

# SEVENTY-SECOND DAY

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MONDAY, MAY 17, 1999

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## PROCEEDINGS

The Senate met at 10:00 a.m. pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Armbrister, Barrientos, Bernsen, Bivins, Brown, Cain, Carona, Duncan, Ellis, Fraser, Gallegos, Harris, Haywood, Jackson, Lindsay, Lucio, Madla, Moncrief, Nelson, Nixon, Ogden, Ratliff, Shapiro, Shapleigh, Sibley, Truan, Wentworth, West, Whitmire, Zaffirini.

Absent-excused: Luna.

The President announced that a quorum of the Senate was present.

Dr. Myron Young, Elder, Harvesting Ministries Church, Taylor, offered the invocation as follows:

Our heavenly Father, we thank You for Your love and Your kindness. We thank You for Your tender mercies. We thank You for grace and for salvation and for how good You have been to us. We thank You, Lord, for this session of our legislative body, and, O God, we come right now that You will help us; that You will look in this hallowed Chamber and give us the guidance and the direction that we need to come to the decisions to make these laws that will govern our lives. These laws, O God, are critical to us, and we need Your guidance, Your understanding, and Your wisdom. We come, O God, as unity together, bring us and bind us together. Destroy all dissension and those things that would come against us, those things that would stand in opposition, and those things that would stand to oppose us; that this state would be the leader for all the other states in this land; that the entire nation can look to Texas for a pattern. We ask, O God, that You would just have Your way, let Your will be done in our lives. In Your name. Amen.

On motion of Senator Truan and by unanimous consent, the reading of the Journal of the proceedings of Friday, May 14, 1999, was dispensed with and the Journal was approved.

## **LEAVE OF ABSENCE**

On motion of Senator Barrientos, Senator Luna was granted leave of absence for today on account of illness.

**CO-AUTHOR OF SENATE BILL 1909**

On motion of Senator Truan and by unanimous consent, Senator Ratliff will be shown as Co-author of **SB 1909**.

**CO-AUTHOR OF SENATE BILL 1911**

On motion of Senator Brown and by unanimous consent, Senator Lucio will be shown as Co-author of **SB 1911**.

**CAPITOL PHYSICIAN**

Senator Wentworth was recognized and presented Dr. John D. Weaver of Blanco, accompanied by his wife, Mary Ann, and son, Stuart, as the "Doctor for the Day."

The Senate welcomed Dr. Weaver and thanked him for his participation in the "Capitol Physician" program sponsored by the Texas Academy of Family Physicians.

**SENATE RESOLUTION 992**

Senator Nelson offered the following resolution:

WHEREAS, The Senate of the State of Texas takes pride in recognizing the Colleyville Heritage High School girls varsity soccer team on capturing the Class 4A girls state soccer championship title; and

WHEREAS, At the beginning of the year, the Colleyville Lady Panthers were ranked No. 2 in the nation by the National Soccer Coaches Association of America; and

WHEREAS, The Lady Panthers earned their title by defeating Friendswood in the Class 4A championship game 2-0 on April 3, 1999, in Georgetown; the Panthers are now the winners of their school's first-ever University Interscholastic League team championship; and

WHEREAS, The Panthers' two goals were scored by sophomore Jessi Moore, chosen as the District 11-4A Most Valuable Player, and by senior Krystal Pfluger, the District 11-4A Offensive Player of the Year, who scored 20 seconds before the end of the game; and

WHEREAS, The entire team's relentless defensive pressure shut down Friendswood, resulting in the Panthers' 22nd shutout of the season; the Panthers completed their season with an overall record of 26-0-1, 22 shutouts, and 87 goals; the defense allowed only seven goals; and

WHEREAS, The fine skills and discipline instilled in the players by head coach Angie Moss and assistant coaches Susan Alcalá and Jenny Jones, as well as the remarkable talents of the team members, gave the Panthers the edge against the strong opponents they encountered throughout the season; and

WHEREAS, The Panthers have benefitted from the enthusiastic support of athletic coordinator Chris Cunningham, athletic director Ted Brevelle, and principal Dr. Marlin Stanberry; and

WHEREAS, The members of the championship Panther team are Michele Vaughan, Laurie Wollin, Krystal Pfluger, Kelly Christoffer, Tierney Stout, Amy Van Zandt, Bethany Williams, Jessi Moore, Blair Wheeler, Allison Horn, Sarah Jensen,

Summer McClendon, Ann Travis, Alycia Richardson, Staci Everett, Julie Stevens, Bridget Saunders, Kathy Nichols, Stephanie Smith, and Natalie Noblitt; and

WHEREAS, The Lady Panthers are now prominent on the list of All-District soccer selections for 1999, and head coach Angie Moss has been named Coach of the Year as a tribute to her invaluable leadership; and

WHEREAS, Exhibiting perseverance, team unity, and respect for the highest ideals of American sportsmanship, the Lady Panthers have brought honor and excitement to their school and their community; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 76th Legislature, hereby commend the Colleyville Heritage High School Lady Panthers on their superior performances and extend congratulations to them and to their coaches on capturing the championship title; and, be it further

RESOLVED, That a copy of this Resolution be prepared for the Lady Panthers as an expression of regard from the Texas Senate.

The resolution was again read.

On motion of Senator Truan and by unanimous consent, the names of the Lieutenant Governor and Senators were added to the resolution as signers thereof.

The resolution was previously adopted on Friday, May 14, 1999.

**(Senator Moncrief in Chair)**

#### **GUESTS PRESENTED**

Senator Nelson was recognized and introduced to the Senate members of the Colleyville Heritage High School Lady Panthers soccer team.

The Senate welcomed its guests.

**(President in Chair)**

#### **SESSION TO CONSIDER EXECUTIVE APPOINTMENTS**

The President announced the time had arrived to consider the executive appointments to agencies, boards, and commissions. Notice of submission of these names for consideration was given Thursday, May 13, 1999, by Senator Wentworth.

Senator Wentworth moved confirmation of the nominees reported Thursday by the Committee on Nominations.

The President asked if there were requests to sever nominees.

There were no requests offered.

#### **NOMINEES CONFIRMED**

The following nominees as reported by the Committee on Nominations were confirmed by the following vote: Yeas 30, Nays 0.

Absent-excused: Luna.

Member, Texas Veterans Commission: John A. Brieden III, Washington County.

Member, Department of Information Resources Governing Board: Rolf R. Haberecht, Dallas County.

Members, Texas State Board of Examiners of Professional Counselors: Ana C. Bergh, Hidalgo County; Gay Thomas McAlister, Gregg County; Judith Day Powell, Montgomery County.

Members, Texas Board of Chiropractic Examiners: Cheryl Belinda Barber, Harris County; Robert Lee Coburn, D.C., Brazoria County; Serge P. Francois, D.C., Dallas County.

Members, Credit Union Commission: Floyd William Burnside, Jr., C.P.A., Bexar County; Cynthia Cabaza, Hidalgo County; Fran V. Hawkins, Nueces County; Karen A. Jacks, Gregg County; Carlos Puente, Tarrant County.

Members, Texas Board of Mental Health and Mental Retardation: Kenneth Z. Altshuler, M.D., Dallas County; Spencer Bayles, M.D., Harris County; Sharon Swift Butterworth, El Paso County; Andrew Paul Hardin, Collin County; Harriet Marmon Helmle, Bexar County; Lynda K. Scott, Montgomery County.

Members, Lavaca-Navidad River Authority Board of Directors: Gerald Maxwell Boyd, D.V.M., Jackson County; Robert Charles Martin, Jackson County; Mitzi M. Mauritz, Jackson County; Robert Michael "Mike" Myers, Jackson County.

Members, Risk Management Board: Micaela Alvarez, Hidalgo County; Ronald D. Beals, M.D., Smith County; James E. Green, Tarrant County; Gerald M. Lavey, Harris County; Ray "Tom" Pace, Ector County; Martha A. Rider, Harris County.

Members, Agriculture Resources Protection Authority: Craig Estes, Wichita County; L. C. Harrison, Clay County; Gary Johnson, Dallam County; David K. Langford, Bexar County; David Michael Nix, Dawson County; Julian H. Trevino, Ed.D., Bexar County.

Members, Texas Guaranteed Student Loan Corporation Board of Directors: Tannon Carroll, Fort Bend County; Albon O. Head, Jr., Parker County; Jorja L. Kimball, Brazos County; Albert Myres, Harris County; Jane Phipps, Bexar County.

Members, Private Sector Prison Industries Oversight Authority: Kathy C. Flanagan, M.D., Harris County; Albert Gonzalez, Dallas County; Charles D. "Mickey" Harr, Brown County; Raymond G. Henderson, Travis County; Thomas Ann Hines, Collin County; Kelly Renee Siegler, Harris County; Carl Casey Spencer, Walker County; Steven L. Varga, Bexar County.

Members, Texas Low-Level Radioactive Waste Disposal Authority Board of Directors: Claudia Abbey Ball, Val Verde County; James L. Carroll, El Paso County; Bernold Morris "Bruno" Hanson, Midland County; Louis Lee Munoz, M.D., Collin County.

Member, Council on Sex Offender Treatment: Richard N. Mack, Lubbock County.

Member, On-site Wastewater Treatment Research Council: Danny Ray Moss, Tarrant County.

Members, Board of Nurse Examiners: John Fonteno, Jr., Harris County; Marcelo Laijas, Jr., Wilson County; K. Sue McGee, Randall County; Thalia H.

Munoz, Starr County; Elizabeth C. Poster, R.N., Ph.D., Tarrant County; Linda R. Rounds, Galveston County.

Members, Texas Board of Architectural Examiners: Alan R. Lauck, Dallas County; Anthony Trevino, Jr., Webb County; R. Nolen Willis, Harris County.

Member, Trinity River Authority of Texas Board of Directors: Sylvia P. Greene, Tarrant County.

Members, Board of Tax Professional Examiners: Michael A. Amezcuita, Cameron County; Deborah M. Hunt, Williamson County.

### **SENATE BILL 1237 WITH HOUSE AMENDMENTS**

Senator Nelson called **SB 1237** 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 1237** by substituting in lieu thereof the following:

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

relating to the administration of pharmacy benefits under certain health benefit plans.

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

**SECTION 1.** Subdivision (1), Section 1, Article 21.07-6, Insurance Code, is amended to read as follows:

(1) "Administrator" means a person who collects premiums or contributions from or who adjusts or settles claims in connection with life, health, and accident benefits, including pharmacy benefits, or annuities for residents of this state but does not include:

(A) an employer on behalf of its employees or the employees of one or more subsidiaries or affiliated corporations of the employer;

(B) a union on behalf of its members;

(C) an insurance company or a group hospital service corporation subject to Chapter 20 of this code with respect to a policy lawfully issued and delivered by it in and under the law of a state in which the insurer was authorized to do an insurance business;

(D) a health maintenance organization that is authorized to operate in this state under the Texas Health Maintenance Organization Act (Chapter 20A, Vernon's Texas Insurance Code), with respect to any activity that is specifically regulated under that Act;

(E) an agent licensed under Article 21.07 or Chapter 213, Acts of the 54th Legislature, Regular Session, 1955 (Article 21.07-1, Vernon's Texas Insurance Code), who is acting under appointment on behalf of an insurance company authorized to do business in this state and within the customary scope and duties of the insurance agent's authority as an agent and who receives commissions as an agent;

(F) a creditor who is acting on behalf of its debtors with respect to insurance that covers a debt between the creditor and its debtor so long as only the functions of a group policyholder or creditor are performed;

(G) a trust established in conformity with 29 U.S.C. Section 186 and the trustees and employees who are acting under the trust;

(H) a trust that is exempt from taxation under Section 501(a) of the Internal Revenue Code of 1986 and the trustees and employees acting under the trust, or a custodian and the custodian's agents and employees who are acting pursuant to a custodian account that complies with Section 401(f), Internal Revenue Code of 1986;

(I) a bank, credit union, savings and loan association, or other financial institution that is subject to supervision or examination under federal or state law by federal or state regulatory authorities so long as that institution is performing only those functions for which it holds a license under federal or state law;

(J) a company that advances and collects a premium or charge from its credit card holders on their authorization, if the company does not adjust or settle claims and acts only in the company's debtor-creditor relationship with its credit card holders;

(K) a person who adjusts or settles claims in the normal course of his practice or employment as a licensed attorney and who does not collect any premium or charge in connection with life, health, or accident benefits, including pharmacy benefits, or annuities;

(L) an adjuster licensed by the commissioner, if the adjuster is engaged in the performance of his powers and duties as an adjuster within the scope of his license;

(M) a person who provides technical, advisory, utilization review, precertification, or consulting services to an insurer, plan, or plan sponsor and who does not make any management or discretionary decisions on behalf of an insurer, plan, or plan sponsor;

(N) an attorney in fact for a Lloyd's operating under Chapter 18 of this code or a reciprocal or interinsurance exchange operating under Chapter 19 of this code if acting in the capacity of attorney in fact under the applicable chapter;

(O) a municipality that is self-insured or a joint fund, risk management pool, or a self-insurance pool composed of political subdivisions of this state that participate in a fund or pool through interlocal agreements and any nonprofit administrative agency or governing body or any nonprofit entity that acts solely on behalf of a fund, pool, agency, or body or any other funds, pools, agencies, or bodies that are established pursuant to or for the purpose of implementing an interlocal governmental agreement;

(P) a self-insured political subdivision;

(Q) a plan under which insurance benefits are provided exclusively by a carrier licensed to do business in this state and the administrator of the plan is either:

(i) a full-time employee of the plan's organizing or sponsoring association, trust, or other entity; or

(ii) the trustee or trustees of the organizing or sponsoring trust; or

(R) a parent of a wholly owned direct or indirect subsidiary insurer licensed to do business in this state or a wholly owned direct or indirect subsidiary insurer that is a part of the parent's holding company system that, only on behalf of itself or its affiliated insurers:

(i) collects premiums or contributions, if the parent or subsidiary insurer prepares only billing statements, places those statements in the United States mail, and causes all collected premiums to be deposited directly in a depository

account of the particular affiliated insurer, and the services rendered by the parent or subsidiary are performed under an agreement regulated and approved under Article 21.49-1 of this code or a similar statute of the domiciliary state if the parent or subsidiary is a foreign insurer doing business in this state; or

(ii) furnishes proof-of-loss forms, reviews claims, determines the amount of the liability for those claims, and negotiates settlements, but pays claims only from the funds of the particular subsidiary by checks or drafts of that subsidiary and the services rendered by the parent or subsidiary are performed under an agreement regulated and approved under Article 21.49-1 of this code or a similar statute of the domiciliary state if the parent or subsidiary is a foreign insurer doing business in this state.

