

# SEVENTY-FIFTH DAY

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THURSDAY, MAY 17, 2001

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## PROCEEDINGS

The Senate met at 9:00 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, Ogden, Shapiro, Shapleigh, Sibley, Staples, Truan, Van de Putte, Wentworth, West, Whitmire, Zaffirini, Mr. President.

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

Rabbi Peter S. Berg, Temple Emanu-El, Dallas, offered the invocation as follows:

If we are weary, give us strength; if we are discouraged, give us hope. If we have forgotten the meaning of justice and equality, remind us; if we have been careless of time, forgive us. If our hearts have been chilled by indifference, warm them with mercy. Help us today to convert our convictions into conduct and commitment. Teach us to narrow the gap between our principles and our practices, between our aspirations and our actions. And keep us from blaming others for our own character faults. Better us so that we may face our defeats with courage and carry our successes with humility. And keep us from the pride that blinds the mind and from the anger that locks the heart. Make us loyal to our convictions in the face of falsehood; but help us to speak the truth in love. As we set out on our sacred journey, may we each be blessed like Abraham and Sarah. Be a blessing to the community you live in; be a blessing to your friends and family; be a blessing to each other. Amen.

(Rabbi Sidney Greenberg)

On motion of Senator Truan and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal was approved.

**MESSAGE FROM THE HOUSE****HOUSE CHAMBER**

Austin, Texas

May 17, 2001

The Honorable President of the Senate  
Senate Chamber  
Austin, Texas

Mr. President:

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

**THE HOUSE HAS PASSED THE FOLLOWING MEASURES:**

**SB 82**, Relating to courses offered by a public junior college for joint high school and junior college credit.

(Amended)

**SB 108**, Relating to the first day of instruction of a school year for public school students.

(Committee Substitute/Amended)

**SB 113**, Relating to vehicle passenger safety systems; providing criminal penalties.

(Amended)

**SB 115**, Relating to creating a foundation to finance health programs in the rural areas of the state.

(Amended)

**SB 158**, Relating to counseling public school students regarding higher education.

(Amended)

**SB 177**, Relating to electronic monitoring devices in the rooms of residents of convalescent or nursing homes or related institutions; providing a criminal penalty.

(Committee Substitute)

**SB 215**, Relating to the punishment for the offense of evading arrest or detention.

(Amended)

**SB 218**, Relating to a financial accountability rating system for school districts.

(Amended)

**SB 272**, Relating to interest charges and other costs of certain loans.

(Amended)

**SB 355**, Relating to a nursing home resident's right to informed consent regarding the prescription of certain drugs.

(Amended)

**SB 429**, Relating to the funding and administration of certain activities of the Council on Workforce and Economic Competitiveness.

**SB 507**, Relating to residential subdivisions that require membership in a property owners' association.

(Committee Substitute/Amended)

**SB 535**, Relating to the continuation and functions of the Texas Department on Aging.

**SB 584**, Relating to the frequency with which a person may take an examination administered by the Texas Board of Professional Land Surveying.

**SB 588**, Relating to the functions of a municipal or county cultural education facilities finance corporation.  
(Amended)

**SB 591**, Relating to the execution of certain writs in an action to determine possession of certain leased premises.

**SB 596**, Relating to prekindergarten programs for public school students.

**SB 768**, Relating to the regulation of the practice of pharmacy and the dispensing of certain drugs.  
(Committee Substitute/Amended)

**SB 772**, Relating to requiring the Texas Department of Human Services to establish criteria for designating nursing facility operators with excellent operating records as eligible to acquire a license to operate another existing nursing facility on an expedited basis.

**SB 850**, Relating to benefits for certain disabled peace officers.

**SB 940**, Relating to the establishment of the Joint Admission Medical Program to assist certain economically disadvantaged students in preparing for and succeeding in medical school.

**SB 962**, Relating to a pilot project to address the need for more child protective services workers in certain regions of the state.

**SB 1262**, Relating to the authority of an officer to return stolen property to its owner.

**SB 1475**, Relating to the abolition of the Children's Trust Fund of Texas Council and to the transfer of its powers and duties to the Department of Protective and Regulatory Services.  
(Amended)

**SB 1561**, Relating to the acceptance by the Texas Natural Resource Conservation Commission of certain emissions reductions in exchange for other emissions reductions.

**SB 1671**, Relating to the issuance of bonds by school districts for the purchase of school buses.

**SCR 50**, Encouraging school districts to develop and implement dual language bilingual programs.

**SJR 16**, Proposing a constitutional amendment creating the Texas Mobility Fund and authorizing grants and loans of money and issuance of obligations for financing the construction, reconstruction, acquisition, operation, and expansion of state highways, turnpikes, toll roads, toll bridges, and other mobility projects.  
(Committee Substitute)

Respectfully,

/s/Sharon Carter, Chief Clerk  
House of Representatives

**SENATE BILL 170 WITH HOUSE AMENDMENT**

Senator Wentworth called **SB 170** 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 170** in SECTION 1 of the bill as follows:

(1) In the heading to added Section 551.0035, Government Code, between "COMMITTEE" and "MEETING", insert "OR AGENCY" (house committee report, page 1, line 9).

(2) In added Subsection (a), Section 551.0035, Government Code, between "committee" and "of the legislature", insert "or agency" (house committee report, page 1, line 11).

(3) In added Subsection (a), Section 551.0035, Government Code, between "legislative committee" and "holding the meeting", insert "or agency" (house committee report, page 1, line 12).

(4) In added Subsection (b), Section 551.0035, Government Code, between "committee" and "of the legislature", insert "or agency" (house committee report, page 1, line 15).

(5) In added Subsection (b), Section 551.0035, Government Code, between "legislative committee" and the period, insert "or agency" (house committee report, page 1, line 20).

The amendment was read.

Senator Wentworth moved to concur in the House amendment to **SB 170**.

The motion prevailed by the following vote: Yeas 30, Nays 0, Present-not voting 1.

Present-not voting: Mr. President.

**SENATE BILL 649 WITH HOUSE AMENDMENT**

Senator Truan called **SB 649** 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 649** (House committee printing) as follows:

(1) In SECTION 1 of the bill, in added Section 17.992, Water Code (page 1, lines 18 and 19), strike "by rule shall" and substitute "may".

(2) In SECTION 1 of the bill, in added Section 17.992, Water Code (page 1, line 21), between "board" and the period, insert "if the board determines that training is necessary".

(3) In SECTION 1 of the bill, in added Section 17.994(a), Water Code (page 2, line 25), strike Subdivision (1) and renumber the subsequent subdivisions appropriately.

(4) In SECTION 1 of the bill, in added Section 17.994(a)(2), Water Code (page 3, line 1), between "Section" and "17.993(a)", insert "17.992 or".

The amendment was read.

On motion of Senator Truan, the Senate concurred in the House amendment to **SB 649** by a viva voce vote.

**SENATE BILL 1043 WITH HOUSE AMENDMENT**

Senator Duncan called **SB 1043** from the President's table for consideration of the House amendment to the bill.

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

**Amendment**

Amend **SB 1043** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED  
AN ACT

relating to creating a committee to appoint a poet laureate, a state musician, and state artists.

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

SECTION 1. Title 106, Revised Statutes, is amended by adding Article 6139k to read as follows:

Art. 6139k. POET LAUREATE, STATE MUSICIAN, AND STATE ARTISTS

Sec. 1. DESIGNATING A POET LAUREATE, A STATE MUSICIAN, AND STATE ARTISTS. (a) The Texas poet laureate, state musician, and state artist committee shall designate a poet laureate of Texas, a Texas state musician, a Texas state artist for two-dimensional media, and a Texas state artist for three-dimensional media.

(b) The committee shall choose the poet laureate, the state musician, and the state artists from a list of individuals submitted by the Texas Commission on the Arts.

(c) The individuals designated as the poet laureate, the state musician, and the state artists do not receive any pay or emolument.

(d) The individuals designated as poet laureate, as state musician, and as state artists keep the designation for one year from the date of the designation ceremony.

Sec. 2. TEXAS POET LAUREATE, STATE MUSICIAN, AND STATE ARTIST COMMITTEE ESTABLISHED. (a) The Texas poet laureate, state musician, and state artist committee consists of the following seven members:

(1) one member appointed by the governor;

(2) three members appointed by the lieutenant governor; and

(3) three members appointed by the speaker of the house of representatives.

(b) One member appointed by the speaker of the house of representatives must be the chair of the house committee that has primary jurisdiction over arts and cultural matters who serves on the committee as an additional duty of the chairmanship.

(c) Members of the committee who are not members of the legislature serve for a two-year term that expires October 1 of each odd-numbered year.

(d) The members of the committee shall select a presiding officer from the members of the committee.

Sec. 3. RECOMMENDATIONS FROM TEXAS COMMISSION ON THE ARTS. (a) The Texas Commission on the Arts shall solicit nominations from the arts and cultural community for the poet laureate, the state musician, and the state artists. The commission shall use the commission's Texas Cultural & Arts Network, the media, public meetings, newsletters, the Writer's League of Texas, and other appropriate methods to distribute information about the nomination process.

(b) The commission may receive submissions from poets, musicians, and artists who have been nominated.

(c) The commission may assemble a group of artists, musicians, writers, scholars, and other appropriate experts in the fields of visual arts, music, and literature to:

(1) review the submissions from the nominated poets, musicians, and artists; and

(2) provide advice and recommendations to the commission on who should be considered for designation as poet laureate, as state musician, and as a state artist.

(d) The commission shall submit to the committee a list of not more than 10 individuals who are worthy of being designated as the poet laureate, a list of not more than 10 individuals who are worthy of being designated as the state musician, a list of not more than 10 individuals who are worthy of being designated as the state artist for two-dimensional media, and a list of not more than 10 individuals who are worthy of being designated as the state artist for three-dimensional media.

Sec. 4. DESIGNATION CEREMONY. The governor and members of the committee shall honor the individuals designated as poet laureate, as state musician, and as a state artist in a ceremony at the State Capitol.

SECTION 2. (a) This Act takes effect September 1, 2001.

(b) As soon as possible after the effective date of this Act, the governor, the lieutenant governor, and the speaker of the house of representatives shall appoint the initial members of the Texas poet laureate, state musician, and state artist committee.

The amendment was read.

On motion of Senator Duncan, the Senate concurred in the House amendment to **SB 1043** by a viva voce vote.

### **SENATE BILL 1539 WITH HOUSE AMENDMENT**

Senator Duncan called **SB 1539** from the President's table for consideration of the House amendment to the bill.

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

#### **Committee Amendment No. 1**

Amend **SB 1539** as follows:

(1) On page 3, line 16, strike the word "a" and insert the words "an electric, gas, or water" between the words "by" and "utility"

(2) On page 3, lines 16-17, strike the words ", as that term is defined by Section 182.001, Utilities Code"

The amendment was read.

Senator Duncan moved to concur in the House amendment to **SB 1539**.

The motion prevailed by the following vote: Yeas 30, Nays 0, Present-not voting 1.

Present-not voting: Mr. President.

**(Senator Sibley in Chair)**

**(Senator Truan in Chair)**

**SENATE RESOLUTION 1084**

Senator Brown offered the following resolution:

WHEREAS, Darrell K Royal is among the most successful and admired sports figures in the history of the Lone Star State, and it is truly a pleasure to commend him on his many accomplishments; and

WHEREAS, A native of Hollis, Oklahoma, he demonstrated a rare talent for football in high school and went on to earn All-American honors as a quarterback at the University of Oklahoma; and

WHEREAS, After handling the coaching duties at Mississippi State and the University of Washington, Coach Royal came to The University of Texas in December of 1956 and had an immediate impact on the football program, taking a team which had struggled to a 1-9 record the year before his arrival to a Sugar Bowl berth in his inaugural season; and

WHEREAS, The Longhorns quickly rose to national prominence under Coach Royal's superb leadership and remained there throughout his two decades as head football coach, winning three national championships and 11 Southwest Conference titles and making 16 bowl appearances; and

WHEREAS, Coach Royal's exceptional ability as a motivator was complemented by his use of innovative offensive formations; after implementing the famous "wishbone" attack in 1968, the Longhorns reeled off 30 straight victories, and he also pioneered the "flip-flop" to the winged-T; and

WHEREAS, In addition to emphasizing excellence on the field, he also fostered academic achievement for his players by employing the first full-time college academic counselor; and

WHEREAS, During his tenure as head coach of the burnt orange and white, Coach Royal compiled a record of 167-47-5, the best mark in the nation over that time span; he also served the university as athletics director from 1962 to 1980 and as a special assistant on athletic programs to the university president, and in honor of his contributions to the institution the football stadium was renamed Darrell K Royal-Texas Memorial Stadium in 1996; and

WHEREAS, One of the most respected men in his profession, Coach Royal was twice named Coach of the Year by the AFCA, garnered that distinction three times from the Football Writers of America, and was chosen 1960s Coach of the Decade by ABC-TV; further, he has been inducted into the National Football Foundation Hall of Fame, the Texas and Oklahoma Sports Hall of Fame, the Longhorn Hall of Honor, and the Cotton Bowl Hall of Fame; and

WHEREAS, Coach Royal was also tabbed as Southwesterner of the Year four times, earned the prestigious Horatio Alger Award, and was inducted into the Oklahoma Hall of Fame in 2000; and

WHEREAS, An active force for positive change in his community, Coach Royal, as cosponsor of the Ben-Willie-Darrell golf tournament, has helped raise over \$2 million for East Austin youth; and

WHEREAS, The University of Texas has long been among the most successful schools in the field of intercollegiate athletics; many significant chapters in the

institution's storied history of sports excellence are attributable to the efforts of Darrell Royal and it is indeed appropriate that this football legend receive special legislative recognition at this time; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 77th Legislature, hereby honor Darrell K Royal on his remarkable legacy of athletic achievement and extend to him best wishes for continued success and happiness; and, be it further

RESOLVED, That an official copy of this Resolution be prepared for Coach Royal as an expression of high regard from the Texas Senate.

The resolution was read.

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

On motion of Senator Brown, the resolution was adopted by a viva voce vote.

### **GUEST PRESENTED**

Senator Brown was recognized and introduced to the Senate Coach Darrell Royal.

The Senate welcomed Coach Royal.

### **GUEST PRESENTED**

The Presiding Officer, Senator Truan in Chair, acknowledged the presence of the Honorable Rick Perry, Governor of Texas.

The Senate welcomed Governor Perry.

### **SENATE CONCURRENT RESOLUTION 64**

The Presiding Officer laid before the Senate the following resolution:

WHEREAS, The Legislature of the State of Texas is pleased to recognize George Christian for his many years of outstanding work as a writer and political consultant; and

WHEREAS, Born in Austin, Texas, George Christian served in the United States Marine Corps during World War II in the Pacific Theater; he graduated from The University of Texas at Austin with a degree in journalism; and

WHEREAS, George Christian began his career as a sports editor and wire service reporter and went on to become chief of staff for Governor Price Daniel and press secretary for Governor John B. Connally; Mr. Christian's exceptional talent and expertise led to his appointment as White House Press Secretary to President Lyndon B. Johnson; and

WHEREAS, A man who has spent over 40 years building a government relations career, Mr. Christian has been selected as a distinguished alumnus of The University of Texas and as an outstanding alumnus of The University of Texas College of Communication; a centennial professorship in journalism has been endowed in his name; and

WHEREAS, Mr. Christian currently serves as vice chairman of the Lyndon Baines Johnson Foundation and is former chairman of the Texas Historical Commission; he is a member of the boards of the Headliners Foundation, McDonald Observatory, Scott and White Memorial Hospital, and the Texas State Museum; and



WHEREAS, Throughout his long and distinguished career, Mr. Christian has enjoyed the love and support of his wife, Jo Anne Martin Christian, and his six children, and he is proud of his 11 grandchildren; and

WHEREAS, Dedicated to his family, his community, and his state, Mr. Christian received the Harvey Penick Award for Excellence in the Game of Life from Caritas of Austin and was named Texan of the Year by the Texas Legislative Conference; and

WHEREAS, A highly respected professional whose work has consistently demonstrated his commitment to integrity and leadership, George Christian is an exemplary gentleman who has had a positive impact on the Lone Star State; now, therefore, be it

RESOLVED, That the 77th Legislature of the State of Texas hereby commend George Christian for his lifetime of achievements in the field of government relations and extend to him best wishes for the future; and, be it further

RESOLVED, That a copy of this resolution be prepared for him as an expression of high regard from the Texas Legislature.

DUNCAN

The resolution was read.

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

On motion of Senator Duncan and by unanimous consent, the resolution was considered immediately and was adopted by a viva voce vote.

#### **GUESTS PRESENTED**

Senator Duncan was recognized and introduced to the Senate George Christian and his wife, Jo Anne; their son and daughter-in-law, George Scott Christian and Betsy Christian, and their granddaughter, Kathryn Christian; their son and godson of Secretary of the Senate Betty King, John Christian, and their daughter-in-law, Adina Christian; their son, Brian Christian; and their daughter and son-in-law, Elizabeth Christian Todd and Bruce Todd.

The Senate welcomed its guests.

#### **SENATE BILL 1300 WITH HOUSE AMENDMENT**

Senator Cain called **SB 1300** from the President's table for consideration of the House amendment to the bill.

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

#### **Amendment**

Amend **SB 1300** by substituting in lieu thereof the following:

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

relating to the practice of medicine without an annual registration permit.

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

**SECTION 1.** Section 156.008(a), Occupations Code, is amended to read as follows:

(a) Practicing medicine after the expiration of the 30-day grace period under Section 156.004 following expiration of [without] an annual registration permit that has not been renewed for the current year as provided by this subchapter has the same effect as, and is subject to all penalties of, practicing medicine without a license.

SECTION 2. (a) In accordance with Section 311.031(c), Government Code, which gives effect to a substantive amendment enacted by the same legislature that codifies the amended statute, the text of Section 156.008(a), Government Code, as set out in Section 1 of this Act, gives effect to changes made by Chapter 1262, Acts of the 76th Legislature, Regular Session, 1999.

(b) To the extent of any conflict, this Act prevails over another Act of the 77th Legislature, Regular Session, 2001, relating to nonsubstantive additions and corrections in enacted codes.

SECTION 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2001.

The amendment was read.

Senator Cain moved to concur in the House amendment to **SB 1300**.

The motion prevailed by the following vote: Yeas 30, Nays 0, Present-not voting 1.

Present-not voting: Mr. President.

### **SENATE BILL 673 WITH HOUSE AMENDMENT**

Senator Jackson called **SB 673** 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 673** by substituting in lieu thereof the following:

#### A BILL TO BE ENTITLED AN ACT

relating to the authority of a municipality to lease or sell property used for the purpose of operating certain properties located on certain state-owned lands.

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

SECTION 1. Section 307.001, Local Government Code, is amended to read as follows:

Sec. 307.001. ELIGIBLE MUNICIPALITIES. A municipality that borders on the Gulf of Mexico and has a population of 50,000 [~~60,000~~] or more may use and occupy for park purposes gulf tidelands and adjacent water as provided by this chapter.

SECTION 2. Section 307.042, Local Government Code, is amended by amending Subsection (c) and adding Subsection (e) to read as follows:

(c) As additional security for the bonds, notes, or warrants, the municipality may, by the terms of a mortgage, grant to the purchaser under sale or foreclosure a franchise to operate the properties purchased for a period of not more than 99 [~~75~~] years after the

purchase. If at the time of the sale or foreclosure there is a pier, structure, or improvement located in whole or in part on or over state-owned tideland, water, and bed of the Gulf of Mexico, during that period of 99 [75] years the purchaser and the purchaser's heirs, successors, and assigns have the same right of use and occupancy to the state-owned tideland, water, and bed as is granted to the municipality under this chapter. On termination of that period or on cessation of use of the property for that purpose, the right of use and occupancy reverts to the municipality.

(e) The municipality may sell the property described by Subsection (b) if no bonded indebtedness remains outstanding. If the municipality sells the property, the General Land Office may grant to the purchaser a lease of the state-owned tideland, water, and bed beneath the property or, if necessary, a larger area for a period of not more than 99 years after the purchase. The purchaser and the purchaser's heirs, successors, and assigns have the same right of use and occupancy to the state-owned tideland, water, and bed as is granted to the municipality under this chapter. On termination of that period or on cessation of use of the property for that purpose, the right of use and occupancy reverts to the municipality.

SECTION 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2001.

The amendment was read.

Senator Jackson moved to concur in the House amendment to **SB 673**.

The motion prevailed by the following vote: Yeas 30, Nays 0, Present-not voting 1.

Present-not voting: Mr. President.

### **SENATE RULE 11.13 SUSPENDED (Consideration of Bills in Committee)**

On motion of Senator Staples, on behalf of Senator Bivins, and by unanimous consent, Senate Rule 11.13 was suspended to grant the conference committee on **HB 3343** permission to meet today while the Senate was meeting.

### **SENATE BILL 702 WITH HOUSE AMENDMENTS**

Senator West called **SB 702** from the President's table for consideration of the House amendments to the bill.

The Presiding Officer, Senator Truan in Chair, laid the bill and the House amendments before the Senate.

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

Amend **SB 702** as follows:

- (1) On page 17, line 25, after "no more than" strike "20" and insert "18" and;
- (2) On page 18, line 1, after "Section 37.008;", insert "and";
- (3) On page 18, lines 2-5, strike "no more than half of any disciplinary alternative education program campus' total budget may be funded from this section's allotment; and (3)";

(4) On page 18, lines 5-6, strike "limitations of Subdivisions (1) and (2)" and substitute "limitations of Subdivision (1)" and

(5) On page 18, lines 10-11, strike "in excess of the limits established in Subsections (a) and (b)".

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

Amend **SB 702** as follows:

(1) On page 16, line 15, between "Subsections" and "(c)", insert "(b)".

(2) On page 16, between lines 16 and 17, insert the following:

(b) For purposes of this section, the number of educationally disadvantaged students is determined:

(1) by averaging the best six months' enrollment in the national school lunch program of free or reduced-price lunches for the preceding school year; or

(2) in the manner provided by commissioner rule, if no campus in the district participated in the national school lunch program of free or reduced-price lunches during the preceding school year.

The amendments were read.

Senator West moved to concur in the House amendments to **SB 702**.

The motion prevailed by the following vote: Yeas 30, Nays 0, Present-not voting 1.

Present-not voting: Mr. President.

### **SENATE BILL 236 WITH HOUSE AMENDMENTS**

Senator Harris called **SB 236** from the President's table for consideration of the House amendments to the bill.

The Presiding Officer, Senator Truan in Chair, laid the bill and the House amendments before the Senate.

### **Amendment**

Amend **SB 236** by substituting in lieu thereof the following:

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

relating to court-ordered medical support for certain children.

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

SECTION 1. Section 154.181, Family Code, is amended to read as follows:

Sec. 154.181. MEDICAL SUPPORT ORDER. (a) In a suit affecting the parent-child relationship or in a proceeding under Chapter 159, the court shall render an order for the medical support of the child as provided by this section and Section 154.182.

(b) Before a hearing on temporary orders or a final order, if no hearing on temporary orders is held, the court shall require the parties to the proceedings to disclose in a pleading or other statement:

(1) if private health insurance is in effect for the child, the identity of the insurance company providing the coverage, the policy number, which parent is responsible for payment of any insurance premium for the coverage, whether the coverage is provided through a parent's employment, and the cost of the premium; or

(2) if private health insurance is not in effect for the child, whether:

(A) the child is receiving medical assistance under Chapter 32, Human Resources Code;

(B) the child is receiving health benefits coverage under the state child health plan under Chapter 62, Health and Safety Code, and the cost of any premium; and

(C) either parent has access to private health insurance at reasonable cost to that parent.

(c) In rendering temporary orders, the court shall order that any health insurance coverage in effect for the child continue in effect pending the rendition of a final order, except that the court may not require the continuation of any health insurance that is not available to the parent at reasonable cost. If there is no health insurance coverage in effect for the child or if the insurance in effect is not available at a reasonable cost and the child is not receiving medical assistance under Chapter 32, Human Resources Code, or coverage under the state child health plan under Chapter 62, Health and Safety Code, the court shall order health care coverage for the child as provided under Section 154.182.

