), Section 162.309, Tax Code, are amended to read as follows:

(a) A dealer or a person required to hold a dealer's license shall keep for four years, open to inspection at all times by the comptroller and the attorney general, a complete record of all liquefied gas sold or delivered for taxable purposes.

(c) Each taxable sale or delivery by a dealer or a person required to hold a dealer's license of liquefied gas into the fuel supply tanks of a motor vehicle, including deliveries by interstate truckers from bulk storage, shall be covered by an invoice. The invoice must be printed and contain:

(1) the preprinted or stamped name and address of the licensed dealer or interstate trucker;

(2) the date of the sale or delivery;

(3) the number of gallons sold or delivered;

(4) the mileage recorded on the odometer;

(5) the state and state highway license number;

(6) the signature of the driver of the motor vehicle; and  
(7) the amount of tax paid or accounted for stated separately from the selling price.

SECTION 32. Subsections (a) and (d), Section 162.402, Tax Code, are amended to read as follows:

(a) A person forfeits to the state a civil penalty of not less than \$25 and not more than \$200 if the person:

(1) refuses to stop and permit the inspection and examination of a motor vehicle transporting or using motor fuel on demand of a peace officer or the comptroller;

(2) operates a motor vehicle in this state without a valid interstate trucker's license or a trip permit when the person is required to hold one of those licenses or permits;

(3) operates a liquefied gas-propelled motor vehicle that is required to be licensed in this state, including motor vehicles equipped with dual carburetion, and does not display a current liquefied gas tax decal or multistate fuels tax agreement decal;

(4) makes a tax-free sale or delivery of liquefied gas into the fuel supply tank of a motor vehicle that does not display a current Texas liquefied gas tax decal;

(5) makes a taxable sale or delivery of liquefied gas without holding a valid dealer's license;

(6) makes a tax-free sale or delivery of liquefied gas into the fuel supply tank of a motor vehicle bearing out-of-state license plates;

(7) makes a delivery of liquefied gas into the fuel supply tank of a motor vehicle bearing Texas license plates and no Texas liquefied gas tax decal, unless licensed under a multistate fuels tax agreement;

(8) transports gasoline or diesel fuel in any cargo tank that has a connection by pipe, tube, valve, or otherwise with the fuel injector or carburetor of, or with the fuel supply tank feeding the fuel injector or carburetor of, the motor vehicle transporting the product;

(9) sells or delivers gasoline or diesel fuel from any fuel supply tank connected with the fuel injector or carburetor of a motor vehicle;

(10) owns or operates a motor vehicle for which reports or mileage records are required by this chapter without an operating odometer or other device in good working condition to record accurately the miles traveled;

(11) furnishes to a licensed supplier or distributor a signed statement for purchasing diesel fuel tax-free and then uses the tax-free diesel fuel to operate a diesel-powered motor vehicle on a public highway;

(12) fails or refuses to comply with or violates a provision of this chapter;

(13) fails or refuses to comply with or violates a comptroller's rule for administering or enforcing this chapter;

(14) is an importer who does not obtain an import verification number when required by this chapter; or

(15) purchases motor fuel for export, on which the tax imposed by this chapter has not been paid, and subsequently diverts or causes the motor fuel to be diverted to a destination in this state or any other state or country other than the originally designated state or country without first obtaining a diversion number.

(d) A person [~~operating a bulk plant or terminal~~] who issues a shipping document that does not conform with the requirements of Section 162.016(a) is liable to this state for a civil penalty of \$2,000 or five times the amount of the unpaid tax, whichever is greater, for each occurrence.

SECTION 33. Section 162.403, Tax Code, is amended to read as follows:

Sec. 162.403. CRIMINAL OFFENSES. Except as provided by Section 162.404, a person commits an offense if the person:

(1) refuses to stop and permit the inspection and examination of a motor vehicle transporting or using motor fuel on the demand of a peace officer or the comptroller;

(2) is required to hold a valid trip permit or interstate trucker's license, but operates a motor vehicle in this state without a valid trip permit or interstate trucker's license;

(3) operates a liquefied gas-propelled motor vehicle that is required to be licensed in this state, including a motor vehicle equipped with dual carburetion, and does not display a current liquefied gas tax decal or multistate fuels tax agreement decal;

(4) transports gasoline or diesel fuel in any cargo tank that has a connection by pipe, tube, valve, or otherwise with the fuel injector or carburetor or with the fuel supply tank feeding the fuel injector or carburetor of the motor vehicle transporting the product;

(5) sells or delivers gasoline or diesel fuel from a fuel supply tank that is connected with the fuel injector or carburetor of a motor vehicle;

(6) owns or operates a motor vehicle for which reports or mileage records are required by this chapter without an operating odometer or other device in good working condition to record accurately the miles traveled;

(7) sells or delivers dyed diesel fuel for the operation of a motor vehicle on a public highway;

(8) uses dyed diesel fuel for the operation of a motor vehicle on a public highway except as allowed under Section 162.235;

(9) makes a tax-free sale or delivery of liquefied gas into the fuel supply tank of a motor vehicle that does not display a current Texas liquefied gas tax decal;

(10) makes a sale or delivery of liquefied gas on which the person knows the tax is required to be collected, if at the time the sale is made the person does not hold a valid dealer's license;

(11) makes a tax-free sale or delivery of liquefied gas into the fuel supply tank of a motor vehicle bearing out-of-state license plates;

(12) makes a delivery of liquefied gas into the fuel supply tank of a motor vehicle bearing Texas license plates and no Texas liquefied gas tax decal, unless licensed under a multistate fuels tax agreement;

(13) refuses to permit the comptroller or the attorney general to inspect, examine, or audit a book or record required to be kept by a license holder, other user, or any person required to hold a license under this chapter;

(14) refuses to permit the comptroller or the attorney general to inspect or examine any plant, equipment, materials, or premises where motor fuel is produced, processed, blended, stored, sold, delivered, or used;

(15) refuses to permit the comptroller, the attorney general, an employee of either of those officials, a peace officer, an employee of the Texas Commission on Environmental Quality, or an employee of the Department of Agriculture to measure or gauge the contents of or take samples from a storage tank or container on premises where motor fuel is produced, processed, blended, stored, sold, delivered, or used;

(16) is a license holder, a person required to be licensed, or another user and fails or refuses to make or deliver to the comptroller a report required by this chapter to be made and delivered to the comptroller;

(17) is an importer who does not obtain an import verification number when required by this chapter;

(18) purchases motor fuel for export, on which the tax imposed by this chapter has not been paid, and subsequently diverts or causes the motor fuel to be diverted to a destination in this state or any other state or country other than the originally designated state or country without first obtaining a diversion number;

(19) conceals motor fuel with the intent of engaging in any conduct proscribed by this chapter or refuses to make sales of motor fuel on the volume-corrected basis prescribed by this chapter;

(20) refuses, while transporting motor fuel, to stop the motor vehicle the person is operating when called on to do so by a person authorized to stop the motor vehicle;

(21) refuses to surrender a motor vehicle and cargo for impoundment after being ordered to do so by a person authorized to impound the motor vehicle and cargo;

(22) mutilates, destroys, or secretes a book or record required by this chapter to be kept by a license holder, other user, or person required to hold a license under this chapter;

(23) is a license holder, other user, or other person required to hold a license under this chapter, or the agent or employee of one of those persons, and makes a false entry or fails to make an entry in the books and records required under this chapter to be made by the person or fails to retain a document as required by this chapter;

(24) transports in any manner motor fuel under a false cargo manifest or shipping document, or transports in any manner motor fuel to a location without delivering at the same time a shipping document relating to that shipment;

(25) engages in a motor fuel transaction that requires that the person have a license under this chapter without then and there holding the required license;

(26) makes and delivers to the comptroller a report required under this chapter to be made and delivered to the comptroller, if the report contains false information;

(27) forges, falsifies, or alters an invoice or shipping document prescribed by law;

(28) makes any statement, knowing said statement to be false, in a claim for a tax refund filed with the comptroller;

(29) furnishes to a licensed supplier or distributor a signed statement for purchasing diesel fuel tax-free and then uses the tax-free diesel fuel to operate a diesel-powered motor vehicle on a public highway;

(30) holds an aviation fuel dealer's license and makes a taxable sale or use of any gasoline or diesel fuel;

(31) fails to remit any tax funds collected or required to be collected by a license holder, another user, or any other person required to hold a license under this chapter;

(32) makes a sale of dyed diesel fuel tax-free into a storage facility of a person who:

(A) is not licensed as a distributor, as an aviation fuel dealer, or as a dyed diesel fuel bonded user; or

(B) does not furnish to the licensed supplier or distributor a signed statement prescribed in Section 162.206;

(33) makes a sale of gasoline tax-free to any person who is not licensed as an aviation fuel dealer;

(34) [~~is a dealer who~~] purchases any motor fuel tax-free when not authorized to make a tax-free purchase under this chapter;

(35) [~~is a dealer who~~] purchases motor fuel with the intent to evade any tax imposed by this chapter or [~~who~~] accepts a delivery of motor fuel by any means and does not at the same time accept or receive a shipping document relating to the delivery;

(36) transports motor fuel for which a cargo manifest or shipping document is required to be carried without possessing or exhibiting on demand by an officer authorized to make the demand a cargo manifest or shipping document containing the information required to be shown on the manifest or shipping document;

(37) imports, sells, uses, blends, distributes, or stores motor fuel within this state on which the taxes imposed by this chapter are owed but have not been first paid to or reported by a license holder, another user, or any other person required to hold a license under this chapter;

(38) blends products together to produce a blended fuel that is offered for sale, sold, or used and that expands the volume of the original product to evade paying applicable motor fuel taxes; or

(39) evades or attempts to evade in any manner a tax imposed on motor fuel by this chapter.

SECTION 34. Subsection (f), Section 162.405, Tax Code, is amended to read as follows:

(f) Violations of three or more separate offenses under the following sections [~~Sections 162.403(22) through (29)~~] committed pursuant to one scheme or continuous course of conduct may be considered as one offense and punished as a felony of the second degree:

(1) Section 162.403(7);

(2) Sections 162.403(13) through (16); or

(3) Sections 162.403(22) through (29).

SECTION 35. The heading to Section 162.409, Tax Code, is amended to read as follows:

Sec. 162.409. ISSUANCE OF BAD CHECK TO LICENSED DISTRIBUTOR, ~~OR~~ LICENSED SUPPLIER, OR PERMISSIVE SUPPLIER.

SECTION 36. Subsections (a) and (d), Section 162.409, Tax Code, are amended to read as follows:

(a) A person commits an offense if:

(1) the person issues or passes a check or similar sight order for the payment of money knowing that the issuer does not have sufficient funds in or on deposit with the bank or other drawee for the payment in full of the check or order as well as all other checks or orders outstanding at the time of issuance;

(2) the payee on the check or order is a licensed distributor, ~~or~~ licensed supplier, or permissive supplier; and

(3) the payment is for an obligation or debt that includes a tax under this chapter to be collected by the licensed distributor, ~~or~~ licensed supplier, or permissive supplier.

(d) A person who makes payment on an obligation or debt that includes a tax under this chapter and pays with an insufficient funds check issued to a licensed distributor, ~~or~~ licensed supplier, or permissive supplier may be held liable for a penalty equal to the total amount of tax not paid to the licensed distributor, ~~or~~ licensed supplier, or permissive supplier.

SECTION 37. Subchapter E, Chapter 162, Tax Code, is amended by adding Section 162.410 to read as follows:

Sec. 162.410. ELECTION OF OFFENSES. If a violation of a criminal offense provision of this chapter by a person constitutes another offense under the laws of this state, the state may elect the offense for which it will prosecute the person.

SECTION 38. Article 12.01, Code of Criminal Procedure, as amended by Chapters 285 (H.B. 716), 593 (H.B. 8), 640 (H.B. 887), and 841 (H.B. 959), Acts of the 80th Legislature, Regular Session, 2007, is reenacted and amended to read as follows:

Art. 12.01. FELONIES. Except as provided in Article 12.03, felony indictments may be presented within these limits, and not afterward:

(1) no limitation:

(A) murder and manslaughter;

(B) sexual assault under Section 22.011(a)(2), Penal Code, or aggravated sexual assault under Section 22.021(a)(1)(B), Penal Code;

(C) sexual assault, if during the investigation of the offense biological matter is collected and subjected to forensic DNA testing and the testing results show that the matter does not match the victim or any other person whose identity is readily ascertained;

(D) continuous sexual abuse of young child or children under Section 21.02, Penal Code;

(E) indecency with a child under Section 21.11, Penal Code; or

(F) an offense involving leaving the scene of an accident under Section 550.021, Transportation Code, if the accident resulted in the death of a person;

(2) ten years from the date of the commission of the offense:

(A) theft of any estate, real, personal or mixed, by an executor, administrator, guardian or trustee, with intent to defraud any creditor, heir, legatee, ward, distributee, beneficiary or settlor of a trust interested in such estate;

(B) theft by a public servant of government property over which he exercises control in his official capacity;

(C) forgery or the uttering, using or passing of forged instruments;

(D) injury to an elderly or disabled individual punishable as a felony of the first degree under Section 22.04, Penal Code;

(E) sexual assault, except as provided by Subdivision (1) [~~or (5)~~]; or

(F) arson;

(3) seven years from the date of the commission of the offense:

(A) misapplication of fiduciary property or property of a financial institution;

(B) securing execution of document by deception;

(C) a felony violation under Chapter 162 [~~Sections 162.403(22) (39)~~], Tax Code;

(D) false statement to obtain property or credit under Section 32.32, Penal Code;

(E) money laundering;

(F) [~~(F)~~] credit card or debit card abuse under Section 32.31, Penal Code; or

(G) [~~(F)~~] fraudulent use or possession of identifying information under Section 32.51, Penal Code;

(4) five years from the date of the commission of the offense:

(A) theft or robbery;

(B) except as provided by Subdivision (5), kidnapping or burglary;

(C) injury to an elderly or disabled individual that is not punishable as a felony of the first degree under Section 22.04, Penal Code;

(D) abandoning or endangering a child; or

(E) insurance fraud;

(5) if the investigation of the offense shows that the victim is younger than 17 years of age at the time the offense is committed, 20 years from the 18th birthday of the victim of one of the following offenses:

(A) sexual performance by a child under Section 43.25, Penal Code;

(B) aggravated kidnapping under Section 20.04(a)(4), Penal Code, if the defendant committed the offense with the intent to violate or abuse the victim sexually; or

(C) burglary under Section 30.02, Penal Code, if the offense is punishable under Subsection (d) of that section and the defendant committed the offense with the intent to commit an offense described by Subdivision (1)(B) or (D) of this article or Paragraph (B) of this subdivision; [~~or~~]

(6) [~~(5)~~] ten years from the 18th birthday of the victim of the offense:



~~[(A) indecency with a child under Section 21.11(a)(1) or (2), Penal Code;~~

~~[(B) except as provided by Subdivision (1), sexual assault under Section 22.011(a)(2), Penal Code, or aggravated sexual assault under Section 22.021(a)(1)(B), Penal Code; or~~

~~[(C) injury to a child under Section 22.04, Penal Code; or~~

~~(7) [(6)] three years from the date of the commission of the offense: all other felonies.~~

SECTION 39. Subsections (b) and (d), Section 20.002, Transportation Code, are amended to read as follows:

(b) This section applies to a person, other than a political subdivision, who:

(1) owns, controls, operates, or manages a commercial motor vehicle; and

(2) is exempt from the state diesel fuel tax under Section 162.204 ~~[153.203]~~,

Tax Code.

(d) The fee imposed by this section is equal to 25 percent of the diesel fuel tax rate imposed under Section 162.202 ~~[153.202(b)]~~, Tax Code.

SECTION 40. Subsection (o), Section 26.3574, Water Code, is amended to read as follows:

(o) Chapters 101 and 111-113, and Sections 162.005 ~~[153.006]~~, 162.007 ~~[153.007]~~, and 162.111(b)-(k) ~~[153.116(b)-(j)]~~, Tax Code, apply to the administration, payment, collection, and enforcement of fees under this section in the same manner that those chapters apply to the administration, payment, collection, and enforcement of taxes under Title 2, Tax Code.

SECTION 41. Section 162.017, Tax Code, is repealed.

SECTION 42. (a) The change in law made by this Act applies only to an offense committed on or after the effective date of this Act. For purposes of this section, an offense is committed before the effective date of this Act if any element of the offense occurs before that date.

(b) An offense committed before the effective date of this Act is governed by the law in effect when the offense was committed, and the former law is continued in effect for that purpose.

SECTION 43. The change in law made by this Act does not affect tax liability accruing before the effective date of this Act. That liability continues in effect as if this Act had not been enacted, and the former law is continued in effect for the collection of taxes due and for civil and criminal enforcement of the liability for those taxes.

SECTION 44. This Act takes effect September 1, 2009.

The Conference Committee Report on **SB 1495** was filed with the Secretary of the Senate.

### CONFERENCE COMMITTEE REPORT ON SENATE BILL 497

Senator Wentworth submitted the following Conference Committee Report:

Austin, Texas  
May 29, 2009

Honorable David Dewhurst  
President of the Senate

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 **SB 497** 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.

WENTWORTH  
CARONA  
DUNCAN  
WATSON

On the part of the Senate

HARTNETT  
MCREYNOLDS  
JACKSON

On the part of the House

A BILL TO BE ENTITLED  
AN ACT

relating to compensation paid to certain judges and justices.

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

SECTION 1. Subsection (b), Section 26.006, Government Code, is amended to read as follows:

(b) To receive a supplement under Subsection (a), a county judge must file with the comptroller's judiciary section [~~Office of Court Administration of the Texas Judicial System~~] an affidavit stating that at least 40 percent of the functions that the judge performs are judicial functions. [~~The office of court administration shall send the affidavit to the comptroller.~~]

SECTION 2. Subsection (a), Section 659.0125, Government Code, is amended to read as follows:

(a) Notwithstanding Section 659.012 or any other law, a district judge who presides over multidistrict litigation involving claims for asbestos-related or silica-related injuries is entitled to receive, in addition to all other compensation, expenses, and perquisites authorized by law, the maximum amount of compensation set by the Texas Judicial Council for a presiding judge under Section 74.051(b). The annual amount must be apportioned over 12 equal monthly payments and be paid to the judge by the comptroller's judiciary section [~~Texas Judicial Council~~] for each month during which the judge retains jurisdiction over the claims.

SECTION 3. Section 659.0445, Government Code, is amended by amending Subsection (b) and adding Subsections (d) and (e) to read as follows:

(b) The monthly amount of longevity pay under this section to which a judge or justice described by Subsection (a) is entitled:

(1) is equal to the product of .031 multiplied by the amount of the judge's or justice's current monthly state salary [~~\$20 for each year of service credited in the applicable retirement system, subject to Subsection (c)~~]; and

(2) [~~is calculated and~~] becomes payable beginning with the month following the month in which the judge or justice completes 16 years of service for which credit is established in the applicable retirement system.

(d) The commissioners court of a county may provide longevity pay calculated in accordance with this section to a judge or justice described by Subsection (a) who:

(1) previously served as a statutory county court judge in the county;  
(2) is not otherwise eligible for longevity pay under Subsection (b); and  
(3) would be entitled to longevity pay under this section if the service credit  
the judge or justice earned as a statutory county court judge was established in the  
applicable retirement system.

(e) Notwithstanding any other law, longevity pay that is paid to a judge or  
justice under this section is not included as part of the judge's or justice's combined  
salary from state and county sources for purposes of the salary limitations provided by  
Section 659.012.

SECTION 4. Subsection (c), Section 659.0445, Government Code, is repealed.

SECTION 5. The changes in law made by this Act apply to longevity pay payable to a judge or justice after the effective date of this Act, regardless of the date the judge or justice first becomes entitled to longevity pay.

SECTION 6. This Act takes effect September 1, 2009.

The Conference Committee Report on **SB 497** was filed with the Secretary of the Senate.

### CONFERENCE COMMITTEE REPORT ON HOUSE BILL 3347

Senator Duncan submitted the following Conference Committee Report:

Austin, Texas  
May 30, 2009

Honorable David Dewhurst  
President of the Senate

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 3347** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

DUNCAN  
VAN DE PUTTE  
WEST  
WILLIAMS

TRUITT  
OTTO  
MCCLENDON  
PITTS  
EILAND

On the part of the Senate

On the part of the House

The Conference Committee Report on **HB 3347** was filed with the Secretary of the Senate.

### CONFERENCE COMMITTEE REPORT ON HOUSE BILL 3632

Senator Averitt submitted the following Conference Committee Report:

Austin, Texas  
May 30, 2009

Honorable David Dewhurst  
President of the Senate

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 3632** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

AVERITT

ELTIFE

HEGAR

URESTI

On the part of the Senate

GEREN

HAMILTON

HOMER

RITTER

On the part of the House

The Conference Committee Report on **HB 3632** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 269**

Senator Van de Putte submitted the following Conference Committee Report:

Austin, Texas

May 29, 2009

Honorable David Dewhurst  
President of the Senate

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 269** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

VAN DE PUTTE

SHAPLEIGH

OGDEN

ZAFFIRINI

On the part of the Senate

LUCIO

BERMAN

CORTE

On the part of the House

The Conference Committee Report on **HB 269** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 956**

Senator West submitted the following Conference Committee Report:

Austin, Texas

May 30, 2009

Honorable David Dewhurst  
President of the Senate

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 **SB 956** 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.

WEST  
SHAPIRO  
HINOJOSA  
OGDEN

BRANCH  
ANCHIA  
GIDDINGS  
MCCALL  
CROWNOVER

On the part of the Senate

On the part of the House

A BILL TO BE ENTITLED  
AN ACT

relating to the establishment of a law school in the city of Dallas by the University of North Texas System.

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

SECTION 1. Section 105.001, Education Code, is amended to read as follows:

Sec. 105.001. UNIVERSITY OF NORTH TEXAS SYSTEM. The University of North Texas System is composed of:

- (1) the University of North Texas;
- (2) the University of North Texas Health Science Center at Fort Worth;

[and]

- (3) the University of North Texas at Dallas; and
- (4) the University of North Texas at Dallas College of Law.

SECTION 2. Section 105.151, Education Code, is amended by adding Subsection (c-1) and amending Subsection (d) to read as follows:

(c-1) Venue for a suit filed solely against the University of North Texas at Dallas College of Law or against officers or employees of the University of North Texas at Dallas College of Law is in Dallas County.

(d) In case of a conflict between Subsection (a), (b), ~~(c)~~, or (c-1) and any other law, Subsection (a), (b), ~~(c)~~, or (c-1) controls.

SECTION 3. Subchapter J, Chapter 105, Education Code, is amended by adding Section 105.502 to read as follows:

Sec. 105.502. UNIVERSITY OF NORTH TEXAS SYSTEM COLLEGE OF LAW. (a) The board may establish and operate a school of law in the city of Dallas as a professional school of the University of North Texas System.

(b) In administering the law school, the board may prescribe courses leading to customary degrees offered at other leading American schools of law and may award those degrees.

(c) Until the University of North Texas at Dallas has been administered as a general academic teaching institution for five years, the board shall administer the law school as a professional school of the system. After that period, the law school shall

become a professional school of the University of North Texas at Dallas. Until the law school becomes a professional school of the University of North Texas at Dallas, the law school:

(1) is considered an institution of higher education under Section 61.003 for all purposes under other law; and

(2) is entitled to formula funding as if the law school were a professional school of a general academic teaching institution.

(d) Before the board establishes a law school under this section, but not later than June 1, 2010, the Texas Higher Education Coordinating Board shall prepare a feasibility study to determine the actions the system must take to obtain accreditation of the law school. The Texas Higher Education Coordinating Board shall deliver a copy of the study to the chair of each legislative standing committee or subcommittee with jurisdiction over higher education.

(e) The board may solicit and accept gifts, grants, and donations from any public or private source for the purposes of this section.

SECTION 4. Subchapter C, Chapter 61, Education Code, is amended by adding Section 61.0665 to read as follows:

Sec. 61.0665. STUDY REGARDING ESTABLISHMENT OF LAW SCHOOLS. (a) The board shall conduct a study to examine the need for and feasibility of establishing a public law school in areas of the state where a law school is not located, including the Texas-Mexico border region. The study shall be conducted using the same criteria used for determining the need for and feasibility of establishing the University of North Texas at Dallas College of Law.

(b) Not later than November 1, 2010, the board shall report the results of the study required by Subsection (a) to the governor, lieutenant governor, speaker of the house of representatives, and presiding officer of each legislative standing committee with primary jurisdiction over higher education.

(c) This section expires January 31, 2011.

SECTION 5. If this Act receives a vote of at least two-thirds of the membership of each house of the legislature, the University of North Texas at Dallas College of Law created under Section 105.502, Education Code, as added by this Act, is entitled to participate in the funding provided by Section 17, Article VII, Texas Constitution.

SECTION 6. This Act does not make an appropriation. This Act takes effect only if a specific appropriation for the implementation of the Act is provided in a general appropriations act of the 81st Legislature.

SECTION 7. 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, 2009.

The Conference Committee Report on **SB 956** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 1757**

Senator Watson submitted the following Conference Committee Report:

Austin, Texas  
May 30, 2009

Honorable David Dewhurst  
President of the Senate

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 **SB 1757** 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.

WATSON  
AVERITT  
DEUELL  
ELLIS  
SELIGER

On the part of the Senate

D. HOWARD  
AYCOCK  
SHELTON  
HOPSON  
BURNAM

On the part of the House

**A BILL TO BE ENTITLED  
AN ACT**

relating to a study by the Texas Commission on Environmental Quality of methods for disposing of unused pharmaceuticals so that they do not enter a wastewater system.

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

SECTION 1. (a) In this section, "commission" means the Texas Commission on Environmental Quality.

(b) The commission shall study and make recommendations regarding the methods to be used by consumers, health care providers, and others for disposing of unused pharmaceuticals so that they do not enter a wastewater system. In conducting the study, the commission shall consider:

(1) the methods currently used in this state by consumers, health care providers, and others for that purpose;

(2) alternative methods used for that purpose, including the methods used in other states; and

(3) the effects on public health and the environment of the various methods used for that purpose.

(c) In conducting the study, the commission may solicit input from:

(1) the Health and Human Services Commission;

(2) the Department of Public Safety of the State of Texas;

(3) pharmaceutical manufacturers;

(4) pharmacies;

- (5) health care providers, including home health care providers;
- (6) hospitals;
- (7) clinics;
- (8) long-term care facilities;
- (9) entities that engage in medical waste processing and handling;
- (10) solid waste management service providers;
- (11) local governments;
- (12) ranchers and farmers;
- (13) end users of medication;
- (14) water utilities and other water suppliers;
- (15) the United States Postal Service;
- (16) the United States Environmental Protection Agency; and
- (17) any other entity the commission considers necessary.

(d) Not later than December 1, 2010, the commission shall submit a report of the results of the study to the legislature. The report must include:

(1) the commission's recommendations regarding the methods to be used by consumers, health care providers, and others for disposing of unused pharmaceuticals so that they do not enter a wastewater system; and

(2) an analysis of the feasibility of implementing the recommended disposal methods on a statewide basis.

(e) This Act expires January 1, 2011.

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, 2009.

The Conference Committee Report on **SB 1757** was filed with the Secretary of the Senate.

### **CONFERENCE COMMITTEE REPORT ON HOUSE BILL 666**

Senator Uresti submitted the following Conference Committee Report:

Austin, Texas  
May 29, 2009

Honorable David Dewhurst  
President of the Senate

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 666** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

URESTI  
WHITMIRE  
HINOJOSA

GUTIERREZ  
MCREYNOLDS  
GEREN



WILLIAMS  
SELIGER  
On the part of the Senate

MOODY  
S. KING  
On the part of the House

The Conference Committee Report on **HB 666** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 2328**

Senator Carona submitted the following Conference Committee Report:

Austin, Texas  
May 30, 2009

Honorable David Dewhurst  
President of the Senate

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 2328** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

CARONA  
AVERITT  
PATRICK  
VAN DE PUTTE

GUILLEN  
RIDDLE  
LEIBOWITZ  
CREIGHTON  
RAYMOND

On the part of the Senate

On the part of the House

The Conference Committee Report on **HB 2328** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 2833**

Senator Shapleigh submitted the following Conference Committee Report:

Austin, Texas  
May 30, 2009

Honorable David Dewhurst  
President of the Senate

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 2833** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

SHAPLEIGH  
 AVERITT  
 GALLEGOS  
 NICHOLS  
 HUFFMAN  
 On the part of the Senate

MARQUEZ  
 RITTER  
 DESHOTEL  
 CHISUM  
 HARLESS  
 On the part of the House

The Conference Committee Report on **HB 2833** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON  
 HOUSE BILL 3737**

Senator Davis submitted the following Conference Committee Report:

Austin, Texas  
 May 30, 2009

Honorable David Dewhurst  
 President of the Senate

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 3737** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

DAVIS  
 NELSON  
 ELTIFE  
 URESTI  
 CARONA  
 On the part of the Senate

ANCHIA  
 ELKINS  
 ROSE  
 WALLE  
 On the part of the House

The Conference Committee Report on **HB 3737** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON  
 HOUSE BILL 3983**

Senator Watson submitted the following Conference Committee Report:

Austin, Texas  
 May 28, 2009

Honorable David Dewhurst  
 President of the Senate

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 3983** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

WATSON  
CARONA  
HARRIS  
ELTIFE  
SHAPLEIGH

On the part of the Senate

RODRIGUEZ  
MALDONADO  
D. HOWARD  
HARLESS

On the part of the House

The Conference Committee Report on **HB 3983** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 1263**

Senator Watson submitted the following Conference Committee Report:

Austin, Texas  
May 30, 2009

Honorable David Dewhurst  
President of the Senate

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 **SB 1263** 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.

WATSON  
CARONA  
ELLIS  
SHAPLEIGH  
WENTWORTH

On the part of the Senate

RODRIGUEZ  
GATTIS  
KLEINSCHMIDT

On the part of the House

**A BILL TO BE ENTITLED  
AN ACT**

relating to certain mass transit entities.

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

SECTION 1. Subsections (e) and (f), Section 451.0611, Transportation Code, are amended to read as follows:

(e) The notice required by Subsection (d)(2) may be included in a citation issued to the person under Article 14.06, Code of Criminal Procedure, or under Section 451.0612, in connection with an offense relating to the nonpayment of the appropriate fare or charge for the use of the public transportation system.

(f) An offense under Subsection (d) is:

- (1) a Class C misdemeanor; and
- (2) not a crime of moral turpitude.

SECTION 2. Subchapter B, Chapter 451, Transportation Code, is amended by adding Section 451.0612 to read as follows:

Sec. 451.0612. FARE ENFORCEMENT OFFICERS IN CERTAIN AUTHORITIES. (a) An authority confirmed before July 1, 1985, in which the principal municipality has a population of less than 750,000 may employ persons to serve as fare enforcement officers to enforce the payment of fares for use of the public transportation system by:

(1) requesting and inspecting evidence showing payment of the appropriate fare from a person using the public transportation system; and

(2) issuing a citation to a person described by Section 451.0611(d)(1).

(b) Before commencing duties as a fare enforcement officer, a person must complete a 40-hour training course approved by the authority that is appropriate to the duties required of a fare enforcement officer.

(c) While performing duties, a fare enforcement officer shall:

(1) wear a distinctive uniform that identifies the officer as a fare enforcement officer; and

(2) work under the direction of the authority's manager of safety and security.

(d) A fare enforcement officer may:

(1) request evidence showing payment of the appropriate fare from passengers of the public transportation system;

(2) request personal identification from a passenger who does not produce evidence showing payment of the appropriate fare on request by the officer;

(3) request that a passenger leave the public transportation system if the passenger does not possess evidence of payment of the appropriate fare; and

(4) file a complaint in the appropriate court that charges the person with an offense under Section 451.0611(d).

(e) A fare enforcement officer may not carry a weapon while performing duties under this section.

(f) A fare enforcement officer is not a peace officer and has no authority to enforce a criminal law, other than the authority possessed by any other person who is not a peace officer.

SECTION 3. Subsection (c), Section 451.108, Transportation Code, is amended to read as follows:

(c) A peace officer commissioned under this section, except as provided by Subsections (d) and (e), or a peace officer contracted for employment by an authority confirmed before July 1, 1985, in which the principal municipality has a population of less than 750,000, may:

(1) make an arrest in any county in which the transit authority system is located as necessary to prevent or abate the commission of an offense against the law of this state or a political subdivision of this state if the offense or threatened offense occurs on or involves the transit authority system;

(2) make an arrest for an offense involving injury or detriment to the transit authority system;

(3) enforce traffic laws and investigate traffic accidents that involve or occur in the transit authority system; and

(4) provide emergency and public safety services to the transit authority system or users of the transit authority system.

SECTION 4. Section 451.061, Transportation Code, is amended by amending Subsection (d) and adding Subsection (d-1) to read as follows:

(d) Except as provided by Subsection (d-1), the [The] fares, tolls, charges, rents, and other compensation established by an authority in which the principal municipality has a population of less than 1.2 million may not take effect until approved by a majority vote of a committee composed of:

(1) five members of the governing body of the principal municipality, selected by that governing body;

(2) three members of the commissioners court of the county having the largest portion of the incorporated territory of the principal municipality, selected by that commissioners court; and

(3) three mayors of municipalities, other than the principal municipality, located in the authority, selected by:

(A) the mayors of all the municipalities, except the principal municipality, located in the authority; or

(B) the mayor of the most populous municipality, other than the principal municipality, in the case of an authority in which the principal municipality has a population of less than 300,000.

(d-1) The establishment of or a change to fares, tolls, charges, rents, and other compensation by an authority confirmed before July 1, 1985, in which the principal municipality has a population of less than 750,000, takes effect immediately on approval by a majority vote of the board, except that the establishment of or a change to a single-ride base fare takes effect on the 60th day after the date the board approves the fare or change to the fare, unless the policy board of the metropolitan planning organization that serves the area of the authority disapproves the fare or change to the fare by a majority vote.

SECTION 5. Section 451.071, Transportation Code, is amended by adding Subsections (g) and (h) to read as follows:

(g) This section does not require the authority to hold a referendum on a proposal to enter into a contract or interlocal agreement to build, operate, or maintain a fixed rail transit system for another entity. Notwithstanding Subsection (d), the authority may spend funds of the authority to enter into a contract and operate under that contract to build, operate, or maintain a fixed rail transit system if the other entity will reimburse the authority for the funds.

(h) A referendum held by a political subdivision, the authority, or an entity other than the authority at which funding is approved for a fixed rail transit system is considered to meet the requirements of Subsections (d) and (e) and Section 451.3625 if the notice for the election called by the political subdivision, the authority, or other entity contains the description required by Subsection (c). The referendum may allow for financial participation of more than one political subdivision or entity. The authority may only spend funds of the authority if the referendum authorizes that expenditure.

SECTION 6. Subchapter J, Chapter 451, Transportation Code, is amended by adding Sections 451.458, 451.459, and 451.460 to read as follows:

Sec. 451.458. INTERNAL AUDITOR. (a) This section applies only to an authority confirmed before July 1, 1985, in which the principal municipality has a population of less than 750,000.

(b) The board shall appoint a qualified individual to perform internal auditing services for a term of five years. The board may remove the auditor only on the affirmative vote of at least three-fourths of the members of the board.

(c) The auditor shall report directly to the board.

Sec. 451.459. SUNSET REVIEW. (a) An authority confirmed before July 1, 1985, in which the principal municipality has a population of less than 750,000 is subject to review under Chapter 325, Government Code (Texas Sunset Act), as if it were a state agency but may not be abolished under that chapter. The review shall be conducted as if the authority were scheduled to be abolished September 1, 2011. In addition, another review shall be conducted as if the authority were scheduled to be abolished September 1, 2017. The reviews conducted under this section must include an assessment of the governance, management, and operating structure of the authority and the authority's compliance with the duties and requirements placed on it by the legislature.

(b) The authority shall pay the cost incurred by the Sunset Advisory Commission in performing a review of the authority under this section. The Sunset Advisory Commission shall determine the cost, and the authority shall pay the amount promptly on receipt of a statement from the Sunset Advisory Commission detailing the cost.

Sec. 451.460. ANNUAL REPORT. (a) This section applies only to an authority confirmed before July 1, 1985, in which the principal municipality has a population of less than 750,000.

(b) The authority shall provide an annual report to each governing body of a municipality or county in the authority regarding the status of any financial obligation of the authority to the municipality or county.

SECTION 7. Section 451.5021, Transportation Code, is amended by amending Subsections (a), (b), (d), and (e) and adding Subsections (b-1), (d-1), (d-2), and (d-3) to read as follows:

(a) This section applies only to the board of an authority created before July 1, 1985, in which the principal municipality has a population of less than 750,000 [~~in~~ which each member of the governing body of the principal municipality is elected at large].

(b) Members of the [The] board [is composed of seven members who] are appointed as follows:

(1) one member, who is an elected official, [two members representing the general public] appointed by the metropolitan planning organization designated by the governor that serves the area of the authority;

(2) two members, one who must be and one who may be an elected official, [two members] appointed by the governing body of the principal municipality;

(3) one member appointed by the commissioners court of the principal county;

(4) one member appointed by the commissioners court of the county, excluding the principal county, that has the largest population of the counties in the authority [a panel composed of the mayors of all the municipalities in the authority located in the principal county of the authority, excluding the mayor of the principal municipality]; [and]

(5) one member, who is an elected official, appointed by a panel composed of[:

[(A)] the mayors of all municipalities in the authority [located outside the principal county of the authority], excluding the mayor of the principal municipality;

(6) one member, who has at least 10 years of experience as a financial or accounting professional, appointed by the metropolitan planning organization that serves the area in which the authority is located;

(7) one member, who has at least 10 years of experience in an executive-level position in a public or private organization, including a governmental entity, appointed by the metropolitan planning organization that serves the area in which the authority is located; and

(8) two members appointed by the metropolitan planning organization that serves the area in which the authority is located, if according to the most recent federal decennial census more than 35 percent of the population in the territory of the authority resides outside the principal municipality [(B) the county judges of the counties having unincorporated area in the authority, excluding the county judge of the principal county; and

[(C) the presiding officer of each municipal utility district that:

(i) has a majority of its territory located outside the principal county; and

(ii) is located wholly or partly in the authority].

(b-1) Notwithstanding Section 451.505, members of the board serve staggered three-year terms, with the terms of two or three members, as applicable, expiring June 1 of each year.

(d) A person appointed under Subsection (b)(1), (2) [(b)(2), (3), (4)], or (5), except as provided by Subsection (b)(2):

(1) must be a member of the governing body:

(A) of the political subdivision that is entitled to make the appointment;

or

(B) over which a member of the panel entitled to make an appointment

presides;

(2) vacates the office of board member if the person ceases to be a member of the governing body described by Subdivision (1);

(3) serves on the board as an additional duty of the office held on the governing body described by Subdivision (1); and

(4) is not entitled to compensation for serving as a member of the board.

(d-1) At least two members appointed under Subsections (b)(1), (6), and (7) must be qualified voters residing in the principal municipality.

(d-2) A person appointed under Subsection (b)(3) must:

(1) have the person's principal place of occupation or employment in the portion of the authority's service area that is located in the principal county; or

(2) be a qualified voter of the principal county.

(d-3) A person appointed under Subsection (b)(4) must:

(1) have the person's principal place of occupation or employment in the portion of the authority's service area that is located in the county, other than the principal county, that has the largest population of the counties in the authority; or

(2) be a qualified voter of the county, other than the principal county, that has the largest population of the counties in the authority.

(e) A panel appointing a member under Subsection (b)(5) ~~[this section]~~ operates in the manner prescribed by Section 451.503.

SECTION 8. Subsection (b), Section 451.505, Transportation Code, is amended to read as follows:

(b) The terms of members of a board are staggered if the authority was~~±~~

~~[(±)]~~ created before 1980 and has a principal municipality with a population of less than 1.2 million~~±; or~~

~~[(2) confirmed before July 1, 1985, and has a principal municipality with a population of less than 750,000].~~

SECTION 9. Subsections (g) and (h), Section 451.5021, Transportation Code, are repealed.

SECTION 10. (a) This section applies only to a member of the board of a metropolitan rapid transit authority created before July 1, 1985, in which the principal municipality has a population of 750,000 or less.

(b) The term of a board member that is scheduled, under the law as it existed before the effective date of this Act, to expire:

(1) after the effective date of this Act but before January 1, 2010, is extended to December 31, 2009; and

(2) on or after January 1, 2010, expires on the date the term was scheduled to expire under this law as it existed before the effective date of this Act.

(c) As soon as practicable on or after the effective date of this Act, but not later than December 31, 2009, the persons and entities specified in Section 451.5021, Transportation Code, as amended by this Act, shall appoint the members of the board in compliance with that section, as amended, to serve terms that begin, as applicable and as subject to Subsection (d) of this section:

(1) January 1, 2010; or

(2) the day after a term expires under Subdivision (2), Subsection (b) of this section.



(d) A vacancy created because of the expiration of a term under Subsection (b) of this section is filled in the following manner:

(1) for a member appointed under Subdivision (1), Subsection (b), Section 451.5021, Transportation Code, under the law as it existed before the effective date of this Act:

(A) one vacancy shall be filled by the appointing person or entity specified by Subdivision (6), Subsection (b), Section 451.5021, Transportation Code, as added by this Act; and

(B) one vacancy shall be filled by the appointing person or entity specified by Subdivision (7), Subsection (b), Section 451.5021, Transportation Code, as added by this Act;

(2) for a member appointed under Subdivision (2), Subsection (b), Section 451.5021, Transportation Code, under the law as it existed before the effective date of this Act:

(A) one vacancy shall be filled by the appointing person or entity specified by Subdivision (1), Subsection (b), Section 451.5021, Transportation Code, as amended by this Act; and

(B) one vacancy shall be filled by the appointing person or entity specified by Subdivision (2), Subsection (b), Section 451.5021, Transportation Code, as amended by this Act;

(3) for a member appointed under Subdivision (3), Subsection (b), Section 451.5021, Transportation Code, under the law as it existed before the effective date of this Act, the vacancy shall be filled by the appointing person or entity specified by Subdivision (3), Subsection (b), Section 451.5021, Transportation Code, as amended by this Act;

(4) for a member appointed under Subdivision (4), Subsection (b), Section 451.5021, Transportation Code, under the law as it existed before the effective date of this Act, the vacancy shall be filled by the appointing person or entity specified by Subdivision (5), Subsection (b), Section 451.5021, Transportation Code, as amended by this Act; and

(5) for a member appointed under Subdivision (5), Subsection (b), Section 451.5021, Transportation Code, under the law as it existed before the effective date of this Act, the vacancy shall be filled by the appointing person or entity specified by Subdivision (4), Subsection (b), Section 451.5021, Transportation Code, as amended by this Act.