SECTION 2. Article 21.07-6, Insurance Code, is amended by adding Section 19A to read as follows:

Sec. 19A. IDENTIFICATION CARDS FOR CERTAIN PLANS. (a) Except as provided by rules adopted by the commissioner, an administrator for a plan that provides pharmacy benefits shall issue an identification card to each individual covered by the plan.

(b) The commissioner by rule shall adopt standard information to be included on the identification card. At minimum, the standard form identification card must include:

- (1) the name or logo of the entity that is administering the pharmacy benefits;
- (2) the International Identification Number that is assigned by the American National Standards Institute for the entity that is administering the pharmacy benefits;
- (3) the group number applicable for the individual;
- (4) the effective date of the coverage evidenced by the card;
- (5) a telephone number to be used to contact an appropriate person to obtain information relating to the pharmacy benefits provided under the coverage; and
- (6) copayment information for generic and brand-name prescription drugs.

(c) An administrator for a plan that provides pharmacy benefits shall issue to an individual an identification card not later than the 30th day after the date the administrator receives notice that the individual is eligible for the benefits.

SECTION 3. Subchapter E, Chapter 21, Insurance Code, is amended by adding Article 21.53L to read as follows:

Art. 21.53L. PHARMACY BENEFIT CARDS

Sec. 1. DEFINITION. In this article, "health benefit plan" means a health benefit plan described by Section 2 of this article.

Sec. 2. SCOPE OF ARTICLE. (a) This article 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 by:

- (1) an insurance company;
- (2) a group hospital service corporation operating under Chapter 20 of this code;
- (3) a fraternal benefit society operating under Chapter 10 of this code;
- (4) a stipulated premium insurance company operating under Chapter 22 of this code;

- (5) a reciprocal exchange operating under Chapter 19 of this code;
- (6) a health maintenance organization operating under the Texas Health Maintenance Organization Act (Chapter 20A, Vernon's Texas Insurance Code);
- (7) a multiple employer welfare arrangement that holds a certificate of authority under Article 3.95-2 of this code; or
- (8) an approved nonprofit health corporation that holds a certificate of authority issued by the commissioner under Article 21.52F of this code.

(b) This article does not apply to:

- (1) a plan that provides coverage:
  - (A) only for a specified disease or other limited benefit;
  - (B) only for accidental death or dismemberment;
  - (C) for wages or payments in lieu of wages for a period during which an employee is absent from work because of sickness or injury;
  - (D) as a supplement to liability insurance;
  - (E) for credit insurance;
  - (F) only for dental or vision care;
  - (G) only for hospital expenses; or
  - (H) only for indemnity for hospital confinement;
- (2) a small employer health benefit plan written under Chapter 26 of this code;
- (3) a Medicare supplemental policy as defined by Section 1882(g)(1), Social Security Act (42 U.S.C. Section 1395ss);
- (4) workers' compensation insurance coverage;
- (5) medical payment insurance coverage issued as part of a motor vehicle insurance policy; or
- (6) a long-term care policy, including a nursing home fixed indemnity policy, unless the commissioner determines that the policy provides benefit coverage so comprehensive that the policy is a health benefit plan as described by Subsection (a) of this section.

Sec. 3. IDENTIFICATION CARD; PHARMACY BENEFITS. (a) A health benefit plan that provides pharmacy benefits for enrollees in the plan shall include on the identification card of each enrollee:

- (1) the name or logo of the entity that is administering the pharmacy benefits, if different from the health benefit plan;
- (2) the group number applicable to the individual;
- (3) the effective date of the coverage evidenced by the card;
- (4) a telephone number to be used to contact an appropriate person to obtain information relating to the pharmacy benefits provided under the coverage; and
- (5) copayment information for generic and brand-name prescription drugs.

(b) This section does not require a health benefit plan that administers its own pharmacy benefits to issue an identification card separate from any identification card issued to an enrollee to evidence coverage under the health benefit plan, if the identification card contains the elements required by Subsection (a) of this section.

Sec. 4. RULES. The commissioner shall adopt rules as necessary to implement this article.

SECTION 4. This Act takes effect September 1, 1999.

SECTION 5. (a) This Act applies only to a person acting as an administrator, as that term is defined by Subdivision (1), Section 1, Article 21.07-6, Insurance Code, as



amended by this Act, with respect to pharmacy benefits on or after January 1, 2000. A person acting as an administrator with respect to pharmacy benefits before January 1, 2000, 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.

(b) An administrator, as that term is defined by Subdivision (1), Section 1, Article 21.07-6, Insurance Code, as amended by this Act, is not required to issue a new identification card to an individual, as required by Section 19A, Article 21.07-6, Insurance Code, as added by this Act, if the identification card held by the individual on the effective date of this Act contains the elements described by Subdivisions (2) through (5), Subsection (b), Section 19A, Article 21.07-6, Insurance Code, as added by this Act. A new card complying with Section 19A, Article 21.07-6, Insurance Code, as added by this Act, must be issued at the time the individual's coverage is modified.

(c) A health benefit plan, as that term is defined by Section 1, Article 21.53L, Insurance Code, as added by this Act, is not required to issue a new identification card to an enrollee, as required by Section 3, Article 21.53L, Insurance Code, as added by this Act, if the identification card held by the enrollee on the effective date of this Act contains the elements described by Subdivisions (2), (3), and (4), Subsection (a), Section 3, Article 21.53L, Insurance Code, as added by this Act. A new card complying with Article 21.53L, Insurance Code, as added by this Act, must be issued at the time the enrollee's coverage is modified.

SECTION 6. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

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

Amend **CSSB 1237** as follows:

(1) In SECTION 1, strike the recital (house committee printing, page 1, lines 5-6), and substitute the following:

SECTION 1. Section 1, Article 21.07-6, Insurance Code, is amended by amending Subdivision (1) and adding Subdivision (9) to read as follows:

(2) In SECTION 1, following amended Section 1(1), Article 21.07-6, Insurance Code (house committee printing, page 5, between lines 8 and 9), insert a new Subdivision (9) to read as follows:

(9) "Pharmacy benefit manager" means a person who acts as an administrator in connection with pharmacy benefits.

(3) Following SECTION 1, insert a new SECTION to be numbered appropriately to read as follows:

SECTION \_\_\_\_\_. Subsection (a), Section 3, Article 21.07-6, Insurance Code, is amended to read as follows:

(a) An individual, corporation, organization, trust, partnership, or other legal entity may not act as or hold itself out as an administrator, including a pharmacy benefit manager, unless it is covered by and is doing business under a certificate of authority issued under this article.

(4) Following SECTION 2, insert a new SECTION to be numbered appropriately to read as follows:

SECTION \_\_\_\_\_. Article 21.07-6, Insurance Code, is amended by adding Section 19B to read as follows:

Sec. 19B. DISCLOSURE OF CERTAIN PATIENT INFORMATION PROHIBITED. (a) A pharmacy benefit manager may not disclose to an employer contracting with the manager under an employer plan information in the possession of the manager or to which the manager has access that was compiled during the course of treatment of a patient who is an employee or dependent of an employee and that could reasonably be used to determine the identity of the patient, including:

- (1) a medical record;
- (2) genetic test information;
- (3) a clinical research record; or
- (4) a prescription record.

(b) A pharmacy benefit manager may not sell or share for purposes of establishing a financial interest a list of patients that contains information through which the identity of individual patients is disclosed.

(c) All patient, physician, and health care provider data maintained by the pharmacy benefit manager shall be maintained in a confidential manner that prevents unauthorized disclosure to third parties.

(d) This section does not prohibit:

- (1) general advertising about a specific pharmaceutical product or service;
- (2) a person from requesting and receiving information regarding a specific pharmaceutical product or service; or
- (3) a person from requesting and receiving information regarding the person's own records or claims, or information regarding the person's dependent's records or claims.

(5) Renumber SECTIONS of the bill appropriately.

## **Floor Amendment No. 2**

On page \_\_, line \_\_, amend **CSSB 1237** by inserting a new SECTION \_\_ to read as follows:

SECTION \_\_\_\_\_. Title 71, Revised Statutes, is amended by adding Article 4590j.

Art. 4590j. LIMITATIONS ON DISCLOSURE OF CERTAIN PATIENT HEALTH INFORMATION

Sec. 1. DEFINITIONS. In this article:

(1) "Benefit manager" means a person who has access to and reviews patient health information, including information related to patient prescription dispensing records, for the purpose of administering a health care program operated by a health benefit plan, including utilization review and determination of coverage issues. The term includes a third-party administrator.

(2) "Health benefit plan" means a 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 by:

- (A) an insurance company;
- (B) a group hospital service corporation operating under Chapter 20, Insurance Code;

(C) a fraternal benefit society operating under Chapter 10, Insurance Code;

(D) a stipulated premium insurance company operating under Chapter 22, Insurance Code;

(E) a reciprocal exchange operating under Chapter 19, Insurance Code;

(F) a health maintenance organization operating under the Texas Health Maintenance Organization Act (Chapter 20A, Vernon's Texas Insurance Code);

(G) a multiple employer welfare arrangement that holds a certificate of authority under Article 3.95-2, Insurance Code; or

(H) an approved nonprofit health corporation that holds a certificate of authority issued by the commissioner under Article 21.52F, Insurance Code.

(3) "Health care provider" means a person who holds a license, certificate, or other authority issued by an agency of this state or another state that regulates the provision of health care and who has access to patient health information in the ordinary scope of the person's practice or employment. The term includes a mental health professional.

(4) "Patient health information" means any information, whether communicated orally or recorded in writing or in an electronic medium, visual medium, or other format, that relates to a person's past, present, or future physical or mental health status, condition, treatment, receipt of health services or health care, or purchase of equipment or medications used in a person's health care and that reveals the identity of the person or tends to reveal the identity of the person if used alone or in conjunction with other information that it is reasonable to believe would be available to others. The term does not include a patient's name, address, telephone number, age, gender, or insurance status, if that information is compiled in a manner that is not based on, through sorting or other means, or does not otherwise make reference to, a patient's health status, health condition, or insurance claims data. The term does not include any information that would be found on a birth or death record.

(5) "Person" means an individual, corporation, partnership, association, and any other legal entity.

(6) "Third-party administrator" has the meaning assigned by Article 21.07-6, Insurance Code.

Sec. 2. APPLICATION; EFFECT ON OTHER LAWS. (a) This article applies to a health care provider, health benefit plan, benefit manager, and any other person who, in the course and scope of the person's employment, business, or professional practice, has access to patient health information.

(b) This article does not supersede or otherwise affect any requirement regarding confidentiality of personal information regarding a patient that is established under another law of this state or a federal law.

Sec. 3. PROHIBITED ACTS; EXCEPTIONS. (a) A person subject to this article may not sell, share, or use, for marketing purposes, any individually identifying patient health information, including selling, sharing, or using patient health information describing patients who have certain diagnoses or use certain types of drugs in order to solicit an individual patient to use another type or brand of drugs.

(b) A person subject to this article may not request or require a patient to sign a consent form authorizing the disclosure or otherwise waive the confidentiality of information described by this section.

(c) This section does not prohibit the transmission of patient health information:  
(1) from one health care provider to another in the course of providing treatment or referring the patient to another provider for treatment;

(2) from a health care provider to the operator of a health benefit plan or person authorized by the operator of a health benefit plan as necessary to process a claim relating to coverage under the health benefit plan;

(3) by a health care provider to a state agency authorized by law to collect the information, including the Texas Health Care Information Council or the Texas Department of Health; or

(4) by the issuer of a health benefit plan as necessary to obtain reinsurance.