(d) Except for good cause shown, on rendering a final order the court shall require the parent ordered to provide health care coverage for the child as provided under Section 154.182 to produce evidence to the court's satisfaction that the parent has applied for or secured health insurance or has otherwise taken necessary action to provide for health care coverage for the child, as ordered by the court.

(e) In this section, "reasonable cost" means the cost of a health insurance premium that does not exceed 10 percent of the responsible parent's net income in a month.

SECTION 2. Subsections (b) and (c), Section 154.182, Family Code, are amended to read as follows:

(b) ~~In [Except as provided for by Subdivision (6), in]~~ determining the manner in which health insurance for the child is to be ordered, the court shall render its order in accordance with the following priorities, unless a party shows good cause why a particular order would not be in the best interest of the child:

(1) if health insurance is available for the child through the obligor's employment or membership in a union, trade association, or other organization at reasonable cost to the obligor, the court shall order the obligor to include the child in the obligor's health insurance;

(2) if health insurance is not available for the child through the obligor's employment but is available for the child at a reasonable cost through the obligee's employment or membership in a union, trade association, or other organization, the court may order the obligee to provide health insurance for the child, and, in such event, shall order the obligor to pay additional child support to be withheld from earnings under Chapter 158 to the obligee for the actual cost of the health insurance for the child;

(3) if health insurance is not available for the child under Subdivision (1) or (2), the court shall order the obligor to provide health insurance for the child if the court finds that health insurance is available to the obligor for the child from another source and at reasonable cost [~~that the obligor is financially able to provide it~~];

(4) if neither parent has access to private health insurance at a reasonable cost, the court shall order that the custodial parent or, to the extent permitted by law, the noncustodial parent immediately apply on behalf of the child for participation in a medical assistance program under Chapter 32, Human Resources Code, or the state child health plan under Chapter 62, Health and Safety Code, and that the obligor pay additional child support, to be withheld from income under Chapter 158, to the obligee for the actual cost of participation of the child in such program [health insurance is not available for the child under Subdivision (1), (2), or (3), the court shall order the obligor to apply for coverage through the Texas Healthy Kids Corporation established under Chapter 109, Health and Safety Code]; or

(5) if health coverage is not available for the child under Subdivision (1), (2), (3), or (4), the court shall order the obligor to pay the obligee, in addition to any amount ordered under the guidelines for child support, a reasonable amount each month as medical support for the child to be withheld from earnings under Chapter 158[~~or~~

~~(6) notwithstanding Subdivisions (1) through (3), an obligor whose employer, union, trade association, or other organization does not offer a child/children coverage option in lieu of a spouse/child/children option of health insurance coverage may elect to apply for coverage through the Texas Healthy Kids Corporation. An obligor required to pay additional child support to an obligee for health insurance coverage may elect to apply for coverage through the Texas Healthy Kids Corporation if the obligee's employer, union, trade association, or other organization does not offer a child/children coverage option in lieu of a spouse/child/children option of health insurance coverage].~~

(c) In this section, "reasonable cost" has the meaning assigned by Section 154.181(e) [In establishing the amount of additional medical child support under Subsection (b)(5), the court shall presume that \$38 each month is a reasonable amount for a child but may order a greater or lesser amount as appropriate under the circumstances. The Health and Human Services Commission may promulgate guidelines for the dollar amounts of medical child support that the court may presumptively apply in circumstances in which the obligor is responsible for medical child support for more than one child].

SECTION 3. To the extent necessary to implement the provisions of this Act, the attorney general and the Health and Human Services Commission shall:

(1) request any waiver or authorization from a federal agency with respect to the provision of medical assistance under Chapter 32, Human Resources Code, or the operation of a state child health plan under Chapter 62, Health and Safety Code; and

(2) develop and publish appropriate rules.

SECTION 4. This Act takes effect immediately if it receives a vote of two-thirds of all members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2001.

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

Amend **CSSB 236** (house committee printing) as follows:

(1) In Section 154.181(c), Family Code, added by SECTION 1 of the bill, in the first sentence (page 2, line 6), between "the court shall" and "order", insert ", except for good cause shown,".

(2) In Section 154.181(c), Family Code, added by SECTION 1 of the bill, in the second sentence (page 2, line 15), between "the court shall" and "order", insert ", except for good cause shown,".

**Floor Amendment No. 2**

Amend **CSSB 236** by inserting the following SECTIONS, appropriately numbered, and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Effective September 1, 2001, Chapter 109, Health and Safety Code, is repealed.

SECTION \_\_\_\_\_. (a) In this section:

(1) "Commissioner" means the commissioner of insurance.

(2) "Department" means the Texas Department of Insurance.

(3) "Fund" means the Texas Healthy Kids Fund established under Section 109.002, Health and Safety Code.

(b) The department shall supervise and monitor the implementation of the dissolution plan of the Texas Healthy Kids Corporation.

(c) Effective August 31, 2001, the comptroller shall transfer all money in the fund, other than money necessary, in accordance with the Texas Non-Profit Corporation Act (Article 1396-1.01, Vernon's Texas Civil Statutes), to satisfy the financial obligations incurred by the Texas Healthy Kids Corporation before June 15, 2001, to a dedicated account in the general revenue fund. The commissioner, in consultation with the board of directors of the Texas Healthy Kids Corporation, shall determine the amount of money necessary to satisfy the financial obligations of the corporation as described by this subsection.

(d) On the date the commissioner determines that the financial obligations described by Subsection (c) of this section are satisfied, all money remaining in the fund, including any amounts received by the corporation in settlement of litigation, is transferred to the dedicated account described by Subsection (c) of this section.

(e) Money transferred to the general revenue fund under this section may be appropriated only to the Health and Human Services Commission to provide coverage under the state child health plan established under Chapter 62, Health and Safety Code. It is the intention of the legislature that the money transferred to the general revenue fund under this section be considered to be state funds for the purposes of obtaining federal matching money under Title XXI of the Social Security Act (42 U.S.C. Section 1397aa et seq.).

The amendments were read.

Senator Harris moved to concur in the House amendments to **SB 236**.

The motion prevailed by the following vote: Yeas 30, Nays 0, Present-not voting 1.

Present-not voting: Mr. President.

**PHYSICIAN OF THE DAY**

Senator Barrientos was recognized and presented Dr. Mark Dawson of Austin as the Physician of the Day.

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

**SENATE BILL 1304 WITH HOUSE AMENDMENTS**

Senator Harris called **SB 1304** 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 1304** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED  
AN ACT

relating to the creation of a missing persons DNA database at the University of North Texas Health Science Center at Fort Worth; providing a penalty.

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

SECTION 1. Chapter 105, Education Code, is amended by adding Subchapter I to read as follows:

SUBCHAPTER I. UNIVERSITY OF  
NORTH TEXAS HEALTH SCIENCE CENTER  
AT FORT WORTH MISSING PERSONS DNA DATABASE

Sec. 105.111. DEFINITIONS. In this subchapter:

(1) "Board" means the board of regents of the University of North Texas System.

(2) "Center" means the University of North Texas Health Science Center at Fort Worth.

(3) "DNA" means deoxyribonucleic acid.

(4) "DNA database" means the database containing forensic DNA analysis results, including any known name of the person who is the subject of the forensic DNA analysis, that is maintained by the center.

(5) "High-risk missing person" means:

(A) a person missing as a result of an abduction by a stranger;

(B) a person missing under suspicious or unknown circumstances; or

(C) a person who has been missing more than 30 days, or less than 30 days at the discretion of the investigating agency, if there is reason to believe that the person is in danger or deceased.

(6) "Law enforcement agency" means the law enforcement agency primarily responsible for investigating a report of a high-risk missing person.

Sec. 105.112. ESTABLISHMENT OF DNA DATABASE FOR MISSING OR UNIDENTIFIED PERSONS. (a) The board shall develop at the University of North Texas Health Science Center at Fort Worth a DNA database for any case based on the report of unidentified human remains or a report of a high-risk missing person.

(b) The sole purpose of the database is to identify unidentified human remains and high-risk missing persons.

(c) The database is separate from the database established by the Department of Public Safety under Subchapter G, Chapter 411, Government Code.

Sec. 105.113. INFORMATION STORED IN DATABASE. (a) The database required in Section 105.112 may contain only DNA genetic markers that are



commonly recognized as appropriate for human identification. Except to the extent that those markers are appropriate for human identification, the database may not contain DNA genetic markers that predict biological function. The center shall select the DNA genetic markers for inclusion in the DNA database based on existing technology for forensic DNA analysis.

(b) The results of the forensic DNA analysis must be compatible with the CODIS DNA database established by the Federal Bureau of Investigation and the center must make the results available for inclusion in that database.

Sec. 105.114. COMPARISON OF SAMPLES. The center shall compare DNA samples taken from unidentified human remains with DNA samples taken from personal articles belonging to high-risk missing persons or from parents of high-risk missing persons or other appropriate persons.

Sec. 105.115. STANDARDS: COLLECTION; STORAGE. In consultation with the center, the board by rule shall develop standards and guidelines for the collection of DNA samples submitted to the center and the center's storage of DNA samples.

Sec. 105.116. COLLECTION OF SAMPLES. (a) An entity charged under other state law with the responsibility of collecting DNA samples from unidentified human remains shall submit those samples to the center for forensic DNA analysis and inclusion of the results in the DNA database.

(b) After the center has performed the forensic DNA analysis, the center shall return the remaining sample to the entity submitting the sample to the center.

Sec. 105.117. DUTY OF LAW ENFORCEMENT AGENCY TO NOTIFY APPROPRIATE PERSONS REGARDING PROVISION OF VOLUNTARY SAMPLE. Not later than the 30th day after the date a report of a high-risk missing person is filed, the law enforcement agency shall inform a parent or any other person considered appropriate by the agency that the person may provide:

(1) a DNA sample for forensic DNA analysis; or

(2) for purposes of DNA sampling, a personal article belonging to the high-risk missing person.

Sec. 105.118. RELEASE FORM. (a) The center shall develop a standard release form that authorizes a parent or other appropriate person to voluntarily provide under Section 105.117 a DNA sample or a personal article for purposes of DNA sampling. The release must explain that the DNA sample is to be used only to identify the high-risk missing person.

(b) A law enforcement agency may not use any form of incentive or coercion to compel the parent or other appropriate person to provide a sample or article under this subchapter.

Sec. 105.119. PROTOCOL FOR OBTAINING SAMPLES RELATING TO HIGH-RISK MISSING PERSONS. (a) The law enforcement agency shall take DNA samples from parents or other appropriate persons under Section 105.117 in any manner prescribed by the center.

(b) The center shall develop a model kit to be used by a law enforcement agency to take DNA samples from parents or other appropriate persons.

Sec. 105.120. SUBMISSION OF SAMPLE TO CENTER. (a) Before submitting to the center a DNA sample obtained under Section 105.117, the law enforcement agency shall reverify the status of a high-risk missing person.

(b) As soon as practicable after a DNA sample is obtained, the law enforcement agency shall submit the DNA sample, a copy of the missing person's report, and any supplemental information to the center.

Sec. 105.121. DESTRUCTION OF SAMPLES. All DNA samples extracted from a living person shall be destroyed after a positive identification is made and a report is issued.

Sec. 105.122. CONFIDENTIALITY. (a) Except as provided by Subsection (b), the results of a forensic DNA analysis performed by the center are confidential.

(b) The center may disclose the results of a forensic DNA analysis only to:

(1) personnel of the center;

(2) law enforcement agencies;

(3) medical examiners;

(4) attorneys representing the state; and

(5) a parent or other appropriate person voluntarily providing a DNA sample or an article under Section 105.117.

Sec. 105.123. CRIMINAL PENALTY. (a) A person who collects, processes, or stores a DNA sample from a living person for forensic DNA analysis under this section commits an offense if the person intentionally violates Section 105.121 or Section 105.122.

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

Sec. 105.124. CIVIL PENALTY. A person who collects, processes, or stores a DNA sample from a living person for forensic DNA analysis under this section and who intentionally violates Section 105.121 or Section 105.122 is liable in civil damages to the donor of the DNA in the amount of \$5,000 for each violation, plus reasonable attorney's fees and court costs.

Sec. 105.125. MISSING PERSONS DNA DATABASE FUND. (a) The missing persons DNA database fund is a separate account in the general revenue fund.

(b) Notwithstanding Article 56.54(g), Code of Criminal Procedure, the legislature may appropriate money in the compensation to victims of crime fund and the compensation to victims of crime auxiliary fund to fund the University of North Texas Health Science Center at Fort Worth Missing Persons DNA Database. Legislative appropriations under this subsection shall be deposited to the credit of the account created under Subsection (a).

(c) Money in the account may be used only for purposes of developing and maintaining the DNA database as described by this section.

(d) The center may use money in the account only to:

(1) establish and maintain center infrastructure;

(2) pay the costs of DNA sample storage, forensic DNA analysis, and labor costs for cases of high-risk missing persons and unidentified human remains;

(3) reimburse counties for the purposes of pathology and exhumation as considered necessary by the center;

(4) publicize the DNA database for the purpose of contacting parents and other appropriate persons so that they may provide a DNA sample or a personal article for DNA sampling;

(5) educate law enforcement officers about the DNA database and DNA sampling; and

(6) provide outreach programs related to the purposes of this chapter.

(e) Section 403.095(b), Government Code, does not apply to the account established under Subsection (a).

Sec. 105.126. BACKLOG OF UNIDENTIFIED HUMAN REMAINS: ADVISORY COMMITTEE AND OUTSOURCING. (a) The center shall create an advisory committee, consisting of medical examiners, law enforcement officials, and other interested persons as determined appropriate by the center, to impose priorities regarding the identification of the backlog of high-risk missing person cases and unidentified human remains.

(b) The center shall use any available federal funding to assist in reducing the backlog of high-risk missing person cases and unidentified human remains.

(c) The reduction of the backlog may be outsourced to other appropriate laboratories at the center's discretion.

Sec. 105.127. INITIAL OPERATIONS. (a) The center shall use funding for the state fiscal year beginning on September 1, 2002, to:

(1) develop the DNA database and center infrastructure; and

(2) establish center protocols and employ center personnel.

(b) The center shall begin case analyses in 2004. The center shall retain the authority to establish priorities regarding case analysis, giving priority to those cases involving children.

(c) This section expires January 1, 2006.

SECTION 2. This Act takes effect September 1, 2002.

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

Amend **CSSB 1304** on third reading to read as follows:

(1) On page 7, line 13-14, between the words "on" and "to", strike "September 1, 2002," and substitute "September 1, 2001,".

(2) On page 7, line 19, between the words "in" and "The", strike "2004." and substitute "2002.".

(3) On page 7, line 23, after the word "effect", strike "September 1, 2002" and substitute "September 1, 2001".

The amendments were read.

On motion of Senator Harris, the Senate concurred in the House amendments to **SB 1304** by a viva voce vote.

### **SENATE BILL 140 WITH HOUSE AMENDMENTS**

Senator Moncrief called **SB 140** from the President's table for consideration of the House amendments to the bill.

The Presiding Officer, Senator Truan in Chair, laid the bill and the House amendments before the Senate.

### **Amendment**

Amend **SB 140** by substituting in lieu thereof the following:

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

relating to the appointment of a person who has a history of abuse or neglect as a sole managing conservator.

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

SECTION 1. Section 153.004(b), Family Code, is amended to read as follows:

(b) The court may not appoint joint managing conservators if credible evidence is presented of a history or pattern of past or present child neglect, or physical or sexual abuse by one parent directed against the other parent, a spouse, or a child. It is a rebuttable presumption that the appointment of a parent as the sole managing conservator of a child or as the conservator who has the exclusive right to determine the primary residence of a child is not in the best interest of the child if credible evidence is presented of a history or pattern of past or present child neglect, or physical or sexual abuse by that parent directed against the other parent, a spouse, or a child.

SECTION 2. (a) This Act takes effect September 1, 2001, and applies only to an order in a suit affecting the parent-child relationship rendered on or after that date, without regard to whether the suit was filed before, on, or after that date.

(b) The enactment of this Act does not by itself constitute a material and substantial change of circumstances sufficient to warrant modification of a court order or portion of a decree that provides for the possession of or access to a child rendered before the effective date of this Act.

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

Amend **CSSB 140** as follows:

On page 1, line 10, after "child" and before the period insert the following: "including a sexual assault in violation of Section 22.011 or 22.021 of the Penal Code that results in the other parent becoming pregnant with the child"

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

Amend **CSSB 140** as follows:

(1) In SECTION 1 of the bill, strike the introductory language (Committee Printing, page 1, lines 5-6) and substitute the following:

SECTION 1. Section 153.004, Family Code, is amended by amending Subsection (b) and adding Subsection (e) to read as follows:

(2) At the end of amended Section 153.004(b), Family Code, (Committee Printing, page 1, line 17), add the following:

(e) It is a rebuttable presumption that it is not in the best interest of a child for a parent to have unsupervised visitation with the child if credible evidence is presented of a history or pattern of past or present child neglect or physical or sexual abuse by that parent directed against the other parent, a spouse, or a child.

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

Amend **CSSB 140** on third reading as follows:

On page 1, line 10, after the period insert: "A history of sexual abuse includes a sexual assault that results in the other parent becoming pregnant with the child, regardless of the prior relationship of the parents."

The amendments were read.

On motion of Senator Moncrief, the Senate concurred in the House amendments to **SB 140** by a viva voce vote.

**SENATE BILL 572 WITH HOUSE AMENDMENTS**

Senator Moncrief called **SB 572** from the President's table for consideration of the House amendments to the bill.

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

**Floor Amendment No. 1**

Amend **SB 572** (House committee printing) as follows:

(1) In SECTION 3 of the bill, in added Section 61.923, Education Code (page 3, line 3), between "students" and the semicolon, insert ", including the recruitment and retention of Spanish-speaking and bilingual students".

(2) In SECTION 3 of the bill, in added Section 61.924, Education Code (page 3, line 24), between "students" and the period, insert ", including the recruitment and retention of Spanish-speaking and bilingual students".

**Floor Amendment No. 2**

Amend **SB 572** in SECTION 3 of the bill, at the end of added Subchapter U, Chapter 61, Education Code (House committee printing, page 4, between lines 2 and 3), by inserting the following:

Sec. 61.926. ANNUAL REPORT. (a) Each institution of higher education that has a professional nursing program shall submit an annual report to the board detailing its strategy for increasing the number of students that graduate from the program prepared for licensure as registered nurses. The report must include:

(1) the capacity of the program to graduate more students prepared for licensure as registered nurses; and

(2) the resources allocated to increase the number of students that graduate from the program prepared for licensure as registered nurses.

(b) The board may adopt rules to implement this section.

**Floor Amendment No. 3**

Amend **SB 572** between SECTIONS 10 and 11 (House committee printing, page 9, between lines 24 and 25), by inserting the following SECTION and renumbering the subsequent SECTIONS accordingly:

SECTION 11. Section 63.202, Education Code, is amended by adding Subsections (f) and (g) to read as follows:

(f) Notwithstanding the limitation provided by Subsection (b), in awarding grants under Subsection (c) for the state fiscal biennium ending on August 31, 2003, the coordinating board:

(1) may make awards to any program preparing students for initial licensure as registered nurses, including two-year institutions of higher education and independent or private institutions of higher education;

(2) shall give priority in awarding grants to:

(A) institutions proposing to address the shortage of registered nurses by promoting innovation in recruitment and retention of nursing students and faculty; and

(B) institutions seeking to increase enrollments in their nursing programs through financial incentives to faculty to provide clinical and classroom instruction in addition to carrying a full teaching load; and

(3) may consider the availability of matching funds in awarding grants.

(g) Subsection (f) and this subsection expire September 1, 2003.

**Floor Amendment No. 4**

Amend **SB 572** (House committee printing) as follows:

(1) In SECTION 11 of the bill, in added Section 304.006, Occupations Code (page 12, line 17), between "obtained" and "under", insert "by the center".

(2) In SECTION 11 of the bill, in added Section 304.006, Occupations Code (page 12, lines 18-19), strike ", or to subpoena".

The amendments were read.

On motion of Senator Moncrief, the Senate concurred in the House amendments to **SB 572** by a viva voce vote.

**SENATE BILL 1376 WITH HOUSE AMENDMENT**

Senator Moncrief called **SB 1376** from the President's table for consideration of the House amendment to the bill.

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

**Floor Amendment No. 1**

Amend **SB 1376** on page 3, lines 19 through 23, by striking subsection "k," and inserting a new subsection "k" as follows:

(k) In this section, "immediate jeopardy to health and safety" is defined by the definition of "Immediate jeopardy" contained in 42 CFR, Section 488.301.

The amendment was read.

On motion of Senator Moncrief, the Senate concurred in the House amendment to **SB 1376** by a viva voce vote.

**SENATE BILL 1057 WITH HOUSE AMENDMENT**

Senator Ellis called **SB 1057** 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 1057** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED  
AN ACT

relating to the administration of the TEXAS grant program and to the dissemination of student financial aid information.

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

SECTION 1. Subsection (e), Section 56.304, Education Code, is amended to read as follows:

(e) A person's eligibility for a TEXAS grant ends on the sixth anniversary of the initial award of a TEXAS grant to the person and the person's enrollment in an eligible

institution, unless the person is provided additional time during which the person may receive a TEXAS grant under this subsection. The coordinating board shall adopt rules to provide a person who is otherwise eligible to receive a TEXAS grant additional time during which the person may receive a TEXAS grant in the event of a hardship or other good cause shown that prevents the person from continuing the person's enrollment during the period the person would otherwise have been eligible to receive a TEXAS grant, including a showing of a severe illness or other debilitating condition or that the person is or was responsible for the care of a sick, injured, or needy person.

SECTION 2. Section 61.0776, Education Code, is amended by amending Subsection (c) and adding Subsection (f) to read as follows:

(c) The board may designate an institution of higher education or other entity with appropriate facilities and resources to operate or house the center. If the board designates a public nonprofit entity created by the legislature to operate or house the center, the board may reimburse the entity from money appropriated for that purpose for the costs incurred by the entity in carrying out the activities of the center under this section.

(f) The board and the commissioner of education shall develop a plan or set of recommendations to ensure that information on the TEXAS grant program and other financial aid information described by Subsection (a) is adequately publicized to prospective students and financial aid recipients and their parents and to school counselors, student financial aid offices, and other appropriate entities. The board and the commissioner of education shall report the results of the study and the plan or recommendations to the legislature not later than October 1, 2002. This subsection expires January 1, 2003.

SECTION 3. (a) This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2001.

(b) The change in law made by this Act relating to the eligibility of a person to receive a TEXAS grant applies beginning with students who demonstrate eligibility to receive a grant for the 2001-2002 academic year.

The amendment was read.

Senator Ellis moved to concur in the House amendment to **SB 1057**.

The motion prevailed by the following vote: Yeas 30, Nays 0, Present-not voting 1.

Present-not voting: Mr. President.

### **SENATE BILL 873 WITH HOUSE AMENDMENTS**

Senator Lindsay called **SB 873** 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 873** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED  
AN ACT

relating to infrastructure planning in certain urban counties.

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

SECTION 1. Chapter 232, Local Government Code, is amended by adding Subchapter E to read as follows:

SUBCHAPTER E. INFRASTRUCTURE PLANNING  
PROVISIONS IN CERTAIN URBAN COUNTIES

Sec. 232.100. APPLICABILITY. This subchapter applies only to the subdivision of land that is:

- (1) subject to county regulations under Subchapter A or B; and
- (2) in a county that:

(A) has a population of 150,000 or more and is adjacent to an international border;

(B) has a population of 700,000 or more; or

(C) is adjacent to a county with a population of 700,000 or more and is within the same metropolitan statistical area as that adjacent county, as designated by the United States Office of Management and Budget.