(e) The members of the board appointed under Subsection (c) of this section shall draw lots to determine which terms of two members expire June 1, 2011, which terms of three members expire June 1, 2012, and which terms of three members expire June 1, 2013.

(f) As soon as practicable after the metropolitan planning organization specified by Subdivision (8), Subsection (b), Section 451.5021, Transportation Code, as added by this Act, determines that that subdivision applies to the metropolitan rapid transit authority, the metropolitan planning organization shall appoint:

(1) one member of the board of the authority for a term to expire June 1, 2011, or, if that date has passed, the following six-year anniversary of that date; and

(2) one member of the board of the authority for a term to expire June 1, 2013, or, if that date has passed, the following six-year anniversary of that date.

SECTION 11. This Act takes effect September 1, 2009.

The Conference Committee Report on **SB 1263** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 300**

Senator Hegar submitted the following Conference Committee Report:

Austin, Texas  
May 29, 2009

Honorable David Dewhurst  
President of the Senate

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 300** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

HEGAR  
HINOJOSA  
NICHOLS

ISETT  
PICKETT  
W. SMITH  
HARPER-BROWN  
MCCLENDON

On the part of the Senate

On the part of the House

The Conference Committee Report on **HB 300** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 1357**

Senator Deuell submitted the following Conference Committee Report:

Austin, Texas  
May 29, 2009

Honorable David Dewhurst  
President of the Senate

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 1357** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

DEUELL  
VAN DE PUTTE  
URESTI

On the part of the Senate

ISETT  
YBARRA  
S. KING  
LAUBENBERG  
MCREYNOLDS

On the part of the House

The Conference Committee Report on **HB 1357** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 537**

Senator Eltife submitted the following Conference Committee Report:

Austin, Texas  
May 29, 2009

Honorable David Dewhurst  
President of the Senate

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 537** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

ELTIFE  
WATSON  
DEUELL  
SHAPLEIGH

On the part of the Senate

BERMAN  
NAISHTAT  
BOLTON  
DARBY  
WEBER

On the part of the House

The Conference Committee Report on **HB 537** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 882**

Senator Eltife submitted the following Conference Committee Report:

Austin, Texas  
May 29, 2009

Honorable David Dewhurst  
President of the Senate

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 882** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

ELTIFE

SELIGER

WATSON

VAN DE PUTTE

On the part of the Senate

RODRIGUEZ

BOLTON

HARLESS

HUGHES

On the part of the House

The Conference Committee Report on **HB 882** was filed with the Secretary of the Senate.

### CONFERENCE COMMITTEE REPORT ON HOUSE BILL 2854

Senator Deuell submitted the following Conference Committee Report:

Austin, Texas

May 30, 2009

Honorable David Dewhurst  
President of the Senate

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 2854** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

DEUELL

HINOJOSA

WENTWORTH

On the part of the Senate

HUGHES

ANDERSON

HARPER-BROWN

PICKETT

On the part of the House

The Conference Committee Report on **HB 2854** was filed with the Secretary of the Senate.

### CONFERENCE COMMITTEE REPORT ON HOUSE BILL 4102

Senator Carona submitted the following Conference Committee Report:

Austin, Texas

May 30, 2009

Honorable David Dewhurst  
President of the Senate

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 4102** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

CARONA  
ELLIS  
PATRICK  
SHAPIRO  
WILLIAMS

On the part of the Senate

EILAND  
MCCALL  
ORTIZ  
RITTER  
TAYLOR

On the part of the House

The Conference Committee Report on **HB 4102** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 4275**

Senator West submitted the following Conference Committee Report:

Austin, Texas  
May 29, 2009

Honorable David Dewhurst  
President of the Senate

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 4275** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

WEST  
NICHOLS  
SHAPLEIGH  
WILLIAMS

On the part of the Senate

MENÉNDEZ  
THOMPSON  
KENT  
LEIBOWITZ  
BOHAC

On the part of the House

The Conference Committee Report on **HB 4275** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 1219**

Senator Averitt submitted the following Conference Committee Report:

Austin, Texas  
May 28, 2009

Honorable David Dewhurst  
President of the Senate

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 **SB 1219** 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.

AVERITT  
WEST  
WILLIAMS  
SHAPIRO  
VAN DE PUTTE  
On the part of the Senate

DESHOTEL  
EISSLER  
ALLEN  
HOCHBERG  
On the part of the House

A BILL TO BE ENTITLED  
AN ACT

relating to a parenting and paternity awareness component of the health curriculum used in public high schools.

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

SECTION 1. Subsection (p), Section 28.002, Education Code, is amended to read as follows:

(p) The State Board of Education, in conjunction with the office of the attorney general, shall develop a parenting and paternity awareness program that a school district shall use in the district's high school health curriculum. At the discretion of the district, a teacher may modify the suggested sequence and pace of the program.

The program must:

- (1) address parenting skills and responsibilities, including child support and other legal rights and responsibilities that come with parenthood;
- (2) address relationship skills, including money management, communication skills, and marriage preparation; and
- (3) in district high schools that do not have a family violence prevention program, address skills relating to the prevention of family violence.

SECTION 2. This Act applies beginning with the 2009-2010 school year.

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, 2009.

The Conference Committee Report on **SB 1219** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 3612**

Senator Williams submitted the following Conference Committee Report:

Austin, Texas  
May 30, 2009

Honorable David Dewhurst  
President of the Senate

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 3612** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

WILLIAMS

WEST

HINOJOSA

CARONA

PATRICK

On the part of the Senate

OTTO

GATTIS

QUINTANILLA

DARBY

HEFLIN

On the part of the House

The Conference Committee Report on **HB 3612** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 537**

Senator Carona submitted the following Conference Committee Report:

Austin, Texas  
May 30, 2009

Honorable David Dewhurst  
President of the Senate

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 **SB 537** 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.

CARONA

HINOJOSA

PATRICK

SELIGER

WHITMIRE

On the part of the Senate

VAUGHT

FLETCHER

MOODY

RIDDLE

On the part of the House

A BILL TO BE ENTITLED  
AN ACT

relating to the emergency installation and use of a device to intercept wire, oral, or electronic communications.

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

SECTION 1. Subsection (b), Section 8A, Article 18.20, Code of Criminal Procedure, is amended to read as follows:

(b) A peace officer designated under Subsection (a) or under Section 5(b) may possess, install, operate, or monitor an electronic, mechanical, or other device to intercept wire, oral, or electronic communications if the officer:

(1) reasonably believes an immediate life-threatening situation exists that:

(A) is within the territorial jurisdiction of the officer or another officer the officer is assisting; and

(B) requires interception of communications before an order authorizing the interception can, with due diligence, be obtained under this section;

(2) reasonably believes there are sufficient grounds under this section on which to obtain an order authorizing the interception; and

(3) obtains oral or written consent to the interception before beginning the interception from:

(A) a judge of competent jurisdiction;

(B) a district judge for the county in which the device will be installed or used; or

(C) [~~(B)~~] a judge or justice of a court of appeals or of a higher court.

SECTION 2. The change in law made by this Act to Subsection (b), Section 8A, Article 18.20, Code of Criminal Procedure, applies only to the interception of a wire, oral, or electronic communication in an immediate life-threatening situation that occurs on or after the effective date of this Act. An interception of a wire, oral, or electronic communication in an immediate life-threatening situation that occurred before the effective date of this Act is covered by the law in effect on the date the life-threatening situation occurred, and the former law is continued in effect for that purpose.

SECTION 3. This Act takes effect September 1, 2009.

The Conference Committee Report on **SB 537** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 2730**

Senator Hinojosa submitted the following Conference Committee Report:

Austin, Texas

May 30, 2009

Honorable David Dewhurst  
President of the Senate



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 2730** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

HINOJOSA  
HEGAR  
CARONA  
WHITMIRE  
NELSON

KOLKHORST  
BURNAM  
DRIVER  
MERRITT

On the part of the Senate

On the part of the House

The Conference Committee Report on **HB 2730** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 715**

Senator Estes submitted the following Conference Committee Report:

Austin, Texas  
May 30, 2009

Honorable David Dewhurst  
President of the Senate

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 715** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

ESTES  
CARONA  
SHAPLEIGH

P. KING  
CALLEGARI  
GONZALES  
HARPER-BROWN

On the part of the Senate

On the part of the House

The Conference Committee Report on **HB 715** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 679**

Senator Lucio submitted the following Conference Committee Report:

Austin, Texas  
May 30, 2009

Honorable David Dewhurst  
President of the Senate

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 **SB 679** 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.

LUCIO  
DUNCAN  
ESTES  
WEST  
WILLIAMS

On the part of the Senate

Y. DAVIS  
FLETCHER  
MENÉNDEZ  
MIKLOS  
PIERSON

On the part of the House

A BILL TO BE ENTITLED  
AN ACT

relating to the administration of certain housing funds by the Texas Department of Housing and Community Affairs.

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

SECTION 1. Section 2306.201, Government Code, is amended by amending Subsection (b) and adding Subsection (c) to read as follows:

(b) The fund consists of:

- (1) appropriations or transfers made to the fund;
- (2) unencumbered fund balances;
- (3) public or private gifts, ~~[or]~~ grants, or donations;
- (4) investment income, including all interest, dividends, capital gains, or other income from the investment of any portion of the fund;
- (5) repayments received on loans made from the fund; and
- (6) funds from any other source.

(c) The department may accept gifts, grants, or donations for the housing trust fund. All funds received for the housing trust fund under Subsection (b) shall be deposited or transferred into the Texas Treasury Safekeeping Trust Company.

SECTION 2. Subsection (a), Section 2306.202, Government Code, is amended to read as follows:

(a) The department, through the housing finance division, shall use the housing trust fund to provide loans, grants, or other comparable forms of assistance to local units of government, public housing authorities, nonprofit organizations, and income-eligible individuals, families, and households to finance, acquire, rehabilitate, and develop decent, safe, and sanitary housing. In each biennium the first \$2.6 million available through the housing trust fund for loans, grants, or other comparable forms of assistance shall be set aside and made available exclusively for local units of government, public housing authorities, and nonprofit organizations. Any additional funds may also be made available to for-profit organizations provided that [so long as] at least 45 percent of available funds, as determined on September 1 of each state fiscal year, in excess of the first \$2.6 million shall be made available to nonprofit organizations for the purpose of acquiring, rehabilitating, and developing decent, safe,

and sanitary housing. The remaining portion shall be distributed to ~~[competed for by]~~ nonprofit organizations, for-profit organizations, and other eligible entities. Notwithstanding any other section of this chapter, but subject to the limitations in Section 2306.251(c), the department may also use the fund to acquire property to endow the fund.

SECTION 3. Section 2306.203, Government Code, is amended to read as follows:

Sec. 2306.203. RULES REGARDING ADMINISTRATION OF HOUSING TRUST FUND. The board shall adopt rules to administer the housing trust fund, including rules providing:

(1) that the division give priority to programs that maximize federal resources;

(2) for a process to set priorities for use of the fund, including the distribution of fund resources in accordance with a plan that is ~~[under a request for a proposal process]~~ developed and approved by the board and included in the department's annual report regarding the housing trust fund as described in the General Appropriations Act;

(3) that the criteria used to evaluate a proposed activity ~~[rank proposals]~~ will include the:

(A) leveraging of ~~[federal]~~ resources;

(B) cost-effectiveness of the [a] proposed activity ~~[development]~~; and

(C) extent to which individuals and families of very low income are served by the proposed activity ~~[development]~~;

(4) that funds may not be made available for a proposed activity ~~[to a development]~~ that permanently and involuntarily displaces individuals and families of low income;

(5) that the board attempt to allocate funds to achieve a broad geographical distribution with:

(A) special emphasis on equitably serving rural and nonmetropolitan areas; and

(B) consideration of the number and percentage of income-qualified families in different geographical areas; and

(6) that multifamily housing developed or rehabilitated through the fund remain affordable to income-qualified households for at least 20 years.

SECTION 4. Subsection (b), Section 2306.753, Government Code, is amended to read as follows:

(b) To be eligible for a loan under this subchapter, an owner-builder:

(1) may not have an annual income that exceeds 60 percent, as determined by the department, of the greater of the state or local median family income, when combined with the income of any person who resides with the owner-builder;

(2) must have resided in this state for the preceding six months;

(3) must have successfully completed an owner-builder education class under Section 2306.756; and

(4) must agree to:

(A) provide through personal labor at least 65 [60] percent of the labor necessary to build or rehabilitate the proposed housing by working through a state-certified owner-builder housing program; [~~or~~]

(B) provide an amount of personal labor equivalent to the amount required under Paragraph (A) in connection with building or rehabilitating housing for others through a state-certified [~~nonprofit~~] owner-builder housing program;

(C) provide through the noncontract labor of friends, family, or volunteers and through personal labor at least 65 percent of the labor necessary to build or rehabilitate the proposed housing by working through a state-certified owner-builder housing program; or

(D) if due to documented disability or other limiting circumstances as defined by department rule the owner-builder cannot provide the amount of personal labor otherwise required by this subdivision, provide through the noncontract labor of friends, family, or volunteers at least 65 percent of the labor necessary to build or rehabilitate the proposed housing by working through a state-certified owner-builder housing program.

SECTION 5. Subsections (a), (b), and (c), Section 2306.754, Government Code, are amended to read as follows:

(a) The department may establish the minimum amount of a loan under this subchapter, but a loan made by the department may not exceed \$45,000 [~~\$30,000~~].

(b) If it is not possible for an owner-builder to purchase necessary real property and build or rehabilitate adequate housing for \$45,000 [~~\$30,000~~], the owner-builder must obtain the amount necessary that exceeds \$45,000 [~~\$30,000~~] from other sources of funds [~~one or more local governmental entities, nonprofit organizations, or private lenders~~]. The total amount of amortized, repayable loans made by the department and other entities to an owner-builder under this subchapter may not exceed \$90,000 [~~\$60,000~~].

(c) A loan made by the department under this subchapter:

(1) may not exceed a term of 30 years;

(2) may bear interest at a fixed rate of not more than three percent or bear interest in the following manner:

(A) no interest for the first two years of the loan;

(B) beginning with the second anniversary of the date the loan was made, interest at the rate of one percent a year;

(C) beginning on the third anniversary of the date the loan was made and ending on the sixth anniversary of the date the loan was made, interest at a rate that is one percent greater than the rate borne in the preceding year; and

(D) beginning on the sixth anniversary of the date the loan was made and continuing through the remainder of the loan term, interest at the rate of five percent; and

(3) shall [~~may~~] be secured by:

(A) a first lien by the department on the real property if the loan is the largest amortized, repayable loan secured by the real property; or

(B) a co-first lien or subordinate lien as determined by department rule, if the loan is not the largest loan as described by Paragraph (A)~~], including a lien that is subordinate to a lien that secures a loan made under Subsection (b) and that is greater than the department's lien].~~

SECTION 6. Subsection (a), Section 2306.755, Government Code, is amended to read as follows:

(a) The department may certify nonprofit owner-builder housing programs operated by a tax-exempt organization listed under Section 501(c)(3), Internal Revenue Code of 1986, to:

- (1) qualify potential owner-builders for loans under this subchapter;
- (2) provide owner-builder education classes under Section 2306.756;
- (3) assist owner-builders in building or rehabilitating housing; and
- (4) originate or service loans made under this subchapter.

SECTION 7. Subsection (a), Section 2306.756, Government Code, is amended to read as follows:

(a) A state-certified nonprofit owner-builder housing program shall offer owner-builder education classes to potential owner-builders. A class under this section must provide information on:

(1) the financial responsibilities of an owner-builder under this subchapter, including the consequences of an owner-builder's failure to meet those responsibilities;

(2) the building or rehabilitation of housing by owner-builders;

(3) resources for low-cost building materials available to owner-builders;

and

(4) resources for building or rehabilitation assistance available to owner-builders.

SECTION 8. Section 2306.757, Government Code, is amended to read as follows:

Sec. 2306.757. LOAN PRIORITY FOR WAIVER OF LOCAL GOVERNMENT FEES. In making loans under this subchapter, the department shall give priority to loans to owner-builders who will reside in counties or municipalities that agree in writing to waive capital recovery fees, building permit fees, inspection fees, or other fees related to the building or rehabilitation of the housing to be built or improved with the loan proceeds.

SECTION 9. Subsection (c), Section 2306.758, Government Code, is amended to read as follows:

(c) In a state fiscal year, the department may use not more than 10 percent of the revenue available for purposes of this subchapter to enhance the ability of tax-exempt organizations described by Section 2306.755(a) to implement the purposes of this chapter and to enhance the number of such organizations that are able to implement those purposes. The department shall use that available revenue to provide financial assistance, technical training, and management support for the purposes of this subsection.

SECTION 10. Subsection (a-1), Section 2306.7581, Government Code, is amended to read as follows:

(a-1) Each state fiscal year the department shall transfer at least \$3 million to the owner-builder revolving fund from money received under the federal HOME Investment Partnerships program established under Title II of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. Section 12701 et seq.), from money in the housing trust fund, or from money appropriated by the legislature to the department. This subsection expires August 31, 2020 [~~2010~~].

SECTION 11. (a) The change in law made by this Act in amending Sections 2306.202, 2306.203, and 2306.758, Government Code, applies beginning with the state fiscal year that begins September 1, 2009.

(b) The change in law made by this Act in amending Sections 2306.753 and 2306.754, Government Code, applies only to owner-builder loans granted by the department on or after the effective date of this Act. An owner-builder loan granted before the effective date of this Act is governed by the law in effect at the time the loan was granted, and the former law is continued in effect for that purpose.

SECTION 12. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2009.

The Conference Committee Report on **SB 679** was filed with the Secretary of the Senate.

### CONFERENCE COMMITTEE REPORT ON HOUSE BILL 216

Senator Shapleigh submitted the following Conference Committee Report:

Austin, Texas  
May 28, 2009

Honorable David Dewhurst  
President of the Senate

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 216** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

SHAPLEIGH  
URESTI  
NICHOLS  
NELSON  
WENTWORTH  
On the part of the Senate

MENÉNDEZ  
ROSE  
NAISHTAT  
J. DAVIS  
HUGHES  
On the part of the House

The Conference Committee Report on **HB 216** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 686**

Senator Davis submitted the following Conference Committee Report:

Austin, Texas  
May 30, 2009

Honorable David Dewhurst  
President of the Senate  
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 **SB 686** 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.

DAVIS  
CARONA  
NICHOLS  
SHAPIRO  
WATSON

ORR  
PARKER  
C. TURNER  
PIERSON

On the part of the Senate

On the part of the House

**A BILL TO BE ENTITLED  
AN ACT**

relating to the installation, maintenance, or operation of natural gas pipelines on state highways and highway rights-of-way.

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

SECTION 1. Subchapter E, Chapter 203, Transportation Code, is amended by adding Section 203.096 to read as follows:

Sec. 203.096. NATURAL GAS PIPELINE IN RIGHT-OF-WAY. (a) In this section, "gas utility" means:

(1) a gas utility as defined by Section 121.001 or 181.021, Utilities Code; or

(2) a person that:

(A) is a common carrier under Section 111.002, Natural Resources

Code;

(B) is a common purchaser under Section 111.081, Natural Resources

Code; or

(C) owns, manages, operates, leases, or controls a gas pipeline facility that is subject to Section 121.201, Utilities Code.

(b) This section applies only to a natural gas pipeline located or proposed to be located in:

(1) a county in which a part of the Barnett Shale natural gas field is known to be located;

(2) a county that is located in the boundaries of a metropolitan planning organization; or

(3) the corporate limits of a municipality.

(c) A gas utility is entitled to lay, maintain, and operate a natural gas pipeline through, under, along, or across a controlled access highway, as defined by Section 203.001(1), only if:

(1) the pipeline is subject to the jurisdiction, control, and regulation of the Railroad Commission of Texas and subject to safety standard requirements pertaining to gas pipeline facilities and transmission lines for the transportation of gas;

(2) the pipeline complies with all applicable state rules consistent with this section and all applicable federal regulations on the accommodation of utility facilities on the highway or right-of-way, including rules and regulations relating to the horizontal and vertical location of the pipeline; and

(3) the highway and associated facilities are promptly restored to their former condition of usefulness after the installation or maintenance of the pipeline, as applicable, is complete.

(d) Subject to Section 203.092, the department may require a gas utility to relocate a facility at the cost of the gas utility to accommodate construction or expansion of the highway or for any other public work unless the gas utility has a property interest in the land occupied by the facility to be relocated.

(e) This section may not be construed to:

(1) limit the authority of a gas utility to use a public right-of-way under any other law; or

(2) affect the authority of a municipality to:

(A) regulate the use of a public right-of-way by a gas utility under any other law; or

(B) require payment of any applicable charge under Section 121.2025, Utilities Code, and Sections 182.025 and 182.026, Tax Code.

SECTION 2. Subchapter A, Chapter 251, Transportation Code, is amended by adding Section 251.018 to read as follows:

Sec. 251.018. SUBSURFACE ACCESS IN RIGHT-OF-WAY. (a) A county shall allow subsurface access to a county road right-of-way for the installation of a temporary water line that does not interfere with existing utilities located in the right-of-way. The county may regulate the horizontal or vertical location of the water line within the right-of-way.

(b) A county may not adopt or enforce an ordinance or regulation that establishes or conflicts with a safety standard or practice applicable to a temporary water line that is regulated under state or federal law.

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, 2009.

The Conference Committee Report on **SB 686** was filed with the Secretary of the Senate.



**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 1722**

Senator Uresti submitted the following Conference Committee Report:

Austin, Texas  
May 29, 2009

Honorable David Dewhurst  
President of the Senate  
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 1722** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

URESTI  
HEGAR  
HINOJOSA  
HUFFMAN  
SELIGER

On the part of the Senate

CASTRO  
GALLEGO  
MOODY  
HUNTER  
PHILLIPS

On the part of the House

The Conference Committee Report on **HB 1722** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 2347**

Senator Whitmire submitted the following Conference Committee Report:

Austin, Texas  
May 29, 2009

Honorable David Dewhurst  
President of the Senate  
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 2347** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

WHITMIRE  
OGDEN  
ZAFFIRINI  
GALLEGOS  
DUNCAN

On the part of the Senate

THIBAUT  
DRIVER  
FLETCHER  
GUILLEN  
COLEMAN

On the part of the House

The Conference Committee Report on **HB 2347** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 3309**

Senator Ogden submitted the following Conference Committee Report:

Austin, Texas  
May 30, 2009

Honorable David Dewhurst  
President of the Senate

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 3309** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

OGDEN  
ESTES  
FRASER  
LUCIO  
WILLIAMS

GATTIS  
KOLKHORST  
HAMILTON  
RITTER  
LUCIO

On the part of the Senate

On the part of the House

The Conference Committee Report on **HB 3309** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 3768**

Senator Wentworth submitted the following Conference Committee Report:

Austin, Texas  
May 30, 2009

Honorable David Dewhurst  
President of the Senate

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 3768** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

WENTWORTH  
AVERITT  
ELTIFE  
WATSON

PAXTON  
HUGHES  
P. KING  
KLEINSCHMIDT

WHITMIRE  
On the part of the Senate

GONZALEZ TOUREILLES  
On the part of the House

The Conference Committee Report on **HB 3768** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE JOINT RESOLUTION 127**

Senator Carona submitted the following Conference Committee Report:

Austin, Texas  
May 30, 2009

Honorable David Dewhurst  
President of the Senate

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 **HJR 127** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

CARONA  
AVERITT  
DEUELL  
WATSON

P. KING  
FLYNN  
GUILLEN  
VAUGHT  
PEÑA

On the part of the Senate

On the part of the House

The Conference Committee Report on **HJR 127** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 1068**

Senator Wentworth submitted the following Conference Committee Report:

Austin, Texas  
May 30, 2009

Honorable David Dewhurst  
President of the Senate

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 **SB 1068** 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.

WENTWORTH  
CARONA

GALLEGO  
MOODY

ELLIS  
ELTIFE  
WILLIAMS

On the part of the Senate

FLETCHER  
MIKLOS

On the part of the House

A BILL TO BE ENTITLED  
AN ACT

relating to allowing a governmental body to redact certain personal information under the public information law without the necessity of requesting a decision from the attorney general and allowing information about a public officer or public employee to be withheld if disclosure would pose a substantial risk of physical harm.

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

SECTION 1. Section 552.024, Government Code, is amended by amending Subsection (c) and adding Subsections (c-1) and (c-2) to read as follows:

(c) If the employee or official or former employee or official chooses not to allow public access to the information:

(1) [5] the information is protected under Subchapter C; and

(2) the governmental body may redact the information from any information the governmental body discloses under Section 552.021 without the necessity of requesting a decision from the attorney general under Subchapter G.

(c-1) If, under Subsection (c)(2), a governmental body redacts or withholds information without requesting a decision from the attorney general about whether the information may be redacted or withheld, the requestor is entitled to seek a decision from the attorney general about the matter. The attorney general by rule shall establish procedures and deadlines for receiving information necessary to decide the matter and briefs from the requestor, the governmental body, and any other interested person. The attorney general shall promptly render a decision requested under this subsection, determining whether the redacted or withheld information was excepted from required disclosure to the requestor, not later than the 45th business day after the date the attorney general received the request for a decision under this subsection. The attorney general shall issue a written decision on the matter and provide a copy of the decision to the requestor, the governmental body, and any interested person who submitted necessary information or a brief to the attorney general about the matter. The requestor or the governmental body may appeal a decision of the attorney general under this subsection to a Travis County district court.

(c-2) A governmental body that redacts or withholds information under Subsection (c)(2) shall provide the following information to the requestor on a form prescribed by the attorney general:

(1) a description of the redacted or withheld information;

(2) a citation to this section; and

(3) instructions regarding how the requestor may seek a decision from the attorney general regarding whether the redacted or withheld information is excepted from required disclosure.

SECTION 2. Section 552.1175, Government Code, is amended by adding Subsections (f), (g), and (h) to read as follows:

(f) A governmental body may redact information that must be withheld under Subsection (b) from any information the governmental body discloses under Section 552.021 without the necessity of requesting a decision from the attorney general under Subchapter G.

(g) If, under Subsection (f), a governmental body redacts or withholds information without requesting a decision from the attorney general about whether the information may be redacted or withheld, the requestor is entitled to seek a decision from the attorney general about the matter. The attorney general by rule shall establish procedures and deadlines for receiving information necessary to decide the matter and briefs from the requestor, the governmental body, and any other interested person. The attorney general shall promptly render a decision requested under this subsection, determining whether the redacted or withheld information was excepted from required disclosure to the requestor, not later than the 45th business day after the date the attorney general received the request for a decision under this subsection. The attorney general shall issue a written decision on the matter and provide a copy of the decision to the requestor, the governmental body, and any interested person who submitted necessary information or a brief to the attorney general about the matter. The requestor or the governmental body may appeal a decision of the attorney general under this subsection to a Travis County district court.

(h) A governmental body that redacts or withholds information under Subsection (f) shall provide the following information to the requestor on a form prescribed by the attorney general:

- (1) a description of the redacted or withheld information;
- (2) a citation to this section; and

(3) instructions regarding how the requestor may seek a decision from the attorney general regarding whether the redacted or withheld information is excepted from required disclosure.

SECTION 3. Section 552.138, Government Code, is amended by adding Subsections (c), (d), and (e) to read as follows:

(c) A governmental body may redact information maintained by a family violence shelter center or sexual assault program that may be withheld under Subsection (b)(1) or (6) from any information the governmental body discloses under Section 552.021 without the necessity of requesting a decision from the attorney general under Subchapter G.

(d) If, under Subsection (c), a governmental body redacts or withholds information without requesting a decision from the attorney general about whether the information may be redacted or withheld, the requestor is entitled to seek a decision from the attorney general about the matter. The attorney general by rule shall establish procedures and deadlines for receiving information necessary to decide the matter and briefs from the requestor, the governmental body, and any other interested person. The attorney general shall promptly render a decision requested under this subsection, determining whether the redacted or withheld information was excepted from required disclosure to the requestor, not later than the 45th business day after the date the attorney general received the request for a decision under this subsection. The attorney general shall issue a written decision on the matter and provide a copy of the decision to the requestor, the governmental body, and any interested person who

submitted necessary information or a brief to the attorney general about the matter. The requestor or the governmental body may appeal a decision of the attorney general under this subsection to a Travis County district court.

(e) A governmental body that redacts or withholds information under Subsection (c) shall provide the following information to the requestor on a form prescribed by the attorney general:

(1) a description of the redacted or withheld information;

(2) a citation to this section; and

(3) instructions regarding how the requestor may seek a decision from the attorney general regarding whether the redacted or withheld information is excepted from required disclosure.

SECTION 4. Subchapter C, Chapter 552, Government Code, is amended by adding Section 552.151 to read as follows:

Sec. 552.151. EXCEPTION: PUBLIC EMPLOYEE OR OFFICER PERSONAL SAFETY. Information in the custody of a governmental body that relates to an employee or officer of the governmental body is excepted from the requirements of Section 552.021 if, under the specific circumstances pertaining to the employee or officer, disclosure of the information would subject the employee or officer to a substantial threat of physical harm.

SECTION 5. 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, 2009.

The Conference Committee Report on **SB 1068** was filed with the Secretary of the Senate.

### **CONFERENCE COMMITTEE REPORT ON HOUSE BILL 2774**

Senator Wentworth submitted the following Conference Committee Report:

Austin, Texas  
May 30, 2009

Honorable David Dewhurst  
President of the Senate

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 2774** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

WENTWORTH  
AVERITT  
ELTIFE

TRUITT  
DARBY  
FLYNN

VAN DE PUTTE

HOPSON

WATSON

On the part of the Senate

On the part of the House

The Conference Committee Report on **HB 2774** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 2086**

Senator Whitmire submitted the following Conference Committee Report:

Austin, Texas

May 30, 2009

Honorable David Dewhurst

President of the Senate

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 2086** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

WHITMIRE

MOODY

SELIGER

GALLEGO

CARONA

MIKLOS

ELLIS

RIDDLE

OGDEN

FLETCHER

On the part of the Senate

On the part of the House

The Conference Committee Report on **HB 2086** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 548**

Senator Carona submitted the following Conference Committee Report:

Austin, Texas

May 29, 2009

Honorable David Dewhurst

President of the Senate

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 548** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

CARONA  
 DAVIS  
 NICHOLS  
 WATSON  
 On the part of the Senate

PICKETT  
 GUILLEN  
 MERRITT  
 CALLEGARI  
 On the part of the House

The Conference Committee Report on **HB 548** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON  
 HOUSE BILL 2582**

Senator Hegar submitted the following Conference Committee Report:

Austin, Texas  
 May 30, 2009

Honorable David Dewhurst  
 President of the Senate

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 2582** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

HEGAR  
 PATRICK  
 HINOJOSA  
 ELTIFE

GONZALEZ TOUREILLES  
 ALONZO  
 SWINFORD  
 HERRERO  
 HUGHES

On the part of the Senate

On the part of the House

The Conference Committee Report on **HB 2582** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON  
 SENATE BILL 2513**

Senator Averitt submitted the following Conference Committee Report:

Austin, Texas  
 May 30, 2009

Honorable David Dewhurst  
 President of the Senate

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 **SB 2513** 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.

AVERITT  
DUNCAN  
ELTIFE  
WILLIAMS

On the part of the Senate

DUNNAM  
ANDERSON  
FARRAR  
VEASEY

On the part of the House

A BILL TO BE ENTITLED  
AN ACT

relating to the name and confirmation of, and to certain fees imposed by, the McLennan County Groundwater Conservation District and to the authority to create certain adjacent groundwater conservation districts.

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

SECTION 1. The heading to Chapter 8821, Special District Local Laws Code, is amended to read as follows:

CHAPTER 8821. SOUTHERN TRINITY [~~MCLENNAN COUNTY~~]  
GROUNDWATER CONSERVATION DISTRICT

SECTION 2. Subdivision (3), Section 8821.001, Special District Local Laws Code, is amended to read as follows:

(3) "District" means the Southern Trinity [~~McLennan County~~] Groundwater Conservation District.

SECTION 3. Section 8821.002, Special District Local Laws Code, is amended to read as follows:

Sec. 8821.002. NATURE OF DISTRICT. The district is a groundwater conservation district in McLennan County created under and essential to accomplish the purposes of Section 59, Article XVI, Texas Constitution. The district is located in a priority groundwater management area designated by the Texas Commission on Environmental Quality pursuant to Section 35.008, Water Code.

SECTION 4. Section 8821.024, Special District Local Laws Code, is amended to read as follows:

Sec. 8821.024. INITIAL DIRECTORS. (a) ~~The [if creation of the district is confirmed at an election held under Section 8821.023, the]~~ temporary directors are [~~become~~] the initial directors and serve for the terms provided by Subsection (b).

(b) The initial directors representing commissioners precincts 2 and 4 serve a term expiring on December 31, 2011 [~~following the expiration of two years after the date of the confirmation election~~], and the initial directors representing commissioners precincts 1 and 3 and the at-large director serve a term expiring on December 31, 2013 [~~following the expiration of four years after the date of the confirmation election~~].

SECTION 5. Section 8821.025, Special District Local Laws Code, is amended to read as follows:

Sec. 8821.025. EXPIRATION OF SUBCHAPTER. This subchapter expires December 31, 2013 [~~September 1, 2012~~].

SECTION 6. Section 8821.152, Special District Local Laws Code, is amended to read as follows:

Sec. 8821.152. DISTRICT REVENUES. (a) The district by rule, resolution, or order may establish, amend, pledge, encumber, expend the proceeds from, and assess to any person fees for services or production fees based on the amount of groundwater authorized by permit to be withdrawn from a well, or on the amount of water actually withdrawn, to enable the district to fulfill its purposes and regulatory functions as provided by this chapter. The district may use revenues generated by fees it assesses for any lawful purpose.

(b) Notwithstanding any provision of general law to the contrary, a fee authorized by Subsection (a) may not exceed:

(1) \$1 per acre-foot annually for groundwater used for agricultural purposes;

or

(2) 30 cents per thousand gallons annually for groundwater used for nonagricultural purposes.

(c) Notwithstanding any provision of general law or this chapter to the contrary, if any, the district may assess a production fee under this section for groundwater produced from a well or class of wells exempt from permitting under Section 36.117, Water Code, except for a well exempt from permitting under Section 36.117(b)(1), Water Code. A production fee assessed by the district under this subsection must be based on the amount of groundwater actually withdrawn from the well and may not exceed the amount established by the district for permitted uses under Subsection (b)(2) of this section ~~[FEES. The district may impose a user fee to pay for the creation and operation of the district, including permit hearings. The district may not impose a fee for agricultural use that is more than 20 percent of the rate for municipal use].~~

SECTION 7. The following provisions of the Special District Local Laws Code are repealed:

(1) Subsection (c), Section 8821.021; and

(2) Sections 8821.003 and 8821.023.

SECTION 8. Notwithstanding Sections 35.012 and 36.0151, Water Code, the Texas Commission on Environmental Quality shall not, before September 1, 2011, create a groundwater conservation district:

(1) in the priority groundwater management area in which the Southern Trinity Groundwater Conservation District is located; or

(2) in a priority groundwater management area that is adjacent to the priority groundwater management area in which the Southern Trinity Groundwater Conservation District is located.

SECTION 9. (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, the lieutenant governor, and the 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 are fulfilled and accomplished.

SECTION 10. 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, 2009.

The Conference Committee Report on **SB 2513** was filed with the Secretary of the Senate.

### CONFERENCE COMMITTEE REPORT ON HOUSE BILL 1041

Senator West submitted the following Conference Committee Report:

Austin, Texas  
May 29, 2009

Honorable David Dewhurst  
President of the Senate

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 1041** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

WEST  
AVERITT  
NELSON  
SHAPIRO  
URESTI

On the part of the Senate

PARKER  
CHÁVEZ  
SHELTON  
ROSE  
ZERWAS

On the part of the House

The Conference Committee Report on **HB 1041** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 3065**

Senator Ellis submitted the following Conference Committee Report:

Austin, Texas  
May 30, 2009

Honorable David Dewhurst  
President of the Senate

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 3065** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

ELLIS  
WENTWORTH  
WEST  
CARONA  
On the part of the Senate

BOHAC  
HOPSON  
JACKSON  
SOLOMONS  
On the part of the House

The Conference Committee Report on **HB 3065** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 3864**

Senator Seliger submitted the following Conference Committee Report:

Austin, Texas  
May 30, 2009

Honorable David Dewhurst  
President of the Senate

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 3864** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

SELIGER  
DEUELL  
ELTIFE  
HINOJOSA  
SHAPLEIGH  
On the part of the Senate

SMITHEE  
HEFLIN  
MCCALL  
SWINFORD  
On the part of the House

The Conference Committee Report on **HB 3864** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 451**

Senator Lucio submitted the following Conference Committee Report:

Austin, Texas  
May 30, 2009

Honorable David Dewhurst  
President of the Senate

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 451** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

LUCIO  
SHAPIRO

DEUELL  
VAN DE PUTTE  
CARONA

On the part of the Senate

ALLEN  
BOLTON  
HERRERO  
COHEN  
LEIBOWITZ

On the part of the House

The Conference Committee Report on **HB 451** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 148**

Senator Wentworth submitted the following Conference Committee Report:

Austin, Texas  
May 30, 2009

Honorable David Dewhurst  
President of the Senate

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 148** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

WENTWORTH  
WATSON  
HINOJOSA  
DUNCAN

T. SMITH  
BRANCH  
HARTNETT  
HUNTER

GALLEGOS  
On the part of the Senate

LEIBOWITZ  
On the part of the House

The Conference Committee Report on **HB 148** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 1801**

Senator Shapiro submitted the following Conference Committee Report:

Austin, Texas  
May 30, 2009

Honorable David Dewhurst  
President of the Senate

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 1801** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

SHAPIRO  
DUNCAN  
HINOJOSA  
SELIGER  
WILLIAMS

On the part of the Senate

BOHAC  
MARTINEZ FISCHER  
CASTRO  
PATRICK  
OLIVEIRA

On the part of the House

The Conference Committee Report on **HB 1801** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 3461**

Senator Watson submitted the following Conference Committee Report:

Austin, Texas  
May 30, 2009

Honorable David Dewhurst  
President of the Senate

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 3461** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

WATSON  
SELIGER

ORR  
CHISUM

CARONA  
 AVERITT  
 On the part of the Senate

BONNEN  
 GATTIS  
 On the part of the House

The Conference Committee Report on **HB 3461** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON  
 HOUSE BILL 3827**

Senator Deuell submitted the following Conference Committee Report:

Austin, Texas  
 May 29, 2009

Honorable David Dewhurst  
 President of the Senate  
 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 3827** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

DEUELL  
 HEGAR  
 ESTES

HANCOCK  
 RITTER  
 CHISUM  
 LEGLER

On the part of the Senate

On the part of the House

The Conference Committee Report on **HB 3827** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON  
 HOUSE BILL 2917**

Senator Shapiro submitted the following Conference Committee Report:

Austin, Texas  
 May 30, 2009

Honorable David Dewhurst  
 President of the Senate  
 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 2917** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

SHAPIRO  
 CARONA

MCREYNOLDS  
 HOPSON

FRASER  
HUFFMAN  
NELSON

On the part of the Senate

KOLKHORST  
TRUITT

On the part of the House

The Conference Committee Report on **HB 2917** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 52**

Senator Zaffirini submitted the following Conference Committee Report:

Austin, Texas  
May 30, 2009

Honorable David Dewhurst  
President of the Senate

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 **SB 52** 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.

ZAFFIRINI  
CARONA  
ELTIFE  
URESTI  
WENTWORTH  
On the part of the Senate

COLEMAN  
BRANCH  
HARLESS  
S. KING  
ZERWAS  
On the part of the House

A BILL TO BE ENTITLED  
AN ACT

relating to the penalties for the illegal use of a parking space or area designated specifically for persons with disabilities.

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

SECTION 1. Sections 681.011, (g), (h), (i), (j), and (k), Transportation Code, are amended to read as follows:

(g) Except as provided by Subsections (h)-(k), an offense under this section is a misdemeanor punishable by a fine of not less than \$250 or more than \$500.

(h) If it is shown on the trial of an offense under this section that the person has been previously convicted one time of an offense under this section, the offense is punishable by:

(1) a fine of not less than \$500 [~~\$300~~] or more than \$800; and

(2) 10 hours of community service [~~\$600~~].

(i) If it is shown on the trial of an offense under this section that the person has been previously convicted two times of an offense under this section, the offense is punishable by:

(1) a fine of not less than \$550 [~~\$300~~] or more than \$800 [~~\$600~~]; and



(2) ~~[not less than 10 or more than]~~ 20 hours of community service.

(j) If it is shown on the trial of an offense under this section that the person has been previously convicted three times of an offense under this section, the offense is punishable by:

(1) a fine of not less than ~~\$800~~ ~~[\$500]~~ or more than ~~\$1,100~~ ~~[\$1,000]~~; and

(2) ~~30~~ ~~[not less than 20 or more than 50]~~ hours of community service.

(k) If it is shown on the trial of an offense under this section that the person has been previously convicted four times of an offense under this section, the offense is punishable by a fine of ~~\$1,250~~ ~~[\$1,000]~~ and 50 hours of community service.

SECTION 2. Section 681.012, Transportation Code, is amended by adding Subsections (a-1) and (a-2) and amending Subsection (b) to read as follows:

(a-1) A peace officer may seize a disabled parking placard from a person who operates a vehicle on which a disabled parking placard is displayed if the peace officer determines by inspecting the person's driver's license or personal identification certificate that the disabled parking placard does not contain the first four digits of the driver's license number or personal identification certificate number and the initials of:

(1) the person operating the vehicle; or

(2) a person being transported by the vehicle.

(a-2) A peace officer shall submit each seized parking placard to the department not later than the fifth day after the seizure.

(b) On submission to the department under Subsection (a) or (a-2), a placard is revoked. On request of the person from whom the placard was seized, the department shall conduct a hearing and determine whether the revocation should continue or the placard should be returned to the person and the revocation rescinded.

SECTION 3. (a) The change in law made by this Act applies only to an offense committed on or after September 1, 2009.

(b) An offense committed before September 1, 2009, is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this subsection, an offense was committed before September 1, 2009, if any element of the offense was committed before that date.

SECTION 4. This Act takes effect September 1, 2009.

The Conference Committee Report on **SB 52** was filed with the Secretary of the Senate.