(d) This section does not prohibit:

(1) general advertising about a specific health care product or service;

(2) a person from requesting and receiving information regarding a particular health-related product;

(3) a person from requesting and receiving information regarding the person's own treatment or claims, or those regarding the person's dependent; or

(4) a health care provider from recommending a specific treatment, product, or service to an individual patient of that health care provider.

(e) This section does not prohibit a person subject to this article from using the experience, likeness, voice, or physical presence of a patient or former patient in patient testimonials or as "poster children" or other analogous representatives in conjunction with telethons or other fund-raising or marketing activities to promote a health care treatment, product, or service if the person obtains specific written consent of the patient or former patient in conjunction with all other applicable laws and does not use the patient or former patient's health information to market directly to that patient or former patient.

Sec. 4. CAUSE OF ACTION. (a) A person subject to this article is liable for damages to a person whose individual patient health information is disclosed in violation of this article.

(b) A plaintiff who prevails in an action brought under this section is entitled to recover compensatory damages, exemplary damages if authorized under Chapter 41, Civil Practice and Remedies Code, court costs, and reasonable attorney's fees.

Sec. 5. GROUNDS FOR DISCIPLINARY ACTION. (a) In addition to any other penalty provided by law, a health care provider who violates Section 3 of this article commits an act that constitutes a ground for appropriate disciplinary action by the state agency that licenses, certifies, or otherwise regulates the practice of that health care provider.

(b) An insurer, health maintenance organization, or other person regulated by the Texas Department of Insurance who violates Section 3 of this article commits an unfair or deceptive act or practice in the business of insurance and is subject to the penalties imposed under Article 21.21, Insurance Code.

Sec. 6. CRIMINAL PENALTY. (a) A person commits an offense if the person knowingly violates Section 3 of this article. Each violation constitutes a separate offense.

(b) An offense under this section is a Class C misdemeanor.

**Floor Amendment No. 1 on Third Reading**

Amend **CSSB 1237**, on third reading, by striking the SECTION of the bill adding Article 4590j, Revised Statutes, and renumbering the SECTIONS of the bill appropriately.

The amendments were read.

Senator Nelson 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.

The President asked if there were any motions to instruct the conference committee on **SB 1237** before appointment.

There were no motions offered.

The President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Nelson, Chair; Bernsen, Jackson, Moncrief, and Armbrister.

**SENATE BILL 216 WITH HOUSE AMENDMENT**

Senator Duncan called **SB 216** 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 216** by adding a new section 2 and 3 to read as follows and renumbering the subsequent sections appropriately:

SECTION 2. Article 19.25, Code of Criminal Procedure, is amended to read as follows:

Art. 19.25. EXCUSES FROM SERVICE. Any person summoned who does not possess the requisite qualifications shall be excused by the court from serving. The following qualified persons may be excused from grand jury service:

- (1) a person older than 70 [65] years;
- (2) a person responsible for the care of a child younger than 18 years;
- (3) a student of a public or private secondary school;
- (4) a person enrolled and in actual attendance at an institution of higher education; and
- (5) any other person that the court determines has a reasonable excuse from service.

SECTION 3. Chapter 19, Code of Criminal Procedure, is amended by adding Article 19.42 to read as follows:

Art. 19.42. PERSONAL INFORMATION ABOUT GRAND JURORS. (a) Information collected by the court, court personnel, or prosecuting attorney during the grand jury selection process about a person who serves as a grand juror, including the person's home address, home telephone number, social security number, driver's license number, and other personal information, is confidential and may not be disclosed by the court, court personnel, or prosecuting attorney except on application to the court in which the person is serving or did serve as a grand juror by:

(1) a party to the proceeding; or

(2) a bona fide member of the news media acting in that capacity.

(b) On a showing of good cause, the court shall permit disclosure of the information sought.

The amendment was read.

Senator Duncan 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.

The President asked if there were any motions to instruct the conference committee on **SB 216** before appointment.

There were no motions offered.

The President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Duncan, Chair; Armbrister, Jackson, Cain, and Sibley.

#### **CONFERENCE COMMITTEE ON HOUSE BILL 2085**

Senator Brown called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 2085** and moved that the request be granted.

The motion prevailed.

The President asked if there were any motions to instruct the conference committee on **HB 2085** before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Brown, Chair; Madla, Bernsen, Nelson, and Lindsay.

**(Senator Brown in Chair)**

#### **CONFERENCE COMMITTEE ON HOUSE BILL 2025**

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 2025** and moved that the request be granted.

The motion prevailed.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 2025** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate on the bill: Senators Shapleigh, Chair; Duncan, Bernsen, Lucio, and Cain.

**CONCLUSION OF MORNING CALL**

The Presiding Officer at 10:35 a.m. announced the conclusion of morning call.

**SENATE BILL 801 WITH HOUSE AMENDMENT**

Senator Ellis called **SB 801** 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 801** by substituting in lieu thereof the following:

**A BILL TO BE ENTITLED  
AN ACT**

relating to electronic access to certain state agency information.

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

SECTION 1. Subchapter A, Chapter 2001, Government Code, is amended by adding Section 2001.006 to read as follows:

Sec. 2001.006. CERTAIN EXPLANATORY INFORMATION MADE AVAILABLE THROUGH INTERNET. (a) A state agency shall make available through a generally accessible Internet site:

(1) the text of its rules; and

(2) any material, such as a letter, opinion, or compliance manual, that explains or interprets one or more of its rules and that the agency has issued for general distribution to persons affected by one or more of its rules.

(b) A state agency shall design the generally accessible Internet site so that a member of the public may send questions about the agency's rules to the agency electronically and receive responses to the questions from the agency electronically. If the agency's rules and the agency's explanatory and interpretive materials are made available at different Internet sites, both sites shall be designed in compliance with this subsection.

(c) A state agency shall design the generally accessible Internet site so that it conforms to generally acceptable standards for Internet accessibility for people with disabilities.

(d) A state agency may comply with this section through the actions of another agency, such as the secretary of state, on the agency's behalf.

SECTION 2. Section 2054.096, Government Code, is amended to read as follows:

Sec. 2054.096. CONTENT OF AGENCY STRATEGIC PLAN. (a) Each agency strategic plan must be consistent with the state strategic plan and include:

(1) a statement of the state agency's goals, objectives, and programs as found in the agency's legislative appropriations request;

(2) a description of the agency's major data bases and their applications;

(3) a description of the agency's information resources management organizations, policies, and practices;

(4) a description of interagency computer networks in which the agency participates;

(5) a statement of the strategic objectives of the agency relating to information resources management for the next five fiscal years, beginning with the fiscal year during which the plan is submitted, with a description of how those objectives help achieve the agency's programs and goals, and a description of how those objectives support and promote the goals and policies of the state strategic plan; and

(6) other planning components that the department may prescribe.

(b) Each state agency that receives information from members of the public or from regulated persons by means of a form or that receives payments of money from members of the public or from regulated persons must also include in its strategic plan a plan for receiving the forms or the payments through the Internet. The department shall assist state agencies in developing this portion of the strategic plan. The plan must:

(1) include appropriate security measures approved by the department;

(2) include performance measures that will allow the department and the legislature to evaluate the agency's progress in implementing the plan; and

(3) specify the time during which the agency will fully implement the plan.

SECTION 3. Subchapter F, Chapter 2054, Government Code, is amended by adding Section 2054.121 to read as follows:

Sec. 2054.121. LINKING AND INDEXING INTERNET SITES. (a) All state agencies that maintain a generally accessible Internet site shall cooperate to facilitate useful electronic links among the sites. State agencies shall attempt to link their sites in such a manner that different sites from which persons can be expected to need information concurrently are linked.

(b) Each state agency that maintains a generally accessible Internet site shall establish the site so that the site can be located easily through electronic means.

(c) The department on request shall assist an agency to comply with this section.

SECTION 4. Each state agency shall phase in, in the most cost-effective manner and in accordance with available appropriations, the changes in law made by this Act that require the agency to make information available on the Internet.

SECTION 5. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

The amendment was read.

Senator Ellis 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.

The Presiding Officer asked if there were any motions to instruct the conference committee on **SB 801** before appointment.

There were no motions offered.

The Presiding Officer announced the appointment of the following conferees on the part of the Senate on the bill: Senators Ellis, Chair; Shapleigh, Lucio, Wentworth, and Bernsen.



**CONFERENCE COMMITTEE ON HOUSE BILL 869**

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 869** and moved that the request be granted.

The motion prevailed.

The Presiding Officer, Senator Brown in Chair, asked if there were any motions to instruct the conference committee on **HB 869** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate on the bill: Senators Harris, Chair; Moncrief, Nelson, Sibley, and Ellis.

**(President in Chair)**

**SENATE BILL 1170 ON SECOND READING**

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

**SB 1170**, Relating to the appraisal of property for ad valorem tax purposes.

The bill was read second time.

Senator Wentworth offered the following committee amendment to the bill:

**Committee Amendment No. 1**

Amend **SB 1170** by adding the following language following the last sentence of Section 5(e):

In a county in which the method of appraisal district director selection has been changed pursuant to Tax Code Sec. 6.031, the selection of directors required by this section shall be made using the method of selection which would have otherwise been in effect in that appraisal district as of the effective date of this Act.

The committee amendment was read and was adopted by a viva voce vote.

Senator Wentworth offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **SB 1170** by adding the following section, appropriately numbered, and renumbering the existing sections appropriately:

SECTION \_\_\_\_\_. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The amendment was read and was adopted by a viva voce vote.

On motion of Senator Wentworth and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to engrossment by a viva voce vote.

**RECORD OF VOTE**

Senator Bernsen asked to be recorded as voting "Nay" on the passage of the bill to engrossment.

**SENATE BILL 1170 ON THIRD READING**

Senator Wentworth moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 1170** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1.

Nays: Bernsen.

Absent-excused: Luna.

**SB 1170** was read third time and was passed by a viva voce vote.

**RECORD OF VOTE**

Senator Bernsen asked to be recorded as voting "Nay" on the final passage of the bill.

**COMMITTEE SUBSTITUTE  
SENATE BILL 1785 ON SECOND READING**

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

**CSSB 1785**, Relating to creation of a benefit fund and supplemental one-time payment for certain disabled or deceased peace officers and fire fighters.

The bill was read second time.

Senator Gallegos offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **CSSB 1785**, adding an appropriately numbered SECTION to read as follows:

"SECTION \_\_\_\_\_. This Act takes effect only if a specific appropriation for the implementation of this Act is provided in **HB 1** (General Appropriations Act), Acts of the 76th Legislature, Regular Session, 1999. If no specific appropriation is provided in **HB 1**, the General Appropriations Act, this Act has no effect."

The amendment was read and was adopted by a viva voce vote.

On motion of Senator Gallegos and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to engrossment by a viva voce vote.

**COMMITTEE SUBSTITUTE  
SENATE BILL 1785 ON THIRD READING**

Senator Gallegos moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1785** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Luna.

**CSSB 1785** was read third time and was passed by a viva voce vote.

#### **SENATE BILL 1896 ON SECOND READING**

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

**SB 1896**, Relating to the sale of real property by counties.

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

#### **SENATE BILL 1896 ON THIRD READING**

Senator Jackson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 1896** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Luna.

**SB 1896** was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

#### **COMMITTEE SUBSTITUTE**

#### **SENATE BILL 182 ON SECOND READING**

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

**CSSB 182**, Relating to the appraisal of certain leaseholds for tax purposes.

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

#### **COMMITTEE SUBSTITUTE**

#### **SENATE BILL 182 ON THIRD READING**

Senator Nixon moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 182** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Luna.

**CSSB 182** was read third time and was passed by a viva voce vote.

#### **COMMITTEE SUBSTITUTE**

#### **SENATE BILL 1084 ON SECOND READING**

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

**CSSB 1084**, Relating to the assignment of benefits for dental care services.

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

**COMMITTEE SUBSTITUTE  
SENATE BILL 1084 ON THIRD READING**

Senator Harris moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1084** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Luna.

**CSSB 1084** was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

**COMMITTEE SUBSTITUTE  
SENATE BILL 543 ON SECOND READING**

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

**CSSB 543**, Relating to a payment to a governmental entity by credit card or check.

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

**COMMITTEE SUBSTITUTE  
SENATE BILL 543 ON THIRD READING**

Senator Nixon moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 543** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Luna.

**CSSB 543** was read third time and was passed by a viva voce vote.

**HOUSE BILL 2965 ON SECOND READING**

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

**HB 2965**, Relating to the creation, administration, powers, duties, operation, and financing of the North Harris County Regional Water Authority; granting the power of eminent domain and the authority to issue bonds; providing a civil penalty.

The bill was read second time.

Senator Lindsay offered the following committee amendment to the bill:

**Committee Amendment No. 1**

Amend **HB 2965** (House Engrossment) as follows:

(1) In SECTION 1.03(b) of the bill strike subdivisions (1) and (2) (page 5, lines 24 and 25) and renumber accordingly.

The committee amendment was read and was adopted by a viva voce vote.

Senator Lindsay offered the following committee amendment to the bill:

**Committee Amendment No. 2**

Amend **HB 2965** (House Engrossment) as follows:

(1) In SECTION 2.05(a)(2) of the bill strike "Saturday in May" (page 8, line 20) and substitute "uniform election date of the calendar year".