Sec. 232.101. RULES. (a) By an order adopted and entered in the minutes of the commissioners court and after a notice is published in a newspaper of general circulation in the county, the commissioners court may adopt rules governing plats and subdivisions of land within the unincorporated area of the county to promote the health, safety, morals, or general welfare of the county and the safe, orderly, and healthful development of the unincorporated area of the county.

(b) Unless otherwise authorized by state law, a commissioners court shall not regulate under this section:

(1) the use of any building or property for business, industrial, residential, or other purposes;

(2) the bulk, height, or number of buildings constructed on a particular tract of land;

(3) the size of a building that can be constructed on a particular tract of land, including without limitation and restriction on the ratio of building floor space to the land square footage; or

(4) the number of residential units that can be built per acre of land.

Sec. 232.102. MAJOR THOROUGHFARE PLAN. By an order adopted and entered in the minutes of the commissioners court and after a notice is published in a newspaper of general circulation in the county, the commissioners court may:

(1) require a right-of-way on a street or road that functions as a major thoroughfare of a width of not more than 120 feet; or

(2) require a right-of-way on a street or road that functions as a major thoroughfare of a width of more than 120 feet, if such requirement is consistent with a transportation plan adopted by the metropolitan planning organization of the region.

Sec. 232.103. LOT FRONTAGES. By an order adopted and entered in the minutes of the commissioners court and after a notice is published in a newspaper of general circulation in the county, the commissioners court may adopt reasonable



standards for minimum lot frontages on existing county roads and establish reasonable standards for the lot frontages in relation to curves in the road.

Sec. 232.104. SET-BACKS. By an order adopted and entered in the minutes of the commissioners court and after a notice is published in a newspaper of general circulation in the county, the commissioners court may establish reasonable building and set-back lines as provided by Chapter 233 without the limitation period provided by Section 233.004(c).

Sec. 232.105. DEVELOPER PARTICIPATION CONTRACTS. (a) Without complying with the competitive sealed bidding procedure of Chapter 262, a commissioners court may make a contract with a developer of a subdivision or land in the unincorporated area of the county to construct public improvements, not including a building, related to the development. If the contract does not meet the requirements of this subchapter, Chapter 262 applies to the contract if the contract would otherwise be governed by that chapter.

(b) Under the contract, the developer shall construct the improvements, and the county shall participate in the cost of the improvements.

(c) The contract must establish the limit of participation by the county at a level not to exceed 30 percent of the total contract price. In addition, the contract may also allow participation by the county at a level not to exceed 100 percent of the total cost for any oversizing of improvements required by the county, including but not limited to increased capacity of improvements to anticipate other future development in the area. The county is liable only for the agreed payment of its share, which shall be determined in advance either as a lump sum or as a factor or percentage of the total actual cost as determined by an order of the commissioners court.

(d) The developer must execute a performance bond for the construction of the improvements to ensure completion of the project. The bond must be executed by a corporate surety in accordance with Chapter 2253, Government Code.

(e) In the order adopted by the commissioners court under Subsection (c), the county may include additional safeguards against undue loading of cost, collusion, or fraud.

Sec. 232.106. CONNECTION OF UTILITIES. By an order adopted and entered in the minutes of the commissioners court, and after a notice is published in a newspaper of general circulation in the county, the commissioners court may impose the requirements of Section 232.029.

Sec. 232.107. PROVISIONS CUMULATIVE. The authorities under this subchapter are cumulative of and in addition to the authorities granted under this chapter and all other laws to counties to regulate the subdivision of land.

SECTION 2. Subsection (a), Section 242.001, Local Government Code, is amended to read as follows:

(a) This section applies only to a county operating under Sections 232.001-232.005 or Subchapter B, ~~(or)~~ C, or E, Chapter 232.

SECTION 3. (a) This Act takes effect September 1, 2001.

(b) The changes in law made by this Act apply only to a subdivision of land for which a plat application is filed on or after September 1, 2001. A subdivision of land for which a plat application was filed before September 1, 2001, is governed by the law in effect when the plat application was filed, and the former law is continued in effect for that purpose.

**Floor Amendment No. 2**

Amend **CSSB 873** as follows:

On page 4, line 24, to page 5, line 1, strike all of SECTION 2, and replacing with the following:

SECTION 2. Subsections (a) & (c), Section 242.001, Local Government Code, is amended to read as follows:

(a) This section applies only to a county operating under Sections 232.001-232.005 or Subchapter B, ~~[or] C, or E~~, Chapter 232.

(c) In the extraterritorial jurisdiction of a municipality, the municipality may regulate subdivisions under Subchapter A of Chapter 212 and other statutes applicable to municipalities, and the county may regulate subdivisions under Sections 232.001-232.005, Subchapter B, ~~[or] C, or E~~, Chapter 232, and other statutes applicable to counties. If a municipal regulation conflicts with a county regulation, the more stringent provisions prevail.

**Floor Amendment No. 3**

Amend **CSSB 873** as follows:

On page 2, line 16, insert:

(c) No authority shall be granted to counties under subsection (a) with regard to a tract of land located outside the limits of a municipality being divided into four or fewer parts if each of the lots is to be sold, given, or otherwise transferred to an individual who is related to the owner within the third degree by consanguinity or affinity, as determined under Chapter 573, Government Code.

(d) No authority shall be granted to counties under subsection (a) with regard to a tract of land located outside the limits of a municipality if the tract is being divided into two or more parts if: (1) all of the lots of the subdivision are more than 5 acres in area; and (2) the owner does not lay out a part of the tract described by Section 232.001(a)(3).

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

Amend **CSSB 873** on third reading as follows:

Strike all of second reading Floor Amendment No. 3 by Green, and replace with the following:

On page 2, line 16, insert:

(c) The authority granted under subsection (a) is subject to the exemptions to plat requirements provided for in Section 232.0015.

The amendments were read.

On motion of Senator Lindsay, the Senate concurred in the House amendments to **SB 873** by a viva voce vote.

**SENATE BILL 647 WITH HOUSE AMENDMENT**

Senator Lindsay called **SB 647** 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 647** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED  
AN ACT

relating to the creation of the Old Town Spring Improvement District; providing authority to impose a tax and issue bonds.

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

SECTION 1. Chapter 376, Local Government Code, is amended by adding Subchapter K to read as follows:

SUBCHAPTER K. OLD TOWN SPRING  
IMPROVEMENT DISTRICT

Sec. 376.451. CREATION OF DISTRICT. (a) The Old Town Spring Improvement District is created as a special district under Section 59, Article XVI, Texas Constitution.

(b) The board by resolution may change the district's name.

Sec. 376.452. DECLARATION OF INTENT. (a) The creation of the district is necessary to promote, develop, encourage, and maintain employment, commerce, transportation, housing, tourism, recreation, arts, entertainment, economic development, safety, scenic beauty, and the public welfare in the Old Town Spring area of Harris County.

(b) The creation of the district and this legislation do not relieve the county from providing the level of services, as of the effective date of this subchapter, it has to provide to the area in the district. The district is created to supplement and not replace the county services provided in the area in the district.

(c) The creation of the district is essential to accomplish the purposes of Section 52, Article III, Section 59, Article XVI, and Section 52-a, Article III, Texas Constitution, and other public purposes stated in this subchapter.

Sec. 376.453. DEFINITIONS. In this subchapter:

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

(2) "County" means Harris County, Texas.

(3) "District" means the Old Town Spring Improvement District.

Sec. 376.454. BOUNDARIES. The district includes all the territory contained in the following described area:

BEGINNING at the intersection of the northwest line of the W. Smith Survey, Abstract No. 706, and the south line of the I. & G. H. Railroad right-of-way;

THENCE generally in a southeasterly direction along the south line of the I. & G. H. Railroad right-of-way to its point of intersection with the north line of Louetta Road;

THENCE generally in a westerly direction along the north line of Louetta Road to its point of intersection with the east right-of-way line of Lexington Boulevard;

THENCE generally in a northwesterly direction along the east right-of-way line of Lexington Boulevard to its point of intersection with the south right-of-way line of Spring-Cypress Road;

THENCE generally in a northerly direction across the Spring-Cypress Road and along the east right-of-way line of Wunsche Loop Road to its point of intersection with the west line of tract 47 of the said W. Smith Survey;

THENCE continuing in a northerly direction along the west line of said tract 47 to its intersection with the northwest line of the said W. Smith Survey;

THENCE in a northeasterly direction along the northwest line of the said W. Smith Survey to the POINT OF BEGINNING.

Sec. 376.455. FINDINGS RELATING TO BOUNDARIES. The boundaries and field notes of the district form a closure. If a mistake is made in the field notes or in copying the field notes in the legislative process, the mistake does not in any way affect the district's:

- (1) organization, existence, or validity;
- (2) right to issue any type of bond for the purposes for which the district is created or to pay the principal of and interest on a bond;
- (3) right to impose or collect an assessment or tax; or
- (4) legality or operation.

Sec. 376.456. FINDINGS OF BENEFIT AND PUBLIC PURPOSE; GENERAL DUTIES. (a) The district is created to serve a public use and benefit. All the land and other property included in the district will be benefited by the improvements and services to be provided by the district under powers conferred by Section 52, Article III, Section 59, Article XVI, and Section 52-a, Article III, Texas Constitution, and other powers granted under this subchapter.

(b) The creation of the district is in the public interest and is essential to:  
(1) further the public purposes of the development and diversification of the economy of the state; and

(2) eliminate unemployment and underemployment and develop or expand transportation and commerce.

(c) The district shall:  
(1) promote the health, safety, and general welfare of residents, merchants, landowners, employers, potential employees, employees, visitors, consumers in the district, and the general public;

(2) provide needed funding for the Old Town Spring area to preserve, maintain, and enhance the economic health and vitality of the area as a community and business center;

(3) provide and maintain common areas and facilities in the district to ensure scenic beauty;

(4) provide improvements in the district to promote the welfare of the public, residents, merchants, and landowners in the district; and

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

(d) The district may not act as the agent or instrumentality of any private interest even though many private interests will be benefited by the district, as will the public.

Sec. 376.457. BOARD OF DIRECTORS. (a) In this section, "commissioners court" means the commissioners court of the county.

(b) The district is governed by a board of five directors occupying numbered positions.

(c) Except for the initial directors, the directors occupying positions one, two, and three are appointed under this section and the directors occupying positions four and five are elected as provided by this section and Section 376.460.

(d) The commissioners court shall appoint:

(1) one person who leases a retail store or owns real property in the district, who shall serve in position one for a three-year term;

(2) one person who leases a retail store but does not own real property in the district, who shall serve in position two for a two-year term; and

(3) one person who owns real property in the district, who shall serve in position three for a three-year term.

(e) Directors elected under Section 376.460 shall serve two-year terms. To qualify as a candidate for position four, a person must reside in the district. To qualify as a candidate for position five, a person must lease a retail store or own real property in the district.

(f) A term expires on January 31 of the appropriate year.

(g) In appointing directors under Subsection (d), the commissioners court shall consider any recommendations received by an organization dedicated to the economic development of the Old Town Spring area of the county.

Sec. 376.458. ADMINISTRATION OF BOARD. Sections 375.066-375.070 apply to the board as if it were established under Chapter 375.

Sec. 376.459. RESTRICTION ON VOTING. The president of the board may not vote except to break a tie vote.

Sec. 376.460. ELECTION OF DIRECTORS. (a) The board shall call and hold an election of directors for positions four and five in each even-numbered year on the uniform election date in January established by Section 41.001, Election Code.

(b) Notice of a directors election must:

(1) state the day and place for holding the election;

(2) state the number of directors to be voted on; and

(3) describe the qualifications of the positions for which the candidates are running.

(c) The ballots for a directors election shall provide the names of the candidates for each position and describe the qualifications of the position for which the candidates are running.

(d) Immediately after the directors election, the presiding judge shall take the election returns to the board. The board shall canvass the returns and certify that the persons receiving the highest number of votes for each position are elected as directors for that position.

Sec. 376.461. GENERAL POWERS. The district has:

(1) all powers necessary or required to accomplish the purposes for which the district was created;

(2) the powers and duties of a municipal management district under Subchapter E, Chapter 375; and

(3) the powers given to an industrial development corporation organized under the Development Corporation Act of 1979 (Article 5190.6, Vernon's Texas Civil Statutes).

Sec. 376.462. SPECIFIC POWERS AND LIMITATIONS. (a) The district may:

(1) impose and collect, and apply the proceeds from, a limited sales and use tax for the district's purposes;

(2) borrow money for the corporate purposes of the district;

(3) add or exclude territory in the manner provided by Subchapter J, Chapter 49, Water Code;

(4) contract with a person to accomplish the district's purposes, including entering into a contract for the payment of costs incurred by the person on behalf of the district, including all or part of the costs of an improvement project, from tax proceeds or any other specified source of money;

(5) contract with a person to receive, administer, and perform the district's duties under a gift, grant, loan, conveyance, transfer, bequest, donation, or other financial arrangement relating to the investigation, planning, analysis, acquisition, construction, completion, implementation, or operation of a proposed or existing improvement project;

(6) establish and collect user fees, concession fees, admission fees, rental fees, or other similar fees or charges and apply the proceeds from those fees or charges for the enjoyment, sale, rental, or other use of the district's facilities, services, or improvement projects;

(7) adopt rules for:

(A) the administration and operation of the district;

(B) the use, enjoyment, availability, protection, security, and maintenance of the district's facilities; and

(C) the provision of public safety and security in the district;

(8) provide or secure the payment or repayment of any district expense, including:

(A) a district cost relating to an improvement project;

(B) a district contractual obligation or indebtedness, because of a lease, installment purchase contract, or other agreement; or

(C) a tax, user fee, concession fee, rental fee, or other revenue or resources of the district; and

(9) undertake improvement projects separately or jointly with other persons or entities and pay all or part of the costs of improvement projects, including improvement projects that:

(A) improve, enhance, or support public safety and security, fire protection, emergency medical services, or law enforcement in the district;

(B) confer a general benefit on the entire district and the areas adjacent to the district; or

(C) confer a special benefit on all or part of the district.

(b) The district may not employ peace officers.

(c) The district may not impose an ad valorem tax on property in the district.

(d) The district may, as if the district was a home-rule municipality with a population of more than 100,000:

(1) issue bonds and lease, acquire, or construct a building or facility as provided by Section 380.002; and

(2) establish and administer a program as provided by Subchapter A, Chapter 1509, Government Code.

Sec. 376.463. SPECIFIC POWERS RELATING TO IMPROVEMENTS. An improvement project or service provided by the district may include:

(1) the construction, acquisition, lease, rental, installment purchase, improvement, rehabilitation, repair, relocation, and operation of:

(A) landscaping; lighting, banners, or signs; streets or sidewalks; pedestrian or bicycle paths and trails; pedestrian walkways, skywalks, crosswalks, or tunnels; and highway right-of-way or transit corridor beautification and improvements;

(B) drainage or storm water detention improvements and solid waste, water, sewer, or power facilities and services, including electrical, gas, steam, and chilled water facilities and services;

(C) parks, lakes, gardens, recreational facilities, open space, scenic areas, and related exhibits and preserves; fountains, plazas, or pedestrian malls; public art or sculpture and related exhibits and facilities and educational or cultural exhibits and facilities, including exhibits, displays, attractions, or facilities for special events, holidays, or seasonal or cultural celebrations;

(D) off-street parking facilities, bus terminals, heliports, mass-transit, and roadway or water transportation systems; and

(E) other public improvements, facilities, or services similar to the improvements, facilities, or services described by Paragraphs (A)-(D);

(2) the cost of removal, razing, demolition, or clearing of land or improvements in connection with providing an improvement project;

(3) the acquisition of property or an interest in the property that is made in connection with an authorized improvement project; and

(4) the provision of special or supplemental services to improve or promote the area in the district or to protect the public health and safety in the district, including advertising, promotion, tourism, health and sanitation, public safety, security, fire protection or emergency medical services, business recruitment, development, elimination of traffic congestion, and recreational, educational, or cultural improvements, enhancements, or services.

Sec. 376.464. RELATION TO OTHER LAW. If a law referenced in Section 376.461 or referenced in Subchapter E, Chapter 375, is in conflict with or inconsistent with this subchapter, this subchapter prevails. A law referenced in Section 376.461 or Subchapter E, Chapter 375, that is not in conflict with or inconsistent with this subchapter is adopted and incorporated by reference and may be used by the district independently of each other.

Sec. 376.465. NO EMINENT DOMAIN POWER. The district may not exercise the power of eminent domain.

Sec. 376.466. SALES AND USE TAX; EXCISE TAX. (a) For purposes of this section:

(1) "Taxable items" includes all items subject to any sales and use tax that is imposed by the county if the county has imposed a sales and use tax.

(2) "Use," with respect to a taxable service, means the derivation in the district of a direct or indirect benefit from the service.

(b) The district may impose a sales and use tax for the benefit of the district if authorized by a majority of the qualified voters of the district voting at an election called for that purpose.

(c) If the district adopts the tax:

(1) a tax is imposed on the receipts from the sale at retail of taxable items in the district; and

(2) an excise tax is imposed on the use, storage, or other consumption in the district of taxable items purchased or rented from a retailer during the period that the tax is effective in the district.

(d) The rate of the excise tax is the same as the rate of the sales tax portion of the tax applied to the sales price of the taxable items and is included in the sales tax.

Sec. 376.467. TAX ELECTION PROCEDURES. (a) The board by order may call an election to adopt, change the rate of, or abolish a sales and use tax. The election may be held at the same time and in conjunction with a confirmation or directors election.

(b) The election must be held on the next uniform election date that falls on or after the 45th day after the date the order calling the election is adopted.

(c) Notice of the election shall be given and the election shall be held and conducted in the manner prescribed for bond elections under Subchapter D, Chapter 49, Water Code.

(d) In an election to adopt the tax, the ballot shall be prepared to permit voting for or against the proposition: "The adoption of a local sales and use tax in the Old Town Spring Improvement District at the rate of (proposed tax rate)."

(e) In an election to change the rate of the tax, the ballot shall be prepared to permit voting for or against the proposition: "The (increase or decrease, as applicable) in the rate of the local sales and use tax imposed in the Old Town Spring Improvement District from (tax rate on election date) percent to (proposed tax rate) percent."

(f) In an election to abolish the tax, the ballot shall be prepared to permit voting for or against the proposition: "The abolition of the local sales and use tax in the Old Town Spring Improvement District."

Sec. 376.468. IMPOSITION, COMPUTATION, ADMINISTRATION, AND GOVERNANCE OF TAX. (a) Chapter 323, Tax Code, to the extent not inconsistent with this subchapter, governs the application, collection, and administration of the tax under this subchapter, except Sections 323.401-323.406 and 323.505, Tax Code, do not apply. Subtitles A and B, Title 2, and Chapter 151, Tax Code, govern the administration and enforcement of the taxes under this subchapter.

(b) Chapter 323, Tax Code, does not apply to the use and allocation of revenues under this subchapter.

(c) In applying Chapter 323, Tax Code, the district's name shall be substituted for references in that chapter to "the county" and the board is substituted for references in that chapter to "commissioners court."

Sec. 376.469. EFFECTIVE DATE OF TAX OR TAX CHANGE. The adoption of a tax rate or change in the tax rate takes effect after the expiration of the first complete calendar quarter occurring after the date on which the comptroller receives a notice of the results of the election.

Sec. 376.470. TAX RATES. The district may impose the sales and use tax under this subchapter in increments of one-eighth of one percent, with a minimum tax of one-half percent and a maximum tax of one percent.

Sec. 376.471. ABOLITION OF TAX RATE. The board by order may abolish the local sales and use tax rate without an election.

Sec. 376.472. USE OF TAX. Taxes collected under this subchapter may be used only for the purposes for which the district was created.

Sec. 376.473. SUBMISSION OF ANNEXATION INFORMATION. Not later than the 10th day after the date on which the district annexes or excludes territory, the board shall send to the comptroller a certified copy of any resolution, order, or ordinance relating to the annexation or exclusion.

Sec. 376.474. BONDS. (a) The board may issue bonds as provided by Subchapter J, Chapter 375.

(b) In addition to the sources described in Subchapter J, Chapter 375, the bonds issued by the district may be secured and made payable, wholly or partly, by a pledge



of any part of the net proceeds the district receives from a specified portion of not more than one-half of the maximum sales and use tax amount authorized and approved by voters of the district under Section 376.467.

(c) Sections 375.207 and 375.208 do not apply to bonds issued under this section.

Sec. 376.475. CONTRACTING AUTHORITY. (a) The district may contract with any person to carry out the purposes of this subchapter on terms and for the period the board determines.

(b) Any person, including any type of governmental entity, may contract with the district to carry out the purposes of this subchapter.

Sec. 376.476. DISSOLUTION BY BOARD ORDER. The board by order may dissolve the district at any time unless the district has outstanding indebtedness or contractual obligations.

Sec. 376.477. DISSOLUTION BY PETITION OF OWNERS. (a) The board by order shall dissolve the district if the board receives a written petition signed by 75 percent or more of the individuals who own real property in the district.

(b) After the date the district is dissolved, the district may not levy taxes.

(c) If on the date the district is dissolved the district has outstanding liabilities, the board shall, not later than the 30th day after the dissolution, adopt a resolution certifying each outstanding liability. The county shall assume the outstanding liabilities. The county shall collect the sales and use tax for the district for the remainder of the calendar year. The county may continue to collect the tax for an additional calendar year if the commissioners court finds that the tax revenue is needed to retire the district liabilities that were assumed by the county.

(d) The district may continue to operate for a period not to exceed two months after carrying out the responsibilities required by Subsection (c). The district is continued in effect for the purpose of satisfying these responsibilities.

(e) If the district is continued in effect under Subsection (d), the district is dissolved entirely on the first day of the month following the month in which the board certifies to the secretary of state that the district has satisfied the responsibilities of Subsection (c).

Sec. 376.478. ADMINISTRATION OF DISTRICT PROPERTY FOLLOWING DISSOLUTION. (a) After the board orders the dissolution of the district, the board shall transfer ownership of all district property to the county, except as provided by Subsection (b).

(b) If, on the date on which the board orders the dissolution, more than 50 percent of the district territory is in a municipality, the board shall transfer ownership of the district's property to the municipality.

SECTION 2. The legislature finds that:

(1) the proper and legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published as provided by law, and the notice and a copy of this Act have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished by the constitution and laws of this state, including the governor, who has submitted the notice and a copy of this Act to the Texas Natural Resource Conservation Commission;

(2) the Texas Natural Resource Conservation Commission has filed its recommendations relating to this Act with the governor, lieutenant governor, and speaker of the house of representatives within the required time;

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

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

SECTION 3. (a) The initial board of directors of the Old Town Spring Improvement District consists of:

Position No.	Name of Board Member
1.	Vance Fellers, who shall hold position one described by Section 376.457(d)(2), Local Government Code, as added by this Act;
2.	Amy Doktor, who shall hold position two described by Section 376.457(d)(2), Local Government Code, as added by this Act;
3.	Ed Weddle, who shall hold position three described by Section 376.457(d)(3), Local Government Code, as added by this Act;
4.	Anatar Schubert, who shall hold position four described by Section 376.457(e), Local Government Code, as added by this Act; and
5.	Mary Mallott Todeschini, who shall hold position five described by Section 376.457(e), Local Government Code, as added by this Act.

(b) Of the initial directors, the terms of directors for positions 1 and 3 expire on January 31, 2005, and the terms of directors for positions 2, 4, and 5 expire on January 31, 2004.

(c) Vance Fellers shall serve as the president of the initial board. This subsection prevails over Section 375.068, Local Government Code, to the extent of any inconsistency with that section.

SECTION 4. (a) The initial board of directors under Section 3 of this Act shall meet as soon as practicable. The board shall call an election to confirm the creation of the Old Town Spring Improvement District created under Subchapter K, Chapter 376, Local Government Code, as added by this Act. The board shall call the confirmation election at the first meeting unless the board calls a hearing to exclude territory from the district.