### CONFERENCE COMMITTEE REPORT ON SENATE BILL 1449

Senator West submitted the following Conference Committee Report:

Austin, Texas

May 30, 2009

Honorable David Dewhurst  
President of the Senate

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 **SB 1449** 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.

WEST  
ELLIS  
ELTIFE  
WENTWORTH  
WILLIAMS  
On the part of the Senate

DESHOTEL  
GUILLEN  
PEÑA  
ANDERSON  
ELKINS  
On the part of the House

A BILL TO BE ENTITLED  
AN ACT

relating to the appointment of a receiver to remedy hazardous properties.

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

SECTION 1. Subchapter A, Chapter 214, Local Government Code, is amended by adding Section 214.0031 to read as follows:

Sec. 214.0031. ADDITIONAL AUTHORITY TO APPOINT RECEIVER FOR HAZARDOUS PROPERTIES. (a) In this section:

(1) "Eligible nonprofit housing organization" means a nonprofit housing organization that is certified by a home-rule municipality to bring an action under this section.

(2) "Multifamily residential property" means any residential dwelling complex consisting of four or more units.

(b) A home-rule municipality may annually certify one or more nonprofit housing organizations to bring an action under this section after making the following findings:

(1) the nonprofit housing organization has a record of community involvement; and

(2) the certification will further the home-rule municipality's goal to rehabilitate hazardous properties.

(c) A home-rule municipality or an eligible nonprofit housing organization may bring an action under this section in district court against an owner of property that is not in substantial compliance with one or more municipal ordinances regarding:

(1) the prevention of substantial risk of injury to any person; or

(2) the prevention of an adverse health impact to any person.

(d) A municipality that grants authority to an eligible nonprofit housing organization to initiate an action under this section has standing to intervene in the proceedings at any time as a matter of right.

(e) The court may appoint a receiver if the court finds that:

(1) the property is in violation of one or more ordinances of the municipality described by Subsection (c);

(2) the condition of the property constitutes a serious and imminent public health or safety hazard; and

(3) the property is not an owner-occupied, single-family residence.

(f) The following are eligible to serve as court-appointed receivers:

(1) an entity with, as determined by the court, sufficient capacity and experience rehabilitating properties; and

(2) an individual with, as determined by the court, sufficient resources and experience rehabilitating properties.

(g) Notwithstanding Subsection (f), an entity is ineligible to serve as a receiver for a multifamily residential property if the nonprofit housing organization that brought the action under this section has an ownership interest or a right to income in the entity.

(h) The home-rule municipality or eligible nonprofit housing organization must send by certified mail notice of any ordinance violation alleged to exist on the property on or before the 30th day before the date an action is filed under this section to:

(1) the physical address of the property; and

(2) the address as indicated on the most recently approved municipal tax roll for the property owner or the property owner's agent.

(i) In an action under this section, each record owner and each lienholder of record of the property shall be served with notice of the proceedings or, if not available after due diligence, may be served by alternative means, including publication, as prescribed by the Texas Rules of Civil Procedure. Actual service or service by publication on a record owner or lienholder constitutes notice to each unrecorded owner or lienholder.

(j) On a showing of imminent risk of injury to a person occupying the property or present in the community, the court may issue a mandatory or prohibitory temporary restraining order or temporary injunction as necessary to protect the public health or safety.

(k) Unless inconsistent with this section or other law, the rules of equity govern all matters relating to a court action under this section.

(l) Subject to control of the court, a court-appointed receiver has all powers necessary and customary to the powers of a receiver under the laws of equity and may:

(1) take possession and control of the property;

(2) operate and manage the property;

(3) establish and collect rents and income on the property;

(4) lease the property;

(5) make any repairs and improvements necessary to bring the property into compliance with local codes and ordinances and state laws, including:

(A) performing and entering into contracts for the performance of work and the furnishing of materials for repairs and improvements; and

(B) entering into loan and grant agreements for repairs and improvements to the property;

(6) pay expenses, including paying for utilities and paying taxes and assessments, insurance premiums, and reasonable compensation to a property management agent;

(7) enter into contracts for operating and maintaining the property;

(8) exercise all other authority of an owner of the property other than the authority to sell the property unless authorized by the court under Subsection (n); and

(9) perform other acts regarding the property as authorized by the court.

(m) A court-appointed receiver may demolish a single-family structure on the property under this section on authorization by the court and only if the court finds:

(1) it is not economically feasible to bring the structure into compliance with local codes and ordinances and state laws; and

(2) the structure is:

(A) unfit for human habitation or is a hazard to the public health or safety;

(B) regardless of its structural condition:

(i) unoccupied by its owners or lessees or other invitees; and

(ii) unsecured from unauthorized entry to the extent that it could be entered or used by vagrants or other uninvited persons as a place of harborage or could be entered or used by children; or

(C) boarded, fenced, or otherwise secured, but:

(i) the structure constitutes a danger to the public even though secured from entry; or

(ii) the means used to secure the structure are inadequate to prevent unauthorized entry or use of the structure in the manner described by Paragraph (B)(ii).

(n) On demolition of the structure, the court may authorize the receiver to sell the property to an individual or organization that will bring the property into productive use.

(o) On completing the repairs or demolishing the structure or before petitioning a court for termination of the receivership, the receiver shall file with the court a full accounting of all costs and expenses incurred in the repairs or demolition, including reasonable costs for labor and supervision, all income received from the property, and, at the receiver's discretion, a receivership fee of 10 percent of those costs and expenses. If the property was sold under Subsection (n) and the revenue exceeds the total of the costs and expenses incurred by the receiver plus any receivership fee, any net income shall be returned to the owner. If the property is not sold and the income produced exceeds the total of the costs and expenses incurred by the receiver plus any receivership fee, the rehabilitated property shall be restored to the owner and any net income shall be returned to the owner. If the total of the costs and expenses incurred by the receiver plus any receivership fee exceeds the income produced during the receivership, the receiver may maintain control of the property until all rehabilitation and maintenance costs plus any receivership fee are recovered or until the receivership is terminated.

(p) A receiver shall have a lien on the property for all of the receiver's unreimbursed costs and expenses, plus any receivership fee.

(q) Any lienholder of record may, after initiation of an action under this section:

(1) intervene in the action; and

(2) request appointment as a receiver under this section if the lienholder demonstrates to the court an ability and willingness to rehabilitate the property.

(r) A receiver appointed under this section or the home-rule municipality or eligible nonprofit housing organization that filed the action under which the receiver was appointed may petition the court to terminate the receivership and order the sale of the property if an owner has been served with notice but has failed to repay all of the receiver's outstanding costs and expenses plus any receivership fee on or before the 180th day after the date the notice was served.

(s) The court may order the sale of the property if the court finds that:

(1) notice was given to each record owner of the property and each lienholder of record;

(2) the receiver has been in control of the property and the owner has failed to repay all the receiver's outstanding costs and expenses of rehabilitation plus any receivership fee within the period prescribed by Subsection (r); and

(3) no lienholder of record has intervened in the action and tendered the receiver's costs and expenses, plus any receivership fee, and assumed control of the property.

(t) The court may order the property sold:

(1) to a land bank or other party as the court may direct, excluding, for multifamily residential properties, an eligible nonprofit housing organization that initiated the action under this section; or

(2) at public auction.

(u) The receiver, if an entity not excluded under Subsection (t), may bid on the property at the sale described by Subsection (t)(2) and may use a lien granted under Subsection (p) as credit toward the purchase.

(v) The court shall confirm a sale under this section and order a distribution of the proceeds of the sale in the following order:

(1) court costs;

(2) costs and expenses, plus a receivership fee, and any lien held by the receiver; and

(3) other valid liens.

(w) Any remaining amount shall be paid to the owner. If the owner cannot be identified or located, the court shall order the remaining amount to be deposited in an interest-bearing account with the district clerk's office in the district court in which the action is pending. The district clerk shall hold the funds as provided by other law.

(x) After the proceeds are distributed, the court shall award fee title to the purchaser. If the proceeds of the sale are insufficient to pay all liens, claims, and encumbrances on the property, the court shall extinguish all unpaid liens, claims, and encumbrances on the property and award title to the purchaser free and clear.

(y) This section does not foreclose any right or remedy that may be available under Section 214.003, other state law, or the laws of equity.

SECTION 2. This Act takes effect September 1, 2009.

The Conference Committee Report on **SB 1449** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 764**

Senator Wentworth submitted the following Conference Committee Report:

Austin, Texas  
May 30, 2009

Honorable David Dewhurst  
President of the Senate

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 764** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

WENTWORTH  
CARONA  
HARRIS  
HINOJOSA  
WATSON

HARTNETT  
HUGHES  
LEIBOWITZ

On the part of the Senate

On the part of the House

The Conference Committee Report on **HB 764** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 1506**

Senator Hinojosa submitted the following Conference Committee Report:

Austin, Texas  
May 30, 2009

Honorable David Dewhurst  
President of the Senate

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 1506** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

HINOJOSA  
SELIGER  
WEST  
WHITMIRE

HERRERO  
GALLEGO  
PIERSON  
GATTIS  
OTTO

On the part of the Senate

On the part of the House

The Conference Committee Report on **HB 1506** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 2153**

Senator Shapiro submitted the following Conference Committee Report:

Austin, Texas  
May 30, 2009

Honorable David Dewhurst  
President of the Senate

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 2153** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

SHAPIRO  
ELLIS  
DUNCAN  
DAVIS  
HINOJOSA

On the part of the Senate

EDWARDS  
KENT  
RIDDLE  
FLETCHER  
VAUGHT

On the part of the House

The Conference Committee Report on **HB 2153** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 2240**

Senator Nelson submitted the following Conference Committee Report:

Austin, Texas  
May 30, 2009

Honorable David Dewhurst  
President of the Senate

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 2240** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

NELSON  
PATRICK  
SELIGER  
SHAPIRO  
WHITMIRE

On the part of the Senate

LEWIS  
MOODY  
GUILLEN  
D. HOWARD  
VAUGHT

On the part of the House

The Conference Committee Report on **HB 2240** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 1742**

Senator Shapiro submitted the following Conference Committee Report:

Austin, Texas  
May 30, 2009

Honorable David Dewhurst  
President of the Senate

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 **SB 1742** 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.

SHAPIRO  
DEUELL  
NELSON  
NICHOLS  
WEST

On the part of the Senate

PAXTON  
LAUBENBERG  
PARKER  
MADDEN  
MCCALL

On the part of the House

A BILL TO BE ENTITLED  
AN ACT

relating to the regulation of the discharge of firearms and certain other weapons by certain municipalities.

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

SECTION 1. Chapter 229, Local Government Code, is amended by adding Section 229.003 to read as follows:

Sec. 229.003. REGULATION OF DISCHARGE OF WEAPON BY CERTAIN MUNICIPALITIES. (a) This section applies only to a municipality located wholly or partly in a county:

(1) with a population of 450,000 or more;

(2) in which all or part of a municipality with a population of one million or more is located; and

(3) that is located adjacent to a county with a population of two million or more.

(b) Notwithstanding Section 229.002, a municipality may not apply a regulation relating to the discharge of firearms or other weapons in the extraterritorial jurisdiction of the municipality or in an area annexed by the municipality after September 1, 1981, if the firearm or other weapon is:

(1) a shotgun, air rifle or pistol, BB gun, or bow and arrow discharged:

(A) on a tract of land of 10 acres or more and:

(i) more than 1,000 feet from:



(a) the property line of a public tract of land, generally accessible by the public, that is routinely used for organized sporting or recreational activities or that has permanent recreational facilities or equipment; and

(b) the property line of a school, hospital, or commercial day-care facility;

(ii) more than 600 feet from:

(a) the property line of a residential subdivision; and

(b) the property line of a multifamily residential complex; and

(iii) more than 150 feet from a residence or occupied building

located on another property; and

(B) in a manner not reasonably expected to cause a projectile to cross the boundary of the tract;

(2) a center fire or rim fire rifle or pistol of any caliber discharged:

(A) on a tract of land of 50 acres or more and:

(i) more than 1,000 feet from:

(a) the property line of a public tract of land, generally accessible by the public, that is routinely used for organized sporting or recreational activities or that has permanent recreational facilities or equipment; and

(b) the property line of a school, hospital, or commercial day-care facility;

(ii) more than 600 feet from:

(a) the property line of a residential subdivision; and

(b) the property line of a multifamily residential complex; and

(iii) more than 300 feet from a residence or occupied building

located on another property; and

(B) in a manner not reasonably expected to cause a projectile to cross the boundary of the tract; or

(3) discharged at a sport shooting range, as defined by Section 250.001, in a manner not reasonably expected to cause a projectile to cross the boundary of a tract of land.

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, 2009.

The Conference Committee Report on **SB 1742** was filed with the Secretary of the Senate.

### **CONFERENCE COMMITTEE REPORT ON HOUSE BILL 3751**

Senator Shapiro submitted the following Conference Committee Report:

Austin, Texas

May 30, 2009

Honorable David Dewhurst  
President of the Senate

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 3751** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

SHAPIRO  
AVERITT  
HINOJOSA  
OGDEN  
PATRICK

On the part of the Senate

GALLEGO  
MOODY  
MIKLOS  
FLETCHER  
CHRISTIAN

On the part of the House

The Conference Committee Report on **HB 3751** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 2274**

Senator Seliger submitted the following Conference Committee Report:

Austin, Texas  
May 30, 2009

Honorable David Dewhurst  
President of the Senate

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 **SB 2274** 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.

SELIGER  
SHAPIRO  
WHITMIRE  
OGDEN  
WATSON

On the part of the Senate

CHISUM  
EISSLER  
HOCHBERG  
AYCOCK  
GALLEGO

On the part of the House

**A BILL TO BE ENTITLED  
AN ACT**

relating to the authority of a school district to impose ad valorem taxes.

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

SECTION 1. Section 26.08, Tax Code, is amended by adding Subsection (p) to read as follows:

(p) Notwithstanding Subsections (i), (n), and (o), if for the preceding tax year the district adopted a maintenance and operations tax rate that was less than the district's effective maintenance and operations tax rate for that preceding tax year, the rollback tax rate of the district for the current tax year is calculated as if the district adopted a maintenance and operations tax rate for the preceding tax year that was equal to the district's effective maintenance and operations tax rate for that preceding tax year.

SECTION 2. Subsection (a), Section 45.001, Education Code, is amended to read as follows:

(a) The governing board of an independent school district, including the city council or commission that has jurisdiction over a municipally controlled independent school district, the governing board of a rural high school district, and the commissioners court of a county, on behalf of each common school district under its jurisdiction, may:

(1) issue bonds for:

(A) the construction, acquisition, and equipment of school buildings in the district;

(B) the acquisition of property or the refinancing of property financed under a contract entered under Subchapter A, Chapter 271, Local Government Code, regardless of whether payment obligations under the contract are due in the current year or a future year;

(C) the purchase of the necessary sites for school buildings; and

(D) the purchase of new school buses; and

(2) may levy, pledge, assess, and collect annual ad valorem taxes sufficient to pay the principal of and interest on the bonds as or before the principal and interest become due, subject to Section 45.003.

SECTION 3. (a) The change in law made by this Act applies to the ad valorem tax rate of a school district beginning with the 2009 tax year, except as provided by Subsection (b) of this section.

(b) If the governing body of a school district adopted an ad valorem tax rate for the school district for the 2009 tax year before the effective date of this Act, the change in law made by this Act applies to the ad valorem tax rate of that school district beginning with the 2010 tax year, and the law in effect when the tax rate was adopted applies to the 2009 tax year with respect to that school district.

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, 2009.

The Conference Committee Report on **SB 2274** was filed with the Secretary of the Senate.

### **CONFERENCE COMMITTEE REPORT ON HOUSE BILL 3676**

Senator Seliger submitted the following Conference Committee Report:

Austin, Texas  
May 30, 2009

Honorable David Dewhurst  
President of the Senate

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 3676** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

SELIGER  
SHAPLEIGH  
ELTIFE  
WATSON  
SHAPIRO

On the part of the Senate

HEFLIN  
SWINFORD  
OLIVEIRA  
HARTNETT  
RITTER

On the part of the House

The Conference Committee Report on **HB 3676** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 1273**

Senator Carona submitted the following Conference Committee Report:

Austin, Texas  
May 30, 2009

Honorable David Dewhurst  
President of the Senate

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 **SB 1273** 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.

CARONA  
AVERITT  
SELIGER  
WEST

On the part of the Senate

FLETCHER  
COOK  
GALLEGO  
MIKLOS  
PHILLIPS

On the part of the House

**A BILL TO BE ENTITLED  
AN ACT**

relating to creating an offense for interference with certain radio frequencies.

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

SECTION 1. Chapter 38, Penal Code, is amended by adding Section 38.152 to read as follows:

Sec. 38.152. INTERFERENCE WITH RADIO FREQUENCY LICENSED TO GOVERNMENT ENTITY. (a) A person commits an offense if, without the effective consent of the law enforcement agency, fire department, or emergency medical services provider, the person intentionally interrupts, disrupts, impedes, jams, or otherwise interferes with a radio frequency that is licensed by the Federal Communications Commission to a government entity and is used by the law enforcement agency, fire department, or emergency medical services provider.

(b) An offense under this section is a Class A misdemeanor, except that the offense is a state jail felony if the actor committed the offense with the intent to:

(1) facilitate the commission of another offense; or

(2) interfere with the ability of a law enforcement agency, a fire department, or an emergency medical services provider to respond to an emergency.

(c) In this section:

(1) "Emergency" has the meaning assigned by Section 38.15.

(2) "Emergency medical services provider" has the meaning assigned by Section 773.003, Health and Safety Code.

(3) "Law enforcement agency" has the meaning assigned by Article 59.01, Code of Criminal Procedure.

(d) If conduct constituting an offense under this section also constitutes an offense under another section of this code, the actor may be prosecuted under either section or under both sections.

SECTION 2. This Act takes effect September 1, 2009.

The Conference Committee Report on **SB 1273** was filed with the Secretary of the Senate.

### CONFERENCE COMMITTEE REPORT ON HOUSE BILL 469

Senator Seliger submitted the following Conference Committee Report:

Austin, Texas  
May 30, 2009

Honorable David Dewhurst  
President of the Senate

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 469** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

SELIGER  
AVERITT  
FRASER  
OGDEN  
SHAPLEIGH

On the part of the Senate

P. KING  
LEWIS  
ANCHIA  
STRAMA  
HARDCASTLE

On the part of the House

The Conference Committee Report on **HB 469** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 2169**

Senator Hinojosa submitted the following Conference Committee Report:

Austin, Texas  
May 30, 2009

Honorable David Dewhurst  
President of the Senate

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 2169** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

HINOJOSA  
SHAPIRO  
WATSON

CHÁVEZ  
EISSLER  
MORRISON  
STRAMA

On the part of the Senate

On the part of the House

The Conference Committee Report on **HB 2169** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 2647**

Senator Deuell submitted the following Conference Committee Report:

Austin, Texas  
May 29, 2009

Honorable David Dewhurst  
President of the Senate

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 2647** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

DEUELL  
ELTIFE  
WEST  
GALLEGOS

KENT  
VAUGHT  
BUTTON  
MIKLOS  
DRIVER

On the part of the Senate

On the part of the House

The Conference Committee Report on **HB 2647** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 3221**

Senator Van de Putte submitted the following Conference Committee Report:

Austin, Texas  
May 29, 2009

Honorable David Dewhurst  
President of the Senate  
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 3221** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

VAN DE PUTTE  
HARRIS  
WATSON

HANCOCK  
EILAND  
SMITHEE  
MARTINEZ FISCHER  
TAYLOR

On the part of the Senate

On the part of the House

The Conference Committee Report on **HB 3221** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 4009**

Senator Van de Putte submitted the following Conference Committee Report:

Austin, Texas  
May 30, 2009

Honorable David Dewhurst  
President of the Senate  
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 4009** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

VAN DE PUTTE  
OGDEN  
WHITMIRE  
HINOJOSA  
WILLIAMS

WEBER  
ANCHIA  
HUGHES  
HUNTER  
THOMPSON

On the part of the Senate

On the part of the House

The Conference Committee Report on **HB 4009** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 3220**

Senator Patrick submitted the following Conference Committee Report:

Austin, Texas  
May 29, 2009

Honorable David Dewhurst  
President of the Senate

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 3220** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

PATRICK  
SHAPIRO  
WILLIAMS  
LUCIO

VAN DE PUTTE

On the part of the Senate

HANCOCK

LUCIO

JACKSON

EISSLER

DUTTON

On the part of the House

The Conference Committee Report on **HB 3220** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 2555**

Senator Ogden submitted the following Conference Committee Report:

Austin, Texas  
May 29, 2009

Honorable David Dewhurst  
President of the Senate

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 2555** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

OGDEN  
WENTWORTH  
DEUELL  
HARRIS

HILDERBRAN  
CHISUM  
DARBY  
ROSE



ZAFFIRINI  
On the part of the Senate

HUGHES  
On the part of the House

The Conference Committee Report on **HB 2555** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 379**

Senator Carona submitted the following Conference Committee Report:

Austin, Texas  
May 30, 2009

Honorable David Dewhurst  
President of the Senate

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 **SB 379** 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.

CARONA  
HUFFMAN  
SHAPLEIGH  
WHITMIRE

GUILLEN  
CORTE  
FLYNN  
GONZALES  
RAYMOND  
On the part of the House

On the part of the Senate

**A BILL TO BE ENTITLED  
AN ACT**

relating to an annual report by the Texas Fusion Center regarding criminal street gangs.

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

SECTION 1. Section 421.082, Government Code, is amended by adding Subsections (e), (f), and (g) to read as follows:

(e) The gang section of the center shall annually submit to the governor and the legislature a report assessing the threat posed statewide by criminal street gangs. The report must include identification of:

(1) law enforcement strategies that have been proven effective in deterring gang-related crime; and

(2) gang involvement in trafficking of persons.

(f) On request, the office of the attorney general, the Department of Public Safety, the Texas Department of Criminal Justice, other law enforcement agencies, and juvenile justice agencies of this state shall provide to the gang section of the center information relating to criminal street gangs, gang-related crime, and gang involvement in trafficking of persons.

(g) Any information received by the center under this section that is stored, combined with other information, analyzed, or disseminated is subject to the rules governing criminal intelligence in 28 C.F.R. Part 23.

SECTION 2. The gang section of the Texas Fusion Center shall submit the first annual report regarding criminal street gangs to the governor and the legislature as required by Subsection (e), Section 421.082, Government Code, as added by this Act, not later than September 1, 2010.

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, 2009.

The Conference Committee Report on **SB 379** was filed with the Secretary of the Senate.

### CONFERENCE COMMITTEE REPORT ON HOUSE BILL 3389

Senator Deuell submitted the following Conference Committee Report:

Austin, Texas  
May 30, 2009

Honorable David Dewhurst  
President of the Senate

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 3389** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

DEUELL  
CARONA  
HEGAR  
WEST  
WHITMIRE

HARPER-BROWN  
FLETCHER  
P. KING

On the part of the Senate

On the part of the House

The Conference Committee Report on **HB 3389** was filed with the Secretary of the Senate.

### CONFERENCE COMMITTEE REPORT ON HOUSE BILL 3076

Senator West submitted the following Conference Committee Report:

Austin, Texas  
May 30, 2009

Honorable David Dewhurst  
President of the Senate

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 3076** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

WEST  
AVERITT  
SHAPIRO  
WATSON

DESHOTEL  
ALLEN  
EISSLER

On the part of the Senate

On the part of the House

The Conference Committee Report on **HB 3076** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 313**

Senator Wentworth submitted the following Conference Committee Report:

Austin, Texas  
May 30, 2009

Honorable David Dewhurst  
President of the Senate

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 **SB 313** 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.

WENTWORTH  
DEUELL  
HINOJOSA  
ZAFFIRINI

HAMILTON  
ISETT  
COLEMAN

On the part of the Senate

On the part of the House

**A BILL TO BE ENTITLED  
AN ACT**

relating to tax increment financing.

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

SECTION 1. Section 311.002(1), Tax Code, is amended to read as follows:

(1) "Project costs" means the expenditures made or estimated to be made and monetary obligations incurred or estimated to be incurred by the municipality or county designating ~~establishing~~ a reinvestment zone that are listed in the project plan

as costs of public works, ~~[or]~~ public improvements, programs, or other projects benefiting ~~[in]~~ the zone, plus other costs incidental to those expenditures and obligations. "Project costs" include:

(A) capital costs, including the actual costs of the acquisition and construction of public works, public improvements, new buildings, structures, and fixtures; the actual costs of the acquisition, demolition, alteration, remodeling, repair, or reconstruction of existing buildings, structures, and fixtures; the actual costs of the remediation of conditions that contaminate public or private land or buildings; the actual costs of the preservation of the facade of a public or private building; the actual costs of the demolition of public or private buildings; and the actual costs of the acquisition of land and equipment and the clearing and grading of land;

(B) financing costs, including all interest paid to holders of evidences of indebtedness or other obligations issued to pay for project costs and any premium paid over the principal amount of the obligations because of the redemption of the obligations before maturity;

(C) real property assembly costs;

(D) professional service costs, including those incurred for architectural, planning, engineering, and legal advice and services;

(E) imputed administrative costs, including reasonable charges for the time spent by employees of the municipality or county in connection with the implementation of a project plan;

(F) relocation costs;

(G) organizational costs, including the costs of conducting environmental impact studies or other studies, the cost of publicizing the creation of the zone, and the cost of implementing the project plan for the zone;

(H) interest before and during construction and for one year after completion of construction, whether or not capitalized;

(I) the cost of operating the reinvestment zone and project facilities;

(J) the amount of any contributions made by the municipality or county from general revenue for the implementation of the project plan; ~~[and]~~

(K) the costs of a program described by Section 311.010(h);

(L) the costs of school buildings, other educational buildings, other educational facilities, or other buildings owned by or on behalf of a school district, community college district, or other political subdivision of this state; and

(M) payments made at the discretion of the governing body of the municipality or county that the governing body finds necessary or convenient to the creation of the zone or to the implementation of the project plans for the zone.

SECTION 2. Sections 311.003(a) and (b), Tax Code, are amended to read as follows:

(a) The governing body of a county by order may designate a geographic area in the county or the governing body of a municipality by ordinance ~~[or the governing body of a county by order]~~ may designate a ~~[contiguous]~~ geographic area that is in the corporate limits of the municipality, in the extraterritorial jurisdiction of the municipality, or in both ~~[in the jurisdiction of the municipality or county]~~ to be a reinvestment zone to promote development or redevelopment of the area if the governing body determines that development or redevelopment would not occur

solely through private investment in the reasonably foreseeable future. The area need not be contiguous if the governing body determines that the tracts included in the area are substantially related. The designation of an area that is wholly or partly located in the extraterritorial jurisdiction of a municipality is not affected by a subsequent annexation of real property in the reinvestment zone by the municipality. The tax increment base of a municipality that annexes an area in a zone after the area is included in the zone is computed as if the area were located in the corporate limits of the municipality at the time the area was included in the zone.

(b) Before adopting an ordinance or order designating ~~[providing for]~~ a reinvestment zone, the governing body of the municipality or county must prepare a preliminary reinvestment zone financing plan. ~~[As soon as the plan is completed, a copy of the plan must be sent to the governing body of each taxing unit that levies taxes on real property in the proposed zone.]~~

SECTION 3. Chapter 311, Tax Code, is amended by adding Section 311.0035 to read as follows:

Sec. 311.0035. PROCEDURE FOR DESIGNATING JOINT REINVESTMENT ZONE. (a) The governing bodies of two or more municipalities by ordinance adopted by each municipality may designate a contiguous area in the jurisdiction of each of the municipalities to be a joint reinvestment zone. Except as otherwise provided by this section, each of the municipalities must follow the procedures provided by Section 311.003 to designate an area as a joint reinvestment zone. The ordinances adopted by all of the municipalities designating an area as a joint reinvestment zone must contain the same terms and must:

(1) describe the boundaries of the zone with sufficient definiteness to identify with ordinary and reasonable certainty the territory included in the zone;

(2) create a board of directors for the zone and specify:

(A) the number of directors;

(B) the qualifications of directors;

(C) the manner in which directors are appointed;

(D) the terms of directors;

(E) the manner in which vacancies on the board are filled; and

(F) the manner by which officers of the board are selected;

(3) provide that the zone takes effect immediately on adoption of the ordinance by the last of the municipalities in the jurisdiction of which the area contained in the zone is located;

(4) provide a termination date for the zone;

(5) assign a name to the zone, which may include the name of one or more of the designating municipalities and may contain a number;

(6) establish a tax increment fund for the zone; and

(7) contain findings that:

(A) improvements in the zone will significantly enhance the value of all taxable real property in the zone and will be of general benefit to the municipalities; and

(B) the area meets the requirements of Sections 311.005(a)(1) and (2) and (a-1).

(b) For purposes of complying with Subsection (a)(7)(A), the ordinances are not required to identify the specific parcels of real property to be enhanced in value.

(c) The boundaries of a joint reinvestment zone may be enlarged or reduced by ordinance of the governing bodies of the municipalities that designated the zone, subject to the restrictions contained in this section.

(d) The municipalities designating a joint reinvestment zone may exercise any power necessary and convenient to carry out this section and the other provisions of this chapter, including the powers listed in Section 311.008.

(e) Except as otherwise provided by this section, the board of directors of a joint reinvestment zone has the same powers and duties and is subject to the same limitations as the board of directors of a reinvestment zone designated by a single municipality. Sections 311.011, 311.012, 311.0123, 311.013, 311.014, 311.015, 311.016, 311.0163, and 311.018 apply to the municipalities designating a joint reinvestment zone, except that a reference in those sections to a municipality means all of the municipalities designating a joint reinvestment zone and an action required of a municipality under those sections is considered to be required of all of the municipalities designating a joint reinvestment zone.

(f) Expenditures from tax increment financing funds or bonds secured by tax increment financing may be made without regard to the location from which the funds were derived or the location within the joint reinvestment zone at which the funds are spent, but only if those expenditures are authorized as required by this chapter.

SECTION 4. Section 311.005(a), Tax Code, is amended to read as follows:

(a) To be designated as a reinvestment zone, an area must:

(1) substantially arrest or impair the sound growth of the municipality or county designating ~~creating~~ the zone, retard the provision of housing accommodations, or constitute an economic or social liability and be a menace to the public health, safety, morals, or welfare in its present condition and use because of the presence of:

(A) a substantial number of substandard, slum, deteriorated, or deteriorating structures;

(B) the predominance of defective or inadequate sidewalk or street layout;

(C) faulty lot layout in relation to size, adequacy, accessibility, or usefulness;

(D) unsanitary or unsafe conditions;

(E) the deterioration of site or other improvements;

(F) tax or special assessment delinquency exceeding the fair value of the land;

(G) defective or unusual conditions of title;

(H) conditions that endanger life or property by fire or other cause; or

(I) structures, other than single-family residential structures, less than 10 percent of the square footage of which has been used for commercial, industrial, or residential purposes during the preceding 12 years, if the municipality has a population of 100,000 or more;

(2) be predominantly open, undeveloped, or underdeveloped and, because of obsolete platting, deterioration of structures or site improvements, or other factors, substantially impair or arrest the sound growth of the municipality or county;

(3) be in a federally assisted new community located in the municipality or county or in an area immediately adjacent to a federally assisted new community; or

(4) be an area described in a petition requesting that the area be designated as a reinvestment zone, if the petition is submitted to the governing body of the municipality or county by the owners of property constituting at least 50 percent of the appraised value of the property in the area according to the most recent certified appraisal roll for the county in which the area is located.

SECTION 5. Sections 311.006(a) and (b), Tax Code, are amended to read as follows:

(a) A municipality may not designate ~~create~~ a reinvestment zone if:

(1) more than 30 ~~[40]~~ percent of the property in the proposed zone, excluding property that is publicly owned, is used for residential purposes; or

(2) the total appraised value of taxable real property in the proposed zone and in existing reinvestment zones exceeds:

(A) 25 ~~[45]~~ percent of the total appraised value of taxable real property in the municipality and in the industrial districts created by the municipality, if the municipality has a population of 100,000 or more; or

(B) 50 percent of the total appraised value of taxable real property in the municipality and in the industrial districts created by the municipality, if the municipality has a population of less than 100,000.

(b) A municipality may not change the boundaries of an existing reinvestment zone to include property in excess of the restrictions on composition of a zone described by Subsection (a) [more than 10 percent of which, excluding property dedicated to public use, is used for residential purposes or to include more than 15 percent of the total appraised value of taxable real property in the municipality and in the industrial districts created by the municipality].

SECTION 6. The heading to Section 311.007, Tax Code, is amended to read as follows:

Sec. 311.007. CHANGING BOUNDARIES OR TERM OF EXISTING ZONE.

SECTION 7. Section 311.007, Tax Code, is amended by amending Subsection (a) and adding Subsection (c) to read as follows:

(a) The ~~Subject to the limitations provided by Section 311.006, if applicable, the~~ boundaries of an existing reinvestment zone may be reduced or enlarged by ordinance or resolution of the governing body of the municipality or by order or resolution of the governing body of the county that designated ~~created~~ the zone.

(c) The governing body of the municipality or county that designated a reinvestment zone by ordinance or resolution or by order or resolution, respectively, may extend the term of all or a portion of the zone after notice and hearing in the manner provided for the designation of the zone. A taxing unit other than the municipality or county that designated the zone is not required to participate in the zone or portion of the zone for the extended term unless the taxing unit enters into a written agreement to do so.

SECTION 8. Section 311.008, Tax Code, is amended by amending Subsection (b) and adding Subsections (f) and (g) to read as follows:

(b) A municipality or county may exercise any power necessary and convenient to carry out this chapter, including the power to:

(1) cause project plans to be prepared, approve and implement the plans, and otherwise achieve the purposes of the plan;

(2) acquire real property by purchase, condemnation, or other means ~~to implement project plans~~ and sell real ~~that~~ property, on the terms and conditions and in the manner it considers advisable, to implement project plans;

(3) enter into agreements, including agreements with bondholders, determined by the governing body of the municipality or county to be necessary or convenient to implement project plans and achieve their purposes, which agreements may include conditions, restrictions, or covenants that run with the land or that by other means regulate or restrict the use of land; and

(4) consistent with the project plan for the zone:

(A) acquire blighted, deteriorated, deteriorating, undeveloped, or inappropriately developed real property or other property in a blighted area or in a federally assisted new community in the zone for the preservation or restoration of historic sites, beautification or conservation, the provision of public works or public facilities, or other public purposes;

(B) acquire, construct, reconstruct, or install public works, facilities, or sites or other public improvements, including utilities, streets, street lights, water and sewer facilities, pedestrian malls and walkways, parks, flood and drainage facilities, or parking facilities, but not including educational facilities; or

(C) in a reinvestment zone created on or before September 1, 1999, acquire, construct, or reconstruct educational facilities in the municipality.

(f) The governing body of a municipality or county may impose a fee:

(1) on property owners who submit a petition under Section 311.005(a)(4) for processing the petition; or

(2) for reviewing a project designated or proposed to be designated under this chapter.

(g) A fee under Subsection (f) must be reasonably related to the estimated cost to the municipality or county of processing the petition or reviewing the project, respectively.

SECTION 9. Section 311.0085(a), Tax Code, is amended to read as follows:

(a) This section applies only to a municipality with a population of less than 130,000 as shown by the 2000 federal decennial census that has ~~the~~

~~territory in three counties~~; ~~and~~

~~a population of less than 120,000.~~

SECTION 10. Sections 311.009(a), (b), and (e), Tax Code, are amended to read as follows:

(a) Except as provided by Subsection (b), the board of directors of a reinvestment zone consists of at least five and not more than 15 members, unless more than 15 members are required to satisfy the requirements of this subsection. Each taxing unit other than the municipality or county that designated ~~created~~ the zone that levies taxes on real property in the zone may appoint one member of the board if



the taxing unit has approved the payment of all or part of the tax increment produced by the unit into the tax increment fund for the zone. A unit may waive its right to appoint a director. The governing body of the municipality or county that designated [created] the zone may appoint not more than 10 directors to the board; except that if there are fewer than five directors appointed by taxing units other than the municipality or county, the governing body of the municipality or county may appoint more than 10 members as long as the total membership of the board does not exceed 15.

(b) If the zone was designated under Section 311.005(a)(4), the governing body of the municipality or county that designated the zone may provide that the board of directors of the zone consists of nine members appointed as provided by this subsection, unless more than nine members are required to comply with this subsection. Each taxing unit [school district, county, or municipality], other than the municipality or county that designated [created] the zone, that levies taxes on real property in the zone may appoint one member of the board if the taxing unit [school district, county, or municipality] has approved the payment of all or part of the tax increment produced by the unit into the tax increment fund for the zone. The member of the state senate in whose district the zone is located is a member of the board, and the member of the state house of representatives in whose district the zone is located is a member of the board, except that either may designate another individual to serve in the member's place at the pleasure of the member. If the zone is located in more than one senate or house district, this subsection applies only to the senator or representative in whose district a larger portion of the zone is located than any other senate or house district, as applicable. If fewer than seven taxing units, other than the municipality or county that designated the zone, are eligible to appoint members of the board of directors of the zone, the municipality or county may appoint a number of members of the board such that the board comprises nine members. If at least seven taxing units, other than the municipality or county that designated the zone, are eligible to appoint members of the board of directors of the zone, the municipality or county may appoint one member. [The remaining members of the board are appointed by the governing body of the municipality or county that created the zone.]

(e) To be eligible for appointment to the board by the governing body of the municipality or county that designated [created] the zone, an individual must be at least 18 years of age and:

(1) if the board is covered by Subsection (a):

(A) be a resident of the county in which the zone is located or a county adjacent to that county [qualified voter of the municipality or county, as applicable];  
or

(B) [be at least 18 years of age and] own real property in the zone, whether or not the individual resides in the [municipality or] county in which the zone is located or a county adjacent to that county; or

(2) if the board is covered by Subsection (b), [:

[(A) be at least 18 years of age; and

[(B) own real property in the zone or be an employee or agent of a person that owns real property in the zone.

SECTION 11. Section 311.0091, Tax Code, is amended by amending Subsection (f) and adding Subsection (i) to read as follows:

(f) Except as provided by Subsection (i), to [T~~o~~] be eligible for appointment to the board, an individual must:

(1) be a qualified voter of the municipality; or

(2) be at least 18 years of age and own real property in the zone or be an employee or agent of a person that owns real property in the zone.

(i) The eligibility criteria for appointment to the board specified by Subsection (f) do not apply to an individual appointed by a conservation and reclamation district:

(1) created under Section 59, Article XVI, Texas Constitution; and

(2) the jurisdiction of which covers four counties.

SECTION 12. Sections 311.010(g) and (h), Tax Code, are amended to read as follows:

(g) Chapter 252, Local Government Code, does not apply to a dedication, pledge, or other use of revenue in the tax increment fund for a reinvestment zone ~~[by the board of directors of the zone in carrying out its powers]~~ under Subsection (b).

(h) Subject to the approval of the governing body of the municipality or county that designated [created] the zone, the board of directors of a reinvestment zone, as necessary or convenient to implement the project plan and reinvestment zone financing plan and achieve their purposes, may establish and provide for the administration of one or more programs for the public purposes of developing and diversifying the economy of the zone, eliminating unemployment and underemployment in the zone, and developing or expanding transportation, business, and commercial activity in the zone, including programs to make grants and loans ~~[from the tax increment fund of the zone in an aggregate amount not to exceed the amount of the tax increment produced by the municipality and paid into the tax increment fund for the zone]~~ for activities that benefit the zone and stimulate business and commercial activity in the zone. For purposes of this subsection, on approval of the municipality or county, the board of directors of the zone has all the powers of a municipality under Chapter 380, Local Government Code. The approval required by this subsection may be granted in an ordinance, in the case of a zone designated by a municipality, or in an order, in the case of a zone designated by a county, approving a project plan or reinvestment zone financing plan or approving an amendment to a project plan or reinvestment zone financing plan.

SECTION 13. Section 311.011, Tax Code, is amended by amending Subsections (a), (b), (c), (d), and (g) and adding Subsection (h) to read as follows:

(a) The board of directors of a reinvestment zone shall prepare and adopt a project plan and a reinvestment zone financing plan for the zone and submit the plans to the governing body of the municipality or county that designated ~~[created]~~ the zone. ~~[The plans must be as consistent as possible with the preliminary plans developed for the zone before the creation of the board.]~~

(b) The project plan must include:

(1) a description of [map showing] existing uses and conditions of real property in the zone and [a map showing] proposed ~~[improvements to and proposed]~~ uses of that property;

(2) proposed changes of zoning ordinances, ~~[the master plan of the municipality,]~~ building codes, other municipal ordinances, and subdivision rules and regulations, if any, of the county, if applicable; and

(3) ~~[a list of estimated nonproject costs; and~~  
~~[(4)]~~ a statement of a method of relocating persons to be displaced, if any, as a result of implementing the plan.

(c) The reinvestment zone financing plan must include:

(1) a detailed list describing the estimated project costs of the zone, including administrative expenses;

(2) a statement listing the proposed kind, number, and location of all ~~[proposed]~~ public works or public improvements to be financed by [it] the zone;

(3) a finding that the plan is economically feasible ~~[an economic feasibility study];~~

(4) the estimated amount of bonded indebtedness to be incurred;

(5) the estimated time when related costs or monetary obligations are to be incurred;

(6) a description of the methods of financing all estimated project costs and the expected sources of revenue to finance or pay project costs, including the percentage of tax increment to be derived from the property taxes of each taxing unit anticipated to contribute tax increment to the zone that levies taxes on real property in the zone;

(7) the current total appraised value of taxable real property in the zone;

(8) the estimated captured appraised value of the zone during each year of its existence; and

(9) the duration of the zone.

(d) The governing body of the municipality or county that designated ~~[created]~~ the zone must approve a project plan or reinvestment zone financing plan after its adoption by the board. The approval must be by ordinance, in the case of a municipality, or by order, in the case of a county, that finds that the plan is feasible ~~[and conforms to the master plan, if any, of the municipality or to subdivision rules and regulations, if any, of the county].~~

(g) A ~~[An amendment to the project plan or the reinvestment zone financing plan for a zone does not apply to a]~~ school district that participates in a ~~[the]~~ zone is not required to increase the percentage or amount of the tax increment to be contributed by the school district because of an amendment to the project plan or reinvestment zone financing plan for the zone unless the governing body of the school district by official action approves the amendment~~[-if the amendment:~~

~~[(1) has the effect of directly or indirectly increasing the percentage or amount of the tax increment to be contributed by the school district; or~~

~~[(2) requires or authorizes the municipality or county creating the zone to issue additional tax increment bonds or notes].~~

(h) Unless specifically provided otherwise in the plan, all amounts contained in the project plan or reinvestment zone financing plan, including amounts of expenditures relating to project costs and amounts relating to participation by taxing units, are considered estimates and do not act as a limitation on the described items.