(2) In SECTION 2.06 of the bill strike "Saturday in May" (page 10, line 13) and substitute "uniform election date of the calendar year".

The committee amendment was read and was adopted by a viva voce vote.

Senator Lindsay offered the following committee amendment to the bill:

**Committee Amendment No. 3**

Amend **HB 2965** (House engrossment) as follows:

(1) In SECTION 1.03(b) of the bill strike "(b) The district" (page 5, line 18) and substitute "(b) The authority" and strike Subdivisions (5) and (6) (page 6, lines 1 and 2) and substitute:

- "(5) District 130;
- (6) District 135; and
- (7) District 150."

(2) In SECTION 1.03 of the bill, following Subsection (c) of that section (page 6, between lines 6 and 7), insert:

"(d) After the confirmation election held under Section 2.05 of this Act, the authority includes only that part of the area described by this section that the temporary board determines is inside the authority's boundaries as provided by Section 2.05(e) of this Act.

(e) On a municipality's annexation of any of the authority's territory, the annexed territory is excluded from the authority's territory. The authority shall continue to provide services to the annexed territory in accordance with contracts in effect at the time of the annexation unless a written agreement between the board and the governing body of the municipality provides otherwise."

(3) Following SECTION 1.03 of the bill (page 6, between lines 6 and 7), add the following section:

"SECTION 1.04. EXCLUSION OF CERTAIN TERRITORY. (a) A district organized under Section 52, Article III, or Section 59, Article XVI, Texas Constitution, that is located in the portion of the territory described by Section 1.03(a) of this Act that is south of Beltway 8 or east of U.S. Highway 59 may petition for exclusion of its territory from the authority's territory. Before the 61st day after the date the authority receives the petition, the board shall:

(1) grant the petition and order the territory excluded if the petition:

(A) includes an accurate legal description of the boundaries of the territory to be excluded; and

(B) the petition is filed with the authority before March 1, 2001; and

(2) if the board grants the petition, file for recording in the office of the county clerk of Harris County a copy of the order and a description of the authority's boundaries as they exist after the exclusion of the territory.

(b) The order excluding the territory is effective immediately after the order and description are recorded."

(4) In ARTICLE 1 of the bill, redesignate SECTION 1.04 of the bill (page 6, lines 7-11) as SECTION 1.05 and redesignate SECTION 1.05 of the bill (page 6, lines 12-16) as SECTION 1.06.

(5) In SECTION 2.02(a) of the bill (page 7, line 2), strike "the nine" and substitute "nine".

(6) In SECTION 4.01 of the bill, following Subsection (b) of that section (page 13, between lines 6 and 7), insert:

"(c) The authority's rights, powers, privileges, authority, functions, and duties are subject to the continuing right of supervision of the state, to be exercised by and through the commission.

(d) The authority shall exercise its rights, powers, privileges, and authority in a manner that will promote regionalization of water treatment and distribution."

(7) In SECTION 4.03 of the bill:

(A) at the end of Subdivision (2) of Subsection (b) (page 13, line 25), strike "or"; and

(B) at the end of Subdivision (3) of Subsection (b) (page 13, line 26), between "crops" and the period, insert:

"(4) that produces 10 million gallons or less annually; or

(5) used solely for electric generation".

(8) In the heading of SECTION 4.06 of the bill between "SYSTEMS." and "The" (page 15, line 10), insert "(a)".

(9) Following Section 4.06(4) of the bill (page 15, between lines 20 and 21), insert:

"(b) The authority shall give persons outside the authority's boundaries, including the City of Houston, the option to contract for available excess capacity of the authority's water treatment or supply system or, before construction of a water treatment or supply system begins, for additional capacity of the system. The authority must offer a contract that would enable the person to pay for the excess capacity or additional capacity in accordance with the person's pro rata share of the capital investment and operational and maintenance costs for providing the excess capacity or additional capacity."

(10) In SECTION 4.10 of the bill, following Subsection (b) of that section (page 17, between lines 17 and 18), insert:

"(c) The board shall coordinate with the City of Houston to develop an interregional plan for a system to distribute treated surface water in an economical and efficient manner."

The committee amendment was read and was adopted by a viva voce vote.

Senator Lindsay offered the following amendment to the bill:

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

Amend **HB 2965** (Senate Committee Report) as follows:

(1) In SECTION 1.03 of the bill, strike subsection (d).

(2) In SECTION 1.04(a)(1)(B) of the bill strike "January" (page 1, line 55) and substitute "March".

(3) In SECTION 2.01(a) of the bill strike "nine" (page 4, line 58) and substitute "five".

(4) In SECTION 2.02(a) of the bill strike "nine" (page 4, line 68) and substitute "five".

(5) In SECTION 2.02(d)(1) of the bill strike "nine" (page 5, line 11) and substitute "five".

(6) In SECTION 2.02(d)(2)(A) of the bill strike "four" (page 5, line 15) and substitute "two".

(7) In SECTION 2.02(d)(2)(B) of the bill strike "five" (page 5, line 16) and substitute "three".

(8) In SECTION 2.05(a)(1) of the bill strike "nine" (page 5, line 42) and substitute "five".

(9) In SECTION 2.05(a)(2) strike "nine" (page 5, line 45) and substitute "five".

(10) In SECTION 2.05(e)(1) of the bill strike "four" (page 5, line 68) and substitute "two".

(11) In SECTION 2.05(e)(2) of the bill strike "five" (page 6, line 2) and substitute "three".

(12) In SECTION 4.13 of the bill strike "district" (page 9, line 23) and substitute "authority".

(13) In SECTION 5.02(f) of the bill strike "district" (page 9, line 65) and substitute "authority".

The amendment was read and was adopted by a viva voce vote.

On motion of Senator Lindsay and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading by a viva voce vote.

### **HOUSE BILL 2965 ON THIRD READING**

Senator Lindsay moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2965** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Luna.

**HB 2965** was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

### **COMMITTEE SUBSTITUTE HOUSE BILL 1341 ON SECOND READING**

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

**CSHB 1341**, Relating to implementation of a Texas courthouse preservation program.

There was objection.

Senator Fraser then moved to suspend the regular order of business and take up **CSHB 1341** for consideration at this time.

The motion prevailed by the following vote: Yeas 24, Nays 6.

Yeas: Armbrister, Bivins, Brown, Cain, Carona, Duncan, Ellis, Fraser, Harris, Haywood, Jackson, Lindsay, Lucio, Madla, Moncrief, Nelson, Nixon, Ogden, Ratliff, Shapiro, Sibley, Truan, Wentworth, Zaffirini.

Nays: Barrientos, Bernsen, Gallegos, Shapleigh, West, Whitmire.

Absent-excused: Luna.

The bill was read second time.

Senator Fraser offered the following amendment to the bill:

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

Amend **CSHB 1341**, adding an appropriately numbered SECTION to read as follows:

"SECTION \_\_\_\_\_. This Act takes effect only if a specific appropriation for the implementation of this Act is provided in **HB 1** (General Appropriations Act), Acts of the 76th Legislature, Regular Session, 1999. If no specific appropriation is provided in **HB 1**, the General Appropriations Act, this Act has no effect."

The amendment was read and was adopted by a viva voce vote.

On motion of Senator Fraser and by unanimous consent, further consideration of **CSHB 1341** was postponed to a time certain of 12:30 p.m today.

Question—Shall **CSHB 1341** as amended be passed to third reading?

### **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:

**HB 32, HB 81, HB 330, HB 340, HB 341, HB 381, HB 504, HB 579, HB 664, HB 732, HB 774, HB 871, HB 985, HB 1031, HB 1037, HB 1141, HB 1145, HB 1431, HB 1506, HB 1520, HB 1574, HB 1581, HB 1625, HB 1677, HB 1707, HB 1715, HB 1722, HB 1732, HB 1748, HB 1838, HB 1978, HB 2107, HB 2108, HB 2176, HB 2555, HB 2809, HB 2827, HB 2866, HB 3023, HB 3155, HB 3226, HB 3568, HCR 102, HCR 133.**

### **SENATE BILL 1911 ON SECOND READING**

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

**SB 1911**, Relating to the creation, administration, powers, duties, operation, and financing of certain groundwater conservation districts.

The bill was read second time.

Senator Nixon offered the following amendment to the bill:

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

Amend **SB 1911** by deleting Section 1, subsection (a)(11) and deleting Section 2, subsection (a)(10).

The amendment was read and was adopted by a viva voce vote.



Senator Truan offered the following amendment to the bill:

**Floor Amendment No. 2**

Amend **SB 1911** in Subsection (c) of SECTION 2 of the bill on line 47, page 2 by striking "19,143" and substituting "19,232".

The amendment was read and was adopted by a viva voce vote.

Senator Ogden offered the following amendment to the bill:

**Floor Amendment No. 3**

Amend **SB 1911** (Senate filed version) on page 5, lines 19 and 20, by striking the words "does not apply" and substituting the word "applies".

The amendment was read and was adopted by a viva voce vote.

Senator Wentworth offered the following amendment to the bill:

**Floor Amendment No. 4**

Amend **SB 1911** in SECTION 2 of the bill (Senate committee printing, page 3, line 45, through page 4, line 3) by striking Subsections (e)(1) and (2) of that SECTION and substituting the following:

(e)(1) The Trinity Glen Rose Groundwater Conservation District includes the territory contained within that part of Bexar County circumscribed by the southern line of the district boundary, as described by Subsection (b) of this section, and the boundary of Bexar County that lies north of the points where the southern line meets the boundary of Bexar County.

(2) The southern line of the district boundary is described:

Beginning at the north line of said Wm. Byerly Survey 172, across the Medina-Bexar County line, to the northeast corner of said Survey in Bexar County, Texas.

THENCE northeast in Bexar County, Texas across the G. W. Garnett Survey to the northeast corner of said Survey;

THENCE northeast across the J. B. McMichael Survey 1, to the south corner of the V. Zepeda Survey;

THENCE northeast along the southeast line of said Survey to the northeast corner of the J. B. McMichael Survey 1;

THENCE east across the Mrs. M. A. Sharp Survey to the southwest corner of the T. C. Ry. Co. Survey 7;

THENCE northeast along the west line of said Survey to its northwest corner;

THENCE southeast along the north line of said Survey to its northeast corner;

THENCE southwest along the east line of said Survey to the north corner of the Manuel Gomez Survey 7;

THENCE southeast along the north line of said Manuel Gomez Survey 7 to its northeast corner, which is in the west line of the J. A. Torris Survey;

THENCE south along the west line of said J. A. Torris Survey to its southwest corner;

THENCE east along the south line of said Survey to the northwest corner of the A. Guerrero Survey;

THENCE south along the west line of said Survey to its southwest corner;

THENCE east along the south line of said Survey to its southeast corner;

THENCE north along the east line of said Survey to the south line of the John M. Ross Survey 224;

THENCE east along the south line of said John M. Ross Survey 224 to its southeast corner, which is in the west line of the J. H. Blume Survey 356;

THENCE, north along the west line of said J. H. Blume Survey 356 to its northwest corner;

THENCE east along the north line of said Survey to its northeast corner;

THENCE south along the east line of said Survey to the most southerly southwest corner of the H. E. & W. T. Ry. Co. Survey 1;

THENCE east along the south line of said H. E. & W. T. Ry. Co. Survey 1 to its most southerly southeast corner, which is in the west corner of the C. Oadna Survey 422;

THENCE northeast along the northwest lines of said C. Oadna Survey 422 and the J. Martinez Survey 423 to the north corner of said J. Martinez Survey 423;

THENCE southeast along the northeast line of said Survey to its east corner, which is in the northwest line of the Henreich Leifeste Survey;

THENCE northeast along the northwest line of said Henreich Leifeste Survey to an interior northwest corner of said Survey;

THENCE southeast across said Survey to the northwest corner of the R. Ortega Survey 435;

THENCE east along the north line of said R. Ortega Survey 435 to its northeast corner, which is in the west line of the C. Brannen Survey 433 1/2;

THENCE south along the west line of said C. Brannen Survey 433 1/2 to its southwest corner;

THENCE east along the south line of said Survey to its southeast corner;

THENCE north along the east line of said Survey to the northwest corner of the C. C. I. Co. Survey 437;

THENCE east along the north line of said C. C. I. Co. Survey 437 to the northeast corner of said Survey;

THENCE northeast across the T. C. Ry. Co. Survey 599 to the northwest corner of the Chas. W. Beckmann Survey;

THENCE east along the north line of said Chas. W. Beckmann Survey to its northeast corner, which is in the west line of the Collin C. McRae Survey 391;

THENCE north along the west lines of said Collin C. McRae Survey 391 and the W. P. G. Survey to the northwest corner of said W. P. G. Survey;

THENCE east along the north line of said Survey to its northeast corner, which is in the southwest line of the M. James Survey 3;

THENCE southeast along the southwest line of said M. James Survey 3 to its south corner, which is the west corner of the M. James Survey 2;

THENCE northeast along the northwest line of said Survey to its north corner;