(b) The confirmation election shall be held in the manner provided by Section 49.102, Water Code. The election must be held on the first uniform election date provided by Section 41.001, Election Code, that falls on or after the 45th day after the date of the order calling the election.

(c) If a majority of the votes cast in the election are against confirmation, the board may not call or hold another confirmation election until the expiration of six months after the date of the most recent confirmation election.

(d) Before the creation of the district is confirmed, the district may not borrow money or impose taxes. The district may carry on other business as the board determines.

SECTION 5. This Act takes effect September 1, 2001.

The amendment was read.

On motion of Senator Lindsay, the Senate concurred in the House amendment to **SB 647** by a viva voce vote.

**SENATE BILL 368 WITH HOUSE AMENDMENT**

Senator Zaffirini called **SB 368** from the President's table for consideration of the House amendment to the bill.

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

**Floor Amendment No. 1**

Amend **SB 368** by adding the following appropriately numbered SECTIONS and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Subchapter B, Chapter 531, Government Code, is amended by adding Section 531.055 to read as follows:

Sec. 531.055. FAMILY-BASED ALTERNATIVES FOR CHILDREN. (a) The purpose of the system of family-based alternatives required by this section is to further the state's policy of providing for a child's basic needs for safety, security, and stability through ensuring that a child becomes a part of a successful permanent family as soon as possible.

(b) In achieving the purpose described by Subsection (a), the system is intended to be operated in a manner that recognizes that parents are a valued and integral part of the process established under the system. The system shall encourage parents to participate in all decisions affecting their children and shall respect the authority of parents, other than parents whose parental rights have been terminated, to make decisions regarding their children.

(c) In this section:

(1) "Child" means a person younger than 22 years of age who has a physical or developmental disability or who is medically fragile.

(2) "Family-based alternative" means a family setting in which the family provider or providers are specially trained to provide support and in-home care for children with disabilities or children who are medically fragile.

(3) "Institution" means any congregate care facility, including:

(A) a nursing home;

(B) an ICF-MR facility, as defined by Section 531.002, Health and Safety Code;

(C) a group home operated by the Texas Department of Mental Health and Mental Retardation; and

(D) an institution for the mentally retarded licensed by the Department of Protective and Regulatory Services.

(4) "Waiver services" means services provided under:

(A) the Medically Dependent Children Program;

(B) the Community Living Assistance and Support Services Program;

(C) the Home and Community-based Waiver Services Program, including the HCS-OBRA Program;

(D) the Mental Retardation-Local Authority Pilot Project (MRLA);

(E) the Deaf, Blind, and Multiply Disabled Program; and

(F) any other Section 1915(c) waiver program that provides long-term care services for children.

(d) The commission shall contract with a community organization, including a faith-based community organization, or a nonprofit organization for the development

and implementation of a system under which a child who cannot reside with the child's birth family may receive necessary services in a family-based alternative instead of an institution. To be eligible for the contract under this subsection, an organization must possess knowledge regarding the support needs of children with disabilities and their families. For purposes of this subsection, a community organization, including a faith-based community organization, or a nonprofit organization does not include:

(1) any governmental entity; or

(2) any quasi-governmental entity to which a state agency delegates its authority and responsibility for planning, supervising, providing, or ensuring the provision of state services.

(e) The contractor may subcontract for one or more components of implementation of the system with:

(1) community organizations, including faith-based community organizations;

(2) nonprofit organizations;

(3) governmental entities; or

(4) quasi-governmental entities to which state agencies delegate authority and responsibility for planning, supervising, providing, or ensuring the provision of state services.

(f) The commission shall begin implementation of the system in areas of this state with high numbers of children who reside in institutions.

(g) Each affected health and human services agency shall cooperate with the contractor and any subcontractors and take all action necessary to implement the system and comply with the requirements of this section. The commission has final authority to make any decisions and resolve any disputes regarding the system.

(h) The system may be administered in cooperation with public and private entities.

(i) The system must provide for:

(1) recruiting and training alternative families to provide services for children;

(2) comprehensively assessing each child in need of services and each alternative family available to provide services, as necessary to identify the most appropriate alternative family for placement of the child;

(3) providing to a child's parents or guardian information regarding the availability of a family-based alternative;

(4) identifying each child residing in an institution and offering support services, including waiver services, that would enable the child to return to the child's birth family or be placed in a family-based alternative; and

(5) determining through a child's permanency plan other circumstances in which the child must be offered waiver services, including circumstances in which changes in an institution's status affect the child's placement or the quality of services received by the child.

(j) In complying with the requirement imposed by Subsection (i)(3), the commission shall ensure that the procedures for providing information to parents or a guardian permit and encourage the participation of an individual who is not affiliated with the institution in which the child resides or with an institution in which the child could be placed.

(k) In placing a child in a family-based alternative, the system may use a variety of placement options, including an arrangement in which shared parenting occurs

between the alternative family and the child's birth family. Regardless of the option used, a family-based alternative placement must be designed to be a long-term arrangement, except in cases in which the child's birth family chooses to return the child to their home. In cases in which the birth family's parental rights have been terminated, adoption of the child by the child's alternative family is an available option.

(l) The commission or the contractor may solicit and accept gifts, grants, and donations to support the system's functions under this section.

(m) In designing the system, the commission shall consider and, when appropriate, incorporate current research and recommendations developed by other public and private entities involved in analyzing public policy relating to children residing in institutions.

(n) As necessary to implement this section, the commission shall:

(1) ensure that an appropriate number of openings for waiver services that become available as a result of funding for the purpose of transferring persons with disabilities into community-based services are made available to both children and adults;

(2) ensure that service definitions applicable to waiver services are modified as necessary to permit the provision of waiver services through family-based alternatives;

(3) ensure that procedures are implemented for making a level of care determination for each child and identifying the most appropriate waiver service for the child, including procedures under which the director of long-term care for the commission, after considering any preference of the child's birth family or alternative family, resolves disputes among agencies about the most appropriate waiver service; and

(4) require that the health and human services agency responsible for providing a specific waiver service to a child also assume responsibility for identifying any necessary transition activities or services.

(o) Not later than January 1 of each year, the commission shall report to the legislature on the implementation of the system. The report must include a statement of:

(1) the number of children currently receiving care in an institution;

(2) the number of children placed in a family-based alternative under the system during the preceding year;

(3) the number of children who left an institution during the preceding year under an arrangement other than a family-based alternative under the system or for another reason unrelated to the availability of a family-based alternative under the system;

(4) the number of children waiting for an available placement in a family-based alternative under the system; and

(5) the number of alternative families trained and available to accept placement of a child under the system.

SECTION \_\_\_\_\_. Effective September 1, 2003, or a later date on which the Texas Department of Aging and Disability Services assumes the functions of the Texas Department on Aging, as provided by Chapter 1505, Acts of the 76th Legislature, Regular Session, 1999, a reference in Section 531.055, Government Code, as added by this Act, to the commission means the Texas Department of Aging and Disability Services. This section of this Act has no effect if the Texas Department of Aging and Disability Services does not assume the functions of the Texas Department on Aging.

SECTION \_\_\_\_\_. Notwithstanding Section 531.055(o), Government Code, as added by this Act, the Health and Human Services Commission shall submit the report required by that section beginning with the report due on January 1, 2003.

SECTION \_\_\_\_\_. The Health and Human Services Commission shall:

(1) take all action necessary to ensure that requests for proposals necessary to implement Section 531.055, Government Code, as added by this Act, are issued as soon as possible after the effective date of this Act; and

(2) include implementation timelines in any contract executed by the commission after receiving responses to the requests for proposals.

SECTION \_\_\_\_\_. The Health and Human Services Commission is required to implement Section 531.055, Government Code, as added by this Act, only if the legislature appropriates money specifically for that purpose or the commission determines that other sources of funding, including other legislative appropriations, federal funds, gifts, grants, or donations, are available for that purpose. If funding is available only for specific provisions of Section 531.055, Government Code, as added by this Act, the Health and Human Services Commission shall implement those provisions to the extent practicable, regardless of the lack of available funding for the other provisions of that section.

The amendment was read.

On motion of Senator Zaffirini, the Senate concurred in the House amendment to **SB 368** by a viva voce vote.

### **SENATE BILL 1710 WITH HOUSE AMENDMENT**

Senator Van de Putte called **SB 1710** from the President's table for consideration of the House amendment to the bill.

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

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

Amend **SB 1710** on third reading by adding the following appropriately numbered Section of the bill and renumbering the remaining Sections of the bill as appropriate:

SECTION \_\_\_\_\_. Section 312.204(a), Tax Code, is amended to read as follows:

(a) The governing body of a municipality eligible to enter into tax abatement agreements under Section 312.002 may agree in writing with the owner of taxable real property that is located in a reinvestment zone, but that is not in an improvement project financed by tax increment bonds, to exempt from taxation a portion of the value of the real property or of tangible personal property located on the real property, or both, for a period not to exceed 10 years, subject to the rights of holders of outstanding bonds of the municipality, on the condition that the owner of the property make specific improvements or repairs to the property. An agreement may provide for the exemption of the real property in each year covered by the agreement only to the extent its value for that year exceeds its value for the year in which the agreement is executed. The agreement may take effect on January 1 of the tax year after the date the improvements or repairs are substantially completed. An agreement may provide for the exemption of tangible personal property located on the real property in each year covered by the

agreement other than tangible personal property that was located on the real property at any time before the period covered by the agreement with the municipality, and other than inventory or supplies. In a municipality that has a comprehensive zoning ordinance, an improvement, repair, development, or redevelopment taking place under an agreement under this section must conform to the comprehensive zoning ordinance.

The amendment was read.

On motion of Senator Van de Putte, the Senate concurred in the House amendment to **SB 1710** by a viva voce vote.

### **SENATE BILL 274 WITH HOUSE AMENDMENT**

Senator Van de Putte called **SB 274** from the President's table for consideration of the House amendment to the bill.

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

#### **Committee Amendment No. 1**

Amend **SB 274** as follows:

On line 1-11, after the last word of "Bexar County Hospital District" add ", Nueces County Hospital District, El Paso County Hospital District or"

Sec. 281.095. PROHIBITION AGAINST PARTICIPATION IN TAX INCREMENT FINANCING BY CERTAIN HOSPITAL DISTRICTS. (a) In this section, "district" means Bexar County Hospital District, Nueces County Hospital District, El Paso County Hospital District or Harris County Hospital District.

The amendment was read.

On motion of Senator Van de Putte, the Senate concurred in the House amendment to **SB 274** by a viva voce vote.

### **GUESTS PRESENTED**

Senator Nelson was recognized and introduced to the Senate a delegation from American Airlines, Incorporated.

The Senate welcomed its guests.

### **SENATE BILL 707 WITH HOUSE AMENDMENT**

Senator Carona called **SB 707** 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 707** as follows:

1. On page 8, line 22, between the period and "On", insert "(a)".  
2. On page 9, line 1, strike "Not" and substitute "Except as otherwise provided in subsection (b), not".

3. On page 9, between lines 7 and 8, insert the following: "(b) If not later than the 28th day after the date the creditor receives the refund, the creditor"

distributes the refund of the unearned premiums by an adjustment to a credit transaction of the debtor that is made effective not later than the 14th day after the date the creditor receives the refund, the creditor shall be in compliance with this section."

The amendment was read.

On motion of Senator Carona, the Senate concurred in the House amendment to **SB 707** by a viva voce vote.

### **SENATE BILL 433 WITH HOUSE AMENDMENT**

Senator Carona called **SB 433** from the President's table for consideration of the House amendment to the bill.

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

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

Amend **SB 433** as follows:

On page 28, line 24, strike "preempts or otherwise affects any limitation or prohibition provided by another law of this state against assignment of" and substitute "shall apply to".

The amendment was read.

Senator Carona moved to concur in the House amendment to **SB 433**.

The motion prevailed by the following vote: Yeas 30, Nays 0, Present-not voting 1.

Present-not voting: Mr. President.

### **SENATE BILL 1806 WITH HOUSE AMENDMENT**

Senator Lucio called **SB 1806** 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 1806** as follows:

(1) In SECTION 1 of the bill, in added Section 51.186(b)(2)(B), Natural Resources Code (House Committee Report, page 13, line 1), between "a" and "licensed", insert "county surveyor or".

(2) In SECTION 1 of the bill, in added Section 51.188, Natural Resources Code (House Committee Report, page 14, line 10), strike "exists" and substitute "does or does not exist".

(3) In SECTION 1 of the bill, strike added Section 51.190, Natural Resources Code (House Committee Report, page 14, lines 15-18), and substitute the following:  
Sec. 51.190. STANDING TO APPEAL. A person may appeal the commissioner's final order if the person:

(1) is an applicant;

(2) has a present legal interest in the surface or mineral estate at the time an application is filed; or



(3) acquires a legal interest before the date of the commissioner's final order.

The amendment was read.

On motion of Senator Lucio, the Senate concurred in the House amendment to **SB 1806** by a viva voce vote.

### SENATE BILL 285 WITH HOUSE AMENDMENT

Senator Nelson called **SB 285** 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 285** by substituting in lieu thereof the following:

#### A BILL TO BE ENTITLED AN ACT

relating to cancer incidence reporting.

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

SECTION 1. Section 82.002, Health and Safety Code, is amended to read as follows:

Sec. 82.002. DEFINITIONS. In this chapter:

(1) "Cancer" includes:

(A) a large group of diseases characterized by uncontrolled growth and spread of abnormal cells;

(B) any condition of tumors having the properties of anaplasia, invasion, and metastasis;

(C) a cellular tumor the natural course of which is fatal, including malignant and benign tumors of the central nervous system; and

(D) malignant neoplasm, other than nonmelanoma skin cancers such as basal and squamous cell carcinomas.

(2) [~~"Cancer treatment center" means a special health facility devoted to the study, prevention, diagnosis, and management of neoplastic and allied diseases:~~

[~~(3)~~] "Clinical laboratory" means an accredited facility in which:

(A) tests are performed identifying findings of anatomical changes; and

(B) specimens are interpreted and pathological diagnoses are made.

(3) [~~(4)~~] "Health care facility [Hospital]" means:

(A) a general or special hospital as defined by [licensed under] Chapter 241 (Texas Hospital Licensing Law); [or]

(B) an ambulatory surgical center licensed under Chapter 243;

(C) an institution licensed under Chapter 242; or

(D) any other facility, including an outpatient clinic, that provides diagnosis or treatment services to patients with cancer.

(4) "Health care practitioner" means:

(A) a physician as defined by Section 151.002, Occupations Code; or

(B) a person who practices dentistry as described by Section 251.003, Occupations Code [The University of Texas System Cancer Center].

~~[(5) "Precancerous disease" means abnormality of development and organization of adult cells, which is a condition of early cancer without the invasion of neighboring tissue.~~

~~[(6) "Tumorous disease" means a new growth of tissue in which the multiplication of cells is uncontrolled and progressive, also called neoplasm. It is a swelling, enlargement, or abnormal mass, either benign or malignant, that performs no useful functions.]~~

SECTION 2. Section 82.003, Health and Safety Code, is amended to read as follows:

Sec. 82.003. APPLICABILITY OF CHAPTER. This chapter applies to records of cases of ~~[precancerous and tumorous diseases specified by the board and all cases of]~~ cancer, diagnosed on or after January 1, 1979, and to records of all ongoing cancer cases ~~[of those diseases]~~ diagnosed before January 1, 1979.

SECTION 3. Section 82.005, Health and Safety Code, is amended to read as follows:

Sec. 82.005. CONTENT OF REGISTRY. (a) The cancer registry must be a central data bank of accurate, precise, and current information that medical authorities agree serves as an invaluable tool in the early recognition, prevention, cure, and control of cancer ~~[and specified precancerous and tumorous diseases].~~

(b) The cancer registry must include:

(1) a record of the cases of ~~[precancerous and tumorous diseases specified by the board and of]~~ cancer that occur in the state; and

(2) information concerning cancer ~~[those]~~ cases as the board considers necessary and appropriate for the recognition, prevention, cure, or control of cancer ~~[those diseases].~~

SECTION 4. Section 82.006, Health and Safety Code, is amended to read as follows:

Sec. 82.006. BOARD POWERS. To implement this chapter, the board may:

(1) adopt rules that the board considers necessary;

(2) execute contracts that the board considers necessary;

(3) receive the data from medical records of cases of cancer ~~[or precancerous or tumorous disease]~~ that are in the custody or under the control of clinical laboratories, health care facilities ~~[hospitals]~~, and health care practitioners ~~[cancer treatment centers]~~ to record and analyze the data directly related to those diseases;

(4) compile and publish statistical and other studies derived from the patient data obtained under this chapter to provide, in an accessible form, information that is useful to physicians, other medical personnel, and the general public;

(5) comply with requirements as necessary to obtain federal funds in the maximum amounts and most advantageous proportions possible;

(6) receive and use gifts made for the purpose of this chapter; and

(7) limit cancer reporting activities under this chapter to specified geographic areas of the state to ensure optimal use of funds available for obtaining the data.

SECTION 5. Section 82.008, Health and Safety Code, is amended by amending Subsections (a), (b), (d), and (e) and adding Subsections (f), (g), and (h) to read as follows:

(a) To ensure an accurate and continuing source of data concerning ~~[precancerous and tumorous diseases specified by the board and concerning]~~ cancer,

each health care facility [hospital], clinical laboratory, and health care practitioner [cancer treatment center] shall furnish to the board or its representative, on request, data the board considers necessary and appropriate that is derived from each medical record pertaining to [of] a case of cancer [one of those diseases] that is in the custody or under the control of the health care facility, clinical [hospital,] laboratory, or health care practitioner. The department may not request data that is more than three years old unless the department is investigating a possible cancer cluster [treatment center].

(b) A health care facility [hospital], clinical laboratory, or health care practitioner [cancer treatment center] shall furnish the data requested under Subsection (a) in a reasonable format prescribed by the department and within six months of the patient's admission, diagnosis, or treatment for cancer unless a different period is prescribed by the United States Department of Health and Human Services.

(d) The department may access medical records that would identify cases of cancer, establish characteristics or treatment of cancer, or determine the medical status of any identified patient from the following sources:

(1) a health care facility or clinical laboratory providing screening, diagnostic, or therapeutic services to a patient with respect to cancer; or

(2) a health care practitioner diagnosing or providing treatment to a patient with cancer, except as described by Subsection (g) [board by rule may determine a reasonable amount for compensation to the hospital, clinical laboratory, or cancer treatment center for the cost of collecting or furnishing the data and shall pay that amount, within the limits of funds appropriated expressly for that purpose].

(e) The board shall adopt procedures that ensure adequate notice is given to the health care facility, clinical laboratory, or health care practitioner before the department accesses data under Subsection (d).

(f) A health care facility, clinical laboratory, or health care practitioner that knowingly or in bad faith fails to furnish data as required by this chapter shall reimburse the department or its authorized representative for the costs of accessing and reporting the data. The costs reimbursed under this subsection must be reasonable, based on the actual costs incurred by the department or by its authorized representative in the collection of data under Subsection (d), and may include salary and travel expenses. The department may assess a late fee on an account that is 60 days or more overdue. The late fee may not exceed one and one-half percent of the total amount due on the late account for each month or portion of a month the account is not paid in full. A health care facility, clinical laboratory, or health care practitioner may request that the department conduct a hearing to determine whether reimbursement to the department under this subsection is appropriate.

(g) The department may not require a health care practitioner to furnish data or provide access to records if:

(1) the data or records pertain to cases reported by a health care facility providing screening, diagnostic, or therapeutic services to cancer patients that involve patients referred directly to or previously admitted to the facility; and

(2) the facility reported the same data the practitioner would be required to report.

(h) The data required to be furnished under this section may [also] be shared with [furnished only to:

[†] cancer registries of health care facilities subject to the confidentiality provisions in Section 82.009 [hospitals; and

[‡] cancer registries of cancer treatment centers].

SECTION 6. Section 82.009, Health and Safety Code, is amended to read as follows:

Sec. 82.009. CONFIDENTIALITY. (a) Reports, records, and information [Data] obtained under this chapter are confidential and are not subject to disclosure under Chapter 552, Government Code, are not subject to subpoena, and may not otherwise be released or made public except as provided by this section or Section 82.008(h). The reports, records, and information obtained under this chapter are [directly from the medical records of a patient is] for the confidential use of the department and the persons or public or private entities that the department [board] determines are necessary to carry out the intent of this chapter. [The data is privileged and may not be divulged or made public in a manner that discloses the identity of an individual whose medical records have been used for obtaining data under this chapter.]

(b) Medical or epidemiological information may be released:

(1) for statistical purposes in a manner that prevents identification of individuals, health care facilities, clinical laboratories, or health care practitioners;

(2) with the consent of each person identified in the information; or

(3) to promote cancer research, including release of information to other cancer registries and appropriate state and federal agencies, under rules adopted by the board to ensure confidentiality as required by state and federal laws. [Information that may identify an individual whose medical records have been used for obtaining data under this chapter is not available for public inspection under Chapter 552, Government Code.]

(c) A state employee may not testify in a civil, criminal, special, or other proceeding as to the existence or contents of records, reports, or information concerning an individual whose medical records have been used in submitting data required under this chapter unless the individual consents in advance. [Statistical information collected under this chapter is public information.]

(d) Data furnished to a [hospital] cancer registry or a cancer researcher [treatment center cancer registry] under Subsection (b) or Section 82.008(h) [Section 82.008(e)] is for the confidential use of the [hospital] cancer registry or the cancer researcher [treatment center cancer registry], as applicable, and is subject to Subsection (a).

SECTION 7. Section 82.010, Health and Safety Code, is amended to read as follows:

Sec. 82.010. IMMUNITY FROM LIABILITY. The following persons subject to this chapter that act in compliance with this chapter are not civilly or criminally liable for furnishing the information required under this chapter:

(1) a health care facility or [hospital;] clinical laboratory[;—or cancer treatment center];

(2) an administrator, officer, or employee of a health care facility or [hospital;] clinical laboratory[;—or cancer treatment center]; [and]

(3) a health care practitioner or employee of a health care practitioner; and

(4) an employee of the department [physician].

SECTION 8. This Act takes effect September 1, 2001.

The amendment was read.

On motion of Senator Nelson, the Senate concurred in the House amendment to **SB 285** by a viva voce vote.

**CONCLUSION OF MORNING CALL**

The Presiding Officer, Senator Truan in Chair, at 10:11 a.m. announced the conclusion of morning call.

**COMMITTEE SUBSTITUTE  
HOUSE BILL 658 ON THIRD READING**

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

**CSHB 658**, Relating to the revenues of public institutions of higher education and to the issuance of revenue bonds to fund capital projects at those institutions.

The bill was read third time.

Senator Armbrister offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **CSHB 658** on third reading in SECTION 3, in proposed Section 55.1734, Education Code (TEXAS STATE UNIVERSITY SYSTEM; ADDITIONAL BONDS), by striking Subsection (a)(7) and substituting the following:

(7) Southwest Texas State University:

(1) \$19,521,000 to construct a business building; and

(2) \$18,547,000 for academic building modifications; and

By unanimous consent, the amendment was read and was adopted by a viva voce vote.

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

**CSHB 658** as again amended was finally passed by the following vote: Yeas 30, Nays 0, Present-not voting 1.

Present-not voting: Mr. President.

**STATEMENT OF LEGISLATIVE INTENT**

Senator West submitted the following statement of legislative intent for **CSHB 658**:

The legislative intent of **CSHB 658**, regarding the issuance of Tuition Revenue Bonds for the University of North Texas at Dallas is as follows: It is anticipated that the University of North Texas System will not ask for debt service until such time as it believes it has made significant strides toward maintaining a viable public institution of higher education, through the operation of the University of North Texas System Center at Dallas as it relates to the establishment of the University of North Texas at Dallas. Therefore, it will present its case to the Senate Finance and House Appropriations Committees for funding of debt services.