SECTION 14. Section 311.012, Tax Code, is amended to read as follows:

Sec. 311.012. DETERMINATION OF AMOUNT OF TAX INCREMENT.

(a) The amount of a taxing unit's tax increment for a year is the amount of property taxes levied and assessed by the unit for that year on the captured appraised value of real property taxable by the unit and located in a reinvestment zone or the amount of property taxes levied and collected by the unit for that year on the captured appraised value of real property taxable by the unit and located in a reinvestment zone. The governing body of a taxing unit shall determine which of the methods specified by this subsection is used to calculate the amount of the unit's tax increment.

(b) The captured appraised value of real property taxable by a taxing unit for a year is the total taxable ~~appraised~~ value of all real property taxable by the unit and located in a reinvestment zone for that year less the tax increment base of the unit.

(c) The tax increment base of a taxing unit is the total taxable ~~appraised~~ value of all real property taxable by the unit and located in a reinvestment zone for the year in which the zone was designated under this chapter. If the boundaries of a zone are enlarged, the tax increment base is increased by the taxable value of the real property added to the zone for the year in which the property was added. If the boundaries of a zone are reduced, the tax increment base is reduced by the taxable value of the real property removed from the zone for the year in which the property was originally included in the zone's boundaries. If the municipality that designates a zone does not levy an ad valorem tax in the year in which the zone is designated, the tax increment base is determined by the appraisal district in which the zone is located using assumptions regarding exemptions and other relevant information provided to the appraisal district by the municipality.

SECTION 15. Sections 311.013(f), (g), (l), and (n), Tax Code, are amended to read as follows:

(f) A taxing unit is not required to pay into the tax increment fund any of its tax increment produced from property located in a reinvestment zone designated under Section 311.005(a) or in an area added to a reinvestment zone under Section 311.007 unless the taxing unit enters into an agreement to do so with the governing body of the municipality or county that designated ~~created~~ the zone. A taxing unit may enter into an agreement under this subsection at any time before or after the zone is designated ~~created~~ or enlarged. The agreement may include conditions for payment of that tax increment into the fund and must specify the portion of the tax increment to be paid into the fund and the years for which that tax increment is to be paid into the fund. In addition to any other terms to which the parties may agree, the agreement may specify the projects to which a participating taxing unit's tax increment will be dedicated and that the taxing unit's participation may be computed with respect to a base year later than the original base year of the zone. The agreement and the conditions in the agreement are binding on the taxing unit, the municipality or county, and the board of directors of the zone.

(g) Subject to the provisions of Section 311.0125, in lieu of permitting a portion of its tax increment to be paid into the tax increment fund, and notwithstanding the provisions of Chapter 312 ~~Section 312.203~~, a taxing unit, including ~~other than~~ a municipality or county ~~city~~, may elect to offer the owners of taxable real property in a reinvestment zone designated ~~created~~ under this chapter an exemption from

taxation of all or part of the value of the property. To be effective, an [Any] agreement under this subsection to exempt real property ~~[concerning an exemption]~~ from ad valorem taxes must be approved by:

(1) the board of directors of the reinvestment zone; and

(2) the governing body of each taxing unit that imposes taxes on real property in the reinvestment zone and deposits or agrees to deposit any of its tax increment into the tax increment fund for the zone ~~[shall be executed in the manner and subject to the limitations of Chapter 312; provided, however, the property covered by the agreement need not be in a zone created pursuant to Chapter 312. A taxing unit may not offer a tax abatement agreement to property owners in the zone after it has entered into an agreement that its tax increments would be paid into the tax increment fund pursuant to Subsection (f)].~~

(l) The governing body of a municipality or county that designates an area as a reinvestment zone may determine, in the designating ordinance or order adopted under Section 311.003 or in the ordinance or order adopted under Section 311.011 approving the reinvestment zone financing plan for the zone, the portion of the tax increment produced by the municipality or county that the municipality or county is required to pay into the tax increment fund for the zone. If a municipality or county does not determine the portion of the tax increment produced by the municipality or county that the municipality or county is required to pay into the tax increment fund for a reinvestment zone, the municipality or county is required to pay into the fund for the zone the entire tax increment produced by the municipality or county, except as provided by Subsection (b)(1).

(n) This subsection applies only to a school district whose taxable value computed under Section 403.302(d), Government Code, is reduced in accordance with Subdivision (4) [(5)] of that subsection. In addition to the amount otherwise required to be paid into the tax increment fund, the district shall pay into the fund an amount equal to the amount by which the amount of taxes the district would have been required to pay into the fund in the current year if the district levied taxes at the rate the district levied in 2005 exceeds the amount the district is otherwise required to pay into the fund in the year of the reduction, not to exceed the amount the school district receives for the current tax year under Section 42.2516(b)(4), Education Code. The school district shall pay the additional amount required by this subsection to be paid into the fund after the district receives the state revenue to which the district is entitled for the current tax year under Section 42.2516(b)(4), Education Code ~~[realizes from the reduction in the school district's taxable value under Section 403.302(d)(5), Government Code].~~

SECTION 16. Section 311.014(b), Tax Code, is amended to read as follows:

(b) Tax increment and other funds deposited in the tax increment fund of the zone shall be administered by the governing body of the municipality or county that designated the zone or, if delegated by the governing body, by the board of directors of the zone, to implement the project plan and reinvestment zone financing plan for the zone during the term of the zone, as it may be extended, and for any period in which the zone remains in existence for collection and disbursement pursuant to Section 311.017(d). Money may be disbursed from the fund only to satisfy claims of holders of tax increment bonds or notes issued for the zone, to pay project costs for

the zone, to make payments pursuant to an agreement made under Section 311.010(b) or a program under Section 311.010(h) dedicating revenue from the tax increment fund, or to repay other obligations incurred for the zone.

SECTION 17. Sections 311.015(a) and (l), Tax Code, are amended to read as follows:

(a) A municipality designating ~~creating~~ a reinvestment zone may issue tax increment bonds or notes, the proceeds of which may be used to make payments pursuant to agreements made under Section 311.010(b), to make payments pursuant to programs under Section 311.010(h), to pay project costs for the reinvestment zone on behalf of which the bonds or notes were issued, or to satisfy claims of holders of the bonds or notes. The municipality may issue refunding bonds or notes for the payment or retirement of tax increment bonds or notes previously issued by it.

(l) A tax increment bond or note must mature on or before the date by which the final payments of tax increment into the tax increment fund are due ~~[within 20 years of the date of issue]~~.

SECTION 18. Section 311.016(a), Tax Code, is amended to read as follows:

(a) On or before the 150th ~~[90th]~~ day following the end of the fiscal year of the municipality or county, the governing body of a municipality or county shall submit to the chief executive officer of each taxing unit that levies property taxes on real property in a reinvestment zone created by the municipality or county a report on the status of the zone. The report must include:

- (1) the amount and source of revenue in the tax increment fund established for the zone;
- (2) the amount and purpose of expenditures from the fund;
- (3) the amount of principal and interest due on outstanding bonded indebtedness;
- (4) the tax increment base and current captured appraised value retained by the zone; and
- (5) the captured appraised value shared by the municipality or county and other taxing units, the total amount of tax increments received, and any additional information necessary to demonstrate compliance with the tax increment financing plan adopted by the governing body of the municipality or county.

SECTION 19. Section 311.016(b), Tax Code, as amended by Chapters 977 (H.B. 1820) and 1094 (H.B. 2120), Acts of the 79th Legislature, Regular Session, 2005, is reenacted to read as follows:

(b) The municipality or county shall send a copy of a report made under this section to:

- (1) the attorney general; and
- (2) the comptroller.

SECTION 20. Section 311.017, Tax Code, is amended by amending Subsection (a) and adding Subsections (a-1), (c), (d), (e), and (f) to read as follows:

(a) A reinvestment zone terminates on the earlier of:

- (1) the termination date designated in the ordinance or order, as applicable, designating ~~creating~~ the zone or an earlier or later termination date designated by an ordinance or order adopted under Section 311.007(c) ~~[subsequent to the ordinance or order creating the zone]~~; or

(2) the date on which all project costs, tax increment bonds and interest on those bonds, and other obligations have been paid in full.

(a-1) Notwithstanding the designation of a later termination date under Section 311.007(c), a taxing unit that taxes real property located in the zone, other than the municipality or county that designated the zone, is not required to pay any of its tax increment into the tax increment fund for the zone for any tax year after the termination date designated in the ordinance or order designating the zone unless the governing body of the taxing unit enters into an agreement to do so with the governing body of the municipality or county that designated the zone.

(c) A zone designated under other law as described by Section 311.0031 terminates for purposes of this chapter on the date specified in the ordinance or order designating the zone as a reinvestment zone under this chapter, regardless of whether the zone has terminated under the other law under which the zone was originally designated.

(d) Subject to Subsection (a-1), if tax increment bonds or other obligations issued or incurred for the zone are outstanding when the zone terminates, the zone remains in existence solely for the purpose of collecting and disbursing tax increment with respect to tax years during the designated term of the zone, as it may have been extended. Those funds shall be used to pay the tax increment bonds or other obligations issued or incurred for the zone. Notwithstanding the other provisions of this subsection or the extension of the term of a zone under Section 311.007, the termination date of a zone for purposes of any contract entered into by the board, or by the municipality or county that designated the zone, remains the termination date designated by ordinance or order in effect on the date the contract was executed unless a subsequent amendment to the contract expressly provides otherwise.

(e) After termination of the zone, the governing body of the municipality or county that designated the zone may continue the zone for an additional period for the purpose of continuing the implementation of the reinvestment zone project plan and financing plan. In that event, although tax increment shall cease to be deposited with respect to tax years following termination of the zone, the zone shall retain all remaining funds, property, and assets of the zone to be used to implement the plans as authorized by the governing body. All reporting requirements, including the requirements of Section 311.016, applicable to the zone continue to be applicable during any continuation of the zone under this subsection.

(f) Notwithstanding the other provisions of this section, if an agreement with a taxing unit, other than the municipality or county that designated the zone, to participate in a zone expires on or before the termination of the zone, the agreement provides for the return of the taxing unit's tax increment if the zone terminates, and all project costs directly relating to the project plan adopted at the time the agreement became effective and applicable to the agreement are paid, all money, including any interest on the money, in the fund at the time the agreement expires that is attributable to the taxing unit's tax increment shall be returned to that taxing unit.

SECTION 21. Chapter 311, Tax Code, is amended by adding Section 311.021 to read as follows:

Sec. 311.021. ACT OR PROCEEDING PRESUMED VALID. (a) A governmental act or proceeding of a municipality or county, the board of directors of a reinvestment zone, or an entity acting under Section 311.010(f) relating to the designation, operation, or administration of a reinvestment zone or the implementation of a project plan or reinvestment zone financing plan under this chapter is conclusively presumed, as of the date it occurred, valid and to have occurred in accordance with all applicable statutes and rules if:

(1) the second anniversary of the effective date of the act or proceeding has expired; and

(2) a lawsuit to annul or invalidate the act or proceeding has not been filed on or before the later of that second anniversary or August 1, 2009.

(b) This section does not apply to:

(1) an act or proceeding that was void at the time it occurred;

(2) an act or proceeding that, under a statute of this state or the United States, was a misdemeanor or felony at the time the act or proceeding occurred;

(3) a rule that, at the time it was passed, was preempted by a statute of this state or the United States, including Section 1.06 or 109.57, Alcoholic Beverage Code; or

(4) a matter that on the effective date of the Act enacting this section:

(A) is involved in litigation if the litigation ultimately results in the matter being held invalid by a final judgment of a court; or

(B) has been held invalid by a final judgment of a court.

SECTION 22. Section 42.2516, Education Code, is amended by amending Subsection (b) and adding Subsection (b-3) to read as follows:

(b) Subject to Subsections (b-1), (b-2), (f-1), (g), and (h), but notwithstanding any other provision of this title, a school district is entitled to state revenue necessary to provide the district with the sum of:

(1) the amount of state revenue necessary to maintain state and local revenue per student in weighted average daily attendance in the amount equal to the greater of:

(A) the amount of state and local revenue per student in weighted average daily attendance for the maintenance and operations of the district available to the district for the 2005-2006 school year;

(B) the amount of state and local revenue per student in weighted average daily attendance for the maintenance and operations of the district to which the district would have been entitled for the 2006-2007 school year under this chapter, as it existed on January 1, 2006, or, if the district would have been subject to Chapter 41, as that chapter existed on January 1, 2006, the amount to which the district would have been entitled under that chapter, based on the funding elements in effect for the 2005-2006 school year, if the district imposed a maintenance and operations tax at the rate adopted by the district for the 2005 tax year; or

(C) the amount of state and local revenue per student in weighted average daily attendance for the maintenance and operations of the district to which the district would have been entitled for the 2006-2007 school year under this chapter, as it existed on January 1, 2006, or, if the district would have been subject to Chapter 41, as that chapter existed on January 1, 2006, the amount to which the district would



have been entitled under that chapter, based on the funding elements in effect for the 2005-2006 school year, if the district imposed a maintenance and operations tax at the rate equal to the rate described by Section 26.08(i) or (k)(1), Tax Code, as applicable, for the 2006 tax year;

(2) an amount equal to the product of \$2,500 multiplied by the number of classroom teachers, full-time librarians, full-time counselors certified under Subchapter B, Chapter 21, and full-time school nurses employed by the district and entitled to a minimum salary under Section 21.402; ~~and~~

(3) an amount equal to the product of \$275 multiplied by the number of students in average daily attendance in grades nine through 12 in the district; and

(4) an amount equal to the amount the district is required to pay into the tax increment fund for a reinvestment zone under Section 311.013(n), Tax Code, in the current tax year.

(b-3) Notwithstanding Subsection (b)(4), a school district is not entitled to state revenue to compensate the district for payments into a tax increment fund established under Chapter 311, Tax Code, resulting from:

(1) participation in a tax increment reinvestment zone other than a reinvestment zone described by Section 403.302(d), Government Code;

(2) an enlargement effective after September 1, 1999, of the boundaries of a tax increment reinvestment zone;

(3) an extension effective after September 1, 1999, of the term of a tax increment reinvestment zone; or

(4) an amendment to the project plan or reinvestment zone financing plan of a reinvestment zone that increases the percentage of tax increment of the district required to be paid into a tax increment fund other than an amendment for which a deduction from taxable value is allowed under Section 403.302(d), Government Code.

SECTION 23. Section 42.253, Education Code, is amended by adding Subsection (c-1) to read as follows:

(c-1) The amounts to be paid under Section 42.2516(b)(4) shall be paid at the same time as other state revenue is paid to the district. Payments shall be based on amounts paid under Section 42.2516(b)(4) for the preceding year. Any deficiency shall be paid to the district at the same time the final amount to be paid to the district is determined, and any overpayment shall be deducted from the payments the district would otherwise receive in the following year.

SECTION 24. Sections 403.302(d) and (i), Government Code, are amended to read as follows:

(d) For the purposes of this section, "taxable value" means the market value of all taxable property less:

(1) the total dollar amount of any residence homestead exemptions lawfully granted under Section 11.13(b) or (c), Tax Code, in the year that is the subject of the study for each school district;

(2) one-half of the total dollar amount of any residence homestead exemptions granted under Section 11.13(n), Tax Code, in the year that is the subject of the study for each school district;

(3) the total dollar amount of any exemptions granted before May 31, 1993, within a reinvestment zone under agreements authorized by Chapter 312, Tax Code;

(4) subject to Subsection (e), the total dollar amount of any captured appraised value of property that:

(A) is within a reinvestment zone created on or before May 31, 1999, or is proposed to be included within the boundaries of a reinvestment zone as the boundaries of the zone and the proposed portion of tax increment paid into the tax increment fund by a school district are described in a written notification provided by the municipality or the board of directors of the zone to the governing bodies of the other taxing units in the manner provided by Section 311.003(e), Tax Code, before May 31, 1999, and within the boundaries of the zone as those boundaries existed on September 1, 1999, including subsequent improvements to the property regardless of when made;

(B) generates taxes paid into a tax increment fund created under Chapter 311, Tax Code, under a reinvestment zone financing plan approved under Section 311.011(d), Tax Code, on or before September 1, 1999; and

(C) is eligible for tax increment financing under Chapter 311, Tax Code;

~~(5) [for a school district for which a deduction from taxable value is made under Subdivision (4), an amount equal to the taxable value required to generate revenue when taxed at the school district's current tax rate in an amount that, when added to the taxes of the district paid into a tax increment fund as described by Subdivision (4)(B), is equal to the total amount of taxes the district would have paid into the tax increment fund if the district levied taxes at the rate the district levied in 2005;~~

~~(6)~~ the total dollar amount of any captured appraised value of property that:

(A) is within a reinvestment zone:

(i) created on or before December 31, 2008, by a municipality with a population of less than 18,000; and

(ii) the project plan for which includes the alteration, remodeling, repair, or reconstruction of a structure that is included on the National Register of Historic Places and requires that a portion of the tax increment of the zone be used for the improvement or construction of related facilities or for affordable housing;

(B) generates school district taxes that are paid into a tax increment fund created under Chapter 311, Tax Code; and

(C) is eligible for tax increment financing under Chapter 311, Tax Code;

~~(6)~~ ~~(7)~~ the total dollar amount of any exemptions granted under Section 11.251 or 11.253, Tax Code;

~~(7)~~ ~~(8)~~ the difference between the comptroller's estimate of the market value and the productivity value of land that qualifies for appraisal on the basis of its productive capacity, except that the productivity value estimated by the comptroller may not exceed the fair market value of the land;

(8) ~~(9)~~ the portion of the appraised value of residence homesteads of individuals who receive a tax limitation under Section 11.26, Tax Code, on which school district taxes are not imposed in the year that is the subject of the study, calculated as if the residence homesteads were appraised at the full value required by law;

(9) ~~(40)~~ a portion of the market value of property not otherwise fully taxable by the district at market value because of:

(A) action required by statute or the constitution of this state that, if the tax rate adopted by the district is applied to it, produces an amount equal to the difference between the tax that the district would have imposed on the property if the property were fully taxable at market value and the tax that the district is actually authorized to impose on the property, if this subsection does not otherwise require that portion to be deducted; or

(B) action taken by the district under Subchapter B or C, Chapter 313, Tax Code;

(10) ~~(41)~~ the market value of all tangible personal property, other than manufactured homes, owned by a family or individual and not held or used for the production of income;

(11) ~~(42)~~ the appraised value of property the collection of delinquent taxes on which is deferred under Section 33.06, Tax Code;

(12) ~~(43)~~ the portion of the appraised value of property the collection of delinquent taxes on which is deferred under Section 33.065, Tax Code; and

(13) ~~(44)~~ the amount by which the market value of a residence homestead to which Section 23.23, Tax Code, applies exceeds the appraised value of that property as calculated under that section.

(i) If the comptroller determines in the annual study that the market value of property in a school district as determined by the appraisal district that appraises property for the school district, less the total of the amounts and values listed in Subsection (d) as determined by that appraisal district, is valid, the comptroller, in determining the taxable value of property in the school district under Subsection (d), shall for purposes of Subsection (d)(13) ~~(d)(14)~~ subtract from the market value as determined by the appraisal district of residence homesteads to which Section 23.23, Tax Code, applies the amount by which that amount exceeds the appraised value of those properties as calculated by the appraisal district under Section 23.23, Tax Code. If the comptroller determines in the annual study that the market value of property in a school district as determined by the appraisal district that appraises property for the school district, less the total of the amounts and values listed in Subsection (d) as determined by that appraisal district, is not valid, the comptroller, in determining the taxable value of property in the school district under Subsection (d), shall for purposes of Subsection (d)(13) ~~(d)(14)~~ subtract from the market value as estimated by the comptroller of residence homesteads to which Section 23.23, Tax Code, applies the amount by which that amount exceeds the appraised value of those properties as calculated by the appraisal district under Section 23.23, Tax Code.

SECTION 25. Sections 311.003(e), (f), and (g), 311.006(c), and 311.013(d) and (e), Tax Code, are repealed.

SECTION 26. (a) The legislature validates and confirms all governmental acts and proceedings of a municipality or county, the board of directors of a reinvestment zone, or an entity acting under Section 311.010(f), Tax Code, that were taken before the effective date of this Act and relate to or are associated with the designation, operation, or administration of a reinvestment zone or the implementation of a project plan or reinvestment zone financing plan under Chapter 311, Tax Code, including the extension of the term of a reinvestment zone, as of the dates on which they occurred. The acts and proceedings may not be held invalid because they were not in accordance with Chapter 311, Tax Code, or other law.

(b) Subsection (a) of this section does not apply to any matter that on the 30th day after the effective date of this Act:

(1) is involved in litigation if the litigation ultimately results in the matter being held invalid by a final judgment of a court; or

(2) has been held invalid by a final judgment of a court.

SECTION 27. (a) Section 311.002(1), Tax Code, as amended by this Act, applies to all costs described by that subdivision regardless of when they were incurred.

(b) Section 311.0091, Tax Code, as amended by this Act, applies only to an individual appointed by a conservation and reclamation district to the board of directors of a reinvestment zone on or after the effective date of this Act. An individual appointed by a conservation and reclamation district to the board of a reinvestment zone before the effective date of this Act is governed by Section 311.0091, Tax Code, as that section existed immediately before the effective date of this Act, and the former law is continued in effect for that purpose.

(c) Section 311.012(c), Tax Code, as amended by this Act, applies only to the determination of the tax increment base of a taxing unit for a tax year beginning on or after the effective date of this Act, except that if the tax increment base of a taxing unit for a tax year beginning before the effective date was determined in the manner provided by Section 311.012(c), Tax Code, as amended by this Act, the determination is validated as if the amendment were in accordance with Section 311.012(c), Tax Code, as that section existed immediately before the effective date of this Act.

SECTION 28. Section 42.2516, Education Code, as amended by this Act, applies as if Subsection (b)(4) of that section were in effect in the state fiscal year beginning September 1, 2006, and any amounts due a school district under Subsection (b)(4) of that section for the state fiscal years beginning September 1, 2006, September 1, 2007, and September 1, 2008, shall be paid to the district in the state fiscal year beginning September 1, 2009, at the time payments are made to the district under Section 42.259(f), Education Code.

SECTION 29. 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, 2009.

The Conference Committee Report on **SB 313** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 408**

Senator Carona submitted the following Conference Committee Report:

Austin, Texas  
May 30, 2009

Honorable David Dewhurst  
President of the Senate

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 **SB 408** 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.

CARONA  
HINOJOSA

LUCIO  
WATSON  
WENTWORTH

On the part of the Senate

HUGHES  
ANDERSON  
JACKSON  
HUNTER  
SMITHEE

On the part of the House

A BILL TO BE ENTITLED  
AN ACT

relating to jurisdiction, venue, and appeals in certain matters, including the jurisdiction of and appeals from certain courts and administrative decisions and the appointment of counsel in certain appeals.

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

SECTION 1. Section 51.012, Civil Practice and Remedies Code, is amended to read as follows:

Sec. 51.012. APPEAL OR WRIT OF ERROR TO COURT OF APPEALS. In a civil case in which the judgment or amount in controversy exceeds \$250 [~~\$100~~], exclusive of interest and costs, a person may take an appeal or writ of error to the court of appeals from a final judgment of the district or county court.

SECTION 2. (a) Section 82.003, Civil Practice and Remedies Code, is amended by adding Subsection (c) to read as follows:

(c) If after service on a nonresident manufacturer through the secretary of state in the manner prescribed by Subchapter C, Chapter 17, the manufacturer fails to answer or otherwise make an appearance in the time required by law, it is conclusively presumed for the purposes of Subsection (a)(7)(B) that the manufacturer is not subject to the jurisdiction of the court unless the seller is able to secure personal jurisdiction over the manufacturer in the action.

(b) The change in law made by this section applies to an action filed on or after the effective date of this Act or pending on the effective date of this Act.

SECTION 3. Subsection (a), Section 22.220, Government Code, is amended to read as follows:

(a) Each court of appeals has appellate jurisdiction of all civil cases within its district of which the district courts or county courts have jurisdiction when the amount in controversy or the judgment rendered exceeds \$250 [~~\$100~~], exclusive of interest and costs.

SECTION 4. Subchapter A, Chapter 25, Government Code, is amended by adding Section 25.0020 to read as follows:

Sec. 25.0020. APPOINTMENT OF COUNSEL IN CERTAIN APPEALS.

(a) On a written application of any party to an eviction suit, the county court or county court at law in which an appeal of the suit is filed may appoint any qualified attorney who is willing to provide pro bono services in the matter or counsel from a list provided by a pro bono legal services program of counsel willing to be appointed to handle appeals under this section to attend to the cause of a party who:

(1) was in possession of the residence at the time the eviction suit was filed in the justice court; and

(2) has perfected the appeal on a pauper's affidavit approved in accordance with Rule 749a, Texas Rules of Civil Procedure.

(b) The appointed counsel shall represent the individual in the proceedings of the suit in the county court or county court at law. At the conclusion of those proceedings, the appointment terminates.

(c) The court may terminate representation appointed under this section for cause.

(d) Appointed counsel may not receive attorney's fees unless the recovery of attorney's fees is provided for by contract, statute, common law, court rules, or other regulations. The county is not responsible for payment of attorney's fees to appointed counsel.

(e) The court shall provide for a method of service of written notice on the parties to an eviction suit of the right to request an appointment of counsel on perfection of appeal on approval of a pauper's affidavit.

SECTION 5. Subchapter A, Chapter 26, Government Code, is amended by adding Section 26.010 to read as follows:

Sec. 26.010. APPOINTMENT OF COUNSEL IN CERTAIN APPEALS.

(a) On a written application of any party to an eviction suit, the county court or county court at law in which an appeal of the suit is filed may appoint any qualified attorney who is willing to provide pro bono services in the matter or counsel from a list provided by a pro bono legal services program of counsel willing to be appointed to handle appeals under this section to attend to the cause of a party who:

(1) was in possession of the residence at the time the eviction suit was filed in the justice court; and

(2) has perfected the appeal on a pauper's affidavit approved in accordance with Rule 749a, Texas Rules of Civil Procedure.

(b) The appointed counsel shall represent the individual in the proceedings of the suit in the county court or county court at law. At the conclusion of those proceedings, the appointment terminates.

(c) The court may terminate representation appointed under this section for cause.

(d) Appointed counsel may not receive attorney's fees unless the recovery of attorney's fees is provided for by contract, statute, common law, court rules, or other regulations. The county is not responsible for payment of attorney's fees to appointed counsel.

(e) The court shall provide for a method of service of written notice on the parties to an eviction suit of the right to request an appointment of counsel on perfection of appeal on approval of a pauper's affidavit.

SECTION 6. Subsection (c), Section 26.042, Government Code, is amended to read as follows:

(c) If under Subchapter E a county court has original concurrent jurisdiction with the justice courts in all civil matters in which the justice courts have jurisdiction, an appeal or writ of error may not be taken to the court of appeals from a final judgment of the county court in a civil case in which:

(1) the county court has appellate or original concurrent jurisdiction with the justice courts; and

(2) the judgment or amount in controversy does not exceed \$250 [~~\$100~~], exclusive of interest and costs.

SECTION 7. Subsection (b), Section 28.052, Government Code, is amended to read as follows:

(b) Except to the extent of any conflict with this subchapter, appeal [~~Appeal~~] is in the manner provided by law for appeals [~~appeal~~] from justice courts [~~court to county court~~].

SECTION 8. The heading to Section 28.053, Government Code, is amended to read as follows:

Sec. 28.053. DE NOVO TRIAL [~~HEARING~~] ON APPEAL.

SECTION 9. Subsections (b) and (d), Section 28.053, Government Code, are amended to read as follows:

(b) Trial on appeal to the county court or county court at law is de novo. No further pleadings are required [~~and the procedure is the same as in small claims court~~].

(d) A person may appeal the final judgment [~~Judgment~~] of the county court or county court at law on the appeal to the court of appeals [~~is final~~].

SECTION 10. (a) Subsections (a) and (e), Section 531.019, Government Code, as added by Chapter 1161 (H.B. 75), Acts of the 80th Legislature, Regular Session, 2007, are amended to read as follows:

(a) In this section, "public assistance benefits" means benefits provided under a public assistance program under Chapter 31, 32, or 33, Human Resources Code.

(e) For purposes of Section 2001.171, an applicant for or recipient of public assistance benefits has exhausted all available administrative remedies and a decision, including a decision under Section 31.034 or 32.035, Human Resources Code, is final and appealable on the date that, after a hearing:

(1) the hearing officer for the commission or a health and human services agency reaches a final decision related to the benefits; and

(2) the appropriate attorney completes an administrative review of the decision and notifies the applicant or recipient in writing of the results of that review.

(b) The changes in law made by this section apply only to an appeal of a final decision by the Health and Human Services Commission related to financial assistance benefits under Chapter 31, Human Resources Code, that is rendered on or after the effective date of this Act. A final decision rendered by the commission before the effective date of this Act is governed by the law in effect on the date the decision was rendered, and the former law is continued in effect for that purpose.

SECTION 11. (a) Subsection (a), Section 821.025, Health and Safety Code, is amended to read as follows:

(a) An owner divested of ownership of an animal under Section 821.023 ~~[ordered sold at public auction as provided in this subchapter]~~ may appeal the order to a county court or county court at law in the county in which the justice or municipal court is located. As a condition of perfecting an appeal, not later than the 10th calendar day after the date the order is issued, the owner must file a notice of appeal and an appeal bond in an amount determined by the [justice or municipal] court from which the appeal is taken to be adequate to cover the estimated expenses incurred in housing and caring for the impounded animal during the appeal process. Not later than the fifth calendar day after the date the notice of appeal and appeal bond is filed, the court from which the appeal is taken shall deliver a copy of the court's transcript to the county court or county court at law to which the appeal is made. Not later than the 10th calendar day after the date the county court or county court at law, as appropriate, receives the transcript, the court shall dispose of the appeal. The decision of the county court or county court at law under this section is final and may not be further appealed. ~~[An owner may not appeal an order:~~

~~(1) to give the animal to a nonprofit animal shelter, pound, or society for the protection of animals; or~~

~~[(2) to humanely destroy the animal.]~~

(b) Subsection (a), Section 821.025, Health and Safety Code, as amended by this section, applies only to an appeal of a court order issued on or after the effective date of this Act. An appeal of a court order issued before the effective date of this Act is covered by the law in effect when the appeal was issued, and the former law is continued in effect for that purpose.

SECTION 12. (a) Subsection (bb), Section 3, Texas Probate Code, is amended to read as follows:

(bb) "Probate proceeding" is synonymous with the terms "Probate matter," ~~["Probate proceedings,"]~~ "Proceeding in probate," and "Proceedings for probate." The term means a matter or proceeding related to the estate of a decedent ~~[are synonymous]~~ and includes:

- (1) the probate of a will, with or without administration of the estate;
- (2) the issuance of letters testamentary and of administration;
- (3) an heirship determination or small estate affidavit, community property administration, and homestead and family allowances;
- (4) an application, petition, motion, or action regarding the probate of a will or an estate administration, including a claim for money owed by the decedent;
- (5) a claim arising from an estate administration and any action brought on the claim;



(6) the settling of a personal representative's account of an estate and any other matter related to the settlement, partition, or distribution of an estate; and

(7) a will construction suit [~~include a matter or proceeding relating to the estate of a decedent~~].

(b) Chapter I, Texas Probate Code, is amended by adding Sections 4A, 4B, 4C, 4D, 4E, 4F, 4G, and 4H to read as follows:

Sec. 4A. GENERAL PROBATE COURT JURISDICTION; APPEALS. (a) All probate proceedings must be filed and heard in a court exercising original probate jurisdiction. The court exercising original probate jurisdiction also has jurisdiction of all matters related to the probate proceeding as specified in Section 4B of this code for that type of court.

(b) A probate court may exercise pendent and ancillary jurisdiction as necessary to promote judicial efficiency and economy.

(c) A final order issued by a probate court is appealable to the court of appeals.

Sec. 4B. MATTERS RELATED TO PROBATE PROCEEDING. (a) For purposes of this code, in a county in which there is no statutory probate court or county court at law exercising original probate jurisdiction, a matter related to a probate proceeding includes:

(1) an action against a personal representative or former personal representative arising out of the representative's performance of the duties of a personal representative;

(2) an action against a surety of a personal representative or former personal representative;

(3) a claim brought by a personal representative on behalf of an estate;

(4) an action brought against a personal representative in the representative's capacity as personal representative;

(5) an action for trial of title to real property that is estate property, including the enforcement of a lien against the property; and

(6) an action for trial of the right of property that is estate property.

(b) For purposes of this code, in a county in which there is no statutory probate court, but in which there is a county court at law exercising original probate jurisdiction, a matter related to a probate proceeding includes:

(1) all matters and actions described in Subsection (a) of this section;

(2) the interpretation and administration of a testamentary trust if the will creating the trust has been admitted to probate in the court; and

(3) the interpretation and administration of an inter vivos trust created by a decedent whose will has been admitted to probate in the court.

(c) For purposes of this code, in a county in which there is a statutory probate court, a matter related to a probate proceeding includes:

(1) all matters and actions described in Subsections (a) and (b) of this section; and

(2) any cause of action in which a personal representative of an estate pending in the statutory probate court is a party in the representative's capacity as personal representative.

Sec. 4C. ORIGINAL JURISDICTION FOR PROBATE PROCEEDINGS.

(a) In a county in which there is no statutory probate court or county court at law exercising original probate jurisdiction, the county court has original jurisdiction of probate proceedings.

(b) In a county in which there is no statutory probate court, but in which there is a county court at law exercising original probate jurisdiction, the county court at law exercising original probate jurisdiction and the county court have concurrent original jurisdiction of probate proceedings, unless otherwise provided by law. The judge of a county court may hear probate proceedings while sitting for the judge of any other county court.

(c) In a county in which there is a statutory probate court, the statutory probate court has original jurisdiction of probate proceedings.

Sec. 4D. JURISDICTION OF CONTESTED PROBATE PROCEEDING IN COUNTY WITH NO STATUTORY PROBATE COURT OR STATUTORY COUNTY COURT. (a) In a county in which there is no statutory probate court or county court at law exercising original probate jurisdiction, when a matter in a probate proceeding is contested, the judge of the county court may, on the judge's own motion, or shall, on the motion of any party to the proceeding, according to the motion:

(1) request the assignment of a statutory probate court judge to hear the contested matter, as provided by Section 25.0022, Government Code; or

(2) transfer the contested matter to the district court, which may then hear the contested matter as if originally filed in the district court.

(b) If a party to a probate proceeding files a motion for the assignment of a statutory probate court judge to hear a contested matter in the proceeding before the judge of the county court transfers the contested matter to a district court under this section, the county judge shall grant the motion for the assignment of a statutory probate court judge and may not transfer the matter to the district court unless the party withdraws the motion.

(c) A party to a probate proceeding may file a motion for the assignment of a statutory probate court judge under this section before a matter in the proceeding becomes contested, and the motion is given effect as a motion for assignment of a statutory probate court judge under Subsection (a) of this section if the matter later becomes contested.

(d) Notwithstanding any other law, a transfer of a contested matter in a probate proceeding to a district court under any authority other than the authority provided by this section:

(1) is disregarded for purposes of this section; and

(2) does not defeat the right of a party to the proceeding to have the matter assigned to a statutory probate court judge in accordance with this section.

(e) A statutory probate court judge assigned to a contested matter under this section has the jurisdiction and authority granted to a statutory probate court by this code. On resolution of a contested matter for which a statutory probate court judge is assigned under this section, including any appeal of the matter, the statutory probate

court judge shall return the matter to the county court for further proceedings not inconsistent with the orders of the statutory probate court or court of appeals, as applicable.

(f) A district court to which a contested matter is transferred under this section has the jurisdiction and authority granted to a statutory probate court by this code. On resolution of a contested matter transferred to the district court under this section, including any appeal of the matter, the district court shall return the matter to the county court for further proceedings not inconsistent with the orders of the district court or court of appeals, as applicable.

(g) The county court shall continue to exercise jurisdiction over the management of the estate, other than a contested matter, until final disposition of the contested matter is made in accordance with this section. After a contested matter is transferred to a district court, any matter related to the probate proceeding may be brought in the district court. The district court in which a matter related to the probate proceeding is filed may, on its own motion or on the motion of any party, find that the matter is not a contested matter and transfer the matter to the county court with jurisdiction of the management of the estate.

(h) If a contested matter in a probate proceeding is transferred to a district court under this section, the district court has jurisdiction of any contested matter in the proceeding that is subsequently filed, and the county court shall transfer those contested matters to the district court. If a statutory probate court judge is assigned under this section to hear a contested matter in a probate proceeding, the statutory probate court judge shall be assigned to hear any contested matter in the proceeding that is subsequently filed.

(i) The clerk of a district court to which a contested matter in a probate proceeding is transferred under this section may perform in relation to the contested matter any function a county clerk may perform with respect to that type of matter.

Sec. 4E. JURISDICTION OF CONTESTED PROBATE PROCEEDING IN COUNTY WITH NO STATUTORY PROBATE COURT. (a) In a county in which there is no statutory probate court, but in which there is a county court at law exercising original probate jurisdiction, when a matter in a probate proceeding is contested, the judge of the county court may, on the judge's own motion, or shall, on the motion of any party to the proceeding, transfer the contested matter to the county court at law. In addition, the judge of the county court, on the judge's own motion or on the motion of a party to the proceeding, may transfer the entire proceeding to the county court at law.

(b) A county court at law to which a proceeding is transferred under this section may hear the proceeding as if originally filed in that court. If only a contested matter in the proceeding is transferred, on the resolution of the matter, the matter shall be returned to the county court for further proceedings not inconsistent with the orders of the county court at law.

Sec. 4F. EXCLUSIVE JURISDICTION OF PROBATE PROCEEDING IN COUNTY WITH STATUTORY PROBATE COURT. (a) In a county in which there is a statutory probate court, the statutory probate court has exclusive jurisdiction of all probate proceedings, regardless of whether contested or uncontested. A cause of action related to the probate proceeding must be brought in a statutory probate court

unless the jurisdiction of the statutory probate court is concurrent with the jurisdiction of a district court as provided by Section 4H of this code or with the jurisdiction of any other court.

(b) This section shall be construed in conjunction and in harmony with Section 145 of this code and all other sections of this code relating to independent executors, but may not be construed to expand the court's control over an independent executor.

Sec. 4G. JURISDICTION OF STATUTORY PROBATE COURT WITH RESPECT TO TRUSTS AND POWERS OF ATTORNEY. In a county in which there is a statutory probate court, the statutory probate court has jurisdiction of:

(1) an action by or against a trustee;

(2) an action involving an inter vivos trust, testamentary trust, or charitable trust;

(3) an action against an agent or former agent under a power of attorney arising out of the agent's performance of the duties of an agent; and

(4) an action to determine the validity of a power of attorney or to determine an agent's rights, powers, or duties under a power of attorney.

Sec. 4H. CONCURRENT JURISDICTION WITH DISTRICT COURT. A statutory probate court has concurrent jurisdiction with the district court in:

(1) a personal injury, survival, or wrongful death action by or against a person in the person's capacity as a personal representative;

(2) an action by or against a trustee;

(3) an action involving an inter vivos trust, testamentary trust, or charitable trust;

(4) an action involving a personal representative of an estate in which each other party aligned with the personal representative is not an interested person in that estate;

(5) an action against an agent or former agent under a power of attorney arising out of the agent's performance of the duties of an agent; and

(6) an action to determine the validity of a power of attorney or to determine an agent's rights, powers, or duties under a power of attorney.

(c) Subsection (a), Section 5B, Texas Probate Code, is amended to read as follows:

(a) A judge of a statutory probate court, on the motion of a party to the action or on the motion of a person interested in an estate, may transfer to the judge's ~~his~~ court from a district, county, or statutory court a cause of action related to a probate proceeding ~~[appertaining to or incident to an estate]~~ pending in the statutory probate court or a cause of action in which a personal representative of an estate pending in the statutory probate court is a party and may consolidate the transferred cause of action with the other proceedings in the statutory probate court relating to that estate.

(d) Subsection (i), Section 25.0022, Government Code, is amended to read as follows:

(i) A judge assigned under this section has the jurisdiction, powers, and duties given by Sections 4A, 4C, 4F, 4G, 4H ~~[5, 5A]~~, 5B, 606, 607, and 608, Texas Probate Code, to statutory probate court judges by general law.

(e) Subsection (c), Section 25.1132, Government Code, is amended to read as follows:

(c) A county court at law in Hood County has concurrent jurisdiction with the district court in:

- (1) civil cases in which the matter in controversy exceeds \$500 but does not exceed \$250,000, excluding interest;
- (2) family law cases and related proceedings;
- (3) contested probate matters under Section 4D(a) [~~5(b)~~], Texas Probate Code; and
- (4) contested guardianship matters under Section 606(b), Texas Probate Code.

(f) Subsection (b), Section 25.1863, Government Code, is amended to read as follows:

(b) A county court at law has concurrent jurisdiction with the district court over contested probate matters. Notwithstanding the requirement in [~~Subsection (b),~~] Section 4D(a) [~~5~~], Texas Probate Code, that the judge of the constitutional county court transfer a contested probate proceeding to the district court, the judge of the constitutional county court shall transfer the proceeding under that section to either a county court at law in Parker County or a district court in Parker County. A county court at law has the jurisdiction, powers, and duties that a district court has under [~~Subsection (b),~~] Section 4D(a) [~~5~~], Texas Probate Code, for the transferred proceeding, and the county clerk acts as clerk for the proceeding. The contested proceeding may be transferred between a county court at law in Parker County and a district court in Parker County as provided by local rules of administration.

(g) Subsection (a), Section 123.005, Property Code, is amended to read as follows:

(a) Venue in a proceeding brought by the attorney general alleging breach of a fiduciary duty by a fiduciary or managerial agent of a charitable trust shall be a court of competent jurisdiction in Travis County or in the county where the defendant resides or has its principal office. To the extent of a conflict between this subsection and any provision of the Texas Probate Code providing for venue of a proceeding brought with respect to a charitable trust created by a will that has been admitted to probate, this subsection controls.

(h) Sections 4, 5, and 5A, Texas Probate Code, are repealed.

(i) The changes in law made by this section apply only to an action filed or a proceeding commenced on or after the effective date of this Act. An action filed or proceeding commenced before the effective date of this Act is governed by the law in effect on the date the action was filed or the proceeding was commenced, and the former law is continued in effect for that purpose.