THENCE southeast along the northeast line of said Survey to the most southerly southwest corner of the Rafael Herrera Survey 382;

THENCE east along the south line of said Rafael Herrera Survey 382 to its southeast corner;

THENCE north along the east line of said Survey to the northwest corner of the C. C. Survey 8;

THENCE east along the north line of said C. C. Survey 8 to its northeast corner, which is in the west line of the C. C. I. Co. Survey 7;

THENCE north along the west line of said C. C. I. Co. Survey 7 to the northwest corner of said Survey;

THENCE east along the north line of said Survey to its northeast corner, which is in the west line of A. B. & M. Survey 5;

THENCE north along the west line of said A. B. & M. Survey 5 to its northwest corner;

THENCE east along the north lines of said Survey and the Bertha Staffel Survey 4 to the southwest corner of the B. S. & F. Survey 417-3/8;

THENCE northeast across said Survey to the southwest corner of the Ed Peshorn Survey 367;

THENCE east along the south line of said Ed Peshorn Survey 368 to its southeast corner;

THENCE east across the H. J. Uppertz Survey 417-4/8 to the northwest corner of the W. W. Allen Survey 353;

THENCE east along the north line of said Survey to its northeast corner;

THENCE south along the east line of said Survey to the most northerly northwest corner of the Hrs. Wm. Brishin Survey 89 1/2;

THENCE east along the north line of said Hrs. Wm. Brishin Survey 89 1/2 to its northeast corner;

THENCE southeast across the Rompel Vogel & Koch Survey 553 to the northwest corner of the E. Gonzales Survey;

THENCE south along the west line of said Survey to its southwest corner, which is in the northwest corner of the E. Martin Survey 89;

THENCE southeast across said E. Martin Survey 89 to the southwest corner of the Fr. Vaidez Survey 478 1/2;

THENCE east along the south line of said Survey to its southeast corner;

THENCE north along the east line of said Survey to its northeast corner, which is in the south line of the W. N. Hughes Survey;

THENCE east along the south line of said W. N. Hughes Survey, across Cibolo Creek and the Bexar County-Comal County line.

The amendment was read and was adopted by a viva voce vote.

On motion of Senator Brown and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to engrossment by a viva voce vote.

### **SENATE BILL 1911 ON THIRD READING**

Senator Brown moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 1911** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Luna.

**SB 1911** was read third time and was passed by a viva voce vote.

### **GUESTS PRESENTED**

Senator Haywood was recognized and introduced to the Senate Alison Lewis, International Acapella Champion Clogger, and vocalist Courtney Grace, both of Wichita Falls.

The Senate welcomed Ms. Lewis and Ms. Grace.

### **COMMITTEE SUBSTITUTE HOUSE BILL 2684 ON SECOND READING**

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

**CSHB 2684**, Relating to reinvestment zones and tax increment financing under

the Tax Increment Financing Act, tax abatement agreements within those zones, and the administration of certain local government corporations.

The bill was read second time.

Senator Gallegos offered the following amendment to the bill:

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

Amend **CSHB 2684** as follows:

1) in SECTION 2 (page 1, line 60, committee printing), after "**buildings**", strike ", or the replacement of [replacing] housing or areas of public assembly in or out of the zone." and insert ". 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.";

2) add a new appropriately-numbered section to read as follows:

SECTION \_\_. Section 311.011, Tax Code, is amended by adding Subsection (g) to read as follows:

(g) 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 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 creating the zone to issue additional tax increment bonds or notes.

3) In SECTION 6 (page 3, line 5, committee printing), amend Section 311.013, Tax Code, by adding a new subsection (k) to read as follows:

(k) A school district is not required to pay into the tax increment fund any of its tax increment produced from property located in an area added to the reinvestment zone under Section 311.007(a) or (b) unless the governing body of the school district enters into an agreement to do so with the governing body of the municipality that created the zone, including a municipality described by Subsection (h). The governing body of a school district may enter into an agreement under this subsection at any time before or after the zone is 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. The agreement and the conditions in the agreement are binding on the school district, the municipality, and the board of directors of the zone.

4) In Section 10 (page 4, line 60, committee printing), amend Section 403.302(d)(3) as follows:

(3) 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 in Section 311.003(e) of the Tax Code prior to 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 that is 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 [is located in a reinvestment zone on August 31, 1999, that generates a tax increment paid into a tax increment fund, and is eligible for tax increment financing under Chapter 311, Tax Code, under a reinvestment zone financing plan approved under Section 311.011(d), Tax Code, before September 1, 1999].

5) strike SECTION 11 (line 5, page 22, committee printing) and insert a new SECTION 11 to read as follows:

SECTION 11. Sections 403.302(e)-(g), Government Code, are amended to read as follows:

(e) The total dollar amount deducted in each year as required by Subsection (d)(3) in a reinvestment zone created after January 1, 1999, may not exceed the captured appraised value estimated for that year as required by Section 311.011(c)(8), Tax Code, in the reinvestment zone financing plan approved under Section 311.011(d), Tax Code, before September 1, 1999. The number of years for which the total dollar amount may be deducted under Subsection (d)(3) shall for any zone, including those created on or before January 1, 1999, be limited to the duration of the zone as specified as required by Section 311.011(c)(9), in the reinvestment zone financing plan approved under Section 311.011(d), Tax Code, before September 1, 1999. The total dollar amount deducted under Subsection (d)(3) for any zone, including those created on or before January 1, 1999, may not be increased by any reinvestment zone financing plan amendments that occur after August 31, 1999. The total dollar amount deducted under Subsection (d)(3) for any zone, including those created on or before January 1, 1999, may not be increased by a change made after August 31, 1999, in the portion of the tax increment retained by the school district.

(f) The study shall determine the values as of January 1 of each year.

(g) [(f)] The comptroller shall publish preliminary findings, listing values by district, before February 1 of the year following the year of the study. Preliminary findings shall be delivered to each school district and shall be certified to the commissioner of education.

(h) [(g)] On request of the commissioner of education or a school district, the comptroller may audit a school district to determine the total taxable value of property in the school district, including the productivity values of land only if the land qualifies for appraisal on that basis and the owner of the land has applied for and received a productivity appraisal. The comptroller shall certify the comptroller's findings to the commissioner.

6) in SECTION 15 (page 6, line 29, committee printing), strike "application" and insert "effective date";

7) in SECTION 15 (page 6, line 30, committee printing), strike "application" and insert "effective".

8) Add a new appropriately-numbered section to read as follows:

SECTION \_\_. Section 42.302 (b), Education Code, is amended to read as follows:

(b) In computing the district enrichment and facilities tax rate of a school district, the total amount of taxes collected by the school district does not include the amount of:

- (1) the district's local fund assignment under Section 42.252;
- (2) taxes collected to pay the local share of the cost of an instructional facility for which the district receives state assistance under Chapter 46; or
- (3) taxes paid into a tax increment fund under Chapter 311, Tax Code, under a reinvestment zone financing plan approved after August 31, 1997, under Section 311.011(d), Tax Code.

The amendment was read and was adopted by a viva voce vote.

On motion of Senator Gallegos and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading by a viva voce vote.

### **COMMITTEE SUBSTITUTE HOUSE BILL 2684 ON THIRD READING**

Senator Gallegos moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 2684** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Luna.

**CSHB 2684** was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

### **COMMITTEE SUBSTITUTE SENATE BILL 838 ON SECOND READING**

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

**CSSB 838**, Relating to service credit in the Judicial Retirement System of Texas Plan Two.

The bill was read second time.

Senator Wentworth offered the following amendment to the bill:

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

Amend **CSSB 838** by adding the following section, appropriately numbered, and renumbering the existing sections appropriately:

**SECTION \_\_\_\_.** The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The amendment was read and was adopted by a viva voce vote.

On motion of Senator Wentworth and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to engrossment by a viva voce vote.

### **RECORD OF VOTE**

Senator Lindsay asked to be recorded as "Present-not voting" on the passage of the bill to engrossment.

**COMMITTEE SUBSTITUTE  
SENATE BILL 838 ON THIRD READING**

Senator Wentworth moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 838** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 0, Present-not voting 1.

Present-not voting: Lindsay.

Absent-excused: Luna.

**CSSB 838** was read third time and was passed by a viva voce vote.

**RECORD OF VOTE**

Senator Lindsay asked to be recorded as "Present-not voting" on the final passage of the bill.

**HOUSE BILL 2461 ON SECOND READING**

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

**HB 2461**, Relating to the issuance of certain specially designed license plates by the Texas Department of Transportation.

The bill was read second time.

Senator Ratliff offered the following committee amendment to the bill:

**Committee Amendment No. 1**

Amend **HB 2461** in SECTION 1 of the bill, Section 502.2525, Subsection (a) by striking number (11) and renumbering appropriately. (House Engrossment, page 2, line 1)

The committee amendment was read and was adopted by a viva voce vote.

Senator Ratliff offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **HB 2461** by adding a new SECTION, appropriately numbered, to read as follows, and renumbering subsequent SECTIONS accordingly:

SECTION \_\_\_\_. Subchapter F, Chapter 502, Transportation Code, is amended by adding Section 502.303 to read as follows:

Sec. 502.303. WATERFOWL AND WETLAND CONSERVATION LICENSE PLATES. (a) Except as provided by Subsection (b), the department shall issue specially designed license plates for passenger cars and light trucks to support the activities of a nonprofit organization designated by the Parks and Wildlife Department that has as its principal purpose the conservation of waterfowl and wetland.

(b) The license plates must bear one or more graphic images designed by the Parks and Wildlife Department in consultation with the designated organization.

(c) The department shall issue license plates under this section to a person who:

(1) applies to the county assessor-collector of the county in which the person resides on a form provided by the department; and

(2) pays a fee of \$50 for an original issuance of license plates under this section or \$40 for a renewal of issuance of license plates under this section, in addition to the fee prescribed by Section 502.161 or 502.162, and, if personalized prestige license plates are issued, in addition to the fee prescribed by Section 502.251.

(d) The fee for replacement of a lost, stolen, or mutilated plate issued under this section is \$35, in addition to the fee prescribed by Section 502.184(a).

(e) Of each fee collected under this section, \$5 may be used to defray the cost of administering this section by the department and the Parks and Wildlife Department. The department shall deposit the remainder of each fee collected under this section to the credit of an account in the state treasury. Money in the account may be used only by the Parks and Wildlife Department to support the activities of a designated nonprofit organization whose primary purpose is the conservation of waterfowl and wetland. The Parks and Wildlife Department shall establish reporting and other mechanisms necessary to ensure that the money is spent for purposes for which it is dedicated.

(f) If the owner of a vehicle registered under this section disposes of the vehicle during the registration year, the owner shall return the special license plates to the department.

The amendment was read and was adopted by a viva voce vote.

Senator Ratliff offered the following amendment to the bill:

### **Floor Amendment No. 2**

Amend **HB 2461** by adding a new SECTION to the bill, to read as follows, and renumbering subsequent SECTIONS accordingly:

SECTION \_\_\_\_. Section 4, Chapter 657, Acts of the 75th Legislature, Regular Session, 1997, is amended to read as follows:

Sec. 4. If at least \$500,000 has not been deposited to the credit of the animal friendly account in the general revenue fund, by September 1, 2004 [~~2001~~]:

(1) Section 502.291, Transportation Code, and Sections 828.014 and 828.015, Health and Safety Code, as added by this Act, are repealed; and

(2) money deposited to the credit of the animal friendly account shall be transferred to the undedicated portion of the general revenue fund.

The amendment was read and was adopted by a viva voce vote.

Senator Barrientos offered the following amendment to the bill:

### **Floor Amendment No. 3**

Amend **HB 2461** to read as follows: Add SECTION \_\_\_\_ and renumber further sections accordingly:

SECTION \_\_\_\_. Subchapter F, Chapter 502, Transportation Code, is amended by adding Section 502.298 to read as follows:

Sec. 502.298. 100TH FOOTBALL SEASON OF STEPHEN F. AUSTIN HIGH SCHOOL. (a) The department shall issue specially designed license plates for passenger cars and light trucks in honor of the 100th football season of Stephen F. Austin High School in Austin.



(b) The license plates must be of a color, quality, and design approved by the principal of Stephen F. Austin High School in consultation with the department.

(c) The department shall issue license plates under this section to a person who:

(1) applies to the county assessor-collector of the county in which the person resides on a form provided by the department; and

(2) pays an annual fee of \$50, in addition to the fee prescribed by Section 502.161, and, if personalized prestige license plates are issued, in addition to the fee prescribed by Section 502.251.

(d) Of each fee collected under this section, the department shall send \$35 to the Texas Education Agency for distribution to the Austin Independent School District to be used only for the benefit of the Austin High School Athletic Department. The remainder of each fee collected under this section shall be deposited to the credit of the state highway fund.

(e) This section expires September 1, 2004.

The amendment was read and was adopted by a viva voce vote.

On motion of Senator Ratliff and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading by a viva voce vote.

#### **HOUSE BILL 2461 ON THIRD READING**

Senator Ratliff moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2461** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Luna.

**HB 2461** was read third time and was passed by a viva voce vote.

#### **HOUSE BILL 2593 ON SECOND READING**

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

**HB 2593**, Relating to the prosecution of certain offenses related to taking an alcoholic beverage into a correctional facility.