WEST

**COMMITTEE SUBSTITUTE  
HOUSE BILL 2446 ON THIRD 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 third reading and final passage:

**CSHB 2446**, Relating to emergency medical services.

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

**HOUSE JOINT RESOLUTION 85 ON THIRD 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 third reading and final passage:

**HJR 85**, Proposing a constitutional amendment to allow current and retired public school teachers and retired public school administrators to receive compensation for serving on the governing bodies of school districts, cities, towns, or other local government districts.

The resolution was read third time and was passed by the following vote: Yeas 30, Nays 0, Present-not voting 1.

Present-not voting: Mr. President.

**HOUSE BILL 1887 ON THIRD READING**

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

**HB 1887**, Relating to the rights of patients receiving mental health services.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0, Present-not voting 1.

Present-not voting: Mr. President.

**HOUSE BILL 1099 ON THIRD READING**

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

**HB 1099**, Relating to regulation of radioactive materials and other sources of radiation.

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

**HOUSE BILL 2453 ON THIRD 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 third reading and final passage:

**HB 2453**, Relating to conditions for issuance of certain revenue bonds by the Veterans' Land Board.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0, Present-not voting 1.

Present-not voting: Mr. President.

**HOUSE BILL 969 ON THIRD READING**

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

**HB 969**, Relating to local governments that may consider the location of a bidder's principal place of business in awarding contracts.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0, Present-not voting 1.

Present-not voting: Mr. President.

**HOUSE BILL 1913 ON THIRD 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 third reading and final passage:

**HB 1913**, Relating to termination of certain contracts by a preferred provider organization or health maintenance organization.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0, Present-not voting 1.

Present-not voting: Mr. President.

**HOUSE BILL 1258 ON THIRD 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 third reading and final passage:

**HB 1258**, Relating to the ratification of the creation of and to the administration, powers, duties, operation, and financing of the Middle Pecos Groundwater Conservation District.

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

**SENATE BILL 22 WITH HOUSE AMENDMENT**

Senator Shapiro called **SB 22** from the President's table for consideration of the House amendment to the bill.

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

**Committee Amendment No. 1**

Amend **SB 22** as follows:

(1) Strike Sections 4 and 5 of the bill (Senate engrossment, page 3, line 4, through page 6, line 2) and substitute:

SECTION 4. Section 462.023, Health and Safety Code, is amended to read as follows:

Sec. 462.023. DISCHARGE OR RELEASE. (a) Except as provided by Subsections (b) and (c) [~~Subsection (b)~~], a facility shall release a voluntary patient

within a reasonable time, not to exceed 96 hours, after the patient requests in writing to be released.

(b) A facility is not required to release the patient if before the end of the 96-hour period:

- (1) the patient files a written withdrawal of the request;
- (2) an application for court-ordered treatment or emergency detention is filed and the patient is detained in accordance with this chapter; or
- (3) the patient is a minor admitted under Section 462.022(a)(3)(A) with the consent of a parent, guardian, or conservator and that person, after consulting with facility personnel, objects in writing to the release of the minor.

(c) If the patient is a minor admitted under Section 462.022(a)(3)(A), a facility shall consult with the person described by Subsection (b)(3) on receipt of the written request for release. If that person in writing objects to the release of the patient, the facility shall continue treatment of the patient as a voluntary patient.

(d) Subsection (a) applies to a minor admitted under Section 462.022 if the request for release is made in writing to the facility by the person who requested the initial admission.

(e) [~~(d)~~] If extremely hazardous weather conditions exist or a disaster occurs, the facility administrator may request the judge of a court that has jurisdiction over proceedings brought under Subchapter D to extend the period during which the person may be detained. The judge or a magistrate appointed by the judge may by written order made each day extend the period during which the person may be detained until 4 p.m. on the first succeeding business day. The written order must declare that an emergency exists because of the weather or the occurrence of a disaster.

(2) Renumber Section 6 of the bill accordingly.

The amendment was read.

Senator Shaprio 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 22** 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 Shapiro, Chair; Nelson, Harris, Moncrief, and Armbrister.

### **HOUSE BILL 1922 ON THIRD 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 third reading and final passage:

**HB 1922**, Relating to state government privacy policy.

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



(President in Chair)

**GAVEL PRESENTED**

The President announced to the Senate that Senator Zaffirini had passed the milestone of having cast 25,000 consecutive votes in the Senate and presented her with a gavel in honor of the occasion.

**SENATE BILL 949 ON SECOND READING**

On motion of Senator Shapiro 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 949**, Relating to the applicability of municipal zoning ordinances to open-enrollment charter schools.

The bill was read second time.

Senator Shapiro offered the following committee amendment to the bill:

**Committee Amendment No. 1**

Amend **SB 949**, page 1, line 10, by inserting "governing public schools" after the word "ordinances".

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

Senator Shapiro offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **SB 949** as follows:

(1) In SECTION 1 of the bill, in amended Section 12.103, Education Code, between "SCHOOL." and "An", insert "(a)".

(2) In SECTION 1 of the bill, immediately following the text of amended Section 12.103, Education Code, insert the following:

(b) Notwithstanding Subsection (a), a campus of an open-enrollment charter school located in whole or in part in a municipality with a population of 20,000 or less is not subject to municipal zoning ordinances governing public schools.

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

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

**SB 949** as amended was passed to engrossment by a viva voce vote.

**SENATE BILL 949 ON THIRD READING**

Senator Shapiro moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 949** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0, Present-not voting 1.

Present-not voting: Mr. President.

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

**HOUSE BILL 3692 ON SECOND READING**

On motion of Senator Ellis 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 3692**, Relating to the creation of the Greater Southeast Management District; providing authority to impose a tax and issue bonds.

The bill was read second time.

Senator Ellis offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **HB 3692** by striking all below the enacting clause and substituting the following:

SECTION 1. Chapter 376, Local Government Code, is amended by adding Subchapter K to read as follows:

**SUBCHAPTER K. GREATER  
SOUTHEAST MANAGEMENT DISTRICT**

Sec. 376.451. CREATION OF DISTRICT. (a) A special district to be known as the "Greater Southeast Management District" exists as a political subdivision of the state.

(b) The name of the district may be changed by resolution of the board.

(c) The creation of the district is essential to accomplish the purposes of Section 52, Article III, Section 59, Article XVI, and Section 52-a, Article III, Texas Constitution, and other public purposes stated in this subchapter.

Sec. 376.452. DECLARATION OF INTENT. (a) The creation of the district is necessary to promote, develop, encourage, and maintain employment, commerce, transportation, housing, tourism, recreation, arts, entertainment, economic development, safety, and the public welfare in the southeast area of the city of Houston.

(b) The creation of the district and this legislation are not to be interpreted to relieve the county or the municipality from providing the level of services, as of the effective date of this subchapter, to the area in the district or to release the county or the municipality from the obligations each entity has to provide services to that area. The district is created to supplement and not supplant the municipal or county services provided in the area in the district.

(c) By creating the district and in authorizing the municipality, county, and other political subdivisions to contract with the district, the legislature has established a program to accomplish the public purposes set out in Section 52-a, Article III, Texas Constitution.

Sec. 376.453. DEFINITIONS. In this subchapter:

- (1) "Board" means the board of directors of the district.
- (2) "County" means Harris County, Texas.
- (3) "District" means the Greater Southeast Management District.
- (4) "Municipality" means the City of Houston, Texas.

Sec. 376.454. BOUNDARIES. The district includes all the territory contained in the following described area:

BEGINNING at a point being the point of intersection of the centerline of the right-of-way of interstate 45 and the centerline of the intersection of HB & TRR;

THENCE, in a south westerly direction along the centerline of HB & TRR to the intersection or Wheeler Street;

THENCE, continuing in a southeasterly direction along the centerline of HB & TRR, and to the intersection of the T & no RR (Greater Houston & S.A.R.R.);

THENCE, east along T & No RR to the rear lot lines of all business facing the West Property line on South Wayside Street;

THENCE, south parallel more or less to South Wayside to the South Loop East passing its South property line to the rear property line of all lots fronting on the South Loop East;

THENCE, west parallel to the South Loop East more or less along the rear lines of all property fronting on the south property line of the South Loop East passing Myakawa Road to the West line of Martin Luther King Street;

THENCE, along the rear property line of the lots fronting the West R.O.W. line of Martin Luther King Street to the north line of Browncroft Street;

THENCE west along the north line of Browncroft St. passing USA Lane to the south continuing in a generally west direction to the west line of Milart Street;

THENCE South along the west line of Milart Street to the southeast corner of tract 23 of the WCRR Co. Survey A 936;

THENCE, west along the southerly property line of Tract 23 and 14B of the WCRR Co. Survey A 936 to the east line of Schroeder Street;

THENCE northeasterly direction along the easterly line of Schoeder Road to its intersection with the southerly line on Griggs Road;

THENCE in a northeasterly direction along the southerly line of Griggs Road to the intersection of the rear of the rear property line of the lot facing Grace Lane;

THENCE in a southwesterly direction along the rear property line of the lots facing Grace lane to the intersection of the rear property line projection of all lots fronting, more or less the north line of Kingsbury Lane;

THENCE westerly along the rear property line projection of all lots fronting the north line of Kingsbury Lane to the east right-of-way line of Calhoun Road;

THENCE northeasterly along the easterly line of Calhoun Road to the rear property line projection of the lots fronting on Griggs Road;

THENCE, west along the rear property line of all the lots fronting on Griggs Road to the east line of Cullen Road;

THENCE, in a southerly direction along the east line of Cullen Road to the south line projection of Dixie Street;

THENCE, in a westerly direction along the south line of Dixie Street, crossing St. Augustine Street, to the rear line of the lot facing St. Augustine Street;

THENCE north to the rear lot line of the lots that front on Old Spanish Trail;

THENCE west along the rear lot line of the lots that front on Old Spanish Trail to the rear property line of the lot that fronts on Scottcrest Street;

THENCE north to the south right-of-way line of Old Spanish Trail;

THENCE west to the intersection of the east line of Scott Crest Street;

THENCE in a southwesterly direction to the rear property line of all lots that front Zephyr Street;

THENCE in a westerly direction along the rear property line of the lots that front Zephyr Street to west right-of-way line of LaSalette Drive;

THENCE northwesterly along the west right-of-way line of LaSalette Drive to the intersection of the south right-of-way line of Old Spanish Trail;

THENCE southwesterly along the south right-of-way line of Old Spanish Trail to rear property line of the corner lot fronting on Tierwester Street;  
THENCE south along the rear property line of the corner lot fronting on Tierwester Street to the southeast corner of this lot;  
THENCE west along the south line of the corner lot fronting on Tierwester Street to the east right-of-way line of Tierwester Street;  
THENCE southerly along the east right-of-way line of Tierwester Street to the south property line of Zephyr Street;  
THENCE west crossing Tierwester Street, where the street names changes from Zephyr Street to Southland Avenue and along the south line of Southland Avenue to the intersection of the south right-of-way line of Old Spanish Trail;  
THENCE in a southwesterly direction along the south line of Old Spanish Trail to the east line of Allegheny Street;  
THENCE south along the east right-of-way line of Allegheny Street the southeast corner of the first corner lot;  
THENCE east along the south line of the corner lot to the rear property line;  
THENCE south along the rear property line for one lot long to the southeast corner of this lot fronting on the east line of Allegheny Street;  
THENCE west to the east property line of Allegheny Street;  
THENCE in a southwesterly direction along the east right-of-way line of Allegheny Street to the intersection of the north right-of-way line of Yellowstone Street;  
THENCE in a south easterly direction along the north right-of-way line of Yellowstone Street to the east right-of-way line of Peerless Street;  
THENCE in a southerly direction along the east right-of-way line of Peerless Street to the intersection of the south right-of-way line of Corder Street;  
THENCE, in a northwesterly direction along the southerly line of Corder Street crossing State Highway 288 in a straight line along the centerline of Nicholas Street to its intersection with the westerly line of Almeda Rd.;  
THENCE, in a southerly direction along the westerly line of Almeda Rd. to its intersection with the southerly line of El Paseo St;  
THENCE, in a westerly direction along the southerly line of El Paseo to its intersection with the westerly line of Knight Rd;  
THENCE, in a northerly direction along the centerline of Knight Rd. to its intersection with Fannin St;  
THENCE, along the centerline of Fannin Street in a northwesterly direction to the intersection of Holcombe Street;  
THENCE, west along the centerline of Holcombe Street to the intersection of South Main Street;  
THENCE, in a northeasterly direction along the centerline of South Main to Palm Street, and to the intersection with the boundaries of the Midtown TIRZ and Management District;  
THENCE, southeasterly with the Southerly R.O.W. of Palm Street to the easterly R.O.W. line of Fannin Street;  
THENCE, northeasterly, with the Easterly R.O.W. line of Fannin Street to the northerly R.O.W. line of US 59 South;  
THENCE, in an easterly, direction with curve to the left and in a northerly direction along the northerly R.O.W. line of US 59 South, to the intersection of the westerly R.O.W. line of State Highway 288 which is also being US 59 North and crossing Interstate Highway 45 (Gulf Freeway) to the Northerly R.O.W. line thereof; said point also being the Northwest boundary corner of the Midtown TIRZ & Management District;

THENCE, southeasterly direction along the north right-of-way line of Interstate Highway 45 and to the POINT OF BEGINNING, containing 19,400 acres more or less, SAVE AND EXCEPT all tracts or parcels of land, rights-of-way, facilities, and improvements owned by an electric utility or a power generation company as defined by Section 31.002, Utilities Code, or a gas utility as defined by Sections 101.003 and 121.001, Utilities Code.

Sec. 376.455. FINDINGS RELATING TO BOUNDARIES. The boundaries and field notes of the district form a closure. If a mistake is made in the field notes or in copying the field notes in the legislative process, the mistake does not in any way affect the:

(1) organization, existence, and validity of the district;

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

(3) right of the district to impose and collect assessments or taxes; or

(4) legality or operation of the district or its governing body.

Sec. 376.456. FINDINGS OF BENEFIT AND PUBLIC PURPOSE. (a) All the land and other property included in the district will be benefited by the improvements and services to be provided by the district under powers conferred by Section 52, Article III, Section 59, Article XVI, and Section 52-a, Article III, Texas Constitution, and other powers granted under this subchapter, and the district is created to serve a public use and benefit.

(b) The creation of the district is in the public interest and is essential to:

(1) further the public purposes of the development and diversification of the economy of the state; and

(2) eliminate unemployment and underemployment and develop or expand transportation and commerce.

(c) The district will:

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

(2) provide money to preserve, maintain, and enhance the economic health and vitality of the district as a community and business center; and

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

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

(e) The district will not act as the agent or instrumentality of any private interest even though many private interests will be benefited by the district, as will the general public.

Sec. 376.457. APPLICATION OF OTHER LAW. Except as otherwise provided by this subchapter, Chapter 375 applies to the district and its governing body and employees.

Sec. 376.458. CONSTRUCTION OF SUBCHAPTER. This subchapter shall be liberally construed in conformity with the findings and purposes stated in this subchapter.

Sec. 376.459. BOARD OF DIRECTORS IN GENERAL. (a) The district is governed by a board of 21 directors who serve staggered terms of four years, with 10

members' terms expiring June 1 of an odd-numbered year and 11 members' terms expiring June 1 of the following odd-numbered year. The board may increase or decrease the number of directors on the board by resolution, provided that it is in the best interest of the district to do so and that the board consists of not fewer than 9 and not more than 30 directors.

(b) Subchapter D, Chapter 375, applies to the board to the extent that subchapter does not conflict with this subchapter. The imposition of a tax, assessment, or impact fee requires a vote of a majority of the directors serving. Directors may vote on any matter authorized by Subchapter D, Chapter 375, and action may be taken by the board only if it is approved in the manner prescribed by Subchapter D, Chapter 375.

Sec. 376.460. APPOINTMENT OF DIRECTORS; VACANCY. The mayor and members of the governing body of the municipality shall appoint directors from persons recommended by the board who meet the qualifications of Subchapter D, Chapter 375. A vacancy in the office of director because of the death, resignation, or removal of a director shall be filled by the remaining members of the board by appointing a qualified person for the unexpired term.

Sec. 376.461. POWERS OF DISTRICT. The district has:

(1) all powers necessary or required to accomplish the purposes for which the district was created;

(2) the rights, powers, privileges, authority, and functions of a district created under Chapter 375;

(3) the powers given to a corporation under Section 4B, Development Corporation Act of 1979 (Article 5190.6, Vernon's Texas Civil Statutes), and the power to own, operate, acquire, construct, lease, improve, and maintain projects;

(4) the power to impose ad valorem taxes, assessments, or impact fees in accordance with Chapter 375 to provide improvements and services for a project or activity the district is authorized to acquire, construct, improve, or provide under this subchapter;

(5) the power to correct, add to, or delete assessments from its assessment rolls after notice and hearing as provided by Subchapter F, Chapter 375; and

(6) the powers given to a housing finance corporation created under Chapter 394 to provide housing or residential development projects in the district.

Sec. 376.462. EMINENT DOMAIN. The district may not exercise the power of eminent domain.

Sec. 376.463. EX OFFICIO BOARD MEMBERS. (a) The following persons shall serve as nonvoting ex officio directors:

(1) the director of the following departments of the municipality:

(A) parks and recreation;

(B) planning and development;

(C) public works; and

(D) civic center;

(2) the municipality's chief of police;

(3) the general manager of the Metropolitan Transit Authority; and

(4) the presidents of any institutions of higher learning located in the district.

(b) If a department described by Subsection (a) is consolidated, renamed, or changed, the board may appoint a director of the consolidated, renamed, or changed department as a nonvoting ex officio board member. If a department described by Subsection (a) is abolished, the board may appoint a representative of another department of the municipality that performs duties comparable to those performed by the abolished department.

(c) The board may appoint the presiding officer of a nonprofit corporation that is actively involved in activities in the municipality's midtown area to serve as a nonvoting ex officio director.

Sec. 376.464. CONFLICTS OF INTEREST; ONE-TIME AFFIDAVIT. (a) Except as provided in this section:

(1) a director may participate in all board votes and decisions; and

(2) Chapter 171 governs conflicts of interest for board members.

(b) Section 171.004 does not apply to the district. A director who has a substantial interest in a business or charitable entity that will receive a pecuniary benefit from a board action shall file a one-time affidavit declaring the interest. An additional affidavit is not required if the director's interest changes. After the affidavit is filed with the board secretary, the director may participate in a discussion or vote on that action if:

(1) a majority of the directors have a similar interest in the same entity; or

(2) all other similar business or charitable entities in the district will receive a similar pecuniary benefit.

(c) A director who is also an officer or employee of a public entity may not participate in the discussion of or vote on a matter regarding a contract with that same public entity.

(d) For purposes of this section, a director has a substantial interest in a charitable entity in the same manner that a person would have a substantial interest in a business entity under Section 171.002.

Sec. 376.465. EXPENSES AND LIABILITY FOR CERTAIN ACTIONS AFFECTING PROPERTY. (a) If the district, in exercising a power conferred by this subchapter, requires a relocation, adjustment, raising, lowering, rerouting, or changing of the grade or the construction of any of the following items, the district must take that required action at the sole expense of the district:

(1) a street, alley, highway, overpass, underpass, road, railroad track, bridge, facility, or other property;

(2) an electric line, conduit, facility, or other property;

(3) a telephone or telegraph line, conduit, facility, or other property;

(4) a gas transmission or distribution pipe, pipeline, main, facility, or other property;

(5) a water, sanitary sewer, or storm sewer pipe, pipeline, main, facility, or other property;

(6) a cable television line, cable, conduit, facility, or other property; or

(7) another pipeline, facility, or other property relating to the pipeline.

(b) The district shall bear damages that are suffered by owners of the facility or other property.

Sec. 376.466. RELATION TO OTHER LAW. If any provision of general law, including a law referenced in this subchapter, is in conflict with or is inconsistent with this subchapter, this subchapter prevails. Any law referenced in this subchapter that is not in conflict or inconsistent with this subchapter is adopted and incorporated by reference.

Sec. 376.467. REQUIREMENTS FOR FINANCING SERVICES AND IMPROVEMENTS. The board may not finance services and improvement projects under this subchapter unless a written petition requesting those improvements or services has been filed with the board. The petition must be signed by:

(1) the owners of a majority of the assessed value of real property in the district as determined by the most recent certified county property tax rolls; or

(2) at least 50 persons who own land in the district, if there are more than 50 persons who own property in the district as determined by the most recent certified county property tax rolls.

Sec. 376.468. NONPROFIT CORPORATION. (a) The board by resolution may authorize the creation of a nonprofit corporation to assist and act on behalf of the district in implementing a project or providing a service authorized by this subchapter.

(b) The board shall appoint the board of directors of a nonprofit corporation created under this section. The board of directors of the nonprofit corporation shall serve in the same manner as, for the same term as, and on the conditions of the board of directors of a local government corporation created under Chapter 431, Transportation Code.

(c) A nonprofit corporation created under this section has the powers of and is considered for purposes of this subchapter to be a local government corporation created under Chapter 431, Transportation Code.

(d) A nonprofit corporation created under this section may implement any project and provide any services authorized by this subchapter.

Sec. 376.469. DISBURSEMENTS OR TRANSFERS OF FUNDS. The board by resolution shall establish the number of directors' signatures and the procedure required for a disbursement or transfer of the district's money.

Sec. 376.470. BONDS. (a) The district may issue bonds or other obligations payable in whole or in part from ad valorem taxes, assessments, impact fees, revenues, grants, or other money of the district, or any combination of those sources of money, to pay for any authorized purpose of the district.

(b) Bonds or other obligations of the district may be issued in the form of bonds, notes, certificates of participation, including other instruments evidencing a proportionate interest in payments to be made by the district, or other obligations that are issued in the exercise of the district's borrowing power and may be issued in bearer or registered form or not represented by an instrument but the transfer of which is registered on books maintained by or on behalf of the district. The board may impose and collect an assessment under Subchapter F, Chapter 375, for any purpose authorized by this subchapter or by Chapter 375.

(c) Except as provided by Subsection (d), the district must obtain the municipality's approval of:

(1) the issuance of bonds for an improvement project;

(2) the plans and specifications of the improvement project to be financed by the bonds; and

(3) the plans and specifications of a district improvement project related to:

(A) the use of land owned by the municipality;

(B) an easement granted by the municipality; or

(C) a right-of-way of a street, road, or highway.

(d) If the district obtains the municipality's approval of a capital improvements budget for a specified period not to exceed five years, the district may finance the capital improvements and issue bonds specified in the budget without further municipal approval.

(e) Before the district issues bonds, the district shall submit the bonds and the record of proceedings of the district relating to authorization of the bonds to the attorney general for approval as provided by Chapter 1202, Government Code.

Sec. 376.471. ASSESSMENTS. (a) The board may impose and collect an assessment for any purpose authorized by this subchapter.

(b) Assessments, reassessments, or assessments resulting from an addition to or correction of the assessment roll by the district, penalties and interest on an assessment



or reassessment, expenses of collection, and reasonable attorney's fees incurred by the district:

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

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

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

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

Sec. 376.472. PROPERTY EXEMPTED FROM TAX, FEE, OR ASSESSMENT.

(a) The district may not impose a tax, impact fee, or assessment on a residential property or condominium.

(b) The district may not impose an impact fee or assessment on the property, equipment, or facilities of a utility. In this subsection, "utility" means a person that provides to the public cable television, gas, light, power, telephone, sewerage, or water service.

Sec. 376.473. ELECTIONS. (a) In addition to the elections the district must hold under Subchapter L, Chapter 375, the district shall hold an election in the manner provided by that subchapter to obtain voter approval before the district imposes a maintenance tax or issues bonds payable from ad valorem taxes or assessments.

(b) The board may submit multiple purposes in a single proposition at an election.

Sec. 376.474. IMPACT FEES. The district may impose an impact fee for an authorized purpose as provided by Subchapter G, Chapter 375.