SECTION 13. (a) Effective January 1, 2014, Subtitle A, Title 2, Estates Code, as adopted by H.B. No. 2502, Acts of the 81st Legislature, Regular Session, 2009, if that Act is enacted and becomes law, is amended by adding Chapters 31 and 32 to read as follows:

#### CHAPTER 31. GENERAL PROVISIONS

Sec. 31.001. SCOPE OF "PROBATE PROCEEDING" FOR PURPOSES OF CODE. The term "probate proceeding," as used in this code, includes:

- (1) the probate of a will, with or without administration of the estate;
- (2) the issuance of letters testamentary and of administration;

(3) an heirship determination or small estate affidavit, community property administration, and homestead and family allowances;

(4) an application, petition, motion, or action regarding the probate of a will or an estate administration, including a claim for money owed by the decedent;

(5) a claim arising from an estate administration and any action brought on the claim;

(6) the settling of a personal representative's account of an estate and any other matter related to the settlement, partition, or distribution of an estate; and

(7) a will construction suit.

Sec. 31.002. MATTERS RELATED TO PROBATE PROCEEDING. (a) For purposes of this code, in a county in which there is no statutory probate court or county court at law exercising original probate jurisdiction, a matter related to a probate proceeding includes:

(1) an action against a personal representative or former personal representative arising out of the representative's performance of the duties of a personal representative;

(2) an action against a surety of a personal representative or former personal representative;

(3) a claim brought by a personal representative on behalf of an estate;

(4) an action brought against a personal representative in the representative's capacity as personal representative;

(5) an action for trial of title to real property that is estate property, including the enforcement of a lien against the property; and

(6) an action for trial of the right of property that is estate property.

(b) For purposes of this code, in a county in which there is no statutory probate court, but in which there is a county court at law exercising original probate jurisdiction, a matter related to a probate proceeding includes:

(1) all matters and actions described in Subsection (a);

(2) the interpretation and administration of a testamentary trust if the will creating the trust has been admitted to probate in the court; and

(3) the interpretation and administration of an inter vivos trust created by a decedent whose will has been admitted to probate in the court.

(c) For purposes of this code, in a county in which there is a statutory probate court, a matter related to a probate proceeding includes:

(1) all matters and actions described in Subsections (a) and (b); and

(2) any cause of action in which a personal representative of an estate pending in the statutory probate court is a party in the representative's capacity as personal representative.

## CHAPTER 32. JURISDICTION

Sec. 32.001. GENERAL PROBATE COURT JURISDICTION; APPEALS.

(a) All probate proceedings must be filed and heard in a court exercising original probate jurisdiction. The court exercising original probate jurisdiction also has jurisdiction of all matters related to the probate proceeding as specified in Section 31.002 for that type of court.

(b) A probate court may exercise pendent and ancillary jurisdiction as necessary to promote judicial efficiency and economy.

(c) A final order issued by a probate court is appealable to the court of appeals.

Sec. 32.002. ORIGINAL JURISDICTION FOR PROBATE PROCEEDINGS.

(a) In a county in which there is no statutory probate court or county court at law exercising original probate jurisdiction, the county court has original jurisdiction of probate proceedings.

(b) In a county in which there is no statutory probate court, but in which there is a county court at law exercising original probate jurisdiction, the county court at law exercising original probate jurisdiction and the county court have concurrent original jurisdiction of probate proceedings, unless otherwise provided by law. The judge of a county court may hear probate proceedings while sitting for the judge of any other county court.

(c) In a county in which there is a statutory probate court, the statutory probate court has original jurisdiction of probate proceedings.

Sec. 32.003. JURISDICTION OF CONTESTED PROBATE PROCEEDING IN COUNTY WITH NO STATUTORY PROBATE COURT OR STATUTORY COUNTY COURT. (a) In a county in which there is no statutory probate court or county court at law exercising original probate jurisdiction, when a matter in a probate proceeding is contested, the judge of the county court may, on the judge's own motion, or shall, on the motion of any party to the proceeding, according to the motion:

(1) request the assignment of a statutory probate court judge to hear the contested matter, as provided by Section 25.0022, Government Code; or

(2) transfer the contested matter to the district court, which may then hear the contested matter as if originally filed in the district court.

(b) If a party to a probate proceeding files a motion for the assignment of a statutory probate court judge to hear a contested matter in the proceeding before the judge of the county court transfers the contested matter to a district court under this section, the county judge shall grant the motion for the assignment of a statutory probate court judge and may not transfer the matter to the district court unless the party withdraws the motion.

(c) A party to a probate proceeding may file a motion for the assignment of a statutory probate court judge under this section before a matter in the proceeding becomes contested, and the motion is given effect as a motion for assignment of a statutory probate court judge under Subsection (a) if the matter later becomes contested.

(d) Notwithstanding any other law, a transfer of a contested matter in a probate proceeding to a district court under any authority other than the authority provided by this section:

(1) is disregarded for purposes of this section; and

(2) does not defeat the right of a party to the proceeding to have the matter assigned to a statutory probate court judge in accordance with this section.

(e) A statutory probate court judge assigned to a contested matter under this section has the jurisdiction and authority granted to a statutory probate court by this subtitle. On resolution of a contested matter for which a statutory probate court judge is assigned under this section, including any appeal of the matter, the statutory probate

court judge shall return the matter to the county court for further proceedings not inconsistent with the orders of the statutory probate court or court of appeals, as applicable.

(f) A district court to which a contested matter is transferred under this section has the jurisdiction and authority granted to a statutory probate court by this subtitle. On resolution of a contested matter transferred to the district court under this section, including any appeal of the matter, the district court shall return the matter to the county court for further proceedings not inconsistent with the orders of the district court or court of appeals, as applicable.

(g) The county court shall continue to exercise jurisdiction over the management of the estate, other than a contested matter, until final disposition of the contested matter is made in accordance with this section. After a contested matter is transferred to a district court, any matter related to the probate proceeding may be brought in the district court. The district court in which a matter related to the probate proceeding is filed may, on its own motion or on the motion of any party, find that the matter is not a contested matter and transfer the matter to the county court with jurisdiction of the management of the estate.

(h) If a contested matter in a probate proceeding is transferred to a district court under this section, the district court has jurisdiction of any contested matter in the proceeding that is subsequently filed, and the county court shall transfer those contested matters to the district court. If a statutory probate court judge is assigned under this section to hear a contested matter in a probate proceeding, the statutory probate court judge shall be assigned to hear any contested matter in the proceeding that is subsequently filed.

(i) The clerk of a district court to which a contested matter in a probate proceeding is transferred under this section may perform in relation to the contested matter any function a county clerk may perform with respect to that type of matter.

Sec. 32.004. JURISDICTION OF CONTESTED PROBATE PROCEEDING IN COUNTY WITH NO STATUTORY PROBATE COURT. (a) In a county in which there is no statutory probate court, but in which there is a county court at law exercising original probate jurisdiction, when a matter in a probate proceeding is contested, the judge of the county court may, on the judge's own motion, or shall, on the motion of any party to the proceeding, transfer the contested matter to the county court at law. In addition, the judge of the county court, on the judge's own motion or on the motion of a party to the proceeding, may transfer the entire proceeding to the county court at law.

(b) A county court at law to which a proceeding is transferred under this section may hear the proceeding as if originally filed in that court. If only a contested matter in the proceeding is transferred, on the resolution of the matter, the matter shall be returned to the county court for further proceedings not inconsistent with the orders of the county court at law.

Sec. 32.005. EXCLUSIVE JURISDICTION OF PROBATE PROCEEDING IN COUNTY WITH STATUTORY PROBATE COURT. (a) In a county in which there is a statutory probate court, the statutory probate court has exclusive jurisdiction of all probate proceedings, regardless of whether contested or uncontested. A cause of action related to the probate proceeding must be brought in a statutory probate court



unless the jurisdiction of the statutory probate court is concurrent with the jurisdiction of a district court as provided by Section 32.007 or with the jurisdiction of any other court.

(b) This section shall be construed in conjunction and in harmony with Section 145 and all other sections of this title relating to independent executors, but may not be construed to expand the court's control over an independent executor.

Sec. 32.006. JURISDICTION OF STATUTORY PROBATE COURT WITH RESPECT TO TRUSTS AND POWERS OF ATTORNEY. In a county in which there is a statutory probate court, the statutory probate court has jurisdiction of:

(1) an action by or against a trustee;

(2) an action involving an inter vivos trust, testamentary trust, or charitable trust;

(3) an action against an agent or former agent under a power of attorney arising out of the agent's performance of the duties of an agent; and

(4) an action to determine the validity of a power of attorney or to determine an agent's rights, powers, or duties under a power of attorney.

Sec. 32.007. CONCURRENT JURISDICTION WITH DISTRICT COURT. A statutory probate court has concurrent jurisdiction with the district court in:

(1) a personal injury, survival, or wrongful death action by or against a person in the person's capacity as a personal representative;

(2) an action by or against a trustee;

(3) an action involving an inter vivos trust, testamentary trust, or charitable trust;

(4) an action involving a personal representative of an estate in which each other party aligned with the personal representative is not an interested person in that estate;

(5) an action against an agent or former agent under a power of attorney arising out of the agent's performance of the duties of an agent; and

(6) an action to determine the validity of a power of attorney or to determine an agent's rights, powers, or duties under a power of attorney.

(b) Sections 4A, 4B, 4C, 4D, 4E, 4F, 4G, and 4H, Texas Probate Code, as added by Section 12 of this Act, are repealed.

(c) Except as otherwise provided by this subsection, this section takes effect January 1, 2014. The changes in law made by this section take effect only if H.B. No. 2502, Acts of the 81st Legislature, Regular Session, 2009, is enacted and becomes law. If that bill does not become law, this section has no effect.

SECTION 14. Except as otherwise provided by this Act, the changes in law made by this Act apply only to an action filed on or after the effective date of this Act. An action filed before the effective date of this Act is governed by the law applicable to the action immediately before the effective date of this Act, and the former law is continued in effect for that purpose.

SECTION 15. Except as otherwise provided by this Act, this Act takes effect September 1, 2009.

The Conference Committee Report on **SB 408** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 2012**

Senator Carona submitted the following Conference Committee Report:

Austin, Texas  
May 30, 2009

Honorable David Dewhurst  
President of the Senate  
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 2012** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

CARONA  
DEUELL  
WATSON

VAUGHT  
KENT  
S. KING  
GATTIS  
BOHAC

On the part of the Senate

On the part of the House

The Conference Committee Report on **HB 2012** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 4424**

Senator Gallegos submitted the following Conference Committee Report:

Austin, Texas  
May 30, 2009

Honorable David Dewhurst  
President of the Senate  
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 4424** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

GALLEGOS  
URESTI  
HARRIS  
WENTWORTH  
HINOJOSA

HERNANDEZ  
LUCIO  
MARTINEZ  
HUGHES  
CREIGHTON

On the part of the Senate

On the part of the House

The Conference Committee Report on **HB 4424** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 2468**

Senator Gallegos submitted the following Conference Committee Report:

Austin, Texas  
May 30, 2009

Honorable David Dewhurst  
President of the Senate

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 **SB 2468** 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.

GALLEGOS  
WHITMIRE  
JACKSON  
DUNCAN  
ELTIFE

On the part of the Senate

COLEMAN  
J. DAVIS  
HERNANDEZ  
W. SMITH  
WALLE

On the part of the House

A BILL TO BE ENTITLED  
AN ACT

relating to the postemployment activities of certain local government officers in certain counties; providing a penalty.

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

SECTION 1. Chapter 171, Local Government Code, is amended by adding Section 171.011 to read as follows:

Sec. 171.011. REPRESENTATION BY FORMER LOCAL GOVERNMENT OFFICERS OF CERTAIN COUNTIES RESTRICTED; CRIMINAL OFFENSE.

(a) This section applies only to a county with a population of 3.3 million or more.

(b) In this section:

(1) "Local government officer" means:

(A) a member of the commissioners court or other officer of a county to which this section applies;

(B) an officer of a precinct of a county to which this section applies; or

(C) a member of the governing body or other officer of a flood control district or a hospital district, any part of which is located in a county to which this section applies.

(2) "Participated" means to have taken action as an officer or employee through decision, approval, disapproval, recommendation, giving advice, investigation, or similar action.

(3) "Particular matter" means a specific investigation, application, request for a ruling or determination, rulemaking proceeding, contract, claim, charge, accusation, arrest, or judicial or other proceeding.

(c) A former local government officer may not make any communication to or appearance before an officer or employee of the governing body on or under which the former local government officer served before the second anniversary of the date the local government officer ceased to serve on or under the governing body if the communication or appearance is made:

(1) with the intent to influence; and

(2) on behalf of any person in connection with any matter on which the person seeks official action.

(d) A former local government officer may not represent any person or receive compensation for services rendered on behalf of any person regarding a particular matter in which the former local government officer participated during the period of service as a local government officer.

(e) A person commits an offense if the person violates this section. An offense under this subsection is a Class C misdemeanor.

SECTION 2. The change in law made by Subsection (d), Section 171.011, Local Government Code, as added by this Act, applies only to a person who ceases service as a local government officer on or after the effective date of this Act. A person who ceased service as a local government officer before the effective date of this Act is governed by the law in effect when the person ceased service, and the former law is continued in effect for that purpose.

SECTION 3. This Act takes effect September 1, 2009.

The Conference Committee Report on **SB 2468** was filed with the Secretary of the Senate.

### CONFERENCE COMMITTEE REPORT ON HOUSE BILL 4833

Senator Wentworth submitted the following Conference Committee Report:

Austin, Texas  
May 30, 2009

Honorable David Dewhurst  
President of the Senate

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 4833** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

WENTWORTH  
DUNCAN  
HINOJOSA  
ELLIS

HUNTER  
HUGHES  
MARTINEZ  
LEIBOWITZ

HARRIS  
On the part of the Senate

CRADDICK  
On the part of the House

The Conference Committee Report on **HB 4833** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 1959**

Senator Hegar submitted the following Conference Committee Report:

Austin, Texas  
May 30, 2009

Honorable David Dewhurst  
President of the Senate

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 1959** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

HEGAR  
AVERITT  
ESTES  
HINOJOSA  
HUFFMAN

On the part of the Senate

ISETT  
HUNTER  
MCREYNOLDS  
COOK

On the part of the House

The Conference Committee Report on **HB 1959** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 3452**

Senator Ogden submitted the following Conference Committee Report:

Austin, Texas  
May 30, 2009

Honorable David Dewhurst  
President of the Senate

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 3452** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

OGDEN  
DAVIS

GATTIS  
GEREN

ESTES  
 HUFFMAN  
 VAN DE PUTTE  
 On the part of the Senate

AYCOCK  
 VAUGHT  
 VEASEY  
 On the part of the House

The Conference Committee Report on **HB 3452** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON  
 SENATE BILL 726**

Senator Eltife submitted the following Conference Committee Report:

Austin, Texas  
 May 30, 2009

Honorable David Dewhurst  
 President of the Senate

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 **SB 726** 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  
 DEUELL  
 SELIGER  
 On the part of the Senate

ORR  
 HOPSON  
 PITTS  
 On the part of the House

**A BILL TO BE ENTITLED  
 AN ACT**

relating to the creation of the Harrison County and Prairielands Groundwater Conservation Districts, providing authority to impose a tax and issue bonds and granting a limited power of eminent domain.

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

SECTION 1. Subtitle H, Title 6, Special District Local Laws Code, is amended by adding Chapters 8850 and 8855 to read as follows:

**CHAPTER 8850. HARRISON COUNTY GROUNDWATER  
 CONSERVATION DISTRICT**

**SUBCHAPTER A. GENERAL PROVISIONS**

Sec. 8850.001. DEFINITIONS. In this chapter:

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

(2) "Director" means a member of the board.

(3) "District" means the Harrison County Groundwater Conservation

District.

Sec. 8850.002. NATURE OF DISTRICT. The district is a groundwater conservation district in Harrison County created under and essential to accomplish the purposes of Section 59, Article XVI, Texas Constitution.

Sec. 8850.003. CONFIRMATION ELECTION REQUIRED. If the creation of the district is not confirmed at a confirmation election held under Section 8850.023 before December 31, 2010:

- (1) the district is dissolved December 31, 2010, except that:
- (A) any debts incurred shall be paid;
  - (B) any assets that remain after the payment of debts shall be transferred to Harrison County; and
  - (C) the organization of the district shall be maintained until all debts are paid and remaining assets are transferred; and
- (2) this chapter expires September 1, 2014.

Sec. 8850.004. INITIAL DISTRICT TERRITORY. The initial boundaries of the district are coextensive with the boundaries of Harrison County, Texas.

Sec. 8850.005. APPLICABILITY OF OTHER GROUNDWATER CONSERVATION DISTRICT LAW. Except as otherwise provided by this chapter, Chapter 36, Water Code, applies to the district.

[Sections 8850.006-8850.020 reserved for expansion]  
SUBCHAPTER A-1. TEMPORARY PROVISIONS

Sec. 8850.021. APPOINTMENT OF TEMPORARY DIRECTORS. (a) Not later than the 45th day after the effective date of the Act enacting this chapter, five temporary directors shall be appointed as follows:

(1) the Harrison County Commissioners Court shall appoint four temporary directors, with one of the temporary directors appointed from each of the four commissioners precincts in the county to represent the precincts in which the temporary directors reside; and

(2) the county judge of Harrison County shall appoint one temporary director who resides in the district to represent the district at large.

(b) Of the temporary directors, at least one director must represent rural water suppliers in the district, one must represent agricultural interests in the district, and one must represent industrial interests in the district.

(c) If there is a vacancy on the temporary board of directors of the district, the Harrison County Commissioners Court shall appoint a person to fill the vacancy in a manner that meets the representational requirements of this section.

(d) Temporary directors serve until the earlier of:

- (1) the date initial directors are elected under Section 8850.023; or
- (2) the fourth anniversary of the effective date of the Act creating this chapter.

(e) If initial directors have not been elected under Section 8850.023 and the terms of the temporary directors have expired, successor temporary directors shall be appointed in the manner provided by Subsections (a) and (b) to serve terms that expire on the date this subchapter expires under Section 8850.026.

Sec. 8850.022. ORGANIZATIONAL MEETING OF TEMPORARY DIRECTORS. As soon as practicable after all the temporary directors have qualified under Section 36.055, Water Code, a majority of the temporary directors shall convene the organizational meeting of the district at a location within the district agreeable to a majority of the directors. If an agreement on location cannot be reached, the organizational meeting shall be at the Harrison County Courthouse.

Sec. 8850.023. CONFIRMATION AND INITIAL DIRECTORS' ELECTION.

(a) The temporary directors shall hold an election to confirm the creation of the district and to elect the initial directors of the district.

(b) The temporary directors shall have placed on the ballot the names of all candidates for an initial director's position who have filed an application for a place on the ballot as provided by Section 52.003, Election Code.

(c) The ballot must be printed to provide for voting for or against the proposition: "The creation of the Harrison County Groundwater Conservation District."

(d) If the district levies a maintenance tax for payment of expenses, the ballot must be printed to provide for voting for or against the proposition: "The levy of a maintenance tax at a rate not to exceed 1.5 cents for each \$100 of assessed valuation."

(e) Section 41.001(a), Election Code, does not apply to an election held under this section.

(f) Except as provided by this section, an election under this section must be conducted as provided by Sections 36.017(b)-(i), Water Code, and the Election Code. The provision of Section 36.017(d), Water Code, relating to the election of permanent directors does not apply to an election under this section.

Sec. 8850.024. INITIAL DIRECTORS. (a) If creation of the district is confirmed at an election held under Section 8850.023, the directors elected shall take office as initial directors of the district and serve on the board of directors until permanent directors are elected under Section 8850.025 or 8850.053.

(b) The four initial directors representing the commissioners precincts shall draw lots to determine which two shall serve a term expiring June 1 following the first regularly scheduled election of directors under Section 8850.025, and which two shall serve a term expiring June 1 following the second regularly scheduled election of directors. The at-large director shall serve a term expiring June 1 following the second regularly scheduled election of directors.

Sec. 8850.025. INITIAL ELECTION OF PERMANENT DIRECTORS. On the uniform election date prescribed by Section 41.001, Election Code, in May of the first even-numbered year after the year in which the district is authorized to be created at a confirmation election, an election shall be held in the district for the election of two directors to replace the initial directors who, under Section 8850.024(b), serve a term expiring June 1 following that election.

Sec. 8850.026. EXPIRATION OF SUBCHAPTER. This subchapter expires September 1, 2014.

[Sections 8850.027-8850.050 reserved for expansion]

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 8850.051. DIRECTORS; TERMS. (a) The district is governed by a board of five directors.

(b) Directors serve staggered four-year terms, with two or three directors' terms expiring June 1 of each even-numbered year.

(c) A director may serve consecutive terms.

Sec. 8850.052. METHOD OF ELECTING DIRECTORS: COMMISSIONERS PRECINCTS. (a) The directors of the district shall be elected according to the commissioners precinct method as provided by this section.



(b) One director shall be elected by the voters of the entire district, and one director shall be elected from each county commissioners precinct by the voters of that precinct.

(c) Except as provided by Subsection (e), to be eligible to be a candidate for or to serve as director at large, a person must be a registered voter in the district. To be a candidate for or to serve as director from a county commissioners precinct, a person must be a registered voter of that precinct.

(d) A person shall indicate on the application for a place on the ballot:

(1) the precinct that the person seeks to represent; or

(2) that the person seeks to represent the district at large.

(e) When the boundaries of the county commissioners precincts are redrawn after each federal decennial census to reflect population changes, a director in office on the effective date of the change, or a director elected or appointed before the effective date of the change whose term of office begins on or after the effective date of the change, shall serve in the precinct to which elected or appointed even though the change in boundaries places the person's residence outside the precinct for which the person was elected or appointed.

Sec. 8850.053. ELECTION DATE. The district shall hold an election to elect the appropriate number of directors on the uniform election date prescribed by Section 41.001, Election Code, in May of each even-numbered year.

Sec. 8850.054. COMPENSATION. (a) Sections 36.060(a), (b), and (d), Water Code, do not apply to the district.

(b) A director is entitled to receive compensation of not more than \$50 a day for each day the director actually spends performing the duties of a director. The compensation may not exceed \$3,000 a year.

(c) The board may authorize a director to receive reimbursement for the director's reasonable expenses incurred while engaging in activities on behalf of the board.

Sec. 8850.055. BOARD ACTION. A majority vote of a quorum is required for board action. If there is a tie vote, the proposed action fails.

[Sections 8850.056-8850.100 reserved for expansion]

#### SUBCHAPTER C. POWERS AND DUTIES

Sec. 8850.101. GENERAL POWERS. Except as otherwise provided by this chapter, the district has all of the rights, powers, privileges, functions, and duties provided by the general law of this state applicable to groundwater conservation districts created under Section 59, Article XVI, Texas Constitution.

Sec. 8850.102. PROHIBITION ON DISTRICT PURCHASE, SALE, TRANSPORT, OR DISTRIBUTION OF WATER. The district may not purchase, sell, transport, or distribute surface water or groundwater for any purpose.

Sec. 8850.103. PROHIBITION ON DISTRICT USE OF EMINENT DOMAIN POWER. The district may not exercise the power of eminent domain.

[Sections 8850.104-8850.150 reserved for expansion]

#### SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

Sec. 8850.151. LIMITATION ON TAXES. The district may not impose ad valorem taxes at a rate that exceeds 1.5 cents on each \$100 valuation of taxable property in the district.

Sec. 8850.152. FEES. (a) The board by rule may impose reasonable fees on each well:

- (1) for which a permit is issued by the district; and
- (2) that is not exempt from district regulation.

(b) A production fee may be based on:

(1) the size of column pipe used by the well; or

(2) the amount of water actually withdrawn from the well, or the amount authorized or anticipated to be withdrawn.

(c) The board shall base the initial production fee on the criteria listed in Subsection (b)(2). The initial production fee:

(1) may not exceed:

(A) 25 cents per acre-foot for water used for agricultural irrigation; or

(B) 4.25 cents per thousand gallons for water used for any other

purpose; and

(2) may be increased at a cumulative rate not to exceed three percent per year.

(d) In addition to the production fee authorized under this section, the district may assess an export fee on groundwater from a well that is produced for transport outside the district.

(e) Fees authorized by this section may be:

(1) assessed annually;

(2) used to pay the cost of district operations; and

(3) used for any other purpose allowed under Chapter 36, Water Code.

Sec. 8850.153. LIMITATION ON INDEBTEDNESS. The district may issue bonds and notes under Subchapter F, Chapter 36, Water Code, except that the total indebtedness created by that issuance may not exceed \$500,000 at any time.

## CHAPTER 8855. PRAIRIELANDS GROUNDWATER CONSERVATION DISTRICT

### SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8855.001. DEFINITIONS. In this chapter:

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

(2) "Director" means a member of the board.

(3) "District" means the Prairielands Groundwater Conservation District.

Sec. 8855.002. NATURE OF DISTRICT; FINDINGS. (a) The district is a groundwater conservation district initially composed of Ellis, Hill, Johnson, and Somervell Counties created under and essential to accomplish the purposes of Section 59, Article XVI, Texas Constitution.

(b) The district is created to serve a public use and benefit.

(c) All of the land and other property included within the boundaries of the district will be benefited by the works and projects that are to be accomplished by the district under powers conferred by this chapter and by Chapter 36, Water Code.

(d) Any fees imposed by the district under this chapter are necessary to pay for the costs of accomplishing the purposes of the district, including the conservation and management of groundwater resources, as provided by this chapter and Section 59, Article XVI, Texas Constitution.

Sec. 8855.003. DISTRICT TERRITORY. The initial boundaries of the district are coextensive with the boundaries of Ellis, Hill, Johnson, and Somervell Counties.

Sec. 8855.004. APPLICABILITY OF OTHER GROUNDWATER CONSERVATION DISTRICT LAW. Except as otherwise provided by this chapter, Chapter 36, Water Code, applies to the district.

Sec. 8855.005. CONSTRUCTION OF CHAPTER. This chapter shall be liberally construed to achieve the purposes expressed by this chapter and Chapter 36, Water Code. A power granted by this chapter or Chapter 36, Water Code, shall be broadly interpreted to achieve that intent and those purposes.

[Sections 8855.006-8855.020 reserved for expansion]

#### SUBCHAPTER B. INITIAL ORGANIZATION

Sec. 8855.021. APPOINTMENT OF INITIAL DIRECTORS. (a) The district is governed by a board of eight initial directors appointed as provided by Section 8855.051(a).

(b) Initial directors shall be appointed not later than the 90th day after the effective date of the Act enacting this chapter. If after the 90th day fewer than eight initial directors have been appointed, each unfilled initial director position shall be considered a vacancy and filled by the remaining initial directors.

(c) Except as provided under Subsection (b) for failure to appoint an initial director, if a vacancy occurs on the board in a position for which an initial director has previously been appointed, the appointing county commissioners court for the vacant position shall appoint a person to fill the vacancy in a manner that meets the representational requirements of Section 8855.051.

(d) To be eligible to serve as an initial director, a person must be a registered voter in the appointing county.

(e) Each initial director must qualify to serve as a director under Section 36.055, Water Code.

Sec. 8855.022. ORGANIZATIONAL MEETING OF INITIAL DIRECTORS. As soon as practicable after all the initial directors have qualified under Section 36.055, Water Code, a majority of the initial directors shall convene the organizational meeting of the district at a location in the district agreeable to a majority of the directors. If an agreement on location cannot be reached, the organizational meeting shall be held at a suitable location on the Hill College campus in Cleburne, Johnson County, Texas.

Sec. 8855.023. INITIAL TERMS. (a) The two initial directors appointed from each county shall draw lots to determine which director serves an initial term expiring August 31, 2011, and which director serves an initial term expiring August 31, 2013.

(b) Each successor director shall be appointed and shall serve in accordance with Subchapter C.

[Sections 8855.024-8855.050 reserved for expansion]

#### SUBCHAPTER C. BOARD OF DIRECTORS

Sec. 8855.051. GOVERNING BODY; TERMS. (a) Except as provided by Subchapter D, the district is governed by a board of eight directors appointed as follows:

- (1) two directors appointed by the Ellis County Commissioners Court;
- (2) two directors appointed by the Hill County Commissioners Court;

(3) two directors appointed by the Johnson County Commissioners Court;  
and

(4) two directors appointed by the Somervell County Commissioners Court.

(b) Directors serve staggered four-year terms, with the term of one director from each of the four counties expiring on August 31 of each odd-numbered year.

(c) A director may serve multiple consecutive terms.

Sec. 8855.052. DIRECTOR ELIGIBILITY; QUALIFICATION. (a) To be eligible to serve as a director, a person must be a registered voter in the appointing county.

(b) Each director must qualify to serve under Section 36.055, Water Code.

Sec. 8855.053. VACANCIES. If a vacancy occurs on the board, the appointing county commissioners court for the vacant position shall appoint a person to fill the vacancy. Section 36.051(c), Water Code, does not apply to the district.

Sec. 8855.054. COMPENSATION; REIMBURSEMENT. (a) Notwithstanding Sections 36.060(a) and (d), Water Code, a director may not receive compensation for performing the duties of director.

(b) A director is entitled to reimbursement of actual expenses reasonably and necessarily incurred while engaging in activities on behalf of the district.

[Sections 8855.055-8855.070 reserved for expansion]

#### SUBCHAPTER D. DISTRICT EXPANSION

Sec. 8855.071. EXPANSION OF DISTRICT BOUNDARIES. (a) After the effective date of the Act enacting this chapter, the district territory described in Section 8855.003 shall be expanded to include all of the territory in Navarro County, and the governing board described by Section 8855.051(a) shall be expanded to 10 members and include two directors appointed by the Navarro County Commissioners Court, if:

(1) pursuant to Chapter 35, Water Code, the Texas Commission on Environmental Quality designates all or any portion of the territory in Navarro County as a priority groundwater management area; and

(2) following the designation described by Subdivision (1), the commissioners court of Navarro County:

(A) adopts a resolution that states, "By this action of the Navarro County Commissioners Court, all of the territory in Navarro County, Texas, shall, as of the date of this resolution, be included in the boundaries of the Prairielands Groundwater Conservation District"; and

(B) appoints two directors who are registered to vote in Navarro County to the board.

(b) A person appointed under this section must qualify to serve under Section 36.055, Water Code.

(c) At the first regular meeting of the board following the qualification of both directors, the two directors appointed under this section shall draw lots to determine which director serves a term expiring August 31 of the first odd-numbered year after the directors' appointment, and which director serves a term expiring August 31 of the next odd-numbered year.

(d) A director appointed under this section shall otherwise serve in accordance with Subchapter C.

[Sections 8855.072-8855.100 reserved for expansion]

SUBCHAPTER E. POWERS AND DUTIES

Sec. 8855.101. GROUNDWATER CONSERVATION DISTRICT POWERS AND DUTIES. Except as provided by this chapter, the district has the powers and duties provided by the general law of this state applicable to groundwater conservation districts created under Section 59, Article XVI, Texas Constitution, including Chapter 36, Water Code.

Sec. 8855.102. CONTRACTS. The district may enter into a contract with any person, public or private, for any purpose authorized by law.

Sec. 8855.103. APPLICABILITY OF DISTRICT REGULATIONS. Groundwater regulation under this chapter applies to all persons except as exempted from permitting under Section 36.117, Water Code, or this chapter.

Sec. 8855.104. WELL SPACING RULES; EXEMPTIONS. (a) Except as provided by Subsection (b), the district shall exempt from the well spacing requirements adopted by the district any well that is completed on or before the effective date of those requirements.

(b) The district may provide by rule that a well may lose its exemption under this section if the well is modified in a manner that substantially increases the capacity of the well after the effective date of the well spacing requirements adopted by the district.

(c) Except as provided by this section and notwithstanding Section 8855.103, the district may require a well or class of wells exempt from permitting under Chapter 36, Water Code, to comply with the well spacing requirements adopted by the district. The district shall apply well spacing requirements uniformly to any well or class of wells based on the size or capacity of the well and without regard to the type of use of the groundwater produced by the well.

Sec. 8855.105. REGISTRATION AND REPORTING REQUIREMENTS FOR CERTAIN EXEMPT WELLS. The district may adopt rules that require the owner or operator of a well or class of wells exempt from permitting under Section 36.117, Water Code, to register the well with the district and, except for a well exempt from permitting under Section 36.117(b)(1), to report groundwater withdrawals from the well using reasonable and appropriate reporting methods and frequency.

Sec. 8855.106. ENFORCEMENT. (a) The district may enforce this chapter against any person in the manner provided by Chapter 36, Water Code. In lieu of a remedy available to the district under Section 36.102, Water Code, or in addition to those remedies, the district may impose a fee in addition to a fee assessed under Section 8855.152 on a person producing groundwater in violation of a district order or rule, including the failure or refusal to comply with any district order or rule relating to reducing or ceasing groundwater use. The purpose of a fee authorized by this subsection is to serve as a disincentive to producing groundwater except as authorized by the district.

(b) A fee imposed under Subsection (a) may not exceed an amount equal to 10 times the amount of a fee assessed under Section 8855.152.

[Sections 8855.107-8855.150 reserved for expansion]

SUBCHAPTER F. GENERAL FINANCIAL PROVISIONS

Sec. 8855.151. TAXES PROHIBITED. The district may not impose a tax. Sections 36.020(a) and 36.201-36.204, Water Code, do not apply to the district.

Sec. 8855.152. DISTRICT REVENUES. (a) The district by rule, resolution, or order may establish, amend, pledge, encumber, spend the proceeds from, and assess to any person production fees, based on the amount of groundwater authorized by permit to be withdrawn from a well or on the amount of water actually withdrawn, to enable the district to fulfill its purposes and regulatory functions as provided by this chapter. The district may use revenue generated by fees it assesses for any lawful purpose.

(b) Notwithstanding any provision of general law to the contrary, a fee authorized by Subsection (a) may not exceed:

(1) \$1 per acre-foot annually for groundwater used for agricultural purposes;

or

(2) 30 cents per thousand gallons annually for groundwater used for nonagricultural purposes.

(c) Notwithstanding any provision of general law or this chapter to the contrary, if any, the district may assess a production fee under this section for groundwater produced from a well or class of wells exempt from permitting under Section 36.117, Water Code, except for a well exempt from permitting under Section 36.117(b)(1). A production fee assessed by the district under this subsection must be based on the amount of groundwater actually withdrawn from the well and may not exceed the amount established by the district for permitted uses under Subsection (b)(2) of this section.

(d) Notwithstanding Section 36.1071(f), Water Code, the district by rule, resolution, or order before the adoption of its management plan may:

(1) establish, assess, and enforce the collection of production fees under this section; and

(2) establish and enforce metering and reporting requirements, except for a well exempt from permitting under Section 36.117(b)(1), Water Code.

(e) The district by rule may establish a temporary or permanent discounted fee rate for persons who prepay production fees to the district under this section on or before the dates established by district rule.

SECTION 2. (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 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 are fulfilled and accomplished.

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, 2009.

The Conference Committee Report on **SB 726** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 1759**

Senator Watson submitted the following Conference Committee Report:

Austin, Texas  
May 30, 2009

Honorable David Dewhurst  
President of the Senate

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 **SB 1759** 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.

WATSON  
AVERITT  
HUFFMAN  
URESTI  
WILLIAMS

On the part of the Senate

PICKETT  
MENÉNDEZ  
GUILLEN  
OTTO  
CHISUM

On the part of the House

A BILL TO BE ENTITLED  
AN ACT

relating to the extended registration of a commercial fleet of motor vehicles.

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

SECTION 1. Section 502.001, Transportation Code, is amended by adding Subdivision (1-a) to read as follows:

(1-a) "Commercial fleet" means a group of at least 25 nonapportioned motor vehicles owned by a corporation, limited or general partnership, limited liability company, or other business entity and used for the business purposes of that entity.

SECTION 2. Subchapter A, Chapter 502, Transportation Code, is amended by adding Section 502.0023 to read as follows:

Sec. 502.0023. EXTENDED REGISTRATION OF COMMERCIAL FLEET MOTOR VEHICLES. (a) Notwithstanding Section 502.158(c), the department shall develop and implement a system of registration to allow an owner of a commercial fleet to register the motor vehicles in the commercial fleet for an extended registration period of not less than one year or more than eight years. The owner may select the

number of years for registration under this section within that range and register the commercial fleet for that period. Payment for all registration fees for the entire registration period selected is due at the time of registration.

(b) A system of extended registration under this section must allow the owner of a commercial fleet to register:

(1) an entire commercial fleet in the county of the owner's residence or principal place of business; or

(2) the motor vehicles in a commercial fleet that are operated most regularly in the same county.

(c) In addition to the registration fees prescribed by Subchapter D, an owner registering a commercial fleet under this section shall pay:

(1) an annual commercial fleet registration fee of \$10 per motor vehicle in the fleet; and

(2) except as provided by Subsection (e), a one-time license plate manufacturing fee of \$1.50 for each fleet motor vehicle license plate.

(d) A license plate issued under this section:

(1) may, on request of the owner, include the name or logo of the business entity that owns the vehicle;

(2) must include the expiration date of the registration period; and

(3) does not require an annual registration insignia to be valid.

(e) In addition to all other applicable registration fees, an owner registering a commercial fleet under this section shall pay a one-time license plate manufacturing fee of \$8 for each set of plates issued that includes on the legend the name or logo of the business entity that owns the vehicle instead of the fee imposed by Subsection (c)(2).

(f) If a motor vehicle registered under this section has a gross weight in excess of 10,000 pounds, the department shall also issue a registration card for the vehicle that is valid for the selected registration period.

(g) The department shall adopt rules to implement this section, including rules on suspension from the commercial fleet program for failure to comply with this section or rules adopted under this section.

(h) The department and the counties in their budgeting processes shall consider any temporary increases and resulting decreases in revenue that will result from the use of the process provided under this section.

SECTION 3. Subsection (b), Section 501.0234, Transportation Code, is amended to read as follows:

(b) This section does not apply to a motor vehicle:

(1) that has been declared a total loss by an insurance company in the settlement or adjustment of a claim;

(2) for which the certificate of title has been surrendered in exchange for:

(A) a salvage vehicle title issued under this chapter;

(B) a nonrepairable vehicle title issued under this chapter;



(C) a certificate of authority issued under Subchapter D, Chapter 683;  
or

(D) an ownership document issued by another state that is comparable to a document described by Paragraphs (A)-(C); ~~or~~

(3) with a gross weight in excess of 11,000 pounds; or

(4) purchased by a commercial fleet buyer who is a full-service deputy under Section 502.114 and who utilizes the dealer title application process developed to provide a method to submit title transactions to the county in which the commercial fleet buyer is a full-service deputy.

SECTION 4. Section 386.252, Health and Safety Code, is amended by amending Subsection (a) and adding Subsection (d) to read as follows:

(a) Money in the fund may be used only to implement and administer programs established under the plan and shall be allocated as follows:

(1) for the diesel emissions reduction incentive program, 87.5 percent of the money in the fund, of which not more than four percent may be used for the clean school bus program, five percent shall be used for the clean fleet program, and not more than 10 percent may be used for on-road diesel purchase or lease incentives;

(2) for the new technology research and development program, 9.5 percent of the money in the fund, of which up to \$250,000 is allocated for administration, up to \$200,000 is allocated for a health effects study, \$500,000 is to be deposited in the state treasury to the credit of the clean air account created under Section 382.0622 to supplement funding for air quality planning activities in affected counties, not less than 20 percent is to be allocated each year to support research related to air quality for the Houston-Galveston-Brazoria and Dallas-Fort Worth nonattainment areas by a nonprofit organization based in Houston of which \$216,000 each year shall be contracted to the Energy Systems Laboratory at the Texas Engineering Experiment Station for the development and annual calculation of creditable statewide emissions reductions obtained through wind and other renewable energy resources for the State Implementation Plan, and the balance is to be allocated each year to a nonprofit organization or an institution of higher education based in Houston to be used to implement and administer the new technology research and development program under a contract with the commission for the purpose of identifying, testing, and evaluating new emissions-reducing technologies with potential for commercialization in this state and to facilitate their certification or verification; and

(3) for administrative costs incurred by the commission and the laboratory, three percent of the money in the fund.

(d) The commission may allocate unexpended money designated for the clean fleet program to other programs described under Subsection (a) after the commission allocates money to recipients under the clean fleet program.

SECTION 5. Subtitle C, Title 5, Health and Safety Code, is amended by adding Chapter 391 to read as follows:

#### CHAPTER 391. TEXAS CLEAN FLEET PROGRAM

Sec. 391.001. DEFINITIONS. In this chapter:

(1) "Alternative fuel" means a fuel other than gasoline or diesel fuel, including electricity, compressed natural gas, liquified natural gas, hydrogen, propane, or a mixture of fuels containing at least 85 percent methanol by volume.

(2) "Commission" means the Texas Commission on Environmental Quality.

(3) "Golf cart" has the meaning assigned by Section 502.001, Transportation Code.

(4) "Hybrid vehicle" means a vehicle with at least two different energy converters and two different energy storage systems on board the vehicle for the purpose of propelling the vehicle.

(5) "Incremental cost" has the meaning assigned by Section 386.001.

(6) "Light-duty motor vehicle" has the meaning assigned by Section 386.151.

(7) "Motor vehicle" has the meaning assigned by Section 386.151.

(8) "Neighborhood electric vehicle" means a motor vehicle that:

(A) is originally manufactured to meet, and does meet, the equipment requirements and safety standards established for "low-speed vehicles" in Federal Motor Vehicle Safety Standard No. 500 (49 C.F.R. Section 571.500);

(B) is a slow-moving vehicle, as defined by Section 547.001, Transportation Code, that is able to attain a speed of more than 20 miles per hour but not more than 25 miles per hour in one mile on a paved, level surface;

(C) is a four-wheeled motor vehicle;

(D) is powered by electricity or alternative power sources;

(E) has a gross vehicle weight rating of less than 3,000 pounds; and

(F) is not a golf cart.

(9) "Program" means the Texas clean fleet program established under this chapter.

Sec. 391.002. PROGRAM. (a) The commission shall establish and administer the Texas clean fleet program to encourage a person that has a fleet of diesel-powered vehicles to replace them with alternative fuel or hybrid vehicles. Under the program, the commission shall provide grants for eligible projects to offset the incremental cost of projects for fleet owners.

(b) An entity that places 25 or more qualifying vehicles in service for use entirely in this state during a calendar year is eligible to participate in the program.