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

#### **HOUSE BILL 2593 ON THIRD READING**

Senator Jackson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2593** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Luna.

**HB 2593** was read third time and was passed by a viva voce vote.

**COMMITTEE SUBSTITUTE  
HOUSE BILL 1341 ON SECOND READING**

The President laid before the Senate as postponed business **CSHB 1341**. The bill was read second time, amended, and postponed to a time certain of 12:30 p.m. today.

**CSHB 1341**, Relating to implementation of a Texas courthouse preservation program.

Question—Shall **CSHB 1341** as amended be passed to third reading?

On motion of Senator Fraser and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading by a viva voce vote.

**RECORD OF VOTES**

Senators Barrientos, Bernsen, Gallegos, Shapleigh, West, and Whitmire asked to be recorded as voting "Nay" on the passage of the bill to third reading.

**COMMITTEE SUBSTITUTE  
HOUSE BILL 1341 ON THIRD READING**

Senator Fraser moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 1341** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 24, Nays 6.

Yeas: Armbrister, Bivins, Brown, Cain, Carona, Duncan, Ellis, Fraser, Harris, Haywood, Jackson, Lindsay, Lucio, Madla, Moncrief, Nelson, Nixon, Ogden, Ratliff, Shapiro, Sibley, Truan, Wentworth, Zaffirini.

Nays: Barrientos, Bernsen, Gallegos, Shapleigh, West, Whitmire.

Absent-excused: Luna.

**CSHB 1341** was read third time and was passed by a viva voce vote.

**RECORD OF VOTES**

Senators Barrientos, Bernsen, Gallegos, Shapleigh, West, and Whitmire asked to be recorded as voting "Nay" on the final passage of the bill.

**COMMITTEE SUBSTITUTE  
SENATE BILL 1878 ON SECOND READING**

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

**CSSB 1878**, Relating to the allocation of certain constitutional funds to certain institutions of higher education.

The bill was read second time.

Senator Shapleigh offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **CSSB 1878** on lines 2-5 to add the word "Campuses" after the word "Center."

The amendment was read and was adopted by a viva voce vote.

On motion of Senator Duncan and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to engrossment by a viva voce vote.

**COMMITTEE SUBSTITUTE  
SENATE BILL 1878 ON THIRD READING**

Senator Duncan moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1878** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Luna.

**CSSB 1878** was read third time and was passed by a viva voce vote.

**HOUSE BILL 2066 ON SECOND READING**

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

**HB 2066**, Relating to regulation of bank holding companies in an interstate banking and branching environment, the authorization of interstate operations of financial institutions in accordance with the requirements of federal law, and the enhancement of state bank and trust company charters for the interstate banking and branching environment.

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

**HOUSE BILL 2066 ON THIRD READING**

Senator Fraser moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2066** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Luna.

**HB 2066** was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

**COMMITTEE SUBSTITUTE  
SENATE BILL 313 ON SECOND READING**

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

**CSSB 313**, Relating to the number of authorized defense projects within a defense readjustment zone.

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

**COMMITTEE SUBSTITUTE  
SENATE BILL 313 ON THIRD READING**

Senator Madla moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 313** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Luna.

**CSSB 313** was read third time and was passed by a viva voce vote.

**HOUSE BILL 2768 ON SECOND READING**

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

**HB 2768**, Relating to the issuance of special license plates for passenger cars and light trucks owned by or used for the transportation of veterans with disabilities.

The bill was read second time.

Senator Shapleigh offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **HB 2768** as follows:

In SECTION 1 of the bill, amend Section 502.254, Transportation Code, in subsection (a) by striking "one or more" and replacing it with "two".

The amendment was read and was adopted by a viva voce vote.

On motion of Senator Shapleigh and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading by a viva voce vote.

**HOUSE BILL 2768 ON THIRD READING**

Senator Shapleigh moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2768** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Luna.

**HB 2768** was read third time and was passed by a viva voce vote.

**MOTION TO PLACE  
COMMITTEE SUBSTITUTE  
HOUSE BILL 801 ON SECOND READING**

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

**CSHB 801**, Relating to public participation in certain environmental permitting procedures of the Texas Natural Resource Conservation Commission.

### POINT OF ORDER

Senator Truan raised a point of order against further consideration of **CSHB 801** stating that the committee substitute was not germane to the original bill.

On motion of Senator Truan and by unanimous consent, the point of order was withdrawn.

Question—Shall the regular order of business be suspended for **CSHB 801**?

On motion of Senator Armbrister and by unanimous consent, the motion to suspend the regular order of business was withdrawn.

### SENATE BILL 1780 ON SECOND READING

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

**SB 1780**, Relating to the creation of the high priority program fund to support vocational and technical education.

The bill was read second time.

Senator Fraser offered the following amendment to the bill:

#### Floor Amendment No. 1

Amend SECTION 1 of **SB 1780** on page 2, line 11 by adding the following after "by appropriations" and before "and by gifts, grants, and donations made for that purpose.":  
"if made, or by available funds."

The amendment was read and was adopted by a viva voce vote.

On motion of Senator Fraser and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to engrossment by a viva voce vote.

### SENATE BILL 1780 ON THIRD READING

Senator Fraser moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 1780** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Luna.

**SB 1780** was read third time and was passed by a viva voce vote.

(Senator Armbrister in Chair)

### SENATE BILL 730 WITH HOUSE AMENDMENTS

Senator Madla called **SB 730** 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 the engrossed version of **SB 730**, on page 2, line 13, by striking the word "attended" and inserting the words "successfully completed"

And, by adding a new Section 7, on page 7, line 18, that reads as follows:

"SECTION 7. Section 30(f), Texas Pharmacy Act (Article 4542a-1, Vernon's Texas Civil Statutes) (f) A separate license is required for each principal place of business, and only one pharmacy license may be issued to a specific location. Principal place of business means a location where a person distributes, dispenses, or possesses prescription drugs."

Renumbering subsequent sections accordingly.

### Floor Amendment No. 2

Amend **SB 730** as follows:

(1) In SECTION 2 of the bill, in Section 17(a), Texas Pharmacy Act (Article 4542a-1, Vernon's Texas Civil Statutes) (house committee printing, page 4, line 3), strike "of pharmacist-interns; and" and substitute the following:

of:

(A) pharmacist-interns; and

(B) pharmacy technicians; and

(2) In SECTION 5 of the bill, in Section 28(b), Texas Pharmacy Act (Article 4542a-1, Vernon's Texas Civil Statutes) (house committee printing, page 6, line 7), strike "license or" and substitute "license, ~~or~~".

(3) In SECTION 5 of the bill, in Section 28(b), Texas Pharmacy Act (Article 4542a-1, Vernon's Texas Civil Statutes) (house committee printing, page 6, line 8), between "pharmacy" and "in" insert ", or pharmacy technician registration".

(4) In SECTION 8 of the bill (house committee printing, page 8, between lines 18 and 19), insert a new Subsection (d) to read as follows:

(d) Section 20A, Texas Pharmacy Act (Article 4542a-1, Vernon's Texas Civil Statutes), as added by this Act, takes effect January 1, 2001. Section 20B, Texas Pharmacy Act (Article 4542a-1, Vernon's Texas Civil Statutes), as added by this Act, takes effect September 1, 2001.

(5) Insert the following appropriately numbered SECTIONS of the bill and renumber the remaining SECTIONS as appropriate:

SECTION \_\_\_\_ . Section 17(o), Texas Pharmacy Act (Article 4542a-1, Vernon's Texas Civil Statutes), is amended to read as follows:

(o) The board:

(1) shall establish rules for the use of pharmacy technicians and the duties of those technicians in pharmacies licensed by the board, provided that those technicians are responsible to and directly supervised by a pharmacist licensed by the board;

(2) [~~provided however that the board~~] may not adopt rules or regulations establishing ratios of pharmacists to pharmacy technicians in Class C pharmacies; [~~and~~]

(3) shall [~~(2) may~~] determine and issue standards for recognition and approval of training programs for pharmacy technicians; and

(4) shall maintain a list of board-approved training programs that meet the standards under Subdivision (3) of this subsection.

SECTION \_\_. The Texas Pharmacy Act (Article 4542a-1, Vernon's Texas Civil Statutes) is amended by adding Sections 20A and 20B to read as follows:

Sec. 20A. QUALIFICATIONS AND SUPERVISION OF PHARMACY TECHNICIANS; RULES. (a) In establishing rules under Section 17(o) of this Act, the board shall require that a pharmacy technician:

(1) have a high school diploma or a high school equivalency certificate or be working to achieve an equivalent diploma or certificate; and

(2) have passed a board-approved pharmacy technician certification examination.

(b) The board may allow a technician to petition the board for a special exemption from the technician certification requirement if the technician:

(1) is in a county with a population of less than 50,000; or

(2) on September 1, 2001, has been employed as a pharmacy technician in this state for at least 10 years and the technician's employer approves the petition.

(c) The board shall adopt rules that permit a pharmacy technician to perform only nonjudgmental technical duties under the direct supervision of a pharmacist.

Sec. 20B. PHARMACY TECHNICIAN REGISTRATION REQUIRED. (a) A pharmacy technician must register with the board annually or biennially, as determined by board rule, on a form prescribed by the board.

(b) The board may refuse to issue or renew a registration or may suspend or revoke any registration issued by the board if the board determines that the applicant or registrant has:

(1) violated this Act or a rule adopted under this Act;

(2) engaged in gross immorality as that term is defined by the rules of the board;

(3) engaged in any fraud, deceit, or misrepresentation, as those terms are defined by the rules of the board, in seeking a registration to act as a pharmacy technician;

(4) been convicted of a misdemeanor involving moral turpitude or a felony;

(5) a drug or alcohol dependency;

(6) violated the Texas Controlled Substances Act (Chapter 481, Health and Safety Code) or Texas Dangerous Drug Act (Chapter 483, Health and Safety Code) or rules relating to those acts, Sections 485.031-485.035, Health and Safety Code, or a rule adopted under Section 485.011, Health and Safety Code;

(7) violated the pharmacy or drug laws or rules of this state, another state, or the United States; or

(8) had a registration as a pharmacy technician issued by another state revoked, surrendered, or suspended for conduct substantially equivalent to conduct described in Subdivisions (1) through (6) of this subsection.

(c) a certified copy of the record of a state taking action described by Subsection (b)(8) of this section is conclusive evidence of the action taken by the state.

(d) The board may adopt a system in which the registrations of pharmacy technicians expire on various dates during the year.

(e) The board may adopt fees as necessary for the registration of pharmacy technicians.

SECTION \_\_. The Texas Pharmacy Act (Article 4542a-1, Vernon's Texas Civil Statutes) is amended by adding Section 42 to read as follows:

Sec. 42. DUTY OF PROFESSIONAL LIABILITY INSURER TO REPORT. (a) Every insurer or other entity providing pharmacist's professional liability insurance, pharmacy technician professional and supplemental liability insurance, or druggist's professional liability insurance covering a pharmacist, pharmacy technician, or pharmacy license holder in this state shall submit to the board the information described in Subsections (b) and (c) of this section at the time prescribed. The information shall be provided with respect to a notice of claim letter or complaint filed against an insured in a court, if the notice or complaint seeks damages relating to the insured's conduct in providing or failing to provide appropriate service within the scope of pharmaceutical care or services, and with respect to settlement of a claim or lawsuit made on behalf of the insured. If a pharmacist, pharmacy technician, or a pharmacy licensed in this state does not carry or is not covered by pharmacist's professional liability insurance, pharmacy technician professional and supplemental liability insurance, or druggist's professional liability insurance and is insured by a nonadmitted carrier or other entity providing pharmacy professional liability insurance that does not report under this Act, the duty to report information under Subsections (b) and (c) of this section is the responsibility of the pharmacist, pharmacy technician, or pharmacy license holder.

(b) The following information must be furnished to the board not later than the 30th day after receipt by the insurer of the notice of claim letter or complaint from the insured:

(1) the name of the insured and the insured's Texas pharmacy technician registration number or pharmacist or pharmacy license number;

(2) the policy number; and

(3) a copy of the notice of claim letter or complaint.

(c) The board shall, in consultation with the Texas Department of Insurance, adopt rules for reporting additional information as the board may require. Other claim reports required under state and federal law shall be considered in determining the information to be reported, the form of the report, and frequency of reporting under the rules. Additional information that the board may require may include:

(1) the date of any judgment, dismissal, or settlement; and

(2) whether an appeal has been taken and by which party.

(d) An insurer reporting under this section, its agents or employees, or the board or its employees or representatives are not liable for damages in a suit brought by any person or entity for reporting as required by this section or for any other action taken under this section.

(e) Information submitted to the board under this section and the fact that the information has been submitted to the board may not be:

(1) offered in evidence or used in any manner in the trial of a suit described in this section; or

(2) used in any manner to determine the eligibility or credentialing of a pharmacy to participate in a health insurance plan defined by the Insurance Code.

(f) Information submitted under this section is confidential and is not subject to disclosure under Chapter 552, Government Code. The board shall adopt rules to ensure the confidentiality of information submitted under this section.