Sec. 376.475. MAINTENANCE TAX. (a) If authorized at an election held in accordance with Section 376.473, the district may impose and collect an annual ad valorem tax on taxable property in the district for the maintenance and operation of the district and the improvements constructed or acquired by the district or for the provision of services.

(b) The board shall determine the tax rate.

Sec. 376.476. DISSOLUTION OF DISTRICT. The district may be dissolved as provided by Subchapter M, Chapter 375. If the district has debt and is dissolved, the district shall remain in existence solely for the limited purpose of discharging its bonds or other obligations according to their terms.

Sec. 376.477. CONTRACTS. (a) To protect the public interest, the district may contract with the municipality or the county for the municipality or county to provide law enforcement services in the district for a fee.

(b) The municipality, the county, or another political subdivision of the state, without further authorization, may contract with the district to implement a project of the district or assist the district in providing the services authorized under this subchapter. A contract under this subsection may:

(1) be for a period on which the parties agree;

(2) include terms on which the parties agree;

(3) be payable from taxes or any other sources of revenue that may be available for that purpose; or

(4) provide that taxes or other revenue collected at a district project or from a person using or purchasing a commodity or service at a district project may be paid or rebated to the district under the terms of the contract.

(c) The district may enter into a contract, lease, or other agreement with or make or accept grants and loans to or from:

- (1) the United States;
- (2) the state or a state agency;
- (3) a county, a municipality, or another political subdivision of the state;
- (4) a public or private corporation, including a nonprofit corporation created by the board under this subchapter; or
- (5) any other person.

(d) The district may perform all acts necessary for the full exercise of the powers vested in the district on terms and for the period the board determines advisable.

Sec. 376.478. COMPETITIVE BIDDING UNIT. Section 375.221 does not apply to the district unless the contract is for more than \$25,000.

Sec. 376.479. ANNEXATION. The district may:

- (1) annex territory as provided by Subchapter C, Chapter 375; and
- (2) annex territory located inside the boundaries of a reinvestment zone created by the municipality under Chapter 311, Tax Code, if the governing body of the municipality consents to the annexation.

Sec. 376.480. AGREEMENTS: GENERAL; DONATIONS, INTERLOCAL AGREEMENTS, AND LAW ENFORCEMENT SERVICES. (a) The district may make an agreement with or accept a donation, grant, or loan from any person.

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

(c) To protect the public interest, the district may contract with the municipality or the county for the municipality or county to provide law enforcement services in the district for a fee.

SECTION 2. The legislature finds that:

(1) proper and legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published as provided by law, and the notice and a copy of this Act have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished by the constitution and laws of this state, including the governor, who has submitted the notice and Act to the Texas Natural Resource Conservation Commission;

(2) the Texas Natural Resource Conservation Commission has filed its recommendations relating to this Act with the governor, lieutenant governor, and speaker of the house of representatives within the required time;

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

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

SECTION 3. Notwithstanding Section 376.459, Local Government Code, as added by this Act:

(1) the initial board of directors of the Greater Southeast Management District consists of:

<u>Pos. No.</u>	<u>Name of Director</u>
1	Walter Strickland
2	Francis Page
3	Algenita Scott Davis

4	Ashley Smith
5	Zinetta A. Burney
6	Mark Moreno
7	Alan Bergeron
8	Barron Wallace
9	John Medina
10	Teddy McDavid
11	Robert Muhammad
12	Brian Smith
13	David Dang
14	Adele Maxie
15	Robert Dixon
16	Susan Young
17	James J. Smith
18	Richard Wainerdi
19	Ali Ashan
20	Walter Johnson
21	Jim Arnold; and

(2) of the initial board, members in positions 1-11 serve terms that expire June 1, 2005, and members in positions 12-21 serve terms that expire June 1, 2003.

SECTION 4. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2001.

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

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

**HB 3692** as amended was passed to third reading by a viva voce vote.

#### **COMMITTEE SUBSTITUTE SENATE BILL 1237 ON THIRD READING**

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

**CSSB 1237**, Relating to immunizations and the immunization registry.

The bill was read third time and was passed by the following vote: Yeas 21, Nays 9, Present-not voting 1.

Yeas: Armbrister, Barrientos, Bernsen, Bivins, Brown, Cain, Carona, Ellis, Gallegos, Lindsay, Lucio, Madla, Moncrief, Ogden, Shapleigh, Sibley, Truan, Van de Putte, West, Whitmire, Zaffirini.

Nays: Duncan, Fraser, Harris, Haywood, Jackson, Nelson, Shapiro, Staples, Wentworth.

Present-not voting: Mr. President.

## SENATE BILL 1119 WITH HOUSE AMENDMENTS

Senator Armbrister called **SB 1119** 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 1119** by substituting in lieu thereof the following:

#### A BILL TO BE ENTITLED AN ACT

relating to the regulation of bail bond sureties; providing a penalty.

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

SECTION 1. Subdivision (2), Section 1704.001, Occupations Code, is amended to read as follows:

- (2) "Bail bond surety" means a person who:
- (A) executes a bail bond as a surety or cosurety for another person; or
  - (B) for compensation deposits cash to ensure the appearance in court of a person accused of a crime.

SECTION 2. Subchapter C, Chapter 1704, Occupations Code, is amended by adding Section 1704.109 to read as follows:

Sec. 1704.109. SOLICITATION AND ADVERTISEMENT. A board by rule may regulate solicitations or advertisements by or on behalf of license holders to protect the public from harassment, fraud, or misrepresentation.

SECTION 3. Section 1704.152, Occupations Code, is amended by amending Subsection (a) and adding Subsection (c) to read as follows:

(a) To be eligible for a license under this chapter, an individual, including an agent designated by a corporation in an application, must:

- (1) be a resident of this state and a citizen of the United States;
- (2) be at least 18 years of age; ~~and~~
- (3) possess the financial resources required to comply with Section 1704.160, unless the individual is acting only as agent for a corporation holding a license under this chapter; and

(4) have, in the two years preceding the date a license application is filed:

(A) at least one year of continuous work experience in the bail bond business; and

(B) completed at least eight hours of continuing legal education in criminal law courses or bail bond law courses that are approved by the State Bar of Texas and that are offered by an institution of higher education accredited by the state.

(c) Subsection (a)(4) does not apply to the issuance of an original license:

(1) in a county before the first anniversary of the date a board is created in the county; or

(2) to an individual who applies to operate the bail bond business of a license holder who has died if the individual is related to the decedent within the first degree by consanguinity or is the decedent's surviving spouse.

SECTION 4. Section 1704.154, Occupations Code, is amended by amending Subsections (b) and (c) and adding Subsections (d) and (e) to read as follows:

- (b) The application must:
- (1) be in a form and contain the information prescribed by the board;
  - (2) state:
    - (A) the applicant's name, age, and address;
    - (B) if the applicant is a corporation, whether the applicant is:
      - (i) chartered or admitted to do business in this state; and
      - (ii) qualified to write fidelity, guaranty, and surety bonds under the Insurance Code;
    - (C) the name under which the bail bond business will be conducted, including a bail bond business that is a corporation; ~~and~~
    - (D) each place, including the street address and municipality, at which the business will be conducted; and
    - (E) the amount of cash or the cash value of a certificate of deposit or cashier's check that the applicant intends to deposit with the county treasurer if the applicant's application is approved or, if the applicant is an individual intending to execute nonexempt real property in trust to the board, the value of the real property;
  - (3) if the applicant is an individual, be accompanied by:
    - ~~[(A)]~~ a list, as required by Section 1704.155, of nonexempt real property owned by the applicant that the applicant intends to execute in trust to the board if the applicant's application is approved; and
    - ~~[(B)]~~ a statement showing the amount of cash or cash equivalent, or the cash value of a certificate of deposit or cashier's check, that the applicant intends to deposit with the county treasurer if the applicant's application is approved; and
  - (4) be accompanied by:
    - (A) the applicant's complete, sworn financial statement;
    - (B) the applicant's declaration that the applicant will comply with this chapter and the rules adopted by the board;
    - (C) three letters of recommendation, each from a person who:
      - (i) is reputable; and
      - (ii) has known the applicant or, if the applicant is a corporation, the agent designated by the corporation in the application ~~[person who will be in charge of the applicant's business in the county]~~ for at least three years;
    - (D) a \$500 filing fee;
    - (E) a photograph of the applicant or, if the applicant is a corporation, of the agent designated by the corporation in the application ~~[person who will be in charge of the applicant's business in the county]~~;
    - (F) a set of fingerprints of the applicant~~[-]~~ or, if the applicant is a corporation, of the agent designated by the corporation in the application ~~[person who will be in charge of the applicant's business in the county]~~ taken by a law enforcement officer designated by the board; ~~and~~
    - (G) if the applicant ~~[or, if the applicant is a corporation, the person who will be in charge of the applicant's business in the county]~~ is or has been licensed under this chapter in another county:
      - (i) a list of each county in which the applicant holds a license; and
      - (ii) a statement by the applicant that, as of the date of the application, the applicant has no unpaid final judgments of forfeiture against the applicant in any county in which the applicant holds or has held a license; and

(H) if the applicant is a corporation, a statement by the designated agent of any unpaid final judgments of forfeiture on any bond executed by the agent~~[, a letter from the board of that county stating whether the applicant is in good standing in the county in which the person is licensed].~~

(c) A letter of recommendation submitted under Subsection (b)(4)(C) must:

(1) state that the applicant or, if the applicant is a corporation, the agent designated by the corporation in the application ~~[person who will be in charge of the applicant's business in the county]~~ has a reputation for honesty, truthfulness, fair dealing, and competency; and

(2) recommend that the board issue the license.

(d) The existence of an unpaid final judgment disclosed under Subsection (b)(4)(H) may not bar licensure but may be considered by the board in determining whether to grant a license to the corporation with that agent.

(e) A corporation must file a separate corporate application for each agent the corporation designates in the county.

SECTION 5. Section 1704.155, Occupations Code, is amended to read as follows:

Sec. 1704.155. REAL PROPERTY LIST. A list of nonexempt real property required under Section 1704.154(b)(3) ~~[1704.154(b)(3)(A)]~~ must, for each parcel listed, include:

(1) a legal description of the property that would be sufficient to convey the property by general warranty deed;

(2) a current statement from each taxing unit authorized to impose taxes on the property showing:

(A) that there is no outstanding tax lien against the property; and

(B) the net value of the property according to a current appraisal made by a real estate appraiser who is a member in good standing of a nationally recognized professional appraiser society or trade organization that has an established code of ethics, educational program, and professional certification program;

(3) a statement by the applicant that, while the property remains in trust, the applicant:

(A) agrees to pay the taxes on the property;

(B) will not further encumber the property unless the applicant notifies the board of the applicant's intent to encumber the property and the board permits the encumbrance; and

(C) agrees to maintain insurance on any improvements on the property against damage or destruction in the full amount of the value claimed for the improvements;

(4) a statement of whether the applicant is married; and

(5) if the applicant is married, a sworn statement from the applicant's spouse agreeing to transfer to the board, as a part of the trust, any right, title, or interest that the spouse may have in the property.

SECTION 6. Subsections (a), (b), and (c), Section 1704.160, Occupations Code, are amended to read as follows:

(a) On receipt of notice under Section 1704.159 that an application has been conditionally approved, the applicant, not later than the 90th day after the date of receipt of the notice, must:

(1) if the applicant is an individual:

(A) subject to Subsection (b), deposit with the county treasurer a cashier's check, certificate of deposit, ~~or cash~~~~[-, or cash equivalent]~~ in the amount stated on the application under Section ~~1704.154(b)(2)(E)~~ [~~1704.154(b)(3)(B)~~]; or

(B) subject to Subsections (c)-(e), execute in trust to the board each deed to the property listed on the application under Section ~~1704.154(b)(3)~~ [~~1704.154(b)(3)(A)~~]; or

(2) if the applicant is a corporation, subject to Subsection (b), deposit with the county treasurer a cashier's check, certificate of deposit, or cash in the amount stated on the application under Section 1704.154(b)(2)(E) [provide to the sheriff an irrevocable letter of credit as a cash equivalent to pay any final judgment of a forfeiture on a bail bond executed by the applicant].

(b) A deposit made under Subsection (a)(1)(A) or (a)(2) may not be less than \$50,000~~[-, except that the deposit may not be less than \$10,000 in a county with a population of less than 250,000]~~. A deposit made to a county with a population of less than 250,000 shall be placed in a fund known as a bail security fund.

(c) The total value of the property executed in trust under Subsection (a)(1)(B) may not be less than \$50,000~~[-, except that the value may not be less than \$10,000 in a county with a population of less than 250,000]~~.

SECTION 7. Section 1704.163, Occupations Code, is amended to read as follows:

Sec. 1704.163. ATTORNEY EXEMPTION. (a) Except as provided by this section [~~Subsection (e)~~], a person not licensed under this chapter may execute a bail bond or act as a surety for another person if the person:

(1) is licensed to practice law in this state; and

(2) represents the other person in a criminal case.

(b) A person executing a bail bond or acting as a surety under this section may not engage in conduct involved with that practice that would subject a bail bond surety to license suspension or revocation. If the board [~~sheriff~~] determines that a person has violated this subsection, the person may not execute a bail bond or act as a surety under this section until the person has remedied the violation.

(c) A person executing a bail bond or acting as a surety under this section who has been paid a fee for executing the bond or acting as the surety is not relieved of liability on the bond solely because the person has not been employed to represent the principal on the merits of the criminal case.

SECTION 8. Subsection (b), Section 1704.207, Occupations Code, is amended to read as follows:

(b) If a principal is surrendered under Subsection (a) and the principal~~[-, an agent of the board of the county in which the bond was executed,]~~ or an attorney representing the state or an accused in the case determines that a reason for the surrender was without reasonable cause, the person may contest the surrender in the court that authorized the surrender.

SECTION 9. Section 1704.211, Occupations Code, is amended by amending Subsection (b) and adding Subsection (d) to read as follows:

(b) An agent designated by a power of attorney under Subsection (a) for a corporation holding a license under this chapter must be designated by the corporation in the corporation's application for a license [~~holder under this chapter~~].

(d) A corporation may limit the authority of an agent designated under Subsection (a) by specifying the limitation in the power of attorney that is filed with the county clerk and the board.

SECTION 10. Subsection (c), Section 1704.212, Occupations Code, is amended to read as follows:

(c) For purposes of this section:

(1) a corporation is considered in default on a bail bond beginning on the 11th day after the date the trial court enters a final judgment on the scire facias and ending on the date the judgment is satisfied, ~~or~~ set aside, ~~or superseded~~; and

(2) a corporation is not considered in default on a bail bond if, pending appeal, the corporation deposits cash or a supersedeas bond in the amount of the final judgment with the court in which the bond is executed.

SECTION 11. Subchapter E, Chapter 1704, Occupations Code, is amended by adding Section 1704.213 to read as follows:

Sec. 1704.213. OFFICE LOCATION. (a) A license holder shall maintain an office in the county in which the license holder holds a license.

(b) Not later than the seventh day after the date a license holder opens a new office or moves an office to a new location, the license holder shall notify the board of the location of the office.

SECTION 12. The heading of Section 1704.302, Occupations Code, is amended to read as follows:

Sec. 1704.302. PROHIBITED REFERRALS OF OR EMPLOYMENTS WITH BONDING BUSINESS; OFFENSE.

SECTION 13. Section 1704.302, Occupations Code, is amended by adding a new Subsection (c) and by redesignating existing Subsection (c) as Subsection (d) to read as follows:

(c) A person may not accept or receive from a license holder money, property, or any other thing of value as payment for employment with a bonding business if, within the preceding 10 years, the person has been convicted of a misdemeanor involving moral turpitude or of a felony.

(d) A person commits an offense if the person violates this section. An offense under this section is a Class A misdemeanor.

SECTION 14. Subsections (b) and (c), Section 1704.303, Occupations Code, are amended to read as follows:

(b) A person may not advertise as a bail bond surety in a county unless the person holds a license issued under this chapter by a bail bond board in that county. A person does not violate this subsection if the person places an advertisement that appears in more than one county and:

(1) the advertisement clearly indicates the county or counties in which the person holds a license issued under this chapter; and

(2) any local telephone number in the advertisement is a local number only for a county in which the person holds a license issued under this chapter.

(c) A person commits an offense if the person violates this section. An offense under this section is a Class B ~~[C]~~ misdemeanor.

SECTION 15. Section 1704.304, Occupations Code, is amended by adding a new Subsection (d) and redesignating current Subsection (d) as Subsection (e) to read as follows:

(d) A person may not place a device in a place of detention, confinement, or imprisonment that dispenses a bail bond in exchange for a fee.



(e) A person commits an offense if the person violates this section. An offense under this section is a Class B misdemeanor.

SECTION 16. (a) Except as provided by Subsection (b) of this section, the changes in law made by this Act to the requirements for an original bail bond license or to renew a bail bond license apply only to an application for a bail bond license or to renew a bail bond license that is made on or after the effective date of this Act.

(b) The changes in law made by this Act to Section 1704.152, Occupations Code, relating to the renewal of a bail bond license by a person who holds a bail bond license immediately before the effective date of this Act apply only to a renewal that occurs on or after September 1, 2002.

SECTION 17. The change in law made by this Act to Subsection (c), Section 1704.302, Occupations Code, applies only to a person employed by a bonding business after the effective date of this Act.

SECTION 18. (a) The change in law made by this Act to Section 1704.303, Occupations Code, applies only to an offense committed on or after the effective date of this Act.

(b) For purposes of this section, an offense is committed before the effective date of this Act if any element of the offense occurs before that date. An offense committed before the effective date of this Act is covered by the law in effect on the date the offense is committed, and the former law is continued in effect for that purpose.

SECTION 19. This Act takes effect September 1, 2001.

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

Amend **CSSB 1119** (house committee printing) as follows:

(1) Between SECTIONS 2 and 3 (page 1, between lines 17 and 18), insert the following appropriately numbered section:

SECTION \_\_\_\_\_. Section 1704.151, Occupations Code, is amended to read as follows:

Sec. 1704.151. LICENSE REQUIRED. Except as provided by Section 1704.163, a person may not act as a bail bond surety in this state [~~the county~~] unless the person holds a license issued under this chapter.

(2) Strike the recitation of SECTION 4 of the bill (page 2, lines 22-24) and substitute the following:

SECTION \_\_\_\_\_. Section 1704.154, Occupations Code, is amended to read as follows:

Sec. 1704.154. APPLICATION REQUIREMENTS. (a) To be licensed under this chapter, a person must apply for a license by filing a sworn application with a the [~~the~~] board.

(3) Between SECTIONS 7 and 8 of the bill (page 9, between lines 1 and 2), insert the following:

SECTION \_\_\_\_\_. Section 1704.203, Occupations Code, is amended to conform in part to Section 1, Chapter 1096, Acts of the 76th Legislature, Regular Session, 1999, and further amended by amending Subsection (a) and adding Subsection (h) to read as follows:

(a) Except as provided by Subsection (d), a license holder who holds a license originally issued before September 1, 1999, may not execute, and a person may not accept from the [~~a~~] license holder, a bail bond that, in the aggregate with other bail bonds executed by the license holder in this state [~~that county~~], results in a total amount that exceeds 10 times the value of the security deposited or executed by the license holder under Section 1704.160.

(h) A person may not act as a bail bond surety in a court in a county in which the person is not licensed unless the person holds a notarized certificate issued by the sheriff of the county in which the person is licensed stating that the person meets the requirements of this chapter for any bond executed by the bail bond surety outside of that county. A bond issued under this subsection is subject to the property held as security or deposit or in trust under Section 1704.160 in the county for which the sheriff issued the certificate and must be included in the total amount of potential liability recorded in that county under this section. On request by a licensed bail bond surety, the sheriff shall issue the certificate required under this subsection.

(4) Renumber the sections of the bill accordingly.

The amendments were read.

Senator Armbrister 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 1119** 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 Armbrister, Chair; Lucio, Moncrief, Staples, and Brown.

### **GUESTS PRESENTED**

Senator Gallegos was recognized and introduced to the Senate fifth-grade students from Golfcrest Elementary School in Houston, accompanied by their teachers.

The Senate welcomed its guests.

### **GUEST PRESENTED**

Senator Zaffirini was recognized and introduced to the Senate her sister, Josie Pappas of Laredo.

The Senate welcomed Ms. Pappas.

### **COMMITTEE SUBSTITUTE HOUSE BILL 1333 ON SECOND READING**

On motion of Senator Ellis 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 (submitted by Governor as emergency matter):

**CSHB 1333**, Relating to making emergency appropriations.

The bill was read second time.

Senator Ellis offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **CSHB 1333** as follows:

(1) In SECTION 1(a)(13) of the bill (page 1, line 50, senate committee printing), strike "Texas Excellence access and success grants" and substitute "Toward EXcellence, Access, and Success (TEXAS) grants".

(2) In SECTION 9(3) of the bill (page 4, lines 33 and 34, senate committee printing), strike "Texas Excellence access and success grants" and substitute "Toward EXcellence, Access, and Success (TEXAS) grants".

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

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

**CSHB 1333** as amended was passed to third reading by a viva voce vote.

**COMMITTEE SUBSTITUTE  
HOUSE BILL 1333 ON THIRD READING**

Senator Ellis moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 1333** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0, Present-not voting 1.

Present-not voting: Mr. President.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0, Present-not voting 1. (Same as previous roll call)

**HOUSE BILL 2691 ON SECOND READING**

On motion of Senator Ellis 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 2691**, Relating to procedures for the electronic transfer of voter registration applications by certain voter registration agencies.

The bill was read second time.

Senator Ellis offered the following committee amendment to the bill:

**Committee Amendment No. 1**

Amend **HB 2691** as follows:

1. In section 1 of the bill, delete section 20.066(a) and substitute the following:  
"(a) This section applies unilaterally to a person who resides in a county with a population of 2.1 million or more, and, if written request is made to the Department of Public Safety by the commissioners court, applies to a person who resides in a county with a population greater than 400,000 but less than 2.1 million."

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

Senator Ellis offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **HB 2691**, by striking SECTION 2 and substituting the following:

SECTION 2. The secretary of state shall monitor the implementation of Section 20.066, Election Code, as added by this Act, and report the secretary's findings and any recommendations to the legislature not later than December 1, 2002.

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

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

**HB 2691** as amended was passed to third reading by a viva voce vote.

**HOUSE BILL 2691 ON THIRD READING**

Senator Ellis moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2691** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0, Present-not voting 1.

Present-not voting: Mr. President.

The bill was read third time and was passed by viva voce vote.

**COMMITTEE SUBSTITUTE  
HOUSE BILL 1006 ON SECOND READING**

On motion of Senator Zaffirini 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 1006**, Relating to exemptions and exceptions from work or employment activity requirements under the temporary assistance for needy families program.

The bill was read second time.

Senator Zaffirini offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **CSHB 1006** as follows:

(1) In SECTION 1 of the bill, strike added Sections 31.012(c)(1) and (2), Human Resources Code (Committee printing, page 1, lines 30-35), and substitute the following:

(1) is 60 years of age or older;

(2) is the caretaker of a child or adult who is ill or has a physical or mental disability and who requires the caretaker's presence;

(2) In SECTION 1 of the bill, in amended Section 31.012(e), Human Resources Code (Committee printing, page 1, line 62), after the period, insert the following: In addition to any other criteria established by the department, the criteria for good cause noncompliance must provide for:

(1) an exception from work or employment activities under this section for a person who:

(A) is temporarily ill or incapacitated;

(B) is one parent in a two-parent family and the other parent is incarcerated;

(C) is required to appear in court;

(D) has a temporary medical condition related to pregnancy, if the condition arises after certification of the person for financial assistance;

(E) demonstrates to the department that transportation is unavailable or that arrangements for transportation have failed;

(F) demonstrates to the department that child care is unavailable or that arrangements for child care have failed;

(G) lacks other necessary support services and the department considers participation to be impossible without those services;

(H) receives an employment referral that results in an offer of employment that pays less than the minimum wage, except for work-related, on-the-job training activities identified by the department;

(I) demonstrates to the department that the only work or employment activity available to the person:

(i) requires a round-trip commuting time of more than two hours to and from the person's residence; or

(ii) cannot be reached by walking, and transportation is unavailable; or

(J) has a family crisis or other family circumstance, including family violence, that precludes participation; and

(2) a partial exception under which a caretaker of a child under the age of six who is not exempt under Subsection (c) and who personally provides care for that child is not required to work or participate in employment activities for more than 20 hours a week, provided that the caretaker is not:

(A) a custodial parent who has not completed high school or its equivalent; or

(B) a member of a two-parent household in which one parent is able to care for the child.