Sec. 391.003. QUALIFYING VEHICLES. (a) A vehicle is a qualifying vehicle that may be considered for a grant under the program if during the calendar year the entity purchases a new on-road vehicle that:

(1) is certified to current federal emissions standards;

(2) replaces a diesel-powered on-road vehicle of the same weight classification and use; and

(3) is a hybrid vehicle or fueled by an alternative fuel.

(b) A vehicle is not a qualifying vehicle if the vehicle:

(1) is a neighborhood electric vehicle;

(2) has been used as a qualifying vehicle to qualify for a grant under this chapter for a previous reporting period or by another entity; or

(3) has qualified for a similar grant or tax credit in another jurisdiction.

Sec. 391.004. APPLICATION FOR GRANT. (a) An entity operating in this state that operates a fleet of at least 100 vehicles may apply for and receive a grant under the program.

(b) The commission may adopt guidelines to allow a regional planning commission, council of governments, or similar regional planning agency created under Chapter 391, Local Government Code, or a private nonprofit organization to apply for and receive a grant to improve the ability of the program to achieve its goals.

(c) An application for a grant under this chapter must be made on a form provided by the commission and must contain the information required by the commission.

Sec. 391.005. ELIGIBILITY OF PROJECTS FOR GRANTS. (a) The commission by rule shall establish criteria for prioritizing projects eligible to receive grants under this chapter. The commission shall review and revise the criteria as appropriate.

(b) To be eligible for a grant under the program, a project must:

(1) result in a reduction in emissions of nitrogen oxides or other pollutants, as established by the commission, of at least 25 percent, based on:

(g); and  
(A) the baseline emission level set by the commission under Subsection

(B) the certified emission rate of the new vehicle; and

(2) replace a vehicle that:

(A) is an on-road vehicle that has been owned, registered, and operated by the applicant in Texas for at least the two years immediately preceding the submission of a grant application;

(B) satisfies any minimum average annual mileage or fuel usage requirements established by the commission;

(C) satisfies any minimum percentage of annual usage requirements established by the commission; and

(D) is in operating condition and has at least two years of remaining useful life, as determined in accordance with criteria established by the commission.

(c) As a condition of receiving a grant, the qualifying vehicle must be continuously owned, registered, and operated in the state by the grant recipient for at least five years from the date of reimbursement of the grant-funded expenses. Not less than 75 percent of the annual use of the qualifying vehicle, either mileage or fuel use as determined by the commission, must occur in the state.

(d) The commission shall include and enforce the usage provisions in the grant contracts. The commission shall monitor compliance with the ownership and usage requirements, including submission of reports on at least an annual basis, or more frequently as determined by the commission.

(e) The commission by contract may require the return of all or a portion of grant funds for a grant recipient's noncompliance with the usage and percentage of use requirements under this section.

(f) A vehicle or engine replaced under this program must be rendered permanently inoperable by crushing the vehicle or making a hole in the engine block and permanently destroying the frame of the vehicle. The commission shall establish criteria for ensuring the permanent destruction of the engine and vehicle. The commission shall monitor and enforce the destruction requirements.

(g) The commission shall establish baseline emission levels for emissions of nitrogen oxides for on-road vehicles being replaced. The commission may consider and establish baseline emission rates for additional pollutants of concern, as determined by the commission.

(h) Mileage requirements established by the commission under Subsection (b)(2)(B) may differ by vehicle weight categories and type of use.

Sec. 391.006. RESTRICTION ON USE OF GRANT. A recipient of a grant under this chapter shall use the grant to pay the incremental costs of the project for which the grant is made, which may include the initial cost of the alternative fuel vehicle and the reasonable and necessary expenses incurred for the labor needed to install emissions-reducing equipment. The recipient may not use the grant to pay the recipient's administrative expenses.

Sec. 391.007. AMOUNT OF GRANT. (a) The amount the commission shall award for each vehicle being replaced is:

(1) 80 percent of the incremental cost for replacement of a heavy-duty diesel engine:

(A) manufactured prior to implementation of federal or California emission standards; and

(B) not certified to meet a specific emission level by either the United States Environmental Protection Agency or the California Air Resources Board;

(2) 70 percent of the incremental cost for replacement of a heavy-duty diesel engine certified to meet the federal emission standards applicable to engines manufactured in 1990 through 1997;

(3) 60 percent of the incremental cost for replacement of a heavy-duty diesel engine certified to meet the federal emission standards applicable to engines manufactured in 1998 through 2003;

(4) 50 percent of the incremental cost for replacement of a heavy-duty diesel engine certified to meet the federal emission standards applicable to engines manufactured in 2004 and later;

(5) 80 percent of the incremental cost for replacement of a light-duty diesel vehicle:

(A) manufactured prior to the implementation of certification requirements; and

(B) not certified to meet either mandatory or voluntary emission certification standards;

(6) 70 percent of the incremental cost for replacement of a light-duty diesel vehicle certified to meet federal Tier 1 emission standards phased in between 1994 and 1997; and

(7) 60 percent of the incremental cost for replacement of a light-duty diesel vehicle certified to meet federal Tier 2 emission standards phased in between 2004 and 2009.

(b) The commission may revise the standards for determining grant amounts, as needed to reflect changes to federal emission standards and decisions on pollutants of concern.

Sec. 391.008. EXPIRATION. This chapter expires August 31, 2017.

SECTION 6. (a) In this section:

(1) "Alternative fuel" means a fuel other than gasoline or diesel fuel, including electricity, compressed natural gas, liquified natural gas, hydrogen, propane, methanol, or a mixture of fuels containing at least 85 percent methanol by volume.

(2) "Commission" means the Texas Commission on Environmental Quality.

(b) The commission shall conduct an alternative fueling facilities study to:

(1) assess the correlation between the installation of fueling facilities in nonattainment areas and the deployment of fleet vehicles that use alternative fuels; and

(2) determine the emissions reductions achieved from replacing a diesel-powered engine with an engine utilizing alternative fuels.

(c) From the emissions reductions determined under Subsection (b) of this section, the commission shall determine the amount of emissions reductions that are fairly attributable to the installation of an alternative fuel fueling facility and the combustion of the alternative fuel in the vehicles fueled by the alternative fuel fueling facility.

(d) In connection with the study conducted under this section, the commission shall seek approval for credit in the state implementation plan from the United States Environmental Protection Agency for emissions reductions that can be:

(1) directly attributed to an alternative fuel fueling facility; and

(2) achieved as a consequence of an alternative fuel fueling facility encouraging the use of alternatively fueled vehicles.

(e) The commission shall include in the commission's biennial report to the legislature the findings of the study conducted under this section and the status of the discussions with the United States Environmental Protection Agency regarding credit for emissions reductions in the state implementation plan which can be achieved as a result of the installation of alternative fuel fueling facilities.

(f) This section expires August 31, 2011.

SECTION 7. Section 502.0022, Transportation Code, is repealed.

SECTION 8. (a) The Texas Department of Transportation shall adopt the rules and establish the system required under Section 502.0023, Transportation Code, as added by this Act, not later than January 1, 2010.

(b) The Texas Commission on Environmental Quality shall adopt rules under Section 391.005, Health and Safety Code, as added by this Act, as soon as practicable after the effective date of this Act.

SECTION 9. This Act takes effect September 1, 2009.

The Conference Committee Report on **SB 1759** was filed with the Secretary of the Senate.

### **CONFERENCE COMMITTEE REPORT ON HOUSE BILL 51**

Senator Zaffirini submitted the following Conference Committee Report:

Austin, Texas  
May 30, 2009

Honorable David Dewhurst  
President of the Senate

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 51** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

ZAFFIRINI

WILLIAMS

DUNCAN

VAN DE PUTTE

WATSON

On the part of the Senate

BRANCH

MCCALL

COHEN

EILAND

MADDEN

On the part of the House

The Conference Committee Report on **HB 51** was filed with the Secretary of the Senate.

### CONFERENCE COMMITTEE REPORT ON HOUSE BILL 756

Senator Ellis submitted the following Conference Committee Report:

Austin, Texas

May 29, 2009

Honorable David Dewhurst  
President of the Senate

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 756** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

ELLIS

DEUELL

DUNCAN

ZAFFIRINI

On the part of the Senate

MARTINEZ FISCHER

ANCHIA

LAUBENBERG

GUTIERREZ

On the part of the House

The Conference Committee Report on **HB 756** was filed with the Secretary of the Senate.

### CONFERENCE COMMITTEE REPORT ON HOUSE BILL 4583

Senator Ogden submitted the following Conference Committee Report:

Austin, Texas

May 30, 2009

Honorable David Dewhurst  
President of the Senate

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 4583** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

OGDEN  
DUNCAN  
HINOJOSA  
WHITMIRE  
ELTIFE

On the part of the Senate

PITTS  
EDWARDS  
HOCHBERG  
MORRISON  
OTTO

On the part of the House

The Conference Committee Report on **HB 4583** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 3479**

Senator Uresti submitted the following Conference Committee Report:

Austin, Texas  
May 30, 2009

Honorable David Dewhurst  
President of the Senate

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 3479** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

URESTI  
DAVIS  
ELTIFE  
SELIGER

On the part of the Senate

GALLEGO  
COLEMAN  
CHRISTIAN  
MOODY  
MIKLOS

On the part of the House

The Conference Committee Report on **HB 3479** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 498**

Senator Ellis submitted the following Conference Committee Report:

Austin, Texas  
May 30, 2009

Honorable David Dewhurst  
President of the Senate

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 498** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

ELLIS  
CARONA  
WHITMIRE

MCCLENDON  
THOMPSON  
HODGE  
PIERSON  
MOODY

On the part of the Senate

On the part of the House

The Conference Committee Report on **HB 498** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 3335**

Senator Averitt submitted the following Conference Committee Report:

Austin, Texas  
May 30, 2009

Honorable David Dewhurst  
President of the Senate

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 3335** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

AVERITT  
DEUELL  
DUNCAN  
URESTI  
WILLIAMS

CALLEGARI  
HILDERBRAN  
MILLER  
RITTER  
ZERWAS

On the part of the Senate

On the part of the House



The Conference Committee Report on **HB 3335** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 3**

Senator Shapiro submitted the following Conference Committee Report:

Austin, Texas  
May 30, 2009

Honorable David Dewhurst  
President of the Senate

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 3** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

SHAPIRO

PATRICK

OGDEN

VAN DE PUTTE

WILLIAMS

On the part of the Senate

EISSLER

HOCHBERG

DUTTON

KEFFER

VILLARREAL

On the part of the House

The Conference Committee Report on **HB 3** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 968**

Senator West submitted the following Conference Committee Report:

Austin, Texas  
May 30, 2009

Honorable David Dewhurst  
President of the Senate

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 **SB 968** 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.

WEST

CARONA

PATRICK

TRUITT

HARPER-BROWN

KENT

VAN DE PUTTE

KOLKHORST

MILLER

On the part of the Senate

On the part of the House

A BILL TO BE ENTITLED  
AN ACT

relating to interactive water features and fountains.

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

SECTION 1. Subchapter D, Chapter 341, Health and Safety Code, is amended by adding Section 341.0695 to read as follows:

Sec. 341.0695. INTERACTIVE WATER FEATURES AND FOUNTAINS.

(a) In this section, "interactive water feature or fountain" means an installation that includes water sprays, dancing water jets, waterfalls, dumping buckets, or shooting water cannons and that is maintained for public recreation.

(b) An owner, manager, operator, or other attendant in charge of an interactive water feature or fountain shall maintain the water feature or fountain in a sanitary condition.

(c) The bacterial content of the water in an interactive water feature or fountain may not exceed the safe limits prescribed by the standards adopted under this chapter.

(d) Except as provided by Subsection (f), a minimum free residual chlorine of 1.0 part for each one million units of water used in an interactive water feature or fountain must be maintained.

(e) Water in an interactive water feature or fountain may not show an acid reaction to a standard pH test.

(f) The department may by rule adopt methods other than chlorination for the purpose of disinfecting interactive water features and fountains.

(g) An interactive water feature or fountain that is supplied entirely by drinking water that is not recirculated is not subject to Subsections (d) and (e).

(h) A person known to be or suspected of being infected with a transmissible condition of a communicable disease shall be excluded from an interactive water feature or fountain.

(i) A county, a municipality, or the department may:

(1) require that the owner or operator of an interactive water feature or fountain obtain a permit for operation of the water feature or fountain;

(2) inspect an interactive water feature or fountain for compliance with this section; and

(3) impose and collect a reasonable fee in connection with a permit or inspection required under this subsection provided, if the requirement is imposed by a county or municipality, the following are met:

(A) the auditor for the county or municipality shall review the program every two years to ensure that the fees imposed do not exceed the cost of the program; and

(B) the county or municipality refunds the permit holders any revenue determined by the auditor to exceed the cost of the program.

(j) A county, a municipality, or the department may by order close, for the period specified in the order, an interactive water feature or fountain if the operation of the fountain or water feature violates this section or a permitting or inspection requirement imposed under Subsection (i).

(k) This section does not apply to a recreational water park that uses freshwater originating from a natural watercourse for recreational purposes and releases the freshwater back into the same natural watercourse.

SECTION 2. (a) Not later than the 30th day after the effective date of this Act, the executive commissioner of the Health and Human Services Commission shall adopt emergency rules in accordance with Section 2001.034, Government Code, as necessary to implement Section 341.0695, Health and Safety Code, as added by this Act.

(b) An owner, manager, operator, or other attendant in charge of an interactive water feature or fountain is not required to comply with Section 341.0695, Health and Safety Code, as added by this Act, before the fifth day after the date rules are adopted under Subsection (a) of this section.

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, 2009.

The Conference Committee Report on **SB 968** was filed with the Secretary of the Senate.

### CONFERENCE COMMITTEE REPORT ON HOUSE BILL 3872

Senator Estes submitted the following Conference Committee Report:

Austin, Texas  
May 30, 2009

Honorable David Dewhurst  
President of the Senate

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 3872** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

ESTES  
VAN DE PUTTE  
PATRICK

GATTIS  
VAUGHT  
SHEFFIELD  
KLEINSCHMIDT

On the part of the Senate

On the part of the House

The Conference Committee Report on **HB 3872** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 2093**

Senator Hegar submitted the following Conference Committee Report:

Austin, Texas  
May 30, 2009

Honorable David Dewhurst  
President of the Senate  
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 2093** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

HEGAR	DRIVER
PATRICK	HUNTER
SELIGER	ISETT
WEST	CHISUM
WHITMIRE	PEÑA
On the part of the Senate	On the part of the House

The Conference Committee Report on **HB 2093** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 2521**

Senator West submitted the following Conference Committee Report:

Austin, Texas  
March 30, 2009

Honorable David Dewhurst  
President of the Senate  
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 2521** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

WEST	PICKETT
DEUELL	SOLOMONS
HARRIS	FARABEE
ELTIFE	MENÉNDEZ
WATSON	
On the part of the Senate	On the part of the House

The Conference Committee Report on **HB 2521** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 2682**

Senator Wentworth submitted the following Conference Committee Report:

Austin, Texas  
May 30, 2009

Honorable David Dewhurst  
President of the Senate

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 2682** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

WENTWORTH  
CARONA  
WATSON  
DAVIS  
ELLIS

BOHAC  
GUILLEN  
MCCLENDON  
MERRITT

On the part of the Senate

On the part of the House

The Conference Committee Report on **HB 2682** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 1645**

Senator Van de Putte submitted the following Conference Committee Report:

Austin, Texas  
May 30, 2009

Honorable David Dewhurst  
President of the Senate

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 **SB 1645** 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.

VAN DE PUTTE  
DUNCAN  
NICHOLS

HOPSON  
W. SMITH  
GONZALEZ TOUREILLES

NELSON  
ZAFFIRINI

On the part of the Senate

On the part of the House

A BILL TO BE ENTITLED  
AN ACT

relating to the distribution of a prescription drug and a study of the feasibility of establishing separate reimbursement under the Medicaid vendor drug program for certain pharmacy care management services.

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

SECTION 1. DEFINITION. In this Act, "pharmacy care management services" means services provided by a pharmacy to support patients receiving treatment or therapy through a specialty pharmacy drug or therapy and maximize adherence to the drug or therapy, including:

(1) significant caregiver and provider contact and education regarding the relevant disease, disease prevention and treatment, and counseling related to drug indications, benefits, risks, complications, and appropriate use of the prescribed drug or therapy;

(2) patient compliance services, including coordination of provider visits with delivery of the specialty drug or therapy to the provider, compliance with the dosing regimen, patient reminders, compilation of data, and assisting providers in the development of compliance programs; and

(3) tracking services, including developing ordering processes with a provider, screening referrals, and tracking a patient's weight for dosing requirements.

SECTION 2. STUDY. (a) The Health and Human Services Commission shall study the feasibility of establishing separate reimbursement rates under the Medicaid vendor drug program for pharmacies that provide pharmacy care management services to patients who are administered specialty pharmacy drugs, including drugs indicated for the prophylaxis of respiratory syncytial virus, blood factor, or any other biologic or therapy that requires complex care.

(b) In conducting the study under Subsection (a) of this section, the Health and Human Services Commission shall consult with the Centers for Medicare and Medicaid Services and may consider the adoption of pharmacy care management services reimbursement for pharmacy services adopted by other state Medicaid programs.

(c) The Health and Human Services Commission shall seek information from specialty pharmacy providers or other sources regarding the costs of providing pharmacy care management services.

(d) Not later than September 1, 2010, the Health and Human Services Commission shall submit a written report of the results of the study conducted under Subsection (a) of this section to the legislature.

SECTION 3. NORMAL DISTRIBUTION CHANNEL. Subdivision (5), Section 431.401, Health and Safety Code, is amended to read as follows:

(5) "Normal distribution channel" means a chain of custody for a prescription drug, either directly or by drop shipment, from the manufacturer of the prescription drug, the manufacturer to the manufacturer's co-licensed product partner, the manufacturer to the manufacturer's third-party logistics provider, or the manufacturer to the manufacturer's exclusive distributor, to:

(A) a pharmacy to:

(i) a patient; or

(ii) another designated person authorized by law to dispense or administer the drug to a patient;

(B) an authorized distributor of record to:

(i) a pharmacy to a patient; or

(ii) another designated person authorized by law to dispense or administer the drug to a patient;

(C) an authorized distributor of record to a wholesale distributor licensed under this chapter to another designated person authorized by law to administer the drug to a patient;

(D) an authorized distributor of record to a pharmacy warehouse to the pharmacy warehouse's intracompany pharmacy;

(E) [~~(D)~~] a pharmacy warehouse to the pharmacy warehouse's intracompany pharmacy or another designated person authorized by law to dispense or administer the drug to a patient;

(F) [~~(E)~~] a person authorized by law to prescribe a prescription drug that by law may be administered only under the supervision of the prescriber; or

(G) [~~(F)~~] an authorized distributor of record to one other authorized distributor of record to a licensed practitioner for office use.

SECTION 4. EXEMPTION FROM CERTAIN PROVISIONS FOR CERTAIN WHOLESALE DISTRIBUTORS. Section 431.4031, Health and Safety Code, is amended to read as follows:

Sec. 431.4031. EXEMPTION FROM CERTAIN PROVISIONS FOR CERTAIN WHOLESALE DISTRIBUTORS. (a) A wholesale distributor that distributes prescription drugs that are medical gases or a wholesale distributor that is a manufacturer or a third-party logistics provider on behalf of a manufacturer is exempt from Sections 431.404(a)(5) and (6), (b), and (c), 431.4045(2), 431.405, 431.407, and 431.408.

(b) A state agency or a political subdivision of this state that distributes prescription drugs using federal or state funding to nonprofit health care facilities or local mental health or mental retardation authorities for distribution to a pharmacy, practitioner, or patient is exempt from Sections 431.405(b), 431.407, 431.408, 431.412, and 431.413.

(c) The executive commissioner of the Health and Human Services Commission by rule may exempt specific purchases of prescription drugs by state agencies and political subdivisions of this state if the executive commissioner determines that the requirements of this subchapter would result in a substantial cost to the state or a political subdivision of the state.

SECTION 5. RULES. As soon as practicable after the effective date of this Act, the executive commissioner of the Health and Human Services Commission shall adopt, modify, or repeal rules as necessary to implement the changes in law made by this Act to Chapter 431, Health and Safety Code.

SECTION 6. EFFECTIVE DATE. 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, 2009.

The Conference Committee Report on **SB 1645** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 1161**

Senator Harris submitted the following Conference Committee Report:

Austin, Texas  
May 30, 2009

Honorable David Dewhurst  
President of the Senate

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 1161** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

HARRIS  
LUCIO  
VAN DE PUTTE  
ELTIFE  
WATSON

On the part of the Senate

GEREN  
THOMPSON  
HAMILTON  
CHISUM  
GIDDINGS

On the part of the House

The Conference Committee Report on **HB 1161** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 78**

Senator Nelson submitted the following Conference Committee Report:

Austin, Texas  
May 30, 2009

Honorable David Dewhurst  
President of the Senate



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 **SB 78** 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.

NELSON

SMITHEE

DEUELL

EILAND

DUNCAN

ZERWAS

LUCIO

VAN DE PUTTE

On the part of the Senate

On the part of the House

A BILL TO BE ENTITLED  
 AN ACT

relating to promoting awareness and education about the purchase and availability of health coverage.

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

ARTICLE 1. TEXLINK

SECTION 1.01. Chapter 524, Insurance Code, is amended to read as follows:

CHAPTER 524. TEXLINK TO HEALTH COVERAGE [AWARENESS AND EDUCATION] PROGRAM

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 524.001. DEFINITIONS. In this chapter:

(1) "Division" means the division of the department that administers the TexLink to Health Coverage Program.

(2) "Program" means the TexLink to Health Coverage Program established in accordance with this chapter.

Sec. 524.002. DIVISION RESPONSIBILITIES. Under the direction of the commissioner, the division implements this chapter.

Sec. 524.003. TEXLINK TO HEALTH COVERAGE PROGRAM ESTABLISHED. (a) The department shall develop and implement a health coverage [public awareness and education] program that complies with this chapter. The program must:

(1) educate the public about the importance and value of health coverage;

(2) promote personal responsibility for health care through the purchase of health coverage;

(3) assist small employers, individuals, and others seeking to purchase health coverage with technical information necessary to understand available health insurance coverage;

(4) promote and facilitate the development and availability of new health coverage options;

(5) increase public awareness of health coverage options available in this state; and

(6) [(2) educate the public on the value of health coverage; and

~~(3)~~ provide information on health coverage options, including health savings accounts and compatible high deductible health benefit plans.

(b) The program must include a public awareness and education component.

#### SUBCHAPTER B. PUBLIC AWARENESS AND EDUCATION

Sec. 524.051. INFORMATION ABOUT SPECIFIC HEALTH BENEFIT PLAN ISSUERS. In materials produced for the program, the division ~~[department]~~ may include information about specific health benefit plan ~~[coverage]~~ issuers but may not favor or endorse one particular issuer over another.

Sec. 524.052 [524.002]. PUBLIC SERVICE ANNOUNCEMENTS. The division ~~[department]~~ shall develop and make public service announcements to educate consumers and employers about the availability of health coverage in this state.

Sec. 524.053 [524.003]. INTERNET WEBSITE; PRINTED MATERIALS; NEWSLETTER [PUBLIC EDUCATION]. (a) The division ~~[department]~~ shall develop an Internet website and printed materials designed to educate small employers, individuals, and others seeking to purchase health coverage ~~[the public]~~ about ~~[the availability of]~~ health coverage in accordance with Section 524.003(a) ~~[this state]~~, including information about health savings accounts and compatible high deductible health benefit plans.

(b) The division shall make the printed materials produced under the program available to small employers, individuals, and others seeking to purchase health coverage. The division may:

(1) distribute the printed materials through facilities such as libraries, health care facilities, and schools as well as other venues the division selects; and

(2) use other distribution methods the division selects.

(c) The division may produce a newsletter to provide updated information about health coverage to subscribers who elect to receive the newsletter. The division may:

(1) produce a newsletter under this subsection for small employers, for individuals, or for other purchasers of health coverage;

(2) distribute the newsletter on a monthly, quarterly, or other basis; and

(3) distribute the newsletter as a printed document or electronically.

Sec. 524.054. TOLL-FREE TELEPHONE HOTLINE; ACCESS TO INFORMATION. (a) The division may operate a toll-free telephone hotline to respond to inquiries and provide information and technical assistance concerning health insurance coverage.

(b) The Health and Human Services Commission, through its 2-1-1 telephone number for access to human services, may disseminate information regarding health insurance coverage provided to the commission by the department and may refer inquiries regarding health insurance coverage to the toll-free telephone hotline. The department may provide information to the Health and Human Services Commission as necessary to implement this subsection.

Sec. 524.055. EDUCATION FOR HIGH SCHOOL STUDENTS. (a) The division may develop educational materials and a curriculum to be used in high school classes that educate students about:

(1) the importance and value of health coverage;

(2) comparing health benefit plans; and

(3) understanding basic provisions contained in health benefit plans.

(b) The division may consult with the Texas Education Agency in developing educational materials and a curriculum under this section.

Sec. 524.056. HEALTH COVERAGE FAIRS. (a) The division may conduct health coverage fairs to provide small employers, individuals, and others seeking to purchase health coverage the opportunity to obtain information about health coverage from division employees and from health benefit plan issuers and agents that elect to participate.

(b) The division shall seek to obtain funding for health coverage fairs conducted under this section through gifts and grants obtained in accordance with Subchapter C.

Sec. 524.057. COMMUNITY EVENTS. The division may participate in events held in this state to promote awareness of the importance and value of health coverage and to educate small employers, individuals, and others seeking to purchase health coverage about health coverage in accordance with Section 524.003(a).

Sec. 524.058. HEALTH COVERAGE PROVIDED THROUGH COLLEGES AND UNIVERSITIES. The division may cooperate with a public or private college or university to promote enrollment in health coverage programs sponsored by or through the college or university.

Sec. 524.059. SUPPORT FOR COMMUNITY-BASED PROJECTS. The division may provide support and assistance to individuals and organizations seeking to develop community-based health coverage plans for uninsured individuals.

Sec. 524.060. OTHER EDUCATION. The division may ~~[department shall]~~ provide other appropriate education to the public regarding health coverage and the importance and value of health coverage in accordance with Section 524.003(a).

Sec. ~~524.061~~ [524.004]. TASK FORCE. (a) The commissioner may ~~[shall]~~ appoint a task force to make recommendations regarding the division's duties under this subchapter ~~[health coverage public awareness and education program]~~. If appointed, the ~~[The]~~ task force must be ~~[is]~~ composed of:

- (1) one representative from each of the following groups or entities:
 
  - (A) health ~~[benefit]~~ coverage consumers;
  - (B) small employers;
  - (C) employers generally;
  - (D) insurance agents;
  - (E) the office of public insurance counsel;
  - (F) the Texas Health Insurance Risk Pool;
  - (G) physicians;
  - (H) advanced practice nurses;
  - (I) hospital trade associations; and
  - (J) medical units of institutions of higher education;
- (2) a representative of the Health and Human Services Commission responsible for programs under Medicaid and the children's health insurance program; ~~[and]~~
- (3) one or more representatives of health benefit plan issuers; and
- (4) one or more representatives of a regional or local health care program for employees of small employers under Chapter 75, Health and Safety Code.

(b) In addition to the individuals listed in Subsection (a), the commissioner may select to serve on any task force one or more individuals with experience in public relations, marketing, or another related field of professional services.

(c) The division may [~~department shall~~] consult the task force regarding the content for the public service announcements, Internet website, printed materials, and other educational materials required or authorized by this subchapter [~~chapter~~]. The commissioner has authority to make final decisions as to what the program's materials will contain.

Sec. 524.062. FEDERAL TAX "TOOL KIT" FOR CERTAIN BUSINESSES. The department may:

(1) produce materials that:

(A) provide step-by-step instructions for a small employer or single-employee business that is obtaining health coverage for the benefit of the employer or business and the employees of the business; and

(B) are designed to allow the employer or business to obtain the coverage in a manner that qualifies for favorable treatment under federal tax laws; and

(2) make department staff available to assist small employers and single-employee businesses that are obtaining health coverage as described by Subdivision (1).

Sec. 524.063. ASSISTANCE FOR SMALL EMPLOYERS AND SINGLE-EMPLOYEE BUSINESSES. The department may train staff concerning available health coverage options for small employers and single-employee businesses to:

(1) respond to telephone inquiries from small employers and single-employee businesses; and

(2) speak at events to provide information about health coverage options for small employers and single-employee businesses and about the importance and value of health coverage.

Sec. 524.064. ACCOUNTANT. The department may employ an accountant with experience in federal tax law and the purchase of group health coverage as necessary to implement this chapter.

#### SUBCHAPTER C. FUNDING

Sec. 524.101 [~~524.005~~]. FUNDING. The department may accept gifts and grants from any party, including a health benefit plan issuer or a foundation associated with a health benefit plan issuer, to assist with funding the program. The department shall adopt rules governing acceptance of donations that are consistent with Chapter 575, Government Code. Before adopting rules under this section [~~subsection~~], the department shall:

(1) submit the proposed rules to the Texas Ethics Commission for review; and

(2) consider the commission's recommendations regarding the regulations.

#### ARTICLE 2. HEALTHY TEXAS PROGRAM

SECTION 2.01. Subtitle G, Title 8, Insurance Code, is amended by adding Chapter 1508 to read as follows:

CHAPTER 1508. HEALTHY TEXAS PROGRAMSUBCHAPTER A. GENERAL PROVISIONS

Sec. 1508.001. PURPOSE. (a) The purposes of the Healthy Texas Program are to:

(1) provide access to quality small employer health benefit plans at an affordable price;

(2) encourage small employers to offer health benefit plan coverage to employees and the dependents of employees; and

(3) maximize reliance on proven managed care strategies and procedures.

(b) The Healthy Texas Program is not intended to diminish the availability of traditional small employer health benefit plan coverage under Chapter 1501.

Sec. 1508.002. DEFINITIONS. In this chapter:

(1) "Dependent" has the meaning assigned by Section 1501.002(2).

(2) "Eligible employee" has the meaning assigned by Section 1501.002(3).

(3) "Fund" means the healthy Texas small employer premium stabilization fund established under Subchapter F.

(4) "Health benefit plan" and "health benefit plan issuer" have the meanings assigned by Sections 1501.002(5) and 1501.002(6), respectively.

(5) "Program" means the Healthy Texas Program established under this chapter.

(6) "Qualifying health benefit plan" means a health benefit plan that provides benefits for health care services in the manner described by this chapter.

(7) "Small employer" has the meaning assigned by Section 1501.002(14).

Sec. 1508.003. RULES. The commissioner may adopt rules as necessary to implement this chapter.

[Sections 1508.004-1508.050 reserved for expansion]

SUBCHAPTER B. EMPLOYER ELIGIBILITY; CONTRIBUTIONS

Sec. 1508.051. EMPLOYER ELIGIBILITY TO PARTICIPATE. (a) A small employer may participate in the program if:

(1) during the 12-month period immediately preceding the date of application for a qualifying health benefit plan, the small employer does not offer employees group health benefits on an expense-reimbursed or prepaid basis; and

(2) at least 30 percent of the small employer's eligible employees receive annual wages from the employer in an amount that is equal to or less than 300 percent of the poverty guidelines for an individual, as defined and updated annually by the United States Department of Health and Human Services.

(b) A small employer ceases to be eligible to participate in the program if any health benefit plan that provides employee benefits on an expense-reimbursed or prepaid basis, other than another qualifying health benefit plan, is purchased or otherwise takes effect after the purchase of a qualifying health benefit plan.

Sec. 1508.052. COMMISSIONER ADJUSTMENTS AUTHORIZED. (a) The commissioner by rule may adjust the 12-month period described by Section 1508.051(a)(1) to an 18-month period if the commissioner determines that the 12-month period is insufficient to prevent inappropriate substitution of other health benefit plans for qualifying health benefit plan coverage under this chapter.

(b) The commissioner by rule may adjust the percentage of the poverty guidelines described by Section 1508.051(a)(2) to a higher or lower percentage if the commissioner determines that the adjustment is necessary to fulfill the purposes of this chapter. An adjustment made by the commissioner under this subsection takes effect on the first July 1 following the adjustment.

Sec. 1508.053. MINIMUM EMPLOYER PARTICIPATION REQUIREMENTS. A small employer that meets the eligibility requirements described by Section 1508.051(a) may apply to purchase a qualifying health benefit plan if 60 percent or more of the employer's eligible employees elect to participate in the plan.

Sec. 1508.054. EMPLOYER CONTRIBUTION REQUIREMENTS. (a) A small employer that purchases a qualifying health benefit plan must:

(1) pay 50 percent or more of the premium for each employee covered under the qualifying health benefit plan;

(2) offer coverage to all eligible employees receiving annual wages from the employer in an amount described by Section 1508.051(a)(2) or 1508.052(b), as applicable; and

(3) contribute the same percentage of premium for each covered employee.

(b) A small employer that purchases a qualifying health benefit plan under the program may elect to pay, but is not required to pay, all or any portion of the premium paid for dependent coverage under the qualifying health benefit plan.

[Sections 1508.055-1508.100 reserved for expansion]

#### SUBCHAPTER C. PROGRAM PARTICIPATION; REQUIRED COVERAGE AND BENEFITS

Sec. 1508.101. PARTICIPATING PLAN ISSUERS. (a) Subject to Subsection (b), any health benefit plan issuer may participate in the program.

(b) The commissioner by rule may limit which health benefit plan issuers may participate in the program if the commissioner determines that the limitation is necessary to achieve the purposes of this chapter.

(c) If the commissioner limits participation in the program under Subsection (b), the commissioner shall contract on a competitive procurement basis with one or more health benefit plan issuers to provide qualifying health benefit plan coverage under the program.

(d) Nothing in this chapter prohibits a regional or local health care program described by Chapter 75, Health and Safety Code, from participating in the program. The commissioner by rule shall establish participation requirements applicable to regional and local health care programs that consider the unique plan designs, benefit levels, and participation criteria of each program.

Sec. 1508.102. PREEXISTING CONDITION PROVISION REQUIRED. A health benefit plan offered under the program must include a preexisting condition provision that meets the requirements described by Section 1501.102.

Sec. 1508.103. EXCEPTION FROM MANDATED BENEFIT REQUIREMENTS. Except as expressly provided by this chapter, a small employer health benefit plan issued under the program is not subject to a law of this state that requires coverage or the offer of coverage of a health care service or benefit.

Sec. 1508.104. CERTAIN COVERAGE PROHIBITED OR REQUIRED. (a) A qualifying health benefit plan may only provide coverage for in-plan services and benefits, except for:

(1) emergency care; or

(2) other services not available through a plan provider.

(b) In-plan services and benefits provided under a qualifying health benefit plan must include the following:

(1) inpatient hospital services;

(2) outpatient hospital services;

(3) physician services; and

(4) prescription drug benefits.

(c) The commissioner may approve in-plan benefits other than those required under Subsection (b) or emergency care or other services not available through a plan provider if the commissioner determines the inclusion to be essential to achieve the purposes of this chapter.

(d) The commissioner may, with respect to the categories of services and benefits described by Subsections (b) and (c):

(1) prepare specifications for a coverage provided under this chapter;

(2) determine the methods and procedures of claims administration;

(3) establish procedures to decide contested cases arising from coverage provided under this chapter;

(4) study, on an ongoing basis, the operation of all coverages provided under this chapter, including gross and net costs, administration costs, benefits, utilization of benefits, and claims administration;

(5) administer the healthy Texas small employer premium stabilization fund established under Subchapter F;

(6) provide the beginning and ending dates of coverages for enrollees in a qualifying health benefit plan;

(7) develop basic group coverage plans applicable to all individuals eligible to participate in the program;

(8) provide for optional group coverage plans in addition to the basic group coverage plans described by Subdivision (7);

(9) provide, as determined to be appropriate by the commissioner, additional statewide optional coverage plans;

(10) develop specific health benefit plans that permit access to high-quality, cost-effective health care;

(11) design, implement, and monitor health benefit plan features intended to discourage excessive utilization, promote efficiency, and contain costs for qualifying health benefit plans;

(12) develop and refine, on an ongoing basis, a health benefit strategy for the program that is consistent with evolving benefits delivery systems;

(13) develop a funding strategy that efficiently uses employer contributions to achieve the purposes of this chapter; and

(14) modify the copayment and deductible amounts for prescription drug benefits under a qualifying health benefit plan, if the commissioner determines that the modification is necessary to achieve the purposes of this chapter.

[Sections 1508.105-1508.150 reserved for expansion]  
SUBCHAPTER D. PROGRAM ADMINISTRATION

Sec. 1508.151. EMPLOYER CERTIFICATION. (a) At the time of initial application, a health benefit plan issuer shall obtain from a small employer that seeks to purchase a qualifying health benefit plan a written certification that the employer meets the eligibility requirements described by Section 1508.051 and the minimum employer participation requirements described by Section 1508.053.

(b) Not later than the 90th day before the renewal date of a qualifying health benefit plan, a health benefit plan issuer shall obtain from the small employer that purchased the qualifying health benefit plan a written certification that the employer continues to meet the eligibility requirements described by Section 1508.051 and the minimum employer participation requirements described by Section 1508.053.

(c) A participating health benefit plan issuer may require a small employer to submit appropriate documentation in support of a certification described by Subsection (a) or (b).

Sec. 1508.152. APPLICATION PROCESS. (a) Subject to Subsection (b), a health benefit plan issuer shall accept applications for qualifying health benefit plan coverage from small employers at all times throughout the calendar year.

(b) The commissioner may limit the dates on which a health benefit plan issuer must accept applications for qualifying health benefit plan coverage if the commissioner determines the limitation to be necessary to achieve the purposes of this chapter.

Sec. 1508.153. EMPLOYEE ENROLLMENT; WAITING PERIOD. (a) A qualifying health benefit plan must provide employees with an initial enrollment period that is 31 days or longer, and annually at least one open enrollment period that is 31 days or longer. The commissioner by rule may require an additional open enrollment period if the commissioner determines that the additional open enrollment period is necessary to achieve the purposes of this chapter.

(b) A small employer may establish a waiting period for employees during which an employee is not eligible for coverage under a qualifying health benefit plan. The last day of a waiting period established under this subsection may not be later than the 90th day after the date on which the employee begins employment with the small employer.

(c) A health benefit plan issuer may not deny coverage under a qualifying health benefit plan to a new employee of a small employer that purchased the qualifying health benefit plan if the health benefit plan issuer receives an application for coverage from the employee not later than the 31st day after the latter of:

(1) the first day of the employee's employment; or

(2) the first day after the expiration of a waiting period established under

Subsection (b).

(d) Subject to Subsection (e), a health benefit plan issuer may deny coverage under a qualifying health benefit plan to an employee of a small employer who applies for coverage after the period described by Subsection (c).

(e) A health benefit plan issuer that denies an employee coverage under Subsection (d):



(1) may only deny the employee coverage until the next open enrollment period; and

(2) may subject the enrollee to a one-year preexisting condition provision, as described by Section 1508.102, if the period during which the preexisting condition provision applies does not exceed 18 months from the date of the initial application for coverage under the qualifying health benefit plan.

Sec. 1508.154. REPORTS. A health benefit plan issuer that participates in the program shall submit reports to the department in the form and at the time the commissioner prescribes.

[Sections 1508.155-1508.200 reserved for expansion]

#### SUBCHAPTER E. RATING OF QUALIFIED HEALTH BENEFIT PLANS

Sec. 1508.201. RATING; PREMIUM PRACTICES IN GENERAL. (a) A health benefit plan issuer participating in the program must:

(1) use rating practices for qualifying health benefit plans that are consistent with the purposes of this chapter; and

(2) in setting premiums for qualifying health benefit plans, consider the availability of reimbursement from the fund.

(b) A health benefit plan issuer participating in the program shall apply rating factors consistently with respect to all small employers in a class of business.

(c) Differences in premium rates charged for qualifying health benefit plans must be reasonable and reflect objective differences in plan design.

#### Sec. 1508.202. PREMIUM RATE DEVELOPMENT AND CALCULATION.

(a) Rating factors used to underwrite qualifying health benefit plans must produce premium rates for identical groups that:

(1) differ only by the amounts attributable to health benefit plan design; and

(2) do not reflect differences because of the nature of the groups assumed to select a particular health benefit plan.

(b) A health benefit plan issuer shall treat each qualifying health benefit plan that is issued or renewed in a calendar month as having the same rating period.

(c) A health benefit plan issuer may use only age and gender as case characteristics, as defined by Section 1501.201(2), in setting premium rates for a qualifying health benefit plan.

(d) The commissioner by rule may establish additional rating criteria and requirements for qualifying health benefit plans if the commissioner determines that the criteria and requirements are necessary to achieve the purposes of this chapter.

Sec. 1508.203. FILING; APPROVAL. (a) A health benefit plan issuer shall file with the department, for review and approval by the commissioner, premium rates to be charged for qualifying health benefit plans.

(b) If the commissioner limits health benefit plan issuer participation in the program under Section 1508.101(b), premium rates proposed to be charged for each qualifying health benefit plan will be considered as an element in the contract procurement process required under that section.

[Sections 1508.204-1508.250 reserved for expansion]

SUBCHAPTER F. HEALTHY TEXAS SMALL EMPLOYER PREMIUM  
STABILIZATION FUND

Sec. 1508.251. ESTABLISHMENT OF FUND. (a) To the extent that funds appropriated to the department are available for this purpose, the commissioner shall establish a fund from which health benefit plan issuers may receive reimbursement for claims paid by the health benefit plan issuers for individuals covered under qualifying group health plans.

(b) The fund established under this section shall be known as the healthy Texas small employer premium stabilization fund.

(c) The commissioner shall adopt rules necessary to implement and administer the fund, including rules that set out the procedures for operation of the fund and distribution of money from the fund.

Sec. 1508.252. OPERATION OF FUND; CLAIM ELIGIBILITY. (a) A health benefit plan issuer is eligible to receive reimbursement in an amount that is equal to 80 percent of the dollar amount of claims paid between \$5,000 and \$75,000 in a calendar year for an enrollee in a qualifying health benefit plan.

(b) A health benefit plan issuer is eligible for reimbursement from the fund only for the calendar year in which claims are paid.

(c) Once the dollar amount of claims paid on behalf of a covered individual reaches or exceeds \$75,000 in a given calendar year, a health benefit plan issuer may not receive reimbursement for any other claims paid on behalf of the individual in that calendar year.

Sec. 1508.253. REIMBURSEMENT REQUEST SUBMISSION. (a) A health benefit plan issuer seeking reimbursement from the fund shall submit a request for reimbursement in the form prescribed by the commissioner by rule.