(g) The board shall review the information relating to a pharmacist, pharmacy technician, or pharmacy license holder against whom at least three professional liability claims have been reported within a five-year period in the same manner as if a complaint against the pharmacist, pharmacy technician, or pharmacy license holder had been made under Section 17A of this Act.

(h) The Texas Department of Insurance may impose on any insurer subject to this Act sanctions authorized by Section 7, Article 1.10, Insurance Code, if the insurer fails to report information as required by this section.

The amendments were read.

Senator Madla 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.

The Presiding Officer, Senator Armbrister in Chair, asked if there were any motions to instruct the conference committee on **SB 730** before appointment.

There were no motions offered.

The Presiding Officer announced the appointment of the following conferees on the part of the Senate on the bill: Senators Madla, Chair; Lindsay, Harris, Nixon, and Lucio.

### **SENATE BILL 746 WITH HOUSE AMENDMENT**

Senator Shapleigh called **SB 746** 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 746** by substituting in lieu thereof the following:

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

relating to student fees at The University of Texas at El Paso.

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

**SECTION 1.** Section 54.503(b), Education Code, is amended to read as follows:

(b) The governing board of an institution of higher education may charge and collect from students registered at the institution fees to cover the cost of student services. The fee or fees may be either voluntary or compulsory as determined by the governing board. The total of all compulsory student services fees collected from a student at an institution of higher education other than The University of Texas at Austin or a component institution of the University of Houston System for any one semester or summer session shall not exceed \$150. If approved by a majority vote of those students participating in a general election called for that purpose, the total of all compulsory student services fees that may be collected from a student at The University of Texas at El Paso may be increased to an amount not exceed \$250. Approval at the election of an increase in the total fees that may be collected from a

student at The University of Texas at El Paso does not affect the application of Subsection (f) to an increase in the total fees actually charged from one year to the next. All compulsory student services fees charged and collected under this section by the governing board of an institution of higher education, other than a public junior college, shall be assessed in proportion to the number of semester credit hours for which a student registers. No portion of the compulsory fees collected may be expended for parking facilities or services, except as related to providing shuttle bus services.

SECTION 2. Section 54.535(a), Education Code, is amended to read as follows:

(a) The board of regents of The University of Texas System may levy a student union fee not to exceed \$30 per student for each regular semester or each summer session of six weeks or more, and not to exceed \$15 per student for each ~~[term of the]~~ summer session of less than six weeks, for the sole purpose of financing, constructing, operating, maintaining, and improving a student union building for The University of Texas at El Paso; provided, however, that the fee may not be increased above \$15 per student for each regular semester or each summer session of six weeks or more and \$7.50 per student for each ~~[term of the]~~ summer session of less than six weeks unless the increase is approved by a majority vote of those students participating in a general election. The fees herein authorized to be levied are in addition to any use or service fee now or hereafter authorized to be levied.

SECTION 3. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

The amendment was read.

Senator Shapleigh moved to concur in the House amendment to **SB 746.**

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Luna.

**(Senator Sibley in Chair)**

### **SENATE BILL 940 WITH HOUSE AMENDMENT**

Senator Armbrister called **SB 940** 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 940** (Senate engrossment) in Section 2 of the bill, as follows:

(1) Immediately following the last sentence of the section (page 1, line 12), add the following:

Beginning with that semester, an increase in the fee imposed under Section 54.511, Education Code, takes effect only if the fee increase is approved by a vote of the students as required by Section 54.511(b), as amended by this Act.

The amendment was read.

Senator Armbrister moved to concur in the House amendment to **SB 940**.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Luna.

### **SENATE BILL 1058 WITH HOUSE AMENDMENT**

Senator Carona called **SB 1058** 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 1058** as follows:

(1) Strike the heading to Article 3 of the bill and all of Section 3.01 of the bill and substitute:

SECTION 2.46. Subchapter A, Chapter 2A, Business & Commerce Code, is amended by adding Section 2A.110 to read as follows:

Sec. 2A.110. DIGITAL SIGNATURE. (a) A written electronic communication sent from within or received in this state in connection with a transaction governed by this chapter is considered signed if a digital signature is transmitted with the communication.

(b) This section does not preclude any symbol from being valid as a signature under other applicable law, including Section 1.201(39).

(c) The use of a digital signature under this section is subject to criminal laws pertaining to fraud and computer crimes, including Chapters 32 and 33, Penal Code.

(d) In this section "digital signature" means an electronic identifier intended by the person using it to have the same force and effect as the use of a manual signature.

SECTION 2.47. Section 9.203, Business & Commerce Code, is amended by adding Subsection (f) to read as follows:

(f) A written electronic security agreement sent from within or received in this state in connection with a transaction governed by this chapter is considered signed if a digital signature is transmitted with the communication. This subsection does not preclude any symbol from being valid as a signature under other applicable law, including Section 1.201(39). The use of a digital signature under this subsection is subject to criminal laws pertaining to fraud and computer crimes, including Chapters 32 and 33, Penal Code. In this subsection "digital signature" means an electronic identifier intended by the person using it to have the same force and effect as the use of a manual signature.

#### **ARTICLE 3. EFFECTIVE DATE; TRANSITION; EMERGENCY**

SECTION 3.01. EFFECTIVE DATES. (a) Except as provided by Subsection (b) of this section, this Act takes effect July 1, 2001.

(b) Section 2A.110 and Subsection (f), Section 9.203, Business & Commerce Code, as added by this Act, take effect immediately.

(2) Strike SECTION 3.10 of the bill and substitute:

SECTION 3.10. EMERGENCY. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an

imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force according to its terms, and it is so enacted.

The amendment was read.

Senator Carona moved to concur in the House amendment to **SB 1058**.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Luna.

### **SENATE BILL 601 WITH HOUSE AMENDMENT**

Senator Moncrief called **SB 601** 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 601** 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 to create a municipal court technology fund and to require certain defendants to pay court costs for deposit in the fund.

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

SECTION 1. Subchapter A, Chapter 102, Code of Criminal Procedure, is amended by adding Article 102.0172 to read as follows:

Art. 102.0172. COURT COSTS; MUNICIPAL COURT TECHNOLOGY FUND. (a) The governing body of a municipality by ordinance may create a municipal court technology fund and may require a defendant convicted of a misdemeanor offense in a municipal court or municipal court of record to pay a technology fee not to exceed \$4 as a cost of court.

(b) In this article, a person is considered convicted if:

(1) a sentence is imposed on the person;

(2) the person is placed on community supervision, including deferred adjudication community supervision; or

(3) the court defers final disposition of the person's case.

(c) The municipal court clerk shall collect the costs and pay the funds to the municipal treasurer, or to any other official who discharges the duties commonly delegated to the municipal treasurer, for deposit in a fund to be known as the municipal court technology fund.

(d) A fund designated by this article may be used only to finance the purchase of technological enhancements for a municipal court or municipal court of record, including:

(1) computer systems;

(2) computer networks;

(3) computer hardware;

- (4) computer software;
- (5) imaging systems;
- (6) electronic kiosks;
- (7) electronic ticket writers; and
- (8) docket management systems.

(e) The municipal court technology fund shall be administered by or under the direction of the governing body of the municipality.

(f) This article expires September 1, 2005.

SECTION 2. The change in law made by this Act applies only to a cost on conviction for an offense committed on or after the effective date of this Act. A cost on conviction for 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 3. This Act takes effect September 1, 1999.

SECTION 4. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The amendment was read.

On motion of Senator Moncrief, the Senate concurred in the House amendment to **SB 601** by a viva voce vote.

### **SENATE BILL 1735 WITH HOUSE AMENDMENTS**

Senator Zaffirini called **SB 1735** 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 1735** by substituting in lieu thereof the following:

#### A BILL TO BE ENTITLED AN ACT

relating to the appointment and duties of associate judges and child support masters.

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

SECTION 1. Subsection (e), Section 201.001, Family Code, is amended to read as follows:

(e) This section does not apply to a master appointed under Subchapter B or an associate judge appointed under Subchapter C.

SECTION 2. Subsection (d), Section 201.003, Family Code, is amended to read as follows:

(d) This section does not apply to a master appointed under Subchapter B or an associate judge appointed under Subchapter C.

SECTION 3. Subsection (d), Section 201.004, Family Code, is amended to read as follows:

(d) This section does not apply to a master appointed under Subchapter B or an associate judge appointed under Subchapter C.

SECTION 4. Subsections (c), (d), and (e), Section 201.005, Family Code, are amended to read as follows:

(c) A party must file an objection to an associate judge hearing a trial on the merits or presiding at a jury trial not later than the 10th day after the date the party receives notice that the associate judge will hear the trial. If an objection is filed, the referring court shall hear the trial on the merits or preside at a jury trial.

(d) ~~The requirements of Subsections (b) and (c) shall apply whenever a judge has authority to refer the trial of a suit under this title, Title 1, or Title 4 to an associate judge, master, or other assistant judge regardless of whether the assistant judge is appointed under this subchapter. [Unless all parties consent in writing to an associate judge hearing a contested trial on the merits to terminate parental rights, the court may not refer the trial to the associate judge. If the parties do not consent in writing to the associate judge conducting the trial on the merits to terminate parental rights, any order terminating parental rights rendered under an associate judge's report is void.~~

~~[(e) If a jury trial is demanded and a jury fee paid in a trial on the merits, the associate judge shall refer any matters requiring a jury back to the referring court for a trial before the referring court and jury.]~~

SECTION 5. Section 201.007, Family Code, is amended to read as follows:

Sec. 201.007. 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) order the attachment of a witness or party who fails to obey a subpoena;
- (13) order the detention of a witness or party found guilty of contempt, pending approval by the referring court as provided by Section 201.013; and
- (14) take action as necessary and proper for the efficient performance of the associate judge's duties.

(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.

SECTION 6. Section 201.009, Family Code, is amended to read as follows:

Sec. 201.009. COURT REPORTER. (a) A court reporter may be provided [is not required] during a hearing held by an associate judge appointed under this chapter. A court reporter is required to be provided when the associate judge presides over a jury trial or a final termination hearing.

(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) The record may be preserved in the absence of a court reporter by any other means approved by the associate judge.

(d) The referring court or associate judge may tax the expense of preserving the record under Subsection (c) as costs.

(e) On appeal of the associate judge's report or proposed order, 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 201.015.

SECTION 7. Subsections (a), (b), (c), and (e), Section 201.011, Family Code, are amended to read as follows:

(a) The associate judge's report may contain the associate judge's findings, conclusions, or recommendations, including a proposed order. The associate judge's report must be in writing in the form directed by the referring court. The form may be a notation on the referring court's docket sheet.

(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. The notice may be given in the form of a 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, including any proposed order; or

(2) by certified mail, return receipt requested.

(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 8. Section 201.013, Family Code, is amended by amending Subsection (a) and adding Subsection (c) to read as follows:

(a) Pending appeal of the associate judge's report, including any proposed order, to the referring court, the decisions and recommendations of the associate judge are in full force and effect and are enforceable as an order of the referring court, except for orders providing [~~for incarceration or~~] for the appointment of a receiver.

(c) An order by an associate judge for the temporary detention or incarceration of a witness or party shall be presented to the referring court on the day the witness or party is detained or incarcerated. The referring court, without prejudice to the right of appeal provided by Section 201.015, may approve the temporary detention or incarceration or may order the release of the party or witness, with or without bond, pending appeal. If the referring court is not immediately available, the associate judge may order the release of the party or witness, with or without bond, pending appeal or may continue the person's detention or incarceration for not more than 72 hours.

SECTION 9. Section 201.014, Family Code, is amended to read as follows:

Sec. 201.014. JUDICIAL ACTION ON ASSOCIATE JUDGE'S REPORT. Unless a party files a written notice of appeal, the referring court may:

(1) adopt, modify, or reject the associate judge's report, including any proposed order;

(2) hear further evidence; or

(3) recommit the matter to the associate judge for further proceedings.

SECTION 10. Section 201.015, Family Code, is amended by amending Subsection (c) and adding Subsections (h) and (i) to read as follows:

(c) On appeal to the referring court, the parties may present witnesses as in a hearing de novo on the issues raised in the appeal. The 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.

(h) Denial of an appeal under this section or waiver of the right to appeal to 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 on appeal of an associate judge's report, including any proposed order, resulting from a jury trial.

SECTION 11. Subsection (b), Section 201.102, Family Code, is amended to read as follows:

(b) Except as provided by this subchapter, the [following] provisions of Subchapter A relating to an associate judge apply to a master appointed under this subchapter[:

- ~~[(1) the appearance of a party or witness before an associate judge;~~
- ~~[(2) the papers transmitted to the judge by the associate judge;~~
- ~~[(3) judicial action taken on an associate judge's report;~~
- ~~[(4) hearings before the judge;~~
- ~~[(5) an appeal;~~
- ~~[(6) the effect of the associate judge's report pending an appeal;~~
- ~~[(7) a jury trial;~~
- ~~[(8) the attendance of a bailiff; and~~
- ~~[(9) the presence of a court reporter].~~

SECTION 12. Chapter 201, Family Code, is amended by adding Subchapter C to read as follows:

**SUBCHAPTER C. ASSOCIATE JUDGE FOR  
SUBSTITUTE CARE AND CHILD PROTECTIVE SERVICES CASES**

Sec. 201.201. AUTHORITY OF PRESIDING JUDGE. (a) The presiding judge of each administrative judicial region, after conferring with the judges of courts in the region having family law jurisdiction and a substitute care caseload, shall determine which courts require the appointment of a full-time or part-time associate judge to complete each case within the times specified in Chapters 262 and 263.