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

### **RECORD OF VOTE**

Senator Wentworth asked to be recorded as voting "Nay" on the adoption of the amendment.

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

**CSHB 1006** as amended was passed to third reading by a viva voce vote.

### **RECORD OF VOTES**

Senators Nelson and Wentworth asked to be recorded as voting "Nay" on the passage of **CSHB 1006** to third reading.

**COMMITTEE SUBSTITUTE  
HOUSE BILL 1006 ON THIRD READING**

Senator Zaffirini moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 1006** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 27, Nays 3, Present-not voting 1.

Yeas: Armbrister, Barrientos, Bernsen, Bivins, Brown, Cain, Carona, Duncan, Ellis, Gallegos, Harris, Haywood, Jackson, Lindsay, Lucio, Madla, Moncrief, Ogden, Shapiro, Shapleigh, Sibley, Staples, Truan, Van de Putte, West, Whitmire, Zaffirini.

Nays: Fraser, Nelson, Wentworth.

Present-not voting: Mr. President.

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

**RECORD OF VOTES**

Senators Nelson and Wentworth asked to be recorded as voting "Nay" on the final passage of **CSHB 1006**.

**GUESTS PRESENTED**

Senator Ellis was recognized and introduced to the Senate a delegation from the Eastern Cape Province of South Africa: Speaker of the Legislature, the Honorable Mkangeli Matomela; Deputy Chief Whip, African National Congress, the Honorable Alfred Mtsi; Deputy Chairperson of All Committees, the Honorable Neela Hoosain; Secretary to the Legislature Mzwanale Yawa; Chief Financial Officer Bonga Qunta; Director, Organizational Efficiency and Special Programs, Vuyani Mapolisa; and Deputy Director, Organizational Efficiency and Special Programs, Charmaine Estment.

The Senate welcomed its guests.

**HOUSE BILL 310 ON SECOND READING**

On motion of Senator Truan 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 310**, Relating to the establishment and operation of veterans cemeteries.

The bill was read second time.

Senator Truan offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **HB 310** as follows:

(1) In SECTION 5 of the bill, strike the introductory language to the SECTION (Senate committee printing, page 1, line 64 and page 2, lines 1 and 2), and substitute the following:

SECTION 5. Section 164.005, Natural Resources Code, is amended by amending Subsections (c) and (e) and adding Subsections (f), (g), and (h) to read as follows:

(2) In SECTION 5 of the bill, strike the amendment to Subsection (b), Section 164.005, Natural Resources Code (Senate committee printing, page 2, lines 3-9).

(3) In SECTION 5 of the bill, in added Section 164.005(f), Natural Resources Code (Senate committee printing, page 2, line 31), strike "to build" and substitute "for".

(4) In SECTION 5 of the bill, in amended Section 164.005, Natural Resources Code (Senate committee printing, page 2, between lines 31 and 32), insert the following new subsections:

(g) In administering any of the board's financial assistance programs relating to veterans cemeteries, the board, or the board in conjunction with other state or federal agencies, may plan and design, operate, maintain, enlarge, or improve veterans cemeteries.

(h) Of the funds available in the veterans' land fund, the veterans' housing assistance fund, and the veterans' housing assistance fund II that may be used for veterans cemeteries, the board may spend not more than \$7 million each fiscal year to plan and design, operate, maintain, enlarge, or improve veterans cemeteries. The board may not use funds from the veterans' land fund, the veterans' housing assistance fund, or the veterans' housing assistance fund II to acquire land to be used for a veterans cemetery.

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

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

**HB 310** as amended was passed to third reading by a viva voce vote.

### **COMMITTEE SUBSTITUTE HOUSE BILL 1862 ON SECOND READING**

On motion of Senator Van de Putte 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 1862**, Relating to the regulation and prompt payment of health care providers under certain health benefit plans; providing penalties.

The bill was read second time.

Senator Van de Putte offered the following amendment to the bill:

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

Amend **CSHB 1862**, Committee printing as follows:

Page 2, line 1, after word claim:

and fax a copy of such log to the insurer and maintain a copy of such fax verification;

Page 9, line 1, after word claim:

and fax a copy of such log to the health maintenance organization and maintain a copy of such fax verification;

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

Senator Van de Putte offered the following amendment to the bill:

**Floor Amendment No. 2**

Amend **CSHB 1862**, committee printing as follows:

(3) On page 12, line 34, strike "(b)" in its entirety and substitute "(b) the health maintenance organization shall approve or deny coverage of poststabilization care as requested by a treating physician or provider within the time appropriate to the circumstances relating to the delivery of the services and the condition of the patient, but in no case to exceed one hour from the time of the request as required under Section 20.04(a)(16). Failure of the health maintenance organization to respond within the time specified will result in payment of poststabilization care. The health maintenance organization shall provide verification under this section between 6 a.m. and 6 p.m. Monday through Friday, except legal holidays".

(4) On page 5 line 9, strike "(b)" in its entirety and substitute "(b) The insurer shall approve or deny coverage of poststabilization care as requested by a treating preferred provider within the time appropriate to the circumstances relating to the delivery of the services and the condition of the patient, but in no case to exceed one hour from the time of the request as required under Section 20.04(a)(16). Failure of the insurer to respond within the time specified will result in payment of poststabilization care. The insurer shall provide verification under this Section between 6 a.m. and 6 p.m. central standard time, Monday through Friday, except legal holidays."

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

Senator Van de Putte offered the following amendment to the bill:

**Floor Amendment No. 3**

Amend **CSHB 1862**, committee printing, as follows:

On page 7, line 67, after provider, add:  
who is included in the preferred delivery network

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

**(Senator Armbrister in Chair)**

Senator Fraser offered the following amendment to the bill:

**Floor Amendment No. 4**

Amend **CSHB 1862**, committee printing, as follows:

- (1) On page 13, line 66, strike "calendar" and substitute "business".
- (2) On page 13, line 69, between "third" and "day" insert "calendar".
- (3) On page 14, line 2, between "facility" and "." Insert "if the health maintenance organization performs utilization review based on length of stay criteria."
- (4) On page 6, line 27, strike "calendar" and substitute "business".
- (5) On page 6, line 34, between "third" and "day" insert "calendar".
- (6) On page 6, line 35, between "facility" and "." Insert "if the insurer performs utilization review based on length of stay criteria."

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

**RECORD OF VOTE**

Senator Wentworth asked to be recorded as voting "Nay" on the adoption of Floor Amendment No. 4.



Senator Harris offered the following amendment to the bill:

**Floor Amendment No. 5**

Amend **CSHB 1862** as follows:

(1) On page 7, line 15, insert the following after "of claims" and before the period: "and shall inform the physician or health care provider how the coding and coding guidelines impact physician or health care provider reimbursement."

(2) On page 15, line 2, insert the following after "of claims" and before the period: "and shall inform the physician or health care provider how the coding and coding guidelines impact physician or health care provider reimbursement."

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

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

**CSHB 1862** as amended was passed to third reading by a viva voce vote.

**GUESTS PRESENTED**

Senator Nelson was recognized and introduced to the Senate fourth-grade students from Central Elementary School in Duncanville.

The Senate welcomed its guests.

**MESSAGE FROM THE HOUSE**

**HOUSE CHAMBER**

Austin, Texas

May 17, 2001

The Honorable President of the Senate  
Senate Chamber  
Austin, Texas

Mr. President:

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

**THE HOUSE HAS PASSED THE FOLLOWING MEASURES:**

**HCR 213**, Memorializing congress to urge the Environmental Protection Agency to redesignate El Paso from a nonattainment to an attainment area.

**HCR 234**, Urging congress to recognize the importance of the development of the Ports-to-Plains Corridor.

**HCR 265**, Designating Balmorhea as the "Oasis of West Texas."

**HCR 286**, Honoring Darrell K Royal on his many achievements.

**SCR 64**, Commending George Christian for his achievements in government relations.

Respectfully,

/s/Sharon Carter, Chief Clerk  
House of Representatives

**HOUSE BILL 1869 ON SECOND READING**

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

**HB 1869**, Relating to the acquisition of manufactured homes through financing or other means and to persons associated with those acquisitions.

There was objection.

Senator Harris then moved to suspend the regular order of business and take up **HB 1869** for consideration at this time.

The motion prevailed by the following vote: Yeas 22, Nays 5, Present-not voting 1.

Yeas: Armbrister, Barrientos, Brown, Cain, Duncan, Ellis, Fraser, Harris, Haywood, Jackson, Lindsay, Lucio, Madla, Nelson, Ogden, Shapiro, Shapleigh, Sibley, Truan, Wentworth, West, Zaffirini.

Nays: Bernsen, Carona, Gallegos, Moncrief, Whitmire.

Present-not voting: Mr. President.

Absent: Bivins, Staples, Van de Putte.

The bill was read second time.

Senator Harris offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **HB 1869** by adding a new section and renumbering the subsequent sections appropriately:

Section \_\_\_\_\_. Section 6A, Texas Manufactured Housing Standards Act (Article 5221f, Vernon's Texas Civil Statutes), is amended by adding a new Subsection (c) to read as follows:

(c) A retailer, broker, salesperson or any person acting on behalf of a retailer or broker shall not receive nor accept any compensation or consideration of any kind or type whatsoever from the seller of the real estate or any person acting on the seller's behalf. No part of the down payment on the purchase of the manufactured home nor the payment of any fees, points, or other charges or "buy-downs" shall be from funds from the seller of the real estate or any person acting on the seller's behalf.

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

Senator Harris offered the following amendment to the bill:

**Floor Amendment No. 2**

Amend **HB 1869** by adding a new section and renumbering the subsequent sections appropriately:

SECTION \_\_\_\_\_. Amend Subsection 19(l), Texas Manufactured Housing Standards Act (Article 5221f, Vernon's Texas Civil Statutes), to read as follows:

(l) If a manufactured home is permanently affixed or becomes an improvement to real estate, the manufacturer's certificate or the original document of title shall

[may] be surrendered to the department for cancellation. The legal description or the appropriate tract or parcel number of the real estate must be given to the department when the certificate or document of title is surrendered. The director may require the filing of other information. The department may not cancel a manufacturer's certificate or a document of title if a lien has been registered or recorded on the manufactured home. If a lien has been registered or recorded, the department shall notify the owner and each lienholder that the title and a description of the lien have been surrendered to the department and that the department may not cancel the title until the lien is released. Permanent attachment to real estate does not affect the validity of a lien recorded or registered with the department before the manufactured home is permanently attached. The rights of a prior lienholder pursuant to a security agreement or the provisions of a credit transaction and the rights of the state pursuant to a tax lien are preserved. The department shall issue a certificate of attachment to real estate to the person who surrenders the manufacturer's certificate or document of title. The certificate of attachment must contain the legal description or the appropriate tract or parcel number of the real estate and the identification number of the home, and must certify that the manufacturer's certificate or original document of title has been canceled. Before the issuance of a certificate of attachment, a title insurance company authorized to do business in this state which surrenders the manufacturer's certificate or the original document of title to the department shall file a notice of improvement attachment in the real property records of the county in which the home is located. The notice must state that the manufacturer's certificate or the original document of title has been surrendered for cancellation and a request has been made for the issuance of a certificate of attachment. The notice must include information sufficient to identify the home and must contain the legal description or the appropriate tract or parcel number of the real property on which the home is located. The notice is valid for all purposes until the certificate of attachment is issued and filed in the real property records of the appropriate county.

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

Senator Harris offered the following amendment to the bill:

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

Amend **HB 1869** as follows:

(1) On page 1, line 26: insert the following after the period: "If the real property is purchased under a contract of sale, the contract must be filed in the real property records of the county in which the home is installed."

(2) On page 1, line 30, strike "Administration, regardless of whether any financing of the manufactured home occurs through that agency" and substitute "Administration (FHA), Fanny Mae, or Freddie Mac for long term mortgage loans or for FHA insurance"

(3) On page 1, line 36, insert the following after "by" and before "the": "a purchaser or county in".

(4) On page 1, line 43, insert a new subsection (g) after the period: "(g) A manufactured home classified as real property by this section and Section 2.001, Property Code, shall not be regulated by a local political subdivision or a municipality in a manner which is not the same as the regulation of other single family residential structures."

(5) On page 1, line 47, strike "At the first personal meeting between a retailer or agent of the retailer and a consumer" and substitute "Prior to the completion of a credit application".

On page 2, strike lines 31 through 40 and substitute the following: "You are liable for the payment of all ad valorem taxes assessed against your home by the municipality, county, school district, and other tax authorities (utility district, community college, etc.). As with other residential structures, the applicable tax rate will apply to the market value of the home. You should contact the local chief appraiser or the county tax collector for specific tax information. They will need to know the price you paid for, and the specific location of, the home. If the manufactured home is your principal place of residence, you should be able to claim a HOMESTEAD EXEMPTION. You should also make certain that the lot or land you are purchasing is not subject to any rollback tax liability because of the change in use of the property."

On page 3, line 48, strike "10" and substitute "30".

On page 3, line 63, strike "10" and substitute "30".

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

### RECORD OF VOTES

Senators Moncrief and Truan asked to be recorded as voting "Nay" on the adoption of Floor Amendment No. 3.

Senator Harris offered the following amendment to the bill:

#### Floor Amendment No. 4

Amend **HB 1869** by adding a new section and renumbering the subsequent sections appropriately:

SECTION \_\_\_\_\_. Amend Chapter 32.014, Tax Code, to read as follows:

Section 32.014. TAX LIEN ON MANUFACTURED HOME [~~SUBJECT TO SECURITY INTEREST~~]. (a) If the ownership of the real estate on which a manufactured home is affixed and the manufactured home are the same, the manufactured home shall be appraised and taxed as an improvement to the real estate, and the tax lien attaches to the real estate on which the manufactured home is located regardless of the classification of the manufactured home under the Property Code [A tax lien to secure the payment of a tax and any penalties and interest imposed on a manufactured home does not attach to the real property on which the manufactured home is located, even if the manufactured home is affixed to the real property by installation on a permanent foundation, if on the January 1 on which the tax is imposed, the manufactured home is subject to a lien of record on a document of title issued on the manufactured home by the Texas Department of Housing and Community Affairs. If such a lien is not of record on January 1 and the ownership of the manufactured home and the real property is the same, the manufactured housing may be appraised and taxed as an improvement to real property, notwithstanding any other law relating to the classification of manufactured housing as real or personal property].

(b) If the ownership of the manufactured home, whether by deed or contract for sale, and the real estate on which the manufactured home is affixed is not the same, the personal property manufactured home shall be separately appraised and taxed at the same rate and on the same ad valorem basis as other single family residential structures. The tax lien on the manufactured home does not attach to the real estate when the ownership of the manufactured home and real estate are different.

(c) In this section, 'manufactured home' has the meaning assigned by Section 3, Texas Manufactured Housing Standards Act (Article 5221f, Vernon's Texas Civil Statutes).

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

Senator Harris offered the following amendment to the bill:

#### **Floor Amendment No. 5**

Amend **HB 1869** by adding a new section and renumbering the subsequent sections appropriately:

SECTION \_\_\_\_\_. Chapter 62, Property Code, is amended by adding a new Section 62.005 to read as follows:

Section 62.005. CONVERSION OF LIEN FROM A PERSONAL PROPERTY LIEN TO A REAL PROPERTY LIEN FOR THE DEBT FOR THE NEW IMPROVEMENTS THEREON. (a) A manufactured home becomes a new improvement to the homestead of a family or of a single adult person upon the filing of the Certificate of Attachment as provided in Article 5221(f), Vernon's Annotated Texas Statutes. As such, if the debt for the manufactured home was contracted for in writing, that debt is considered to be for work and materials used in constructing new improvements thereon and thus constitutes a valid lien on the homestead when the Certificate of Attachment is filed in the Official Public Records of Real Property in the County in which the land is located.

(b) When the manufactured home converts to real property as provided by Section 2.001(b) of this code, the lien on the property exists independently of any existing lien on the real property to which the home is permanently attached.

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

Senator Harris offered the following amendment to the bill:

#### **Floor Amendment No. 6**

Amend **HB 1869** by adding a new section and renumbering the subsequent sections appropriately:

SECTION \_\_\_\_\_. Amend Chapter 62.004, Property Code, to read as follows:

Section 62.004. REFINANCING OF LIEN. (a) A person who provides funds to refinance a lien secured by a manufactured home is subrogated to the lien position of the previous lienholder.

(b) If the holder of a lien secured by a manufactured home transfers loan or credit advance documents to a lender refinancing the lien, that lender and a title insurance company, title insurance agent or direct operation, or attorney to whom the loan or credit advance documents are delivered holds the loan or credit advance documents in trust for that lienholder. In this subsection, "direct operation" has the meaning assigned by Article 9.02, Insurance Code.

(c) A lien that is converted to a purchase money lien on real property under Section 62.003, or a lien for the debt for new improvements thereon under Section 62.005, may be refinanced with another lien on the real property to which the manufactured home is permanently attached as provided by Section 2.001(b).

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

Senator Harris offered the following amendment to the bill:

**Floor Amendment No. 7**

Amend **HB 1869** as follows:

(1) On page 1, line 38, strike "September 1, 2001" and substitute "January 1, 2002".

(2) On page 3, line 33, strike "September 1, 2001" and substitute "January 1, 2002".

(3) On page 4, strike lines 23-25 and substitute the following: "SECTION 4. (a) The change made to Article 5221f, Section 6A, Vernon's Texas Civil Statutes, takes effect September 1, 2001. (b) The remaining changes in law made by this Act apply only to a manufactured home that is acquired by a consumer on or after the effective date of this Act."

(3) On page 4, line 26, strike "September 1, 2001" and substitute "January 1, 2002".

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

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

**HB 1869** as amended was passed to third reading by a viva voce vote.

**RECORD OF VOTES**

Senators Bernsen, Carona, Gallegos, Moncrief, Truan, and Whitmire asked to be recorded as voting "Nay" on the passage of **HB 1869** to third reading.

**(President in Chair)**

**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 63, HB 80, HB 106, HB 139, HB 269, HB 548, HB 1279, HB 1299, HB 1378, HB 1419, HB 1459, HB 1475, HB 1512, HB 1514, HB 1686, HB 2139, HB 2307, HB 2314, HB 2381, HB 2430, HB 2440, HB 2463, HB 2491, HB 2543, HB 2663, HB 2796, HB 2807, HB 2852, HB 2864, HB 2874, HB 2875, HB 2922, HB 2923, HB 3064, HCR 74, HCR 77, HCR 84, HCR 88, HCR 98, HCR 181, HCR 192, HCR 197, HCR 210, HJR 75.**

**RECESS**

The President at 12:00 noon announced the Senate would stand recessed until 1:00 p.m. today.

**AFTER RECESS**

The Senate met at 1:00 p.m. and was called to order by the President.

**HOUSE BILL 1811 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 third reading:

**HB 1811**, Relating to the use of certain federal housing funds.

The bill was read second time.

Senator Duncan offered the following committee amendment to the bill:

**Committee Amendment No. 1**

Amend **HB 1811** as follows:

A) On page 1, line 10, strike "small cities and rural".

B) On page 1, line 17, delete "small cities and rural" and substitute "non-participating".

The committee 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.

**HB 1811** as amended was passed to third reading by a viva voce vote.

**HOUSE BILL 1811 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 **HB 1811** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0, Present-not voting 1.

Present-not voting: Mr. President.

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

**HOUSE CONCURRENT RESOLUTION 291**

The President laid before the Senate the following resolution:

**HCR 291**, Recalling **HB 2218** from the governor.

STAPLES

The resolution was read.

On motion of Senator Staples and by unanimous consent, the resolution was considered immediately and was adopted by a viva voce vote.

**HOUSE BILL 2421 ON THIRD 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 third reading and final passage:

**HB 2421**, Relating to establishing a program to recruit rural medical students for service in rural communities.

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

**COMMITTEE SUBSTITUTE**

**HOUSE BILL 1981 ON THIRD 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 third reading and final passage:

**CSHB 1981**, Relating to competitive purchasing procedures applying to certain purchases and contracts of governmental entities.

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

**HOUSE BILL 3572 ON THIRD 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 third reading and final passage:

**HB 3572**, Relating to establishing an unrelated donor umbilical cord blood bank.

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

**(Senator Armbrister in Chair)**

**COMMITTEE SUBSTITUTE  
HOUSE BILL 2262 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 third reading:

**CSHB 2262**, Relating to the requirements for membership on the Texas Optometry Board.

The bill was read second time.

Senator Madla offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **CSHB 2262** by adding the following appropriately numbered sections.

SECTION \_\_\_\_\_. Title 2, Occupations Code, is amended by adding Chapter 57 to read as follows:

CHAPTER 57. REQUIREMENTS  
FOR LICENSING AGENCIES

Sec. 57.001. DEFINITIONS. In this chapter:

(1) "License" means a license, certificate, registration, permit, or other form of authorization required by law or state agency rule that must be obtained by an individual to engage in a particular business, occupation, or profession.

(2) "State agency" means a department, board, bureau, commission, committee, division, office, council, or agency of the state.

Sec. 57.002. REQUIREMENTS FOR GOVERNING BOARD MEMBERSHIP. A person may not be required to be a member of a private trade association as a precondition to serving as a member of the governing board of a state agency that issues a license or otherwise regulates a business, occupation, or profession.

Sec. 57.003. APPLICATION OF CHAPTER. This chapter does not apply to the Texas Energy Resource Council.

SECTION \_\_\_\_\_. (a) The change in law made by this Act applies to the appointment of a person as a member of a governing board subject to Chapter 57, Occupations Code, as added by this Act, on or after the effective date of this Act.

(b) A member of a governing board subject to Chapter 57, Occupations Code, as added by this Act, who is serving on the governing board on the effective date of this Act is subject to the law in effect on the date preceding the effective date of this Act and, unless otherwise removed as provided by law, may continue to serve for the remainder of the member's term.



(c) Section 57.003, Occupations Code, as added by this Act, takes effect only if the 77th Legislature, at its regular session, enacts a bill creating a Texas Energy Resource Council and that bill becomes law. If that bill does not become law, Section 57.003, Occupations Code, has no effect.

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

#### RECORD OF VOTE

Senator Zaffirini asked to be recorded as voting "Nay" on the adoption of the amendment.

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

**CSHB 2262** as amended was passed to third reading by a viva voce vote.

#### RECORD OF VOTE

Senator Zaffirini asked to be recorded as voting "Nay" on the passage of **CSHB 2262** to third reading.

#### HOUSE BILL 2368 ON THIRD READING

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

**HB 2368**, Relating to the fees assessed by a district court in Dallas County for certain services rendered in juvenile or family law cases.

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

#### HOUSE BILL 3069 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 third reading:

**HB 3069**, Relating to the maintenance of certain cemeteries.

The bill was read second time.

Senator Duncan offered the following committee amendment to the bill:

#### Committee Amendment No. 1

Amend **HB 3069** by striking SECTION 1 of the bill (House engrossed version, page 1, lines 4 through 12), and substituting the following:

SECTION 1. Section 713.028, Health and Safety Code, is amended by adding Subsection (c) to read as follows:

(c) Maintenance of a cemetery under Subsection (a) includes any activity necessary for the continued operation of the cemetery, including the opening and closing of graves. This subsection applies only to a county with a population of 40,000 or less.