(b) A health benefit plan issuer must request reimbursement from the fund annually, not later than the date determined by the commissioner, following the end of the calendar year for which the reimbursement requests are made.

(c) The commissioner may require a health benefit plan issuer participating in the program to submit claims data in connection with reimbursement requests as the commissioner determines to be necessary to ensure appropriate distribution of reimbursement funds and oversee the operation of the fund. The commissioner may require that the data be submitted on a per covered individual, aggregate, or categorical basis.

Sec. 1508.254. FUND AVAILABILITY. (a) The commissioner shall compute the total claims reimbursement amount for all health benefit plan issuers participating in the program for the calendar year for which claims are reported and reimbursement requested.

(b) If the total amount requested by health benefit plan issuers participating in the program for reimbursement for a calendar year exceeds the amount of funds available for distribution for claims paid during that same calendar year, the commissioner shall provide for the pro rata distribution of any available funds. A health benefit plan issuer participating in the program is eligible to receive a

proportional amount of any available funds that is equal to the proportion of total eligible claims paid by all participating health benefit plan issuers that the requesting health benefit plan issuer paid.

(c) If the amount of funds available for distribution for claims paid by all health benefit plan issuers participating in the program during a calendar year exceeds the total amount requested for reimbursement by all participating health benefit plan issuers during that calendar year, the commissioner shall carry forward any excess funds and make those excess funds available for distribution in the next calendar year. Excess funds carried over under this section are added to the fund in addition to any other money appropriated for the fund for the calendar year into which the funds are carried forward.

Sec. 1508.255. PROGRAM REPORTING. (a) Each health benefit plan issuer participating in the program shall provide the department, in the form prescribed by the commissioner, monthly reports of total enrollment under qualifying health benefit plans.

(b) On the request of the commissioner, each health benefit plan issuer participating in the program shall furnish to the department, in the form prescribed by the commissioner, data other than data described by Subsection (a) that the commissioner determines necessary to oversee the operation of the fund.

Sec. 1508.256. CLAIMS EXPERIENCE DATA. (a) Based on available data and appropriate actuarial assumptions, the commissioner shall separately estimate the per covered individual annual cost of total claims reimbursement from the fund for qualifying health benefit plans.

(b) On request, a health benefit plan issuer participating in the program shall furnish to the department claims experience data for use in the estimates described by Subsection (a).

Sec. 1508.257. TOTAL ELIGIBLE ENROLLMENT DETERMINATION. (a) The commissioner shall determine total eligible enrollment under qualifying health benefit plans by dividing the total funds available for distribution from the fund by the estimated per covered individual annual cost of total claims reimbursement from the fund.

(b) At the end of the first year of enrollment and annually thereafter, the commissioner shall submit a report to the governor and the legislature regarding enrollment for the previous year and limitations on future enrollment that ensure that the program does not necessitate a substantial increase in funding to continue the program, as consistent with Section 1508.001.

Sec. 1508.258. EVALUATION AND PROTECTION OF FUND; EMPLOYER ENROLLMENT SUSPENSION. (a) The commissioner shall suspend the enrollment of new employers in qualifying health benefit plans if the commissioner determines that the total enrollment reported by all health benefit plan issuers under qualifying health benefit plans exceeds the total eligible enrollment determined under Section 1508.257 and is likely to result in anticipated annual expenditures from the fund in excess of the total funds available for distribution from the fund.

(b) The commissioner shall provide a health benefit plan issuer participating in the program with notification of any enrollment suspension under Subsection (a) as soon as practicable after:

- (1) receipt of all enrollment data; and
- (2) determination of the need to suspend enrollment.

(c) A suspension of issuance of qualifying health benefit plans to employers under Subsection (a) does not preclude the addition of new employees of an employer already covered under a qualifying health benefit plan or new dependents of employees already covered under a qualifying health benefit plan.

Sec. 1508.259. EMPLOYER ENROLLMENT REACTIVATION. If, at any point during a suspension of enrollment under Section 1508.258, the commissioner determines that funds are sufficient to provide for the addition of new enrollments, the commissioner:

- (1) may reactivate new enrollments; and
- (2) shall notify all participating group health benefit plan issuers that enrollment of new employers may be resumed.

Sec. 1508.260. FUND ADMINISTRATOR. (a) The commissioner may obtain the services of an independent organization to administer the fund.

(b) The commissioner shall establish guidelines for the submission of proposals by organizations for the purposes of administering the fund and may approve, disapprove, or recommend modification to the proposal of an applicant to administer the fund.

(c) An organization approved to administer the fund shall submit reports to the commissioner, in the form and at the times required by the commissioner, as necessary to facilitate evaluation and ensure orderly operation of the fund, including an annual report of the affairs and operations of the fund. The annual report must also be delivered to the governor, the lieutenant governor, and the speaker of the house of representatives.

(d) An organization approved to administer the fund shall maintain records in the form prescribed by the commissioner and make those records available for inspection by or at the request of the commissioner.

(e) The commissioner shall determine the amount of compensation to be allocated to an approved organization as payment for fund administration. Compensation is payable only from the fund.

(f) The commissioner may remove an organization approved to administer the fund from fund administration. An organization removed from fund administration under this subsection must cooperate in the orderly transition of services to another approved organization or to the commissioner.

Sec. 1508.261. STOP-LOSS INSURANCE; REINSURANCE. (a) The administrator of the fund, on behalf of and with the prior approval of the commissioner, may purchase stop-loss insurance or reinsurance from an insurance company licensed to write that coverage in this state.

(b) Stop-loss insurance or reinsurance may be purchased to the extent that the commissioner determines funds are available for the purchase of that insurance.

Sec. 1508.262. PUBLIC EDUCATION AND OUTREACH. (a) The commissioner may use an amount of the fund, not to exceed eight percent of the annual amount of the fund, for purposes of developing and implementing public education, outreach, and facilitated enrollment strategies targeted to small employers who do not provide health insurance.

(b) The commissioner shall solicit and accept recommendations concerning the development and implementation of education, outreach, and enrollment strategies under Subsection (a) from agents licensed under Title 13 to write health benefit plans in this state.

(c) The commissioner may contract with marketing organizations to perform or provide assistance with education, outreach, and enrollment strategies described by Subsection (a).

SECTION 2.02. The commissioner of insurance shall adopt any rules necessary to implement the change in law made by Chapter 1508, Insurance Code, as added by this article, not later than January 4, 2010.

SECTION 2.03. (a) The commissioner of insurance shall make an initial determination concerning limitation of health benefit plan issuer participation in the program established under Chapter 1508, Insurance Code, as added by this article, not later than January 18, 2010. If the commissioner determines that limited participation is necessary to achieve the purposes of Chapter 1508, Insurance Code, as added by this article, the commissioner shall issue a request for proposal from health benefit plan issuers to participate in the program not later than May 1, 2010.

(b) The commissioner of insurance shall ensure that the Healthy Texas Program is fully operational in a manner that allows health benefit plan issuers participating in the program to make the first annual request for reimbursement on January 1, 2011.

SECTION 2.04. This Act does not make an appropriation. This Act takes effect only if a specific appropriation for the implementation of the Act is provided in a general appropriations act of the 81st Legislature.

#### ARTICLE 3. EFFECTIVE DATE

SECTION 3.01. This Act takes effect September 1, 2009.

The Conference Committee Report on **SB 78** was filed with the Secretary of the Senate.

### CONFERENCE COMMITTEE REPORT ON HOUSE BILL 432

Senator Estes submitted the following Conference Committee Report:

Austin, Texas  
May 29, 2009

Honorable David Dewhurst  
President of the Senate

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 432** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

ESTES  
WATSON  
VAN DE PUTTE  
On the part of the Senate

LUCIO  
OTTO  
STRAMA  
On the part of the House

The Conference Committee Report on **HB 432** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 1935**

Senator Duncan submitted the following Conference Committee Report:

Austin, Texas  
May 30, 2009

Honorable David Dewhurst  
President of the Senate

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 1935** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

DUNCAN  
ELLIS  
SHAPIRO  
AVERITT

VILLARREAL  
NAISHTAT  
MCREYNOLDS  
EISSLER  
LUCIO

On the part of the Senate

On the part of the House

The Conference Committee Report on **HB 1935** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 1011**

Senator Estes submitted the following Conference Committee Report:

Austin, Texas  
May 30, 2009

Honorable David Dewhurst  
President of the Senate

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 **SB 1011** 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.

ESTES  
HEGAR  
HINOJOSA  
LUCIO

HARPER-BROWN  
MCCLENDON  
PAXTON

On the part of the Senate

On the part of the House

A BILL TO BE ENTITLED  
AN ACT

relating to the continuation and functions of the Texas Commission on Fire Protection.

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

SECTION 1. Subdivision (2), Section 419.001, Government Code, is amended to read as follows:

(2) Except as otherwise provided in this chapter, "volunteer [~~"Volunteer"~~] fire fighter" and "volunteer fire chief" do not include a person who is also employed full-time in the fire service.

SECTION 2. Section 419.003, Government Code, is amended to read as follows:

Sec. 419.003. SUNSET PROVISION. The Texas Commission on Fire Protection 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, 2021 [~~2009~~].

SECTION 3. Section 419.004, Government Code, is amended by amending Subsections (a) and (e) and adding Subsection (f) to read as follows:

(a) The commission is composed of the following 13 members:

(1) two members to be selected from a list of five names submitted by the Texas Fire Chiefs Association who are chief officers with a minimum rank that is equivalent to the position immediately below that of the fire chief and who are employed in fire departments as defined by Section 419.021 that are under the jurisdiction of the commission, at least one of whom must be the head of a fire department and one of whom must be employed by a political subdivision with a population of less than 100,000 [~~50,000~~];

(2) two members to be selected from a list of five names submitted by the Texas State Association of Fire Fighters who are fire protection personnel as defined by Section 419.021 with the rank of battalion chief or below and who are employed in fire departments or other appropriate local authorities under the jurisdiction of the commission, one of whom must be employed by a political subdivision with a population of less than 100,000 [~~50,000~~];

(3) two members to be selected from a list of five names submitted by the State Firemen's and Fire Marshals' Association of Texas who are volunteer fire chiefs or volunteer fire fighters;

(4) one certified fire protection engineer;

(5) one certified arson investigator or certified fire protection inspector;

(6) one fire protection instructor from an institution of higher education as defined by Section 61.003, Education Code; and

(7) four public members.

(e) A person may not be [~~is not eligible for appointment as~~] a public member of the commission if the person or the person's spouse:

(1) is registered, certified, or licensed by a regulatory agency in the field of fire protection [~~the commission~~];

(2) is employed by or participates in the management of a business entity or other organization regulated by [~~the commission~~] or receiving money [~~funds~~] from the commission;

(3) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization regulated by ~~[the commission]~~ or receiving money [funds] from the commission;

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

(5) is employed in the field of [a member of a paid or volunteer] fire protection [department].

(f) For purposes of this section, "volunteer fire fighter" and "volunteer fire chief" mean a person who is a member of a nonprofit volunteer fire department, and the term may include a person who is also employed full-time in the fire service.

SECTION 4. Subsections (a) and (c), Section 419.005, Government Code, are amended to read as follows:

(a) It is a ground for removal from the commission that [is] a member:

(1) does not have at the time of taking office [appointment] the qualifications required by Section 419.004;

(2) does not maintain during service on the commission the qualifications required by Section 419.004;

(3) is ineligible for membership under [violates a prohibition established by] Section 419.006;

(4) cannot, because of illness or disability, discharge the member's duties for a substantial part of the member's term [for which the member is appointed because of illness or disability]; or

(5) is absent from more than half of the regularly scheduled commission meetings that the member is eligible to attend during a calendar year without an excuse approved [unless the absence is excused] by majority vote of the commission.

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

SECTION 5. Section 419.006, Government Code, is amended to read as follows:

Sec. 419.006. CONFLICT OF INTEREST. (a) In [An officer, employee, or paid consultant of a Texas trade association in the field of fire protection may not be a member of the commission or an employee of the commission who is exempt from the state's position classification plan or is compensated at or above the amount prescribed by the General Appropriations Act for step 1, salary group 17, of the position classification salary schedule.

[(b) A person who is the spouse of an officer, manager, or paid consultant of a Texas trade association in the field of fire protection may not be a commission member and may not be a commission employee who is exempt from the state's



~~position classification plan or is compensated at or above the amount prescribed by the General Appropriations Act for step 1, salary group 17, of the position classification salary schedule.~~

~~[(c) For the purposes of] this section, "Texas trade association" means [a Texas trade association is] a [nonprofit,] cooperative[;] and voluntarily joined statewide association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest.~~

~~(b) A person may not be a member of the commission and may not be a commission employee employed in a "bona fide executive, administrative, or professional capacity," as that phrase is used for purposes of establishing an exemption to the overtime provisions of the federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.), if:~~

~~(1) the person is an officer, employee, or paid consultant of a Texas trade association in the field of fire protection; or~~

~~(2) the person's spouse is an officer, manager, or paid consultant of a Texas trade association in the field of fire protection.~~

~~(c) [(d)] A person may not be [serve as] a member of the commission or act as the general counsel to the commission or the agency 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.~~

SECTION 6. Subsection (a), Section 419.007, Government Code, is amended to read as follows:

(a) The governor shall designate a member of the commission ~~[fire protection instructor appointed under Section 419.004(a)(6) serves]~~ as the presiding officer of the commission to serve in that capacity at the pleasure of ~~[unless]~~ the governor ~~[designates another member as presiding officer]~~. The commission shall elect from among its members an assistant presiding officer and a secretary.

SECTION 7. Section 419.0071, Government Code, is amended to read as follows:

Sec. 419.0071. COMMISSION MEMBER TRAINING. (a) ~~A [To be eligible to take office as a member of the commission, a] person who is appointed to and qualifies for office as a member of the commission may not vote, deliberate, or be counted as a member in attendance at a meeting of the commission until the person completes [must complete at least one course of]~~ a training program that complies with this section.

(b) The training program must provide ~~[information to]~~ the person with information regarding:

- ~~(1) the [enabling] legislation that created the commission;~~
- ~~(2) the programs, [operated by the commission];~~
- ~~[(3) the role and] functions, [of the commission];~~
- ~~[(4) the] rules, and [of the commission with an emphasis on the rules that relate to disciplinary and investigatory authority];~~
- ~~[(5) the current] budget of [for] the commission;~~
- ~~(3) [(6)] the results of the most recent formal audit of the commission;~~
- ~~(4) [(7)] the requirements of [laws relating to] [the].~~

~~[(A)] open meetings [law], public information [Chapter 551;~~  
~~[(B)] open records law, Chapter 552; and~~  
~~[(C)] administrative procedure law], and conflicts [Chapter 2001;~~  
~~[(8)] the requirements of the conflict] of interest [~~interests laws and~~  
~~other laws relating to public officials]; and~~  
 (5) ~~[(9)]~~ any applicable ethics policies adopted by the commission [~~agency~~]  
 or the Texas Ethics Commission.~~

(c) A person appointed to the commission is entitled to reimbursement, as provided by the General Appropriations Act, for the travel expenses incurred in attending the training program regardless of whether the attendance at the program occurs before or after ~~[as provided by the General Appropriations Act and as if]~~ the person qualifies for office ~~[were a member of the commission].~~

SECTION 8. Subsection (c), Section 419.008, Government Code, is amended to read as follows:

(c) The commission shall perform duties assigned by law to the Commission on Fire Protection Personnel Standards and Education ~~[or to the Fire Department Emergency Board].~~

SECTION 9. Subsection (a), Section 419.0082, Government Code, is amended to read as follows:

(a) In adopting or amending a rule under Section 419.008(a) or any other law, the commission shall seek the input of the fire fighter advisory committee ~~[and, when appropriate, the funds allocation advisory committee].~~ The commission shall permit the ~~[appropriate]~~ advisory committee to review and comment on any proposed rule, including a proposed amendment to a rule, before the rule is adopted. The recommendations of the advisory committee are subject to modification or rejection by the commission, in the commission's sole discretion, without the resubmission of the matter to the advisory committee.

SECTION 10. Subchapter A, Chapter 419, Government Code, is amended by adding Section 419.0083 to read as follows:

Sec. 419.0083. NEGOTIATED RULEMAKING; ALTERNATIVE DISPUTE RESOLUTION. (a) The commission shall develop and implement a policy to encourage the use of:

(1) negotiated rulemaking procedures under Chapter 2008 for the adoption of commission rules; and

(2) appropriate alternative dispute resolution procedures under Chapter 2009 to assist in the resolution of internal and external disputes under the commission's jurisdiction.

(b) The commission's procedures relating to alternative dispute resolution must conform, to the extent possible, to any model guidelines issued by the State Office of Administrative Hearings for the use of alternative dispute resolution by state agencies.

(c) The commission shall designate a trained person to:

(1) coordinate the implementation of the policy adopted under Subsection (a);

(2) serve as a resource for any training needed to implement the procedures for negotiated rulemaking or alternative dispute resolution; and

(3) collect data concerning the effectiveness of those procedures, as implemented by the commission.

SECTION 11. Subsection (c), Section 419.009, Government Code, is amended to read as follows:

(c) The commission shall develop and implement policies that clearly separate the policy-making [define the respective] responsibilities of the commission and the management responsibilities of the executive director and the staff of the commission.

SECTION 12. Section 419.011, Government Code, is amended to read as follows:

Sec. 419.011. ~~[PUBLIC INTEREST INFORMATION AND]~~ COMPLAINTS.

(a) The commission shall maintain a system to promptly and efficiently act on complaints filed with the commission. The commission shall maintain information about parties to the complaint, the subject matter of the complaint, a summary of the results of the review or investigation of the complaint, and its disposition.

(b) The commission shall make ~~[prepare]~~ information available ~~[of public interest]~~ describing its ~~[the functions of the commission and the commission's] procedures for complaint investigation and resolution [by which complaints are filed with and resolved by the commission. The commission shall make the information available to the public and appropriate state agencies.~~

~~[(b) The commission shall keep a file about each written complaint filed with the commission that the commission has authority to resolve. The commission shall provide to the person filing the complaint and the persons or entities complained about the commission's policies and procedures pertaining to complaint investigation and resolution].~~

(c) The commission[~~— at least quarterly and until final disposition of the complaint;~~] shall periodically notify the [person filing the] complaint parties [and the persons or entities complained about] of the status of the complaint until final disposition [unless the notice would jeopardize an undercover investigation.

~~[(c) The commission shall keep information about each complaint filed with the commission. The information shall include:~~

~~[(1) the date the complaint is received;~~

~~[(2) the name of the complainant;~~

~~[(3) the subject matter of the complaint;~~

~~[(4) a record of all persons contacted in relation to the complaint;~~

~~[(5) a summary of the results of the review or investigation of the complaint; and~~

~~[(6) for complaints for which the agency took no action, an explanation of the reason the complaint was closed without action.~~

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

SECTION 13. Subchapter A, Chapter 419, Government Code, is amended by adding Section 419.012 to read as follows:

Sec. 419.012. TECHNOLOGICAL SOLUTIONS. The commission shall implement a policy requiring the commission to use appropriate technological solutions to improve the commission's ability to perform its functions. The policy must ensure that the public is able to interact with the commission on the Internet.

SECTION 14. Section 419.023, Government Code, is amended by adding Subsection (f) to read as follows:

(f) Appointments to the committee shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointees.

SECTION 15. Subsection (a), Section 419.026, Government Code, is amended to read as follows:

(a) The commission shall set and collect a fee [~~of not more than \$35~~] for each certificate that the commission issues or renews under this subchapter, except that if a person holds more than one certificate the commission may collect only one fee each year for the renewal of those certificates. The commission by rule shall set the amount of the fee under this subsection in an amount designed to recover the commission's costs in connection with issuing certificates under this subchapter, including the cost to the commission of obtaining fingerprint-based criminal history record information under Section 419.0325. The employing agency or entity shall pay the [this] fee in the manner prescribed [as provided] by commission rule. The certificate must be renewed annually.

SECTION 16. Section 419.027, Government Code, is amended to read as follows:

Sec. 419.027. BIENNIAL INSPECTIONS. (a) At least biennially, the commission shall visit and inspect each institution or facility conducting courses for training fire protection personnel and recruits, each fire department, and each local governmental agency providing fire protection to determine if the department, agency, institution, or facility is complying with this chapter and commission rules.

(b) The commission may conduct risk-based inspections of institutions and facilities in addition to the inspections under Subsection (a). In determining whether to conduct an inspection of an institution or facility under this subsection, the commission shall consider:

- (1) how recently the institution or facility has come under regulation;
- (2) the institution's or facility's history of compliance with state law and commission rules;
- (3) the number of complaints filed with the commission regarding the institution or facility during the last year;
- (4) the number of paid personnel in the institution or facility;
- (5) the frequency of fire responses;
- (6) the institution's or facility's ability to inspect and maintain equipment;

and

(7) any other factor the commission considers appropriate to assess an institution's or facility's safety risk.

SECTION 17. Subsections (a) and (d), Section 419.032, Government Code, are amended to read as follows:

(a) A fire department may not appoint a person to the fire department, except on a temporary or probationary basis, unless:

(1) the person:

(A) [~~(1)~~] has satisfactorily completed a preparatory program of training in fire protection at a school approved by the commission; and

(B) [~~(2)~~] meets the qualifications established by the commission under Subsection (b); and

(2) the commission has approved the person's fingerprint-based criminal history record information under Section 419.0325.

(d) The commission may certify persons who are qualified under this subchapter to be fire protection personnel. The commission shall adopt rules relating to presentation of evidence of satisfactory completion of a program or course of instruction in another jurisdiction equivalent in content and quality to that required by the commission for approved fire protection education and training programs in this state and shall issue to a person meeting the rules and the requirements of Section 419.0325 a certificate evidencing satisfaction of Subsections (a) and (b). The commission may waive any certification requirement, except those under Section 419.0325, for an applicant with a valid license from another state having certification requirements substantially equivalent to those of this state.

SECTION 18. Subchapter B, Chapter 419, Government Code, is amended by adding Section 419.0325 to read as follows:

Sec. 419.0325. CRIMINAL HISTORY RECORD INFORMATION APPROVAL REQUIRED FOR CERTIFICATION. (a) The commission may not certify a person as fire protection personnel unless the commission, after review, has approved fingerprint-based criminal history record information about the person obtained from the Department of Public Safety under Subchapter F, Chapter 411, and from the Federal Bureau of Investigation under Section 411.087.

(b) The applicant for certification or the fire department may submit the required fingerprint-based state and national criminal history record information to the commission. If neither the applicant nor the fire department submits the required criminal history record information to the commission, the commission shall obtain the required criminal history record information pursuant to Sections 411.087 and 411.1236.

(c) The commission by rule shall establish criteria for denying a person certification to be fire protection personnel based on the person's criminal history record information. The criteria must relate to a person's fitness to serve as fire protection personnel.

(d) Criminal history record information received by the commission is privileged and confidential and for commission use only.

SECTION 19. Subsections (a), (b), and (c), Section 419.034, Government Code, are amended to read as follows:

(a) A fire department or other employing entity may renew an unexpired certification by ~~paying to the commission~~ before the expiration date of the certificate:

(1) submitting evidence satisfactory to the commission of completion of any required professional education; and

(2) paying to the commission the required renewal fee.

(b) If a person's certificate has been expired for 30 days or less, the fire department or other employing entity may renew the certificate by:

(1) submitting evidence satisfactory to the commission of completion of any required professional education; and

(2) paying to the commission the required renewal fee and a fee that is one-half of the certification fee for the certificate.

(c) If a person's certificate has been expired for longer than 30 days but less than one year, the fire department or other employing entity may renew the certificate by:

(1) submitting evidence satisfactory to the commission of completion of any required professional education; and

(2) paying to the commission all unpaid renewal fees and a fee that is equal to the certification fee.

SECTION 20. Section 419.036, Government Code, is amended by adding Subsections (c) and (d) to read as follows:

(c) A complaint case opened by the commission based on a violation found during an inspection conducted under Section 419.027 must be opened not later than the 30th day after the date the commission provides notice of the violation to the applicable department, agency, institution, or facility.

(d) The commission by rule shall create a matrix for determining penalty amounts and disciplinary actions for fire departments, training providers, and certified personnel who commit violations of this chapter or a rule adopted under this chapter. In developing the matrix, the commission shall consider the following factors:

(1) compliance history;

(2) seriousness of the violation;

(3) the safety threat to the public or fire personnel;

(4) any mitigating factors; and

(5) any other factors the commission considers appropriate.

SECTION 21. Subchapter B, Chapter 419, Government Code, is amended by adding Section 419.0366 to read as follows:

Sec. 419.0366. TRACKING AND ANALYSIS OF COMPLAINT AND VIOLATION DATA. (a) The commission shall develop and implement a method for tracking and categorizing the sources and types of complaints filed with the commission and of violations of this chapter or a rule adopted under this chapter.

(b) The commission shall analyze the complaint and violation data maintained under Subsection (a) to identify trends and areas that may require additional regulation or enforcement.

SECTION 22. Subchapter B, Chapter 419, Government Code, is amended by adding Section 419.048 to read as follows:

Sec. 419.048. FIRE PROTECTION PERSONNEL INJURY DATA; RECOMMENDATIONS TO REDUCE INJURIES. (a) Pursuant to Section 417.004, the commission and the commissioner of insurance, as necessary to allow the agencies to perform their statutory duties, shall transfer information between the two agencies, including injury information from the Texas Fire Incident Reporting System and workers' compensation data showing claims filed by fire protection personnel.

(b) Personally identifiable information received by the commission under this section relating to injured fire protection personnel is confidential. The commission may not release, and a person may not gain access to, any information that could reasonably be expected to reveal the identity of injured fire protection personnel.

(c) The commission shall evaluate information and data on fire protection personnel injuries and develop recommendations for reducing fire protection personnel injuries. The commission shall forward the recommendations to the state fire marshal not later than September 1 of each year for inclusion in the annual report required by Section 417.0075.

(d) The commission shall establish criteria for evaluating fire protection personnel injury information to determine the nature of injuries that the commission should investigate. Based on these investigations, the commission shall identify fire departments in need of assistance in reducing injuries and may provide assistance to those fire departments.

SECTION 23. Section 419.906, Government Code, is amended by adding Subsections (d) and (e) to read as follows:

(d) The commission may enter a default order if a fire department or training provider fails to take action to correct a violation found during an inspection conducted under this chapter or to request an informal settlement conference before the 61st day after the date the commission provides to the department or provider notice requiring the department or provider to correct the violation.

(e) Notwithstanding Section 419.0365, the commission may temporarily suspend a person's or regulated entity's certificate on a determination by a panel of the commission that continued activity by the person or entity would present an immediate threat to the public or to fire service trainees. The panel may hold a meeting for purposes of this subsection by teleconference call pursuant to Section 551.125. A person or regulated entity whose certificate is temporarily suspended under this subsection is entitled to a hearing before the commission not later than the 14th day after the date of the temporary suspension.

SECTION 24. Subchapter Z, Chapter 419, Government Code, is amended by adding Section 419.908 to read as follows:

Sec. 419.908. COOPERATION WITH FEDERAL AND STATE ENTITIES IN A DISASTER. In a declared state of disaster under Section 418.014, the commission shall coordinate with appropriate state and federal agencies, including the governor's office of the homeland security and the Federal Emergency Management Agency.

SECTION 25. Subchapter G, Chapter 614, Government Code, is amended by adding Section 614.105 to read as follows:

Sec. 614.105. SEPARATE ACCOUNT FOR MONEY FROM TEXAS COMMISSION ON FIRE PROTECTION. (a) The service shall maintain a separate account within the volunteer fire department assistance fund.

(b) The account shall contain money:

(1) previously appropriated to the Texas Commission on Fire Protection for the administration of the fire department emergency program and transferred to the service;

(2) received from the repayment of outstanding loans transferred to the service from the Texas Commission on Fire Protection fire department emergency program; and

(3) from any legislative appropriations for the purposes of Subsection (c).

(c) The money in the account may be used only to award grants for scholarships for the education and training of firefighters or for purchasing necessary firefighting equipment and facilities for:

(1) a municipal fire department with any number of paid personnel;

(2) a fire department operated by its members, some of whom are volunteers and some of whom are paid; or

(3) a volunteer fire department.

(d) The service shall administer all outstanding loans transferred from the Texas Commission on Fire Protection fire department emergency program and deposit money obtained as repayment of those loans to the credit of the account created under this section.

SECTION 26. Subchapter C, Chapter 419, Government Code, is repealed.

SECTION 27. (a) As soon as practicable after the effective date of this Act, the governor shall designate a member of the Texas Commission on Fire Protection as the presiding officer of the commission pursuant to Section 419.007, Government Code, as amended by this Act.

(b) As soon as practicable after the effective date of this Act, the Texas Commission on Fire Protection shall adopt the rules required by Section 419.0325, Government Code, as added by this Act, and Sections 419.026 and 419.036, Government Code, as amended by this Act.

(c) Notwithstanding Section 419.048, Government Code, as added by this Act, the Texas Commission on Fire Protection is not required to submit its annual recommendations to the state fire marshal for inclusion in the report required by Section 417.0075, Government Code, before September 1, 2010.

SECTION 28. (a) As soon as practicable after the effective date of this Act, the Texas Commission on Fire Protection and the Texas Forest Service shall develop and enter into a memorandum of understanding regarding the transfer described in this section.

(b) In accordance with the transition plan developed by the Texas Commission on Fire Protection and the Texas Forest Service under Subsection (a) of this section, on January 1, 2010:

(1) the fire department emergency program under Subchapter C, Chapter 419, Government Code, is abolished;

(2) all money, loans and other contracts, leases, property, and obligations of the Texas Commission on Fire Protection related to the fire department emergency program are transferred to the Texas Forest Service; and

(3) the unexpended and unobligated balance of any money appropriated by the legislature for the Texas Commission on Fire Protection related to the fire department emergency program is transferred to the Texas Forest Service.

(c) Before January 1, 2010, the Texas Commission on Fire Protection may agree with the Texas Forest Service to transfer any property of the fire department emergency program to implement the transfer required by this Act.



SECTION 29. (a) Sections 419.004 and 419.006 and Subsection (a), Section 419.0071, Government Code, as amended by this Act, apply only to a person who is appointed or reappointed as a member of the Texas Commission on Fire Protection on or after the effective date of this Act. A person appointed or reappointed as a member of the commission before the effective date of this Act is governed by the law in effect immediately before that date, and the former law is continued in effect for that purpose.

(b) Section 419.005, Government Code, as amended by this Act, applies only to a ground for removal that occurs on or after the effective date of this Act. A ground for removal that occurs before the effective date of this Act is governed by the law in effect immediately before that date, and the former law is continued in effect for that purpose.

(c) Subsection (b), Section 419.0071, Government Code, as amended by this Act, applies only to a training program attended on or after the effective date of this Act. A training program attended before the effective date of this Act is governed by the law in effect immediately before that date, and the former law is continued in effect for that purpose.

(d) Subsection (c), Section 419.0071, Government Code, as amended by this Act, applies only to expenses incurred on or after the effective date of this Act. Expenses incurred before the effective date of this Act are governed by the law in effect immediately before that date, and the former law is continued in effect for that purpose.

(e) Section 419.0082, Government Code, as amended by this Act, applies to a rule adopted on or after the effective date of this Act. A rule adopted before the effective date of this Act is governed by the law in effect immediately before that date, and the former law is continued in effect for that purpose.

(f) Section 419.026, Government Code, as amended by this Act, applies only to a certificate issued or renewed on or after January 1, 2010. A certificate issued or renewed before January 1, 2010, is governed by the law in effect on the date the certificate was issued or renewed, and the former law is continued in effect for that purpose.

(g) Section 419.032, Government Code, as amended by this Act, and Section 419.0325, Government Code, as added by this Act, apply only to a person who applies for an initial certificate on or after January 1, 2010. A person who applies for an initial certificate before January 1, 2010, is governed, even in relation to the person's renewal of the certificate on or after that date, by the law in effect immediately before that date, and the former law is continued in effect for that purpose.

(h) Section 419.034, Government Code, as amended by this Act, applies to a certificate renewed on or after the effective date of this Act. A certificate renewed before the effective date of this Act is governed by the law in effect immediately before that date, and the former law is continued in effect for that purpose.

(i) Subsection (d), Section 419.906, Government Code, as added by this Act, applies only to an order pursuant to a violation that occurs on or after the effective date of this Act. An order pursuant to a violation that occurs before the effective date of this Act is governed by the law in effect immediately before that date, and the former law is continued in effect for that purpose.

SECTION 30. (a) Except as provided by Subsection (b) of this section, this Act takes effect September 1, 2009.

(b) The following changes in law take effect January 1, 2010:

- (1) the repeal of Subchapter C, Chapter 419, Government Code;
- (2) the amendment to Section 419.026, Government Code; and
- (3) the amendment to Subchapter G, Chapter 614, Government Code.

The Conference Committee Report on **SB 1011** was filed with the Secretary of the Senate.

### CONFERENCE COMMITTEE REPORT ON HOUSE BILL 1030

Senator Ellis submitted the following Conference Committee Report:

Austin, Texas  
May 30, 2009

Honorable David Dewhurst  
President of the Senate

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 1030** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

ELLIS  
PATRICK  
SHAPLEIGH

CALLEGARI  
BOHAC  
S. TURNER  
FLETCHER

On the part of the Senate

On the part of the House

The Conference Committee Report on **HB 1030** was filed with the Secretary of the Senate.

### CONFERENCE COMMITTEE REPORT ON HOUSE BILL 770

Senator Jackson submitted the following Conference Committee Report:

Austin, Texas  
May 30, 2009

Honorable David Dewhurst  
President of the Senate

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 770** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

JACKSON  
ELTIFE  
HUFFMAN  
WILLIAMS  
WENTWORTH

On the part of the Senate

D. HOWARD  
TAYLOR  
CHRISTIAN  
EILAND

On the part of the House

The Conference Committee Report on **HB 770** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 2374**

Senator Lucio submitted the following Conference Committee Report:

Austin, Texas  
May 30, 2009

Honorable David Dewhurst  
President of the Senate

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 2374** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

LUCIO  
DUNCAN  
ESTES  
SELIGER  
ZAFFIRINI

On the part of the Senate

GUILLEN  
BERMAN  
CHISUM  
MARTINEZ FISCHER  
RITTER

On the part of the House

The Conference Committee Report on **HB 2374** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 3621**

Senator Carona submitted the following Conference Committee Report:

Austin, Texas  
May 30, 2009

Honorable David Dewhurst  
President of the Senate

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 3621** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

CARONA

AVERITT

DAVIS

WATSON

WENTWORTH

On the part of the Senate

SOLOMONS

FARABEE

FLYNN

ELKINS

DESHOTEL

On the part of the House

The Conference Committee Report on **HB 3621** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 3653**

Senator Davis submitted the following Conference Committee Report:

Austin, Texas

May 30, 2009

Honorable David Dewhurst  
President of the Senate

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 3653** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

DAVIS

CARONA

SELIGER

On the part of the Senate

MARQUEZ

GUILLEN

S. KING

OLIVO

STRAMA

On the part of the House

The Conference Committee Report on **HB 3653** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 963**

Senator Whitmire submitted the following Conference Committee Report:

Austin, Texas  
May 30, 2009

Honorable David Dewhurst  
President of the Senate

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 963** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

WHITMIRE  
JACKSON  
VAN DE PUTTE

GUILLEN  
THOMPSON  
MADDEN  
MCREYNOLDS  
GUTIERREZ

On the part of the Senate

On the part of the House

The Conference Committee Report on **HB 963** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 431**

Senator Hinojosa submitted the following Conference Committee Report:

Austin, Texas  
May 29, 2009

Honorable David Dewhurst  
President of the Senate

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 431** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

HINOJOSA  
AVERITT  
WILLIAMS  
WHITMIRE  
On the part of the Senate

LUCIO  
ANCHIA  
KEFFER  
OTTO  
On the part of the House

The Conference Committee Report on **HB 431** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 2442**

Senator Uresti submitted the following Conference Committee Report:

Austin, Texas  
May 30, 2009

Honorable David Dewhurst  
President of the Senate

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 **SB 2442** 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.

URESTI  
OGDEN  
ZAFFIRINI  
On the part of the Senate

GALLEGO  
MOODY  
MIKLOS  
On the part of the House

A BILL TO BE ENTITLED  
AN ACT

relating to the exemption from ad valorem taxation of property owned by certain charitable organizations.

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

SECTION 1. Subsection (d), Section 11.18, Tax Code, as amended by Chapters 1034 (H.B. 1742) and 1341 (S.B. 1908), Acts of the 80th Legislature, Regular Session, 2007, is reenacted and amended to read as follows:

(d) A charitable organization must be organized exclusively to perform religious, charitable, scientific, literary, or educational purposes and, except as permitted by Subsections (h) and (l), engage exclusively in performing one or more of the following charitable functions:

(1) providing medical care without regard to the beneficiaries' ability to pay, which in the case of a nonprofit hospital or hospital system means providing charity care and community benefits in accordance with Section 11.1801;

(2) providing support or relief to orphans, delinquent, dependent, or handicapped children in need of residential care, abused or battered spouses or children in need of temporary shelter, the impoverished, or victims of natural disaster without regard to the beneficiaries' ability to pay;

(3) providing support without regard to the beneficiaries' ability to pay to:

(A) elderly persons, including the provision of:

(i) recreational or social activities; and

(ii) facilities designed to address the special needs of elderly persons;<sup>[5]</sup> or

(B) ~~(A)~~ the handicapped, including training and employment:

(i) in the production of commodities; or

(ii) in the provision of services under 41 U.S.C. Sections 46-48c

~~[without regard to the beneficiaries' ability to pay];~~

(4) preserving a historical landmark or site;

(5) promoting or operating a museum, zoo, library, theater of the dramatic or performing arts, or symphony orchestra or choir;

(6) promoting or providing humane treatment of animals;

(7) acquiring, storing, transporting, selling, or distributing water for public use;

(8) answering fire alarms and extinguishing fires with no compensation or only nominal compensation to the members of the organization;

(9) promoting the athletic development of boys or girls under the age of 18 years;

(10) preserving or conserving wildlife;

(11) promoting educational development through loans or scholarships to students;

(12) providing halfway house services pursuant to a certification as a halfway house by the parole ~~[pardons and paroles]~~ division of the Texas Department of Criminal Justice;

(13) providing permanent housing and related social, health care, and educational facilities for persons who are 62 years of age or older without regard to the residents' ability to pay;

(14) promoting or operating an art gallery, museum, or collection, in a permanent location or on tour, that is open to the public;

(15) providing for the organized solicitation and collection for distributions through gifts, grants, and agreements to nonprofit charitable, education, religious, and youth organizations that provide direct human, health, and welfare services;

(16) performing biomedical or scientific research or biomedical or scientific education for the benefit of the public;

(17) operating a television station that produces or broadcasts educational, cultural, or other public interest programming and that receives grants from the Corporation for Public Broadcasting under 47 U.S.C. Section 396, as amended;

(18) providing housing for low-income and moderate-income families, for unmarried individuals 62 years of age or older, for handicapped individuals, and for families displaced by urban renewal, through the use of trust assets that are irrevocably and, pursuant to a contract entered into before December 31, 1972, contractually dedicated on the sale or disposition of the housing to a charitable organization that performs charitable functions described by Subdivision (9);

(19) providing housing and related services to persons who are 62 years of age or older in a retirement community, if the retirement community provides independent living services, assisted living services, and nursing services to its residents on a single campus:

(A) without regard to the residents' ability to pay; or

(B) in which at least four percent of the retirement community's combined net resident revenue is provided in charitable care to its residents;

(20) providing housing on a cooperative basis to students of an institution of higher education if:

(A) the organization is exempt from federal income taxation under Section 501(a), Internal Revenue Code of 1986, as amended, by being listed as an exempt entity under Section 501(c)(3) of that code;

(B) membership in the organization is open to all students enrolled in the institution and is not limited to those chosen by current members of the organization;

(C) the organization is governed by its members; and

(D) the members of the organization share the responsibility for managing the housing;

(21) acquiring, holding, and transferring unimproved real property under an urban land bank demonstration program established under Chapter 379C, Local Government Code, as or on behalf of a land bank; ~~or~~

(22) acquiring, holding, and transferring unimproved real property under an urban land bank program established under Chapter 379E, Local Government Code, as or on behalf of a land bank; or

(23) operating a radio station that broadcasts educational, cultural, or other public interest programming, including classical music, and that in the preceding five years has received or been selected to receive one or more grants from the Corporation for Public Broadcasting under 47 U.S.C. Section 396, as amended.

SECTION 2. Section 11.18, Tax Code, is amended by adding Subsection (p) to read as follows:

(p) Real property owned by a charitable organization and leased to an institution of higher education, as defined by Section 61.003, Education Code, is exempt from taxation to the same extent as the property would be exempt if the property were owned by the institution.

SECTION 3. To the extent of any conflict, this Act prevails over another Act of the 81st Legislature, Regular Session, 2009, relating to nonsubstantive additions to and corrections in enacted codes.

SECTION 4. This Act applies only to an ad valorem tax year that begins on or after the effective date of this Act.

SECTION 5. This Act takes effect January 1, 2010.

The Conference Committee Report on **SB 2442** was filed with the Secretary of the Senate.

### **CONFERENCE COMMITTEE REPORT ON HOUSE BILL 1343**

Senator Van de Putte submitted the following Conference Committee Report:

Austin, Texas  
May 29, 2009

Honorable David Dewhurst  
President of the Senate



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 1343** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

VAN DE PUTTE  
HINOJOSA  
SHAPIRO  
URESTI

MENÉNDEZ  
NAISHTAT  
PHILLIPS  
PICKETT  
MCCLENDON

On the part of the Senate

On the part of the House

The Conference Committee Report on **HB 1343** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 2000**

Senator Van de Putte submitted the following Conference Committee Report:

Austin, Texas  
May 30, 2009

Honorable David Dewhurst  
President of the Senate

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 2000** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

VAN DE PUTTE  
DEUELL  
WATSON  
ZAFFIRINI

MCCALL  
S. KING  
MADDEN  
PIERSON

On the part of the Senate

On the part of the House

The Conference Committee Report on **HB 2000** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 2139**

Senator Hinojosa submitted the following Conference Committee Report:

Austin, Texas  
May 30, 2009

Honorable David Dewhurst  
President of the Senate

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 2139** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

HINOJOSA  
SELIGER  
WHITMIRE

On the part of the Senate

MCCLENDON  
HODGE  
MOODY  
MARQUEZ

On the part of the House

The Conference Committee Report on **HB 2139** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 3689**

Senator Hinojosa submitted the following Conference Committee Report:

Austin, Texas

May 30, 2009

Honorable David Dewhurst  
President of the Senate

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 3689** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

HINOJOSA  
HEGAR  
WEST  
OGDEN  
WHITMIRE

On the part of the Senate

MCCLENDON  
MCREYNOLDS  
MADDEN  
HODGE  
KOLKHORST

On the part of the House

The Conference Committee Report on **HB 3689** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 2080**

Senator Uresti submitted the following Conference Committee Report:

Austin, Texas  
May 30, 2009

Honorable David Dewhurst  
President of the Senate

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 **SB 2080** 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.