(b) The presiding judge may limit the appointment to a specified period and may terminate an appointment at any time.

(c) An associate judge appointed under this subchapter may be appointed to serve more than one court. Two or more judges of administrative judicial regions may jointly appoint one or more associate judges to serve the regions.

(d) If the presiding judge determines that a court requires an associate judge, the presiding judge shall appoint an associate judge. If an associate judge is appointed for a court, all substitute care cases shall be referred to the associate judge by a general order for each county issued by the judge of the court for which the associate judge is appointed or, in the absence of that order, by a general order issued by the presiding judge who appointed the associate judge.

(e) This section does not limit the jurisdiction of a court to issue orders under Chapter 262 or 263.

**Sec. 201.202. APPLICATION OF LAW GOVERNING ASSOCIATE JUDGES.**

(a) Except as provided by this subchapter, Subchapter A applies to an associate judge appointed under this subchapter.

(b) An associate judge may reside anywhere in the administrative judicial region in which the court to which the associate judge is appointed is located. An associate



judge appointed to serve in two or more administrative judicial regions may reside anywhere in the regions.

Sec. 201.203. DESIGNATION OF HOST COUNTY. (a) Subject to the approval of the commissioners court of the proposed host county, the presiding judges of the administrative judicial regions by majority vote shall determine the host county of an associate judge appointed under this subchapter.

(b) The host county shall provide an adequate courtroom and quarters, including furniture, necessary utilities, and telephone equipment and service, for the associate judge and other personnel assisting the associate judge.

(c) An associate judge is not required to reside in the host county.

Sec. 201.204. GENERAL POWERS AND DUTIES OF ASSOCIATE JUDGE.

(a) On the motion of a party, an associate judge may refer a complex case back to the referring court for final disposition after recommending temporary orders for the protection of a child.

(b) An associate judge shall take testimony and make a record in a case as provided by this chapter.

Sec. 201.205. COMPENSATION OF ASSOCIATE JUDGE. (a) An associate judge appointed under this subchapter is entitled to a salary as determined by a majority vote of the presiding judges of the administrative judicial regions. The salary may not exceed 90 percent of the salary paid to a district judge as set by the state General Appropriations Act.

(b) The associate judge's salary shall be paid from county funds available for payment of officers' salaries subject to the approval of the commissioners court or from funds available from the state and federal governments as provided in Section 201.207.

Sec. 201.206. PERSONNEL. (a) The presiding judge of an administrative judicial region or the presiding judges of the administrative judicial regions, by majority vote, may appoint personnel as needed to implement and administer the provisions of this subchapter.

(b) The salary of the personnel shall be paid from county funds available for payment of officers' salaries subject to the approval of the commissioners court or from funds available from the state and federal governments as provided by Section 201.207.

Sec. 201.207. STATE AND FEDERAL FUNDS; PERSONNEL. (a) The office of court administration may contract for available state and federal funds from any source and may employ personnel needed to implement and administer this subchapter. An associate judge and other personnel appointed under this subsection are state employees for all purposes, including accrual of leave time, insurance benefits, retirement benefits, and travel regulations.

(b) The presiding judges of the administrative judicial regions, state agencies, and counties may contract for available federal funds from any source to reimburse costs and salaries associated with associate judges and personnel appointed under this section and may also use available state funds and public or private grants.

(c) The presiding judges and the office of court administration in cooperation with other agencies shall take action necessary to maximize the amount of federal money available to fund the use of associate judges under this subchapter.

Sec. 201.208. APPOINTMENT OF ASSOCIATE JUDGE FOR CHILD PROTECTION CASES. (a) The presiding judge of an administrative judicial region may appoint an associate judge for a court handling child protection cases.

(b) This chapter does not limit the authority of a presiding judge to appoint visiting or retired judges to assist in processing cases in a reasonable time.

SECTION 13. Section 201.1085, Family Code, as added by Chapter 600, Acts of the 75th Legislature, Regular Session, 1997, and Section 201.1085, Family Code, as added by Chapter 1022, Acts of the 75th Legislature, Regular Session, 1997, are repealed.

SECTION 14. This Act takes effect September 1, 1999.

SECTION 15. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

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

Amend **CSSB 1735** by adding the following appropriately numbered section and renumbering the sections of the bill as appropriate:

SECTION \_\_. Section 56.54, Code of Criminal Procedure, is amended by adding Subsection (j) to read as follows:

(j) The legislature may appropriate money in the compensation to victims of crime fund to administer the associate judge program under Subchapter C, Chapter 201, Family Code.

The amendments were read.

On motion of Senator Zaffirini, the Senate concurred in the House amendments to **SB 1735** by a viva voce vote.

### **SENATE BILL 843 WITH HOUSE AMENDMENT**

Senator Carona called **SB 843** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer, Senator Sibley in Chair, laid the bill and the House amendment before the Senate.

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

Amend **SB 843** in Section 321.3022(a), Tax Code, as amended by the bill (Engrossed Version, page 1, line 8), by striking "not more than 100,000" and substituting "not more than 275,000".

The amendment was read.

Senator Carona moved to concur in the House amendment to **SB 843**.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Luna.

### **SENATE BILL 196 WITH HOUSE AMENDMENT**

Senator Madla called **SB 196** 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 196** as follows:

(1) In SECTION 3 of the bill, in Section 252.065(b), Health and Safety Code (house committee printing, page 2, lines 18-25), strike lines 18-25 and substitute the following:

"(b) The penalty for a facility with less than 60 beds shall be not less than \$100 or more than \$1,000 for each violation. The penalty for a facility with 60 beds or more shall be not less than \$100 or more than \$5,000 for each violation. The total amount of the penalty assessed for a violation continuing or occurring on separate days under this subsection may not exceed \$5,000 for a facility with less than 60 beds or \$25,000 for a facility with 60 beds or more. Each day a violation occurs or continues is a separate violation for purposes of imposing a penalty. [The department by rule shall".

(2) In SECTION 3 of the bill, in Section 252.065, Health and Safety Code (house committee printing, page 4, line 16), strike "implemented" and substitute "implemented. This subsection does not apply to a violation that the department determines has resulted in serious harm to or the death of a resident or constitutes a serious threat to the health or safety of a resident"

(3) In SECTION 3 of the bill, in Section 252.065, Health and Safety Code (house committee printing, page 5, between lines 12 and 13), insert Subsection (k) to read as follows:

(k) Rules adopted under this section shall include specific, appropriate, and objective criteria that describe the scope and severity of a violation that results in a recommendation for each specific penalty.

(4) Insert the following appropriately numbered SECTION of the bill and renumber the remaining SECTIONS as appropriate:

SECTION \_\_\_. Subchapter B, Chapter 252, Health and Safety Code, is amended by adding Section 252.0651 to read as follows:

Sec. 252.0651. APPLICATION OF OTHER LAW. The department may not assess more than one monetary penalty under this chapter for a violation arising out of the same act or failure to act.

The amendment was read.

On motion of Senator Madla, the Senate concurred in the House amendment to **SB 196** by a viva voce vote.

### **SENATE BILL 135 WITH HOUSE AMENDMENT**

Senator Brown called **SB 135** 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 135** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED  
AN ACT

relating to the creation of a county court at law in Fort Bend County.

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

SECTION 1. Section 25.0811, Government Code, is amended to read as follows:

Sec. 25.0811. FORT BEND COUNTY. Fort Bend County has the following statutory county courts:

- (1) County Court at Law No. 1 of Fort Bend County;
- (2) County Court at Law No. 2 of Fort Bend County; ~~and~~
- (3) County Court at Law No. 3 of Fort Bend County; and
- (4) County Court at Law No. 4 of Fort Bend County.

SECTION 2. County Court at Law No. 4 of Fort Bend County is created and this Act takes effect January 1, 2001.

SECTION 3. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The amendment was read.

On motion of Senator Brown, the Senate concurred in the House amendment to **SB 135** by a viva voce vote.

**SENATE BILL 354 WITH HOUSE AMENDMENT**

Senator Madla called **SB 354** 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 354** by adding the following appropriately numbered SECTION to the bill and renumbering the remaining SECTIONS as appropriate:

SECTION \_\_\_\_. (a) The Center for Rural Health Initiatives shall conduct a study on the establishment of a visiting physician program to provide temporary relief to rural physicians. The study must include an assessment of:

- (1) the need for and potential utilization of a visiting physician program;
- (2) the methods to provide primary care on-site to patients in rural areas when a rural physician is away from the physician's practice for a short period of time to attend continuing medical education classes or for other reasons; and
- (3) the factors required to implement a visiting physician program, including the required training for visiting physicians, insurance requirements, reimbursement for services and expenses, and other factors that would affect the successful implementation of the program.

(b) The Center for Rural Health Initiatives shall actively seek the participation of and relevant information from public medical schools, health science centers, professional physician associations, and practicing rural physicians.

(c) Not later than November 1, 2000, the Center for Rural Health Initiatives shall report the results of the study to the presiding officers of the house of representatives and senate and to the standing committees of the house of representatives and senate that have primary jurisdiction over the Center for Rural Health Initiatives.

The amendment was read.

On motion of Senator Madla, the Senate concurred in the House amendment to **SB 354** by a viva voce vote.

### **SENATE BILL 569 WITH HOUSE AMENDMENT**

Senator Nelson called **SB 569** from the President's table for consideration of the House amendment to the bill.

The Presiding Officer, Senator Sibley in Chair, laid the bill and the House amendment before the Senate.

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

Amend **SB 569** to read as follows:

In the second sentence of Subsection (o), delete the phrase "of such records as are necessary to demonstrate policy coverage" and insert the phrase "of a patient's medical record summary."

The amendment was read.

On motion of Senator Nelson, the Senate concurred in the House amendment to **SB 569** by a viva voce vote.

### **CONFERENCE COMMITTEE ON HOUSE BILL 1193**

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 1193** and moved that the request be granted.

The motion prevailed.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 1193** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate on the bill: Senators Harris, Chair; Madla, Barrientos, Armbrister, and Cain.

### **MEMORIAL RESOLUTION**

**SCR 82** - by Duncan: In memory of Sara Anne English, Margaret Nell "Meg" Flynn, Sarah N. Johnson, Talitha Denita Beeman, Astyn Lee Qubty, and Heather Nicole Bauman, all of Lubbock.

### **ADJOURNMENT**

On motion of Senator Truan, the Senate at 1:14 p.m. adjourned, in memory of Jose Montemayor Chapa of Laredo, until 10:00 a.m. tomorrow.

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**APPENDIX**

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**COMMITTEE REPORTS**

The following committee reports were received by the Senate:

May 14, 1999

STATE AFFAIRS — **HB 1699, HB 2408**

JURISPRUDENCE — **HB 2135, HB 1852, HB 1176, HB 2869, HB 3786, HB 3630, HB 351, HB 955, HB 2574, HB 1805**

FINANCE — **HJR 4, HB 550, HB 598, HB 703, HB 2269, HB 2371, HB 2429, HB 3032, HB 3084, HB 3623**

INTERGOVERNMENTAL RELATIONS — **HB 2281, HB 2009**

STATE AFFAIRS — **HB 2824, HB 3642**

CRIMINAL JUSTICE — **HB 1428, HB 1896, HB 302, HB 998, HB 1798, HB 947, HB 1907, HB 1802**

STATE AFFAIRS — **HB 3009**

EDUCATION — **HB 2202, HB 1702, HB 3420, HB 3653, HB 1678, CSSB 1535**

STATE AFFAIRS — **HB 3206, HB 1248, HB 1510**

CRIMINAL JUSTICE — **HB 3229, HB 1153, HB 3765, HB 2231, HB 2978, HB 163, HB 1140**

STATE AFFAIRS — **HB 3685, HB 2276, HB 3342**

ECONOMIC DEVELOPMENT — **HB 2941, HB 1700, HB 3021, HB 3016**

EDUCATION — **HB 98**

ECONOMIC DEVELOPMENT — **HB 2853, HB 1916, HB 3596, HB 2585, HB 1357**

STATE AFFAIRS — **HB 3328**

ECONOMIC DEVELOPMENT — **HB 1811, HB 3658**

STATE AFFAIRS — **HB 2032, HB 2031**

ECONOMIC DEVELOPMENT — **HB 1184**

STATE AFFAIRS — **HB 3257, HB 3178, HB 3704**

ECONOMIC DEVELOPMENT — **HB 3059, HB 2781, HB 729**

STATE AFFAIRS — **HB 2057, HB 1933**

ECONOMIC DEVELOPMENT — **HB 1826, HB 2022**

CRIMINAL JUSTICE — **HB 244, HB 1321, HB 3457, HB 943, HB 2968, HB 628, HB 3355, HB 3215**