URESTI  
WILLIAMS  
AVERITT  
WHITMIRE

On the part of the Senate

MCCLENDON  
J. DAVIS  
COLEMAN

On the part of the House

A BILL TO BE ENTITLED  
AN ACT

relating to treating and reducing child abuse and neglect and improving child welfare, including providing assistance for adoptive parents and foster care providers.

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

SECTION 1. In this Act, "task force" means the task force established under this Act to establish a strategy for reducing child abuse and neglect and improving child welfare.

SECTION 2. (a) The task force consists of nine members appointed as follows:

- (1) five members appointed by the governor;
- (2) two members appointed by the lieutenant governor; and
- (3) two members appointed by the speaker of the house of representatives.

(b) Members of the task force must be individuals who are actively involved in the fields of the prevention of child abuse and neglect and child welfare. The appointment of members must reflect the geographic diversity of the state.

(c) A member of the task force is not entitled to compensation for service on the task force but is entitled to reimbursement for travel expenses as provided by Chapter 660, Government Code, and the General Appropriations Act.

(d) The task force shall elect a presiding officer by a majority vote of the membership of the task force.

(e) The task force shall meet at the call of the presiding officer.

(f) Chapter 2110, Government Code, does not apply to the task force.

SECTION 3. (a) The task force shall establish a strategy for reducing child abuse and neglect and for improving child welfare in this state. In establishing that strategy, the task force shall:

(1) gather information concerning child safety, child abuse and neglect, and child welfare throughout the state;

(2) review the exemptions from criminal liability provided under the Penal Code to a mother who injures her unborn child by using a controlled substance, as defined by Chapter 481, Health and Safety Code, other than a controlled substance legally obtained by prescription, during her pregnancy and examine the effect that repealing the exemptions will have on reducing the number of babies who are born addicted to a controlled substance;

(3) receive reports and testimony from individuals, state and local agencies, community-based organizations, and other public and private organizations;

(4) create goals for state policy that would improve child safety, prevent child abuse and neglect, and improve child welfare; and

(5) submit a strategic plan to accomplish those goals.

(b) The strategic plan submitted under Subsection (a) of this section may include proposals for specific statutory changes, the creation of new programs, and methods to foster cooperation among state agencies and between the state and local government.

SECTION 4. (a) The task force shall consult with employees of the Department of Family and Protective Services, the Department of State Health Services, and the Texas Department of Criminal Justice as necessary to accomplish the task force's responsibilities under this Act.

(b) The task force may cooperate as necessary with any other appropriate state agency.

SECTION 5. (a) The governor, lieutenant governor, and speaker of the house of representatives shall appoint the members of the task force not later than October 1, 2009.

(b) Not later than August 1, 2011, the task force shall submit the strategic plan required by Section 3 of this Act to the governor, lieutenant governor, and speaker of the house of representatives.

(c) The task force is abolished and this Act expires on September 1, 2011.

SECTION 6. (a) Section 162.3041, Family Code, is amended by adding Subsection (a-1) and amending Subsection (d) to read as follows:

(a-1) Notwithstanding Subsection (a), if the department first entered into an adoption assistance agreement with a child's adoptive parents after the child's 16th birthday, the department shall, in accordance with rules adopted by the executive commissioner of the Health and Human Services Commission, offer adoption assistance after the child's 18th birthday to the child's adoptive parents under an existing adoption agreement until the last day of the month of the child's 21st birthday, provided the child is:

(1) regularly attending high school or enrolled in a program leading toward a high school diploma or high school equivalency certificate;

(2) regularly attending an institution of higher education or a postsecondary vocational or technical program;

(3) participating in a program or activity that promotes, or removes barriers to, employment;

(4) employed for at least 80 hours a month; or

(5) incapable of doing any of the activities described by Subdivisions (1)-(4) due to a documented medical condition.

(d) If the legislature does not appropriate sufficient money to provide adoption assistance to the adoptive parents of all children described by Subsection (a), the department shall provide adoption assistance only to the adoptive parents of children described by Subsection (a)(1). The department is not required to provide adoption assistance benefits under Subsection (a-1) unless the department is specifically appropriated funds for purposes of that subsection.

(b) Section 264.101, Family Code, is amended by amending Subsections (a-1) and (d) and adding Subsection (a-2) to read as follows:

(a-1) The department shall continue to pay the cost of foster care for a child for whom the department provides care, including medical care, until the last day of the month in which ~~later of:~~

[~~(1) the date~~] the child attains the age of 18. The department shall continue to pay the cost of foster care for a child after the month in which the child attains the age of 18 as long as the child is:

(1) regularly attending [; or

[~~(2) the date the child graduates from~~] high school or [~~ceases to be~~] enrolled in a [~~secondary school in a~~] program leading toward a high school diploma or high school equivalency certificate;

(2) regularly attending an institution of higher education or a postsecondary vocational or technical program;

(3) participating in a program or activity that promotes, or removes barriers to, employment;

(4) employed for at least 80 hours a month; or

(5) incapable of performing the activities described by Subdivisions (1)-(4) due to a documented medical condition.

(a-2) The department shall continue to pay the cost of foster care under:

(1) Subsection (a-1)(1) until the last day of the month in which the child attains the age of 22; and

(2) Subsections (a-1)(2)-(5) until the last day of the month the child attains the age of 21.

(d) The executive commissioner of the Health and Human Services Commission may adopt rules that establish criteria and guidelines for the payment of foster care, including medical care, for a child and for providing care for a child after the child becomes 18 years of age if the child meets the requirements for continued foster care under Subsection (a-1) [is regularly attending an institution of higher education or a vocational or technical program].

(c) Subdivisions (1) and (3), Section 264.751, Family Code, are amended to read as follows:

(1) "Designated caregiver" means an individual who has a longstanding and significant relationship with a child for whom the department has been appointed managing conservator and who:

(A) is appointed to provide substitute care for the child, but is not licensed by the department or verified by a licensed child-placing agency or the department ~~[certified]~~ to operate a foster home, foster group home, agency foster home, or agency foster group home under Chapter 42, Human Resources Code; or

(B) is subsequently appointed permanent managing conservator of the child after providing the care described by Paragraph (A).

(3) "Relative caregiver" means a relative who:

(A) provides substitute care for a child for whom the department has been appointed managing conservator, but who is not licensed by the department or verified by a licensed child-placing agency or the department ~~[certified]~~ to operate a foster home, foster group home, agency foster home, or agency foster group home under Chapter 42, Human Resources Code; or

(B) is subsequently appointed permanent managing conservator of the child after providing the care described by Paragraph (A).

(d) Subchapter I, Chapter 264, Family Code, is amended by adding Section 264.760 to read as follows:

Sec. 264.760. ELIGIBILITY FOR FOSTER CARE PAYMENTS AND PERMANENCY CARE ASSISTANCE. Notwithstanding any other provision of this subchapter, a relative or other designated caregiver who becomes licensed by the department or verified by a licensed child-placing agency or the department to operate a foster home, foster group home, agency foster home, or agency foster group home under Chapter 42, Human Resources Code, may receive foster care payments in lieu of the benefits provided by this subchapter, beginning with the first month in which the relative or other designated caregiver becomes licensed or is verified.

(e) Chapter 264, Family Code, is amended by adding Subchapter K to read as follows:

#### SUBCHAPTER K. PERMANENCY CARE ASSISTANCE PROGRAM

Sec. 264.851. DEFINITIONS. In this subchapter:

(1) "Foster child" means a child who is or was in the temporary or permanent managing conservatorship of the department.

(2) "Kinship provider" means a relative of a foster child, or another adult with a longstanding and significant relationship with a foster child before the child was placed with the person by the department, with whom the child resides for at least six consecutive months after the person becomes licensed by the department or verified by a licensed child-placing agency or the department to provide foster care.

(3) "Permanency care assistance agreement" means a written agreement between the department and a kinship provider for the payment of permanency care assistance benefits as provided by this subchapter.

(4) "Permanency care assistance benefits" means monthly payments paid by the department to a kinship provider under a permanency care assistance agreement.

(5) "Relative" means a person related to a foster child by consanguinity or affinity.

Sec. 264.852. PERMANENCY CARE ASSISTANCE AGREEMENTS.

(a) The department shall enter into a permanency care assistance agreement with a kinship provider who is eligible to receive permanency care assistance benefits.

(b) The department may enter into a permanency care assistance agreement with a kinship provider who is the prospective managing conservator of a foster child only if the kinship provider meets the eligibility criteria under federal and state law and department rule.

(c) A court may not order the department to enter into a permanency care assistance agreement with a kinship provider unless the kinship provider meets the eligibility criteria under federal and state law and department rule, including requirements relating to the criminal history background check of a kinship provider.

(d) A permanency care assistance agreement may provide for reimbursement of the nonrecurring expenses a kinship provider incurs in obtaining permanent managing conservatorship of a foster child, including attorney's fees and court costs. The reimbursement of the nonrecurring expenses under this subsection may not exceed \$2,000.

Sec. 264.853. RULES. The executive commissioner shall adopt rules necessary to implement the permanency care assistance program. The rules must:

(1) establish eligibility requirements to receive permanency care assistance benefits under the program; and

(2) ensure that the program conforms to the requirements for federal assistance as required by the Fostering Connections to Success and Increasing Adoptions Act of 2008 (Pub. L. No. 110-351).

Sec. 264.854. MAXIMUM PAYMENT AMOUNT. The executive commissioner shall set the maximum monthly amount of assistance payments under a permanency care assistance agreement in an amount that does not exceed the amount of the monthly foster care maintenance payment the department would pay to a foster care provider caring for the child for whom the kinship provider is caring.

Sec. 264.855. CONTINUED ELIGIBILITY FOR PERMANENCY CARE ASSISTANCE BENEFITS AFTER AGE 18. If the department first entered into a permanency care assistance agreement with a foster child's kinship provider after the child's 16th birthday, the department may continue to provide permanency care assistance payments until the last day of the month of the child's 21st birthday, provided the child is:

(1) regularly attending high school or enrolled in a program leading toward a high school diploma or high school equivalency certificate;

(2) regularly attending an institution of higher education or a postsecondary vocational or technical program;

(3) participating in a program or activity that promotes, or removes barriers to, employment;

(4) employed for at least 80 hours a month; or

(5) incapable of any of the activities described by Subdivisions (1)-(4) due to a documented medical condition.

Sec. 264.856. APPROPRIATION REQUIRED. The department is not required to provide permanency care assistance benefits under this subchapter unless the department is specifically appropriated money for purposes of this subchapter.

Sec. 264.857. DEADLINE FOR NEW AGREEMENTS. The department may not enter into a permanency care assistance agreement after August 31, 2017. The department shall continue to make payments after that date under a permanency care assistance agreement entered into on or before August 31, 2017, according to the terms of the agreement.

(f) Not later than April 1, 2010, the executive commissioner of the Health and Human Services Commission shall adopt rules to implement and administer the permanency care assistance program under Subchapter K, Chapter 264, Family Code, as added by this section.

(g) Sections 162.3041 and 264.101, Family Code, as amended by this section, and Section 264.855, Family Code, as added by this section, take effect October 1, 2010.

SECTION 7. (a) Chapter 1001, Health and Safety Code, is amended by adding Subchapter F to read as follows:

SUBCHAPTER F. TEXAS MEDICAL CHILD ABUSE RESOURCES AND EDUCATION SYSTEM (MEDCARES)

Sec. 1001.151. TEXAS MEDICAL CHILD ABUSE RESOURCES AND EDUCATION SYSTEM GRANT PROGRAM. (a) The department shall establish the Texas Medical Child Abuse Resources and Education System (MEDCARES) grant program to award grants for the purpose of developing and supporting regional programs to improve the assessment, diagnosis, and treatment of child abuse and neglect as described by the report submitted to the 80th Legislature by the committee on pediatric centers of excellence relating to abuse and neglect in accordance with Section 266.0031, Family Code, as added by Chapter 1406 (S.B. 758), Acts of the 80th Legislature, Regular Session, 2007.

(b) The department may award grants to hospitals or academic health centers with expertise in pediatric health care and a demonstrated commitment to developing basic and advanced programs and centers of excellence for the assessment, diagnosis, and treatment of child abuse and neglect.

(c) The department shall encourage collaboration among grant recipients in the development of program services and activities.

Sec. 1001.152. USE OF GRANT. A grant awarded under this subchapter may be used to support:

(1) comprehensive medical evaluations, psychosocial assessments, treatment services, and written and photographic documentation of abuse;

(2) education and training for health professionals, including physicians, medical students, resident physicians, child abuse fellows, and nurses, relating to the assessment, diagnosis, and treatment of child abuse and neglect;

(3) education and training for community agencies involved with child abuse and neglect, law enforcement officials, child protective services staff, and children's advocacy centers involved with child abuse and neglect;

(4) medical case reviews and consultations and testimony regarding those reviews and consultations;

(5) research, data collection, and quality assurance activities, including the development of evidence-based guidelines and protocols for the prevention, evaluation, and treatment of child abuse and neglect;



(6) the use of telemedicine and other means to extend services from regional programs into underserved areas; and

(7) other necessary activities, services, supplies, facilities, and equipment as determined by the department.

Sec. 1001.153. MEDCARES ADVISORY COMMITTEE. The executive commissioner shall establish an advisory committee to advise the department and the executive commissioner in establishing rules and priorities for the use of grant funds awarded through the program. The advisory committee is composed of the following nine members:

(1) the state Medicaid director or the state Medicaid director's designee;

(2) the medical director for the Department of Family and Protective Services or the medical director's designee; and

(3) as appointed by the executive commissioner:

(A) two pediatricians with expertise in child abuse or neglect;

(B) a nurse with expertise in child abuse or neglect;

(C) a representative of a pediatric residency training program;

(D) a representative of a children's hospital;

(E) a representative of a children's advocacy center; and

(F) a member of the Governor's EMS and Trauma Advisory Council.

Sec. 1001.154. GIFTS AND GRANTS. The department may solicit and accept gifts, grants, and donations from any public or private source for the purposes of this subchapter.

Sec. 1001.155. REQUIRED REPORT. Not later than December 1 of each even-numbered year, the department, with the assistance of the advisory committee established under this subchapter, shall submit a report to the governor and the legislature regarding the grant activities of the program and grant recipients, including the results and outcomes of grants provided under this subchapter.

Sec. 1001.156. RULES. The executive commissioner may adopt rules as necessary to implement this subchapter.

Sec. 1001.157. APPROPRIATION REQUIRED. The department is not required to award a grant under this subchapter unless the department is specifically appropriated money for purposes of this subchapter.

(b) Not later than November 1, 2009, the executive commissioner of the Health and Human Services Commission shall appoint the members of the advisory committee as required by Section 1001.153, Health and Safety Code, as added by this section.

(c) Not later than January 1, 2010, the Department of State Health Services shall establish and implement a grant program as described by Subchapter F, Chapter 1001, Health and Safety Code, as added by this section.

(d) Not later than December 1, 2010, the Department of State Health Services shall provide the initial report to the governor and the legislature as required by Section 1001.155, Health and Safety Code, as added by this section.

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

(f) This section does not make an appropriation. This section takes effect only if a specific appropriation for the implementation of the section is provided in a general appropriations act of the 81st Legislature.

SECTION 8. This Act takes effect September 1, 2009.

The Conference Committee Report on **SB 2080** was filed with the Secretary of the Senate.

### CONFERENCE COMMITTEE REPORT ON HOUSE BILL 2531

Senator Shapiro submitted the following Conference Committee Report:

Austin, Texas  
May 30, 2009

Honorable David Dewhurst  
President of the Senate

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 2531** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

SHAPIRO  
DAVIS  
ELTIFE

CHÁVEZ  
Y. DAVIS  
HERRERO  
PITTS

On the part of the Senate

On the part of the House

The Conference Committee Report on **HB 2531** was filed with the Secretary of the Senate.

### CONFERENCE COMMITTEE REPORT ON HOUSE BILL 2888

Senator West submitted the following Conference Committee Report:

Austin, Texas  
May 30, 2009

Honorable David Dewhurst  
President of the Senate

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 2888** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

WEST  
WENTWORTH  
ELLIS  
GALLEGOS

MARTINEZ  
GONZALEZ TOUREILLES  
HARDCASTLE  
SWINFORD  
VILLARREAL

On the part of the Senate

On the part of the House

The Conference Committee Report on **HB 2888** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 3224**

Senator Whitmire submitted the following Conference Committee Report:

Austin, Texas  
May 29, 2009

Honorable David Dewhurst  
President of the Senate

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 3224** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

WHITMIRE  
HEGAR  
VAN DE PUTTE

MADDEN  
MIKLOS  
MOODY  
RIDDLE  
BOHAC

On the part of the Senate

On the part of the House

The Conference Committee Report on **HB 3224** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 1795**

Senator Uresti submitted the following Conference Committee Report:

Austin, Texas  
May 30, 2009

Honorable David Dewhurst  
President of the Senate

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 1795** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

URESTI  
HUFFMAN  
ZAFFIRINI

PIERSON  
EILAND  
MCCALL  
ZERWAS  
GONZALES

On the part of the Senate

On the part of the House

The Conference Committee Report on **HB 1795** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 2163**

Senator Uresti submitted the following Conference Committee Report:

Austin, Texas  
May 30, 2009

Honorable David Dewhurst  
President of the Senate  
  
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 2163** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

URESTI  
DEUELL  
NELSON  
WEST

S. TURNER  
EDWARDS  
GIDDINGS  
KOLKHORST  
ZERWAS

On the part of the Senate

On the part of the House

The Conference Committee Report on **HB 2163** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 2919**

Senator Fraser submitted the following Conference Committee Report:

Austin, Texas  
May 30, 2009

Honorable David Dewhurst  
President of the Senate  
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 2919** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

FRASER  
WENTWORTH  
VAN DE PUTTE  
URESTI  
DAVIS

S. KING  
CORTE  
MCCLENDON  
ISETT

On the part of the Senate

On the part of the House

The Conference Committee Report on **HB 2919** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 1218**

Senator Watson submitted the following Conference Committee Report:

Austin, Texas  
May 30, 2009

Honorable David Dewhurst  
President of the Senate  
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 1218** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

WATSON  
DEUELL  
VAN DE PUTTE

D. HOWARD  
COLEMAN  
KOLKHORST  
ROSE

On the part of the Senate

On the part of the House

The Conference Committee Report on **HB 1218** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 635**

Senator Zaffirini submitted the following Conference Committee Report:

Austin, Texas  
May 30, 2009

Honorable David Dewhurst  
President of the Senate

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 635** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

ZAFFIRINI  
AVERITT  
LUCIO  
VAN DE PUTTE

GUILLEN  
HUGHES  
PARKER  
RODRIGUEZ  
HOCHBERG

On the part of the Senate

On the part of the House

The Conference Committee Report on **HB 635** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 1320**

Senator Ellis submitted the following Conference Committee Report:

Austin, Texas  
May 30, 2009

Honorable David Dewhurst  
President of the Senate

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 1320** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

ELLIS  
CARONA  
WHITMIRE  
On the part of the Senate

CHRISTIAN  
CHISUM  
FLYNN  
On the part of the House

The Conference Committee Report on **HB 1320** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 103**

Senator Patrick submitted the following Conference Committee Report:

Austin, Texas  
May 30, 2009

Honorable David Dewhurst  
President of the Senate

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 103** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

PATRICK  
OGDEN  
DEUELL

F. BROWN  
MCCLENDON  
VILLARREAL  
BRANCH

On the part of the Senate

On the part of the House

The Conference Committee Report on **HB 103** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 1322**

Senator Watson submitted the following Conference Committee Report:

Austin, Texas  
May 30, 2009

Honorable David Dewhurst  
President of the Senate

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 1322** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

WATSON  
DAVIS  
OGDEN  
SHAPIRO  
VAN DE PUTTE

HOCHBERG  
ALLEN  
FARIAS  
JACKSON

On the part of the Senate

On the part of the House

The Conference Committee Report on **HB 1322** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 2003**

Senator Watson submitted the following Conference Committee Report:

Austin, Texas  
May 30, 2009

Honorable David Dewhurst  
President of the Senate

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 2003** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

WATSON  
ELLIS  
SELIGER  
WHITMIRE

MCCALL  
CASTRO  
S. KING  
MADDEN  
PIERSON

On the part of the Senate

On the part of the House

The Conference Committee Report on **HB 2003** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 1796**

Senator Watson submitted the following Conference Committee Report:

Austin, Texas  
May 30, 2009

Honorable David Dewhurst  
President of the Senate

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 1796** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

WATSON  
AVERITT  
DAVIS

CHISUM  
COOK  
WEBER

On the part of the Senate

On the part of the House

The Conference Committee Report on **HB 1796** was filed with the Secretary of the Senate.



**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 4244**

Senator Zaffirini submitted the following Conference Committee Report:

Austin, Texas  
May 30, 2009

Honorable David Dewhurst  
President of the Senate  
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 4244** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

ZAFFIRINI  
SELIGER  
URESTI

HOCHBERG  
AYCOCK  
S. KING  
MORRISON  
VILLARREAL

On the part of the Senate

On the part of the House

The Conference Committee Report on **HB 4244** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 171**

Senator Gallegos submitted the following Conference Committee Report:

Austin, Texas  
May 30, 2009

Honorable David Dewhurst  
President of the Senate  
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 171** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

GALLEGOS  
SHAPIRO  
WATSON

OLIVO  
ALLEN  
PATRICK  
AYCOCK  
EISSLER

On the part of the Senate

On the part of the House

The Conference Committee Report on **HB 171** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 3646**

Senator Shapiro submitted the following Conference Committee Report:

Austin, Texas  
May 30, 2009

Honorable David Dewhurst  
President of the Senate

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 3646** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

SHAPIRO

DUNCAN

OGDEN

PATRICK

VAN DE PUTTE

On the part of the Senate

HOCHBERG

ALLEN

AYCOCK

EISSLER

PATRICK

On the part of the House

The Conference Committee Report on **HB 3646** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 1831**

Senator Carona submitted the following Conference Committee Report:

Austin, Texas  
May 30, 2009

Honorable David Dewhurst  
President of the Senate

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 1831** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

CARONA

ELLIS

WHITMIRE

WILLIAMS

CORTE

EDWARDS

MCCLENDON

OLIVEIRA

On the part of the Senate TAYLOR  
On the part of the House

The Conference Committee Report on **HB 1831** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 3526**

Senator Averitt submitted the following Conference Committee Report:

Austin, Texas  
May 30, 2009

Honorable David Dewhurst  
President of the Senate  
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 3526** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

AVERITT CALLEGARI  
HEGAR T. KING  
LUCIO LUCIO  
RITTER

On the part of the Senate On the part of the House

The Conference Committee Report on **HB 3526** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 4409**

Senator Jackson submitted the following Conference Committee Report:

Austin, Texas  
May 30, 2009

Honorable David Dewhurst  
President of the Senate  
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 4409** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

JACKSON TAYLOR  
FRASER SMITHEE  
VAN DE PUTTE GUILLEN

NICHOLS  
HUFFMAN

On the part of the Senate

On the part of the House

The Conference Committee Report on **HB 4409** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 2440**

Senator Uresti submitted the following Conference Committee Report:

Austin, Texas  
May 30, 2009

Honorable David Dewhurst  
President of the Senate

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 **SB 2440** 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.

URESTI  
AVERITT  
HEGAR

VAN DE PUTTE  
WENTWORTH

On the part of the Senate

CORTE  
MENÉNDEZ  
RITTER

On the part of the House

**A BILL TO BE ENTITLED  
AN ACT**

relating to the appointment of a conservator for and authorizing the dissolution of the Bexar Metropolitan Water District.

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

**SECTION 1. (a) In this section:**

- (1) "Board" means the district's board of directors.
- (2) "District" means the Bexar Metropolitan Water District.

(b) Following 18 months of review and audits by agencies of this state and by the Bexar Metropolitan Water District Oversight Committee, the legislature finds that:

(1) certain officials of the district have engaged in unethical conduct and unprofessional management practices;

(2) disagreements regarding the district's jurisdiction and the jurisdiction of other entities inside the district and distrust between management personnel and the board have prevented the district from improving services for existing customers and meeting the water supply needs of the growing population within the district's service area;

- (3) the district has a history of noncompliance with regulations;

(4) the board has engaged in mismanagement of the district, allowing for financial improprieties;

(5) the district has provided unreliable service to the degree that the quality of life of the district's customers is impaired and the prospects for economic growth within the district are diminished; and

(6) to ensure the reliability, sustainability, quality, and affordability of water supply services to the district's customers, legislative action is necessary, including the appointment of a conservator to serve as an advisor to the board until the district has achieved sufficient rehabilitation to serve its customers in a professional, ethical, and reliable manner.

SECTION 2. Sections 1 and 8, Chapter 306, Acts of the 49th Legislature, Regular Session, 1945, are amended to read as follows:

Sec. 1. In obedience to the provisions of Article 16, Section 59 of the Constitution of Texas, there is hereby created Bexar Metropolitan Water District. [~~hereinafter in this Act sometimes called the "District."~~]

Sec. 8. (a) [~~]~~ The seven [~~five (5)~~] members of the Board of Directors are [~~shall hereafter be~~] elected to staggered four-year terms in an election held on the uniform election date in November. Directors shall be elected from numbered single-member districts established by the Board. The Board shall revise each single-member district after each decennial census to reflect population changes and to conform with state law, the federal Voting Rights Act of 1965 (42 U.S.C. Section 1973 et seq.), and any applicable court order [~~for a term of six (6) years each, provided that an election for two (2) Directors for a term of six (6) years shall be held on the first Tuesday in April, 1954; the terms of three (3) members of the present Board shall be, and are, hereby, extended to the first Tuesday in April, 1957; and the present Directors shall determine such three (3) by lot. Three (3) Directors shall be elected on the first Tuesday in April, 1957, and two (2) Directors and three (3) Directors, alternately, shall be elected each three (3) years thereafter on the first Tuesday in April as the six year terms expire~~]. At an election of Directors, the candidate from each single-member district who receives [~~The two (2) or three (3) persons, respectively, receiving~~] the greatest number of votes shall be declared elected to represent that single-member district. Each Director shall hold office until his successor shall have been elected or appointed and shall have qualified.~~]~~

(b) Such [~~such~~] elections shall be called, conducted and canvassed in the manner provided by the Election Code. [~~Chapter 25, General Laws of the Thirty ninth Legislature, Regular Session, 1925, and any amendments thereto;~~]

(c) The [~~the~~] Board of Directors shall fill all vacancies on the Board by appointment and such appointees shall hold office for the unexpired term for which they were appointed.~~]~~

(d) Any four [~~any three~~] members of the Board shall constitute a quorum for the adoption of passage of any resolution or order or the transaction of any business of the District.~~]~~

(e) A Director must ~~[Directors succeeding the first Board, whether now or hereafter elected, shall]~~ be a qualified voter of the single-member district from which the Director is elected ~~[resident electors of Bexar County, Texas, and owners of taxable property within the area comprising said District, and shall organize in like manner].~~

SECTION 3. Section 33A, Chapter 306, Acts of the 49th Legislature, Regular Session, 1945, is amended by amending Subsection (c) and adding Subsection (g) to read as follows:

(c) The oversight committee is comprised of five ~~[5]~~ members appointed as follows ~~[to represent the following members]:~~

(1) a ~~[the]~~ Senator who represents a Senate district that includes territory within the District, ~~[sponsor of this Act, or, in the event this Senator cannot serve, a Senator]~~ appointed by the Lieutenant Governor;

(2) a Representative who represents a ~~[the]~~ House district that includes territory within the District, ~~[author of this Act, or, in the event this Representative cannot serve, a Representative]~~ appointed by the Speaker of the Texas House of Representatives;

(3) one member of the Senate Committee on Natural Resources ~~[with special expertise in the operation of public water utilities]~~ appointed by the Lieutenant Governor;

(4) one member of the House Committee on Natural Resources appointed by the Speaker of the Texas House of Representatives; and

(5) one member appointed by the Governor to represent the public~~;~~ ~~[and (5) a member of the Bexar County Commissioners Court who represents a precinct in which customers of the District reside].~~

(g) On or before December 31, 2010, the oversight committee shall provide a report under Subsection (e) of this Section to the 82nd Legislature. The committee is abolished and this Section expires on January 1, 2011.

SECTION 4. Chapter 306, Acts of the 49th Legislature, Regular Session, 1945, is amended by adding Sections 1A, 8A, 8B, 8C, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, and 44 to read as follows:

Sec. 1A. In this Act:

(1) "Board" means the District's Board of Directors.

(2) "Commission" means the Texas Commission on Environmental Quality.

(3) "Director" means a Board member.

(4) "District" means the Bexar Metropolitan Water District.

Sec. 8A. (a) To be eligible to be a candidate for or elected as a Director, a person must have:

(1) resided continuously in the single-member district that the person seeks to represent for 12 months immediately preceding the date of the regular filing deadline for the candidate's application for a place on the ballot;

(2) viewed the open government training video provided by the attorney general and provided to the Board a signed affidavit stating that the candidate viewed the video;

(3) obtained 200 signatures from individuals living in the District; and

(4) paid a filing fee of \$250 or filed a petition in lieu of the filing fee that satisfies the requirements prescribed by Section 141.062, Election Code.

(b) In this subsection, "political contribution" and "specific-purpose committee" have the meanings assigned by Section 251.001, Election Code. A Director or a candidate for the office of Director may not knowingly accept political contributions from a person that in the aggregate exceed \$500 in connection with each election in which the person is involved. For purposes of this subsection, a contribution to a specific-purpose committee for the purpose of supporting a candidate for the office of Director, opposing the candidate's opponent, or assisting the candidate as an officeholder is considered to be a contribution to the candidate.

Sec. 8B. (a) A person who is elected or appointed to and qualifies for office as a Director on or after the effective date of this section may not vote, deliberate, or be counted as a member in attendance at a meeting of the Board until the person completes a training program on District management issues. The training program must provide information to the person regarding:

(1) the enabling legislation that created the District;

(2) the operation of the District;

(3) the role and functions of the Board;

(4) the rules of the Board;

(5) the current budget for the Board;

(6) the results of the most recent formal audit of the Board;

(7) the requirements of the:

(A) open meetings law, Chapter 551, Government Code;

(B) open records law, Chapter 552, Government Code; and

(C) administrative procedure law, Chapter 2001, Government Code;

(8) the requirements of the conflict of interest laws and other laws relating to public officials; and

(9) any applicable ethics policies adopted by the Board or the Texas Ethics Commission.

(b) The Texas Commission on Environmental Quality may create an advanced training program designed for a person who has previously completed a training program described by Subsection (a) of this section. If the commission creates an advanced training program under this subsection, a person who completes that advanced training program is considered to have met the person's obligation under Subsection (a) of this section.

(c) Each Director who is elected or appointed on or after the effective date of this section shall complete a training program described by Subsection (a) or (b) of this section at least once in each term the Director serves.

(d) The Board shall adopt rules regarding the completion of the training program described by Subsection (a) or (b) of this section by a person who is elected or appointed to and qualifies for office as a Director before the effective date of this section. A Director described by this subsection who does not comply with Board rules shall be considered incompetent as to the performance of the duties of a Director in any action to remove the Director from office.

(e) A Director may not:

(1) accept or solicit a gift, favor, or service that:

(A) might reasonably influence the Director in the discharge of an official duty; or

(B) the Director knows or should know is being offered with the intent to influence the Director's official conduct;

(2) accept other employment or engage in a business or professional activity that the Director might reasonably expect would require or induce the Director to disclose confidential information acquired by reason of the official position;

(3) accept other employment or compensation that could reasonably be expected to impair the Director's independence of judgment in the performance of the Director's official duties;

(4) make personal investments that could reasonably be expected to create a substantial conflict between the Director's private interest and the interest of the District;

(5) intentionally or knowingly solicit, accept, or agree to accept any benefit for having exercised the Director's official powers or performed the Director's official duties in favor of another; or

(6) have a personal interest in an agreement executed by the District.

(f) Not later than April 30 each year, a Director shall file with the Bexar County clerk a verified financial statement complying with Sections 572.022, 572.023, 572.024, and 572.0252, Government Code. A copy of a financial statement filed under this section shall be kept in the main office of the District.

Sec. 8C. (a) A Director may be recalled for:

(1) incompetency or official misconduct as described by Section 21.022, Local Government Code;

(2) conviction of a felony;

(3) incapacity;

(4) failure to file a financial statement as required by Section 8B(f) of this

Act;

(5) failure to complete a training program described by Section 8B(a) or (b) of this Act; or

(6) failure to maintain residency in the District.

(b) If at least 10 percent of the voters in the District submit a petition to the Board requesting the recall of a Director, the Board, not later than the 10th day after the date the petition is submitted, shall mail a written notice of the petition and the date of its submission to each registered voter in the District.

(c) Not later than the 30th day after the date a petition requesting the recall of a Director is submitted, the Board shall order an election on the question of recalling the Director.

(d) A recall election under this section may be held on any uniform election date.

(e) If a majority of the District voters voting at an election held under this section favor the recall of the Director, the Director is recalled and ceases to be a member of the Board.



(f) If a vacancy occurs on the Board after the recall of a Director under this section, the remaining members of the Board shall appoint a replacement. A Director appointed to fill a vacancy under this subsection serves until the next regularly scheduled Directors' election.

Sec. 35. (a) The Commission shall appoint as conservator for the District an individual who, at the time of the individual's appointment:

(1) has demonstrated a high level of expertise in water utility management;

(2) is not a Director; and

(3) has no financial interest in the District or any entity that has a contract with the District or that is likely to develop a contractual relationship with the District.

(b) The conservator's term expires on the earlier of:

(1) the date the conservatorship for which the conservator is appointed dissolves under Section 40; or

(2) the date of the canvass of an election under Section 41 in which a majority of the votes favor dissolution.

Sec. 36. (a) A conservator appointed under Section 35 is entitled to receive a salary for performing those duties.

(b) The District shall pay the compensation of the conservator.

Sec. 37. (a) A conservator appointed under Section 35 is entitled to reimbursement of the reasonable and necessary expenses incurred by the conservator in the course of performing duties under Section 38.

(b) The District shall pay any reasonable and necessary expenses incurred by the conservator.

Sec. 38. (a) The conservator shall advise the Board on matters relating to the District's rehabilitation. The Board shall work cooperatively with the conservator to improve the Board's ability to manage and operate the District in a professional manner.

(b) In addition to the duties under Subsection (a), the conservator shall:

(1) complete an inventory of and evaluate each distinct water system in the District to determine:

(A) the District's basis in or the intrinsic value of the infrastructure associated with that water system;

(B) the District's bonded debt and commercial paper reasonably associated with or allocable to the infrastructure in that water system; and

(C) the adequacy of the water supply sources, water storage facilities, and distribution systems located in that water system's service area to supply current and projected demands in that service area;

(2) identify any District assets whose sale for fair market value would be likely to improve the District's ability to serve its remaining customers; and

(3) develop a comprehensive rehabilitation plan for the District that:

(A) identifies strategies for restoring the District's financial integrity and developing a system of sound financial management;

(B) describes a standard of ethics, professionalism, and openness expected of each Director and employee of the District;

(C) provides a mechanism to enforce compliance with District policies, including procurement policies;

(D) identifies ways to enhance the District's operational efficiency; and

(E) provides for educating the Board and management personnel on improving management practices and complying with District policy and state and federal laws and regulations.

Sec. 39. The conservator shall report to the Commission regularly on the progress the conservator has made in carrying out the duties under Section 38.

Sec. 40. (a) When the conservator reports to the Commission that the District has been sufficiently rehabilitated to provide reliable, cost-effective, quality service to its customers, the Commission shall evaluate the condition of the District and determine whether:

(1) the District has been sufficiently rehabilitated to enable the District to provide reliable, cost-effective, quality service to its customers; and

(2) the conservatorship is no longer necessary.

(b) The Commission may issue an order dissolving the conservatorship if the Commission determines the conservatorship is no longer necessary.

Sec. 41. (a) On the next uniform election date following the 60th day after the date of preclearance under Section 5 of the federal Voting Rights Act of 1965 (42 U.S.C. Section 1973c) of all provisions of the Act enacting this section that are subject to that preclearance, the Commission shall hold an election in the District on the question of dissolving the District and disposing of the District's assets and obligations. If the Commission determines that preclearance under Section 5 of the federal Voting Rights Act of 1965 is not required, the Commission shall hold the election on the next uniform election date that falls at least 60 days after the date the Commission makes that determination.

(b) The order calling the election must state:

(1) the nature of the election, including the proposition to appear on the ballot;

(2) the date of the election;

(3) the hours during which the polls will be open; and

(4) the location of the polling places.

(c) Section 41.001(a), Election Code, does not apply to an election ordered under this section.

(d) The Commission shall give notice of an election under this section by publishing once a week for two consecutive weeks a substantial copy of the election order in a newspaper with general circulation in the District. The first publication of the notice must appear not later than the 35th day before the date of the election.

(e) The ballot for an election under this section must be printed to permit voting for or against the proposition: "The dissolution of the Bexar Metropolitan Water District."

(f) If a majority of the votes in an election under this section favor dissolution, the Commission shall find that the District is dissolved.

Sec. 42. (a) If a majority of the votes in the election held under Section 41 favor dissolution, the term of each person who is serving as a Director of the District on the date of the canvass of the election expires on that date. Not later than the 60th day after the date of the canvass of the election, the Commission shall appoint a receiver for the purposes described by this section.

(b) Under the Commission's oversight, the receiver shall transfer or assign the rights and duties of the District associated with the provision of water services, including existing contracts, assets, and liabilities of the District, to one or more appropriate entities in such a manner that service to the existing customers of the District is not interrupted. If any funds remain after the payment of all the debts of the District, the receiver shall issue a rebate to the ratepayers in the District in an amount sufficient to deplete the remaining funds.

(c) After the District has paid all its debts and has disposed of all its money and other assets as prescribed by this section, the receiver shall file a written report with the Commission summarizing the receiver's actions in dissolving the District.

(d) Not later than the 10th day after the date the Commission receives the report and determines that the requirements of this section have been fulfilled, the Commission shall enter an order dissolving the District and releasing the receiver from any further duty or obligation.

Sec. 43. If the majority of votes favor dissolution in an election held under Section 41, this Act expires on the date the Commission enters an order dissolving the District.

Sec. 44. If a majority of the votes in an election held under Section 41 do not favor dissolution, the conservator appointed under Section 35 continues to serve until the conservatorship is dissolved under Section 40.

SECTION 5. (a) Section 8, Chapter 306, Acts of the 49th Legislature, Regular Session, 1945, as amended by this Act, applies only to a member of the board of directors of the Bexar Metropolitan Water District who is elected to the board on or after the effective date of this Act.

(b) Section 8A, Chapter 306, Acts of the 49th Legislature, Regular Session, 1945, as added by this Act, applies only to a member of the board of directors of the Bexar Metropolitan Water District who is elected to the board on or after the effective date of this Act. A director who is elected before the effective date of this Act is governed by the law in effect when the director was elected, and the former law is continued in effect for that purpose. A director elected to a six-year term before the effective date of this Act shall serve out the term to which the director was elected.

(c) For a numbered single-member district director's position that expires in 2010 or 2011, the district shall call and hold an election on a uniform election date in that year to elect the director for that position for a term that expires on the uniform election date in November 2013.

(d) As soon as practicable after the effective date of this Act, the Texas Commission on Environmental Quality shall appoint a conservator for the Bexar Metropolitan Water District as required by Section 35, Chapter 306, Acts of the 49th Legislature, Regular Session, 1945, as added by this Act.

SECTION 6. (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, the lieutenant governor, and the 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 are fulfilled and accomplished.

SECTION 7. 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, 2009.

The Conference Committee Report on **SB 2440** was filed with the Secretary of the Senate.

### **CONFERENCE COMMITTEE REPORT ON HOUSE BILL 2553**

Senator Davis submitted the following Conference Committee Report:

Austin, Texas

May 30, 2009

Honorable David Dewhurst  
President of the Senate

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 2553** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

DAVIS  
CARONA  
WATSON

On the part of the Senate

HILDERBRAN  
CORTE  
PHILLIPS

On the part of the House

The Conference Committee Report on **HB 2553** was filed with the Secretary of the Senate.

### RESOLUTIONS OF RECOGNITION

The following resolutions were adopted by the Senate:

#### Congratulatory Resolutions

**SR 1070** by Eltife, Recognizing J. C. and Pearl Swafford on the occasion of their 50th wedding anniversary.

**SR 1078** by Hinojosa, Recognizing the town of Premont on the occasion of its 100th anniversary.

### ADJOURNMENT

On motion of Senator Whitmire, the Senate at 8:51 p.m. adjourned until 1:00 p.m. tomorrow.

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## APPENDIX

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### BILLS AND RESOLUTIONS ENROLLED

May 29, 2009

**SB 1, SB 39, SB 129, SB 174, SB 203, SB 223, SB 229, SB 271, SB 282, SB 283, SB 476, SB 531, SB 589, SB 627, SB 643, SB 654, SB 660, SB 666, SB 702, SB 703, SB 705, SB 759, SB 768, SB 806, SB 833, SB 839, SB 860, SB 866, SB 891, SB 911, SB 1034, SB 1056, SB 1091, SB 1093, SB 1095, SB 1201, SB 1235, SB 1237, SB 1259, SB 1290, SB 1334, SB 1368, SB 1374, SB 1402, SB 1410, SB 1526, SB 1586, SB 1592, SB 1612, SB 1646, SB 1717, SB 1760, SB 1804, SB 1812, SB 1827, SB 1878, SB 1940, SB 1945, SB 1967, SB 2169, SB 2197, SB 2279, SB 2456, SB 2478, SB 2505, SB 2526, SB 2569, SB 2570, SR 1013, SR 1058, SR 1063, SR 1065, SR 1066, SR 1067, SR 1068**

**SIGNED BY GOVERNOR**May 30, 2009**SB 37, SB 97, SB 381, SB 407, SB 461, SB 495, SB 529, SB 595, SB 663, SB 874,  
SB 1036, SB 1188, SB 1246, SB 2019, SCR 63**