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

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

**HB 3069** as amended was passed to third reading by a viva voce vote.

**HOUSE BILL 3069 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 **HB 3069** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0, Present-not voting 1.

Present-not voting: Mr. President.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0, Present-not voting 1. (Same as previous roll call)

**HOUSE CONCURRENT RESOLUTION 203  
ON SECOND READING**

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

**HCR 203**, Granting RFD & Associates, Inc., permission to sue the State of Texas and the Office of Attorney General subject to Chapter 107, Civil Practices and Remedies Code.

The resolution was read second time and was adopted by a viva voce vote.

**COMMITTEE SUBSTITUTE  
HOUSE BILL 3016 ON SECOND READING**

On motion of Senator Shapiro 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 3016**, Relating to the use of certain electronically readable information to comply with certain provisions of the Alcoholic Beverage Code.

The bill was read second time.

Senator Shapiro offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **CSHB 3016** in SECTION 1 of the bill (senate committee printing, page 1, between lines 26 and 27), by adding Subsection (d) to added Section 109.61, Alcoholic Beverage Code, to read as follows:

(d) A person who violates this section commits an offense. An offense under this section is a Class A misdemeanor.

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

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

**CSHB 3016** as amended was passed to third reading by a viva voce vote.

**HOUSE BILL 460 ON SECOND READING**

On motion of Senator West 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 460**, Relating to the penalty for the offense of prostitution.

The bill was read second time.

**(President in Chair)**

Senator West offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **HB 460** by striking SECTION 1 of the bill (Senate Committee Printing, page 1, lines 10-24) and substituting the following:

SECTION 1. Section 43.02(c), Penal Code, is amended to read as follows:

(c) An offense under this section is a Class B misdemeanor, unless the actor has previously been convicted one or two times of an offense [previously] under this section, in which event it is a Class A misdemeanor. If the actor has previously been convicted three or more times of an offense under this section, the offense is a state jail felony.

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

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

**HB 460** as amended was passed to third reading by a viva voce vote.

**COMMITTEE SUBSTITUTE  
HOUSE BILL 2531 ON THIRD READING**

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

**CSHB 2531**, Relating to tuition and fees charged at public institutions of higher education.

The bill was read third time and was passed by the following vote: Yeas 25, Nays 5, Present-not voting 1.

Yeas: Armbrister, Bernsen, Bivins, Brown, Cain, Carona, Duncan, Ellis, Fraser, Gallegos, Harris, Haywood, Jackson, Lindsay, Lucio, Madla, Nelson, Ogden, Shapiro, Sibley, Staples, Van de Putte, Wentworth, West, Whitmire.

Nays: Barrientos, Moncrief, Shapleigh, Truan, Zaffirini.

Present-not voting: Mr. President.

**MESSAGE FROM THE HOUSE****HOUSE CHAMBER**

Austin, Texas

May 17, 2001

The Honorable President of the Senate  
Senate Chamber  
Austin, Texas

Mr. President:

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

**THE HOUSE HAS PASSED THE FOLLOWING MEASURES:**

**SB 12**, Relating to a prohibition of discrimination based on the use of certain information in the determination of eligibility for employment, an occupational license, or insurance coverage.

**SB 148**, Relating to the violation of certain traffic laws by a person licensed by the United States Department of State or who claims diplomatic or consular immunity.

**SB 275**, Relating to requiring information from the comptroller of public accounts about state and local activities relating to economic development.

**SB 326**, Relating to the creation of an initiative unit to develop a Texas-Mexico Commerce and International Relations Coordinated Plan.  
(Amended)

**SB 453**, Relating to the use of sick or annual leave before receiving workers' compensation benefits by an employee of the Texas Department of Transportation.

**SB 477**, Relating to credit in the Teacher Retirement System of Texas for certain out-of-state service.

**SB 542**, Relating to the authority of the commissioners court of a county to meet and transact business in a location other than the county seat.

**SB 587**, Relating to the analysis of, and certain measures that address, the staffing needs of state agencies.

**SB 651**, Relating to certain examinations administered by the Texas Board of Chiropractic Examiners.

**SB 714**, Relating to the regulation of certain warrantors of vehicle protection products; providing penalties.

**SB 757**, Relating to creating the State of Texas Anniversary Remembrance Day Medal.

**SB 790**, Relating to participation in and benefits and administration of retirement systems for firefighters in certain municipalities.

**SB 877**, Relating to the creation of an advisory committee for the special supplemental nutrition program for women, infants, and children.

**SB 904**, Relating to the prosecution and punishment of criminal offenses relating to making certain false statements or reports.

**SB 907**, Relating to requiring the Texas Department of Transportation to conduct a study of strategic deployment routes and highways and intermodal facilities used by the military.

(Amended)

**SB 986**, Relating to allowing certain tax abatement agreements to provide for the recapture of lost ad valorem tax revenue if a property owner fails to comply with tax abatement agreement requirements regarding job creation or property value.

(Committee Substitute)

**SB 990**, Relating to the applicability of the Health Insurance Portability and Availability Act.

**SB 1002**, Relating to the transfer of certain state property from the Texas Department of Mental Health and Mental Retardation to the Border Region MHMR Community Center.

**SB 1015**, Relating to the regulation of persons engaged in the sale of portable cylinders containing liquefied petroleum gas.

**SB 1061**, Relating to the power of certain rapid transit authorities to call an election.

**SB 1091**, Relating to limitations on payments for certain settlements or judgments.

(Committee Substitute)

**SB 1125**, Relating to technical changes to taxes and fees administered by the comptroller of public accounts.

(Committee Substitute)

**SB 1146**, Relating to the creation of an information link for state agencies with jurisdiction over environmental and natural resources matters.

**SB 1164**, Relating to a five-year strategic infrastructure plan for state military installations.

(Committee Substitute)

**SB 1207**, Relating to validating certain actions and the boundaries of the Acton Municipal Utility District.

**SB 1213**, Relating to the appearance of a driver's license issued to a person who is under 21 years of age.

**SB 1371**, Relating to denial of renewal of a driver's license for failure to appear for certain offenses or to pay certain fines.

(Committee Substitute)

**SB 1394**, Relating to the operation of a statewide rural health care system.

**SB 1491**, Relating to the public inspection of certain information on an early voting roster.

**SB 1563**, Relating to the issuance of Texas Commission for the Deaf and Hard of Hearing license plates.

**SB 1588**, Relating to a preliminary examination for emergency detention because of mental illness.

**SB 1656**, Relating to the duties and responsibilities of the Council on Workforce and Economic Competitiveness.  
(Amended)

**SB 1667**, Relating to records retained for taxation purposes by alcoholic beverage permittees.

**SB 1707**, Relating to certain practices of title insurance companies in providing area and boundary coverage.

**SB 1735**, Relating to special education programs and the educational rights of minors with disabilities and other minors whose disabilities are removed for general purposes.

**SB 1772**, Relating to the boundaries and operation of the East Montgomery County Improvement District.

**SB 1799**, Relating to the final report and abolishment of the Spindletop Centennial Celebration Commission.

**SB 1810**, Relating to the creation of a county court at law in Hood County.

**SB 1811**, Relating to the dissolution of the DeLeon Hospital District and the Comanche County Hospital District and the creation of the Comanche County Consolidated Hospital District.

**SB 1814**, Relating to the tuition for law school and graduate and professional pharmacy courses at public institutions of higher education.

**SCR 22**, Requesting the U.S. Environmental Protection Agency to provide maximum flexibility to the states in dealing with federal environmental programs.

**SCR 23**, Urging TNRCC to expand its coordination efforts to increase flexibility of federal regulations delegated to the states.

Respectfully,

/s/Sharon Carter, Chief Clerk  
House of Representatives

### **HOUSE BILL 2436 ON THIRD 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 third reading and final passage:

**HB 2436**, Relating to a requirement that the Bureau of Economic Geology of The University of Texas at Austin conduct a study of the East Texas Oil Field.

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

### **HOUSE BILL 177 ON SECOND READING**

On motion of Senator Staples 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 177**, Relating to the authority of the commissioners court of a county to create a justice court technology fund and to require certain defendants to pay court costs for deposit in the fund.

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

**HOUSE BILL 177 ON THIRD READING**

Senator Staples moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 177** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0, Present-not voting 1.

Present-not voting: Mr. President.

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

**HOUSE BILL 2845 ON SECOND READING**

On motion of Senator Cain 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 2845**, Relating to the creation of an initiative to promote the commercialization of fuel cell technologies, including tax exemptions and reductions for certain corporations.

The bill was read second time.

Senator Cain offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **HB 2845** as follows:

(1) In SECTION 2 of the bill, (Committee Printing page 2, line 7), strike the word, "and".

(2) In SECTION 2 of the bill, (Committee Printing page 2, line 8) after subsection (5), add new subsections (6) and (7) to read as follows: (6) electric cooperatives; and (7) municipally-owned electric utilities.

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

Senator Cain offered the following amendment to the bill:

**Floor Amendment No. 2**

Amend **HB 2845** as follows:

(1) Strike SECTION 3 and SECTION 4 of the bill and renumber the subsequent section appropriately.

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

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

**HB 2845** as amended was passed to third reading by a viva voce vote.

**HOUSE BILL 3667 ON SECOND READING**

On motion of Senator Armbrister 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 3667**, Relating to insurance for, and a fireworks sales tax for the support of, certain volunteer fire departments.

The bill was read second time.

Senator Lindsay offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **HB 3667** in Section 2 of the bill at the end of added Chapter 161, Tax Code (Committee Printing, page 3, between lines 14 and 15), by inserting the following:

Sec. 161.006. AUTHORITY OF COMMISSIONERS COURT IN CERTAIN POPULOUS COUNTIES. (a) This section applies only to a county with a population of one million or more in the unincorporated area of the county.

(b) The commissioners court of a county where the tax is paid under this chapter may adopt an order prohibiting the use of fireworks within 600 feet of a residence. The order may not include the prohibition of fireworks used in a public fireworks display by a licensed pyrotechnic operator.

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

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

**HB 3667** as amended was passed to third reading by a viva voce vote.

**RECORD OF VOTE**

Senator Staples asked to be recorded as voting "Nay" on the passage of **HB 3667** to third reading.

**HOUSE BILL 2164 ON SECOND READING**

On motion of Senator Cain 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 2164**, Relating to the sale of Woodlawn by the State Preservation Board.

The bill was read second time.

Senator Gallegos offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **HB 2164** on page 1, line 12, between "The board" and "may", to insert ", after consultation with and approval by the Legislative Budget Board and the Historical Commission"

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

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

**HB 2164** as amended was passed to third reading by a viva voce vote.

**HOUSE BILL 2098 ON THIRD READING**

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

**HB 2098**, Relating to the punishment for the offense of unlawful restraint.

The bill was read third time.



Senator Staples offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **HB 2098** (Committee Printing) by amending Floor Amendment No. 1 by Staples by striking after "restrained": "an official or employee of a correctional facility or".

By unanimous consent, the amendment was read and was adopted by a viva voce vote.

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

**HB 2098** as again amended was finally passed by a viva voce vote.

**COMMITTEE SUBSTITUTE  
HOUSE BILL 1784 ON SECOND READING**

On motion of Senator Ogden 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 1784**, Relating to the ratification, creation, administration, powers, duties, operation, and financing of groundwater conservation districts in and coordinated management of groundwater resources for the central Carrizo-Wilcox area.

The bill was read second time.

Senator Ogden offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **CSHB 1784** (Senate committee printing) as follows:

(1) In SECTION 1.02(1) of the bill, (page 1, lines 19 through 24) insert "help" between "to" and "regulate".

(2) In SECTION 1.02(2) of the bill, (page 1, lines 25 through 30) strike "regional".

(3) In SECTION 2.06 of the bill, strike Subsection (c)(2) (page 2, lines 22 through 26) and substitute the following:

(2) a combined production and export fee not to exceed 17 cents per thousand gallons for water used.

(4) In SECTION 2.12(b) of the bill, (page 4, lines 14 through 16) strike "2.14" and substitute "2.13".

(5) In SECTION 2.13(f) of the bill, (page 4, lines 58 through 68) strike "2.16" and substitute "2.15".

(6) In SECTION 2.15 of the bill, strike Subsections (c) and (d) (page 5, lines 15 through 21) and substitute the following:

(c) If the majority of qualified voters in a county who vote in the election vote to confirm the creation of the district, that county is included in the district. If the majority of qualified voters in a county who vote in the election vote not to confirm the creation of the district, that county is excluded from the district.

(d) The district is dissolved and this articles expires on August 31, 2003, unless the voters confirm the creation of the district before that date.

(7) In SECTION 3.06(b)(1) of the bill, (page 5, lines 63-64) strike "one dollar" and substitute "\$0.25".

(8) In SECTION 3.06 of the bill, strike Subsection (c)(2) (page 6, lines 3 through 7) and substitute the following:

(2) a combined production and export fee not to exceed 17 cents per thousand gallons for water used.

(9) In SECTION 3.13(a)(1) of the bill, (page 8, lines 15-16) and SECTION 3.13(b)(1) of the bill, (page 8, lines 27 through 28) strike "represent municipal interests" and substitute "be an elected official of an incorporated municipality".

(10) In SECTION 3.13(a)(2) of the bill, (page 8, lines 17-18) and SECTION 3.13(b)(2) of the bill, (page 8, lines 29 through 30) strike "represent agricultural interests" and substitute "be a bona fide agricultural producer who derives a substantial portion of his or her income from agriculture".

(11) In SECTION 3.13(a)(3) of the bill, (page 8, lines 19 through 20) and SECTION 3.13(b)(3) of the bill, (page 8, lines 31 through 32) strike "represent rural water suppliers' interests" and substitute "be a director of a rural water supply corporation".

(12) In SECTION 3.13(a)(4) of the bill, (page 8, lines 21 through 22) and SECTION 3.13(b)(4) of the bill, (page 8, lines 33 through 34) insert "active" between "represent" and "industrial".

(13) In SECTION 3.15 of the bill, strike Subsections (c) and (d) (page 8, lines 66 through page 9, line 3) and substitute the following:

(c) If the majority of qualified voters in a county who vote in the election vote to confirm the creation of the district, that county is included in the district. If the majority of qualified voters in a county who vote in the election vote not to confirm the creation of the district, that county is excluded from the district.

(d) The district is dissolved and this article expires on August 31, 2003, unless the voters confirm the creation of the district before that date.

(14) In SECTION 4.06(b)(1) of the bill, (page 9, lines 54 through 55) strike "one dollar" and substitute "\$0.25."

(15) In SECTION 4.06 of the bill, strike Subsection (c)(2) (page 9, lines 63 through 67) and substitute the following:

(2) a combined production and export fee not to exceed 17 cents per thousand gallons for water used.

(16) In SECTION 4.13 of the bill, strike Subsection (a)(1), (page 12, lines 5 through 6), and substitute "one must be a director of a rural water supply corporation or an elected official of an incorporated municipality in the county, or both;"

(17) In SECTION 4.13 of the bill, strike Subsection (b)(1), (page 12, lines 13 through 14), and substitute "one must be a director of a rural water supply corporation or an elected official of an incorporated municipality in the county, or both;"

(18) In SECTION 4.13 of the bill, strike Subsection (c)(1), (page 12, lines 12 through 22) and substitute "one must be a director of a rural water supply corporation or an elected official of an incorporated municipality in the county, or both;"

(19) In SECTION 4.13 of the bill, strike Subsection (a)(2), (page 12, lines 7 through 8), and substitute "one must be a bona fide agricultural producer who derives a substantial amount of his or her income from the agriculture".

(20) In SECTION 4.13 of the bill, strike Subsection (b)(2), (page 12, lines 15 through 16), and substitute "one must be a bona fide agricultural producer who derives a substantial amount of his or her income from the agriculture".

(21) In SECTION 4.13 of the bill, strike Subsection (c)(2), (page 12, lines 23 through 24) and substitute "one must be a bona fide agricultural producer who derives a substantial amount of his or her income from the agriculture".

(22) In SECTION 4.13 of the bill, in Subsection (a)(3), (page 12, lines 9 through 10), Subsection (b)(3), (page 12, lines 17 through 18), and Subsection (c)(3), (page 12, lines 25 through 26) insert "active" between "represent" and "industrial".

(23) In SECTION 4.15 of the bill, strike Subsection (d) (page 12, lines 64 through 67) and substitute the following:

(d) The district is dissolved and this article expires on August 31, 2003, unless the voters confirm the creation of the district before that date.

(24) In SECTION 5.01(c) of the bill, (page 13, line 5) strike "regional".

(25) In SECTION 5.05 of the bill, (page 13, lines 36 through 40) add a new Subsection and letter accordingly as follows:

Subsection \_\_\_\_\_. The council's authority is limited to groundwater produced from and wells drilled into the Carrizo-Wilcox aquifer, as identified by the Texas Water Development Board in the current state water plan, within the boundaries of the council.

(26) In SECTION 5.10 of the bill, (page 14, line 51 through page 15, line 8) add a new Subsection (c) as follows:

(c) The district shall use existing research, surveys, and information from state agencies or other sources to the greatest extent possible for developing the management plan, conducting research or other projects, and determining withdrawal limits and equitable allocations between districts before conducting or contracting for similar or complementary research, surveys, and information.

(27) In SECTION 5.11 of the bill, (page 15, lines 9 through 27) add a new Subsection (c) as follows:

(c) The council shall seek to minimize its costs and expenditures to the greatest extent feasible.

(28) In SECTION 5.16 of the bill, strike Subsection (a) (page 15, lines 60-62) and substitute as follows:

(a) Each district shall appoint three of its directors to serve on the council's board of directors. The appointees to the council's board of directors shall serve at the pleasure of their respective districts.

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

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

**CSHB 1784** as amended was passed to third reading by a viva voce vote.

### **HOUSE BILL 1359 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 1359**, Relating to the transfer of course credit between public institutions of higher education.

The bill was read second time.

Senator Shapleigh offered the following amendment to the bill:

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

Amend **HB 1359** (Senate committee printing) as follows:

(1) On page 1, lines 22 through 27, in proposed Section 61.823(e), strike the following:

"If the board fails to meet the requirements of this subsection by January 1, 2003, for a designated degree program, all lower division courses required for that degree program are automatically transferable for credit between all institutions of higher education that offer that degree program."

(2) On page 1, lines 37 through 41, in proposed Section 61.823(f), strike the following:

"If the board fails to meet the requirements of this subsection by January 1, 2004, for a designated degree program, all lower division courses required for that degree program are automatically transferable for credit between all institutions of higher education that offer that degree program."

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.

**HB 1359** as amended was passed to third reading by a viva voce vote.

### **HOUSE BILL 2877 ON SECOND READING**

On motion of Senator Cain 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 2877**, Relating to the operations, powers, and duties of the State Preservation Board.

The bill was read second time.

Senator Cain offered the following committee amendment to the bill:

### **Committee Amendment No. 1**

Amend **HB 2877** as follows:

On page 3, delete SECTION 3 (lines 5-15) and substitute in lieu thereof, SECTION 3. Section 443.023, Government Code, is amended to read as follows:  
Sec. 443.023. PURCHASE AND LEASE REQUIREMENTS FOR CERTAIN EXPENDITURES. Subtitle D, Title 10, does not apply to a purchase or lease under this chapter. The executive director, as appropriate, may approve in writing the purchase or lease of goods and services needed to repair or improve an area within the Capitol, Capitol extension, Capitol grounds, or General Land Office building, if the cost of the purchase or lease will not exceed ~~\$15,000~~ \$50,000. The executive director shall notify the board in writing of any expenditures in excess of ~~\$15,000~~ \$50,000 made under this chapter.

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

Senator Cain offered the following amendment to the bill:

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

Amend **HB 2877** by adding the following appropriately numbered SECTIONS to the bill and renumbering existing SECTIONS of the bill appropriately:

SECTION \_\_\_\_\_. Sections 411.063(a) and (c), Government Code, are amended to read as follows:

(a) The State Preservation Board [~~department~~] shall adopt rules for the safe movement and the parking of vehicles in the Capitol Complex. The department shall administer and enforce the rules adopted by the preservation board and shall administer and enforce this subchapter. This subsection does not affect the authority of the department to adopt rules under Section 411.067.

(c) Rules that govern parking in the parking spaces in the capitol driveways and the parking lots and parking garages near the capitol, to the extent that parking in such places is not otherwise regulated by the State Preservation Board, shall provide for:

(1) assigning and marking reserved parking spaces for the unrestricted use of the governor, lieutenant governor, speaker of the house of representatives, and secretary of state;

(2) when the legislature is in session, assigning and marking reserved parking spaces requested by each house of the legislature for the unrestricted use of members and administrative staff of the legislature; and

(3) when the legislature is not in session, assigning and marking parking spaces requested by each house of the legislature for the use of members and administrative staff of the legislature.

SECTION \_\_\_\_\_. Section 411.065(a), Government Code, is amended to read as follows:

(a) A person commits an offense if the person violates a rule of the department adopted under Section 411.062 or a rule of the State Preservation Board adopted under Section 411.063.

SECTION \_\_\_\_\_. Rules adopted by the Department of Public Safety of the State of Texas under Section 411.063, Government Code, before the effective date of this Act are continued in effect as rules of the State Preservation Board until amended or repealed by the preservation board.

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

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

**HB 2877** as amended was passed to third reading by a viva voce vote.

### **HOUSE BILL 2877 ON THIRD READING**

Senator Cain moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2877** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0, Present-not voting 1.

Present-not voting: Mr. President.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0, Present-not voting 1. (Same as previous roll call)

**HOUSE BILL 3313 ON SECOND READING**

On motion of Senator Bernsen 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 3313**, Relating to elementary class size limits in public schools.

The bill was read second time.

Senator Bernsen offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **HB 3313**, Senate Committee Printing, as follows:

- (1) On page 1, line 17, strike "or" and substitute a period
- (2) On page 1, strike lines 18-24

The amendment was read and was adopted by the following vote: Yeas 28, Nays 2, Present-not voting 1.

Yeas: Armbrister, Bernsen, Bivins, Brown, Cain, Carona, Duncan, Ellis, Fraser, Gallegos, Harris, Haywood, Jackson, Lindsay, Madla, Moncrief, Nelson, Ogden, Shapiro, Shapleigh, Sibley, Staples, Truan, Van de Putte, Wentworth, West, Whitmire, Zaffirini.

Nays: Barrientos, Lucio.

Present-not voting: Mr. President.

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

**HB 3313** as amended was passed to third reading by a viva voce vote.

**RECORD OF VOTE**

Senator Barrientos asked to be recorded as voting "Nay" on the passage of **HB 3313** to third reading.

**HOUSE BILL 3313 ON THIRD READING**

Senator Bernsen moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 3313** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0, Present-not voting 1.

Present-not voting: Mr. President.

The bill was read third time and was passed by the following vote: Yeas 28, Nays 2, Present-not voting 1.

Yeas: Armbrister, Bernsen, Bivins, Brown, Cain, Carona, Duncan, Ellis, Fraser, Gallegos, Harris, Haywood, Jackson, Lindsay, Madla, Moncrief, Nelson, Ogden,

Shapiro, Shapleigh, Sibley, Staples, Truan, Van de Putte, Wentworth, West, Whitmire, Zaffirini.

Nays: Barrientos, Lucio.

Present-not voting: Mr. President.

### **HOUSE BILL 1765 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 1765**, Relating to the creation of the County Court at Law of Brown County.

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

### **HOUSE BILL 1765 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 1765** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0, Present-not voting 1.

Present-not voting: Mr. President.

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

### **HOUSE BILL 1712 ON SECOND READING**

On motion of Senator West 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 1712**, Relating to online public access to certain information regarding attorneys.

The bill was read second time.

Senator West offered the following amendment to the bill:

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

Amend **HB 1712** (Senate committee printing) as follows:

(1) In SECTION 2 of the bill (page 2, lines 30-33), strike Subsection (c).

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

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

**HB 1712** as amended was passed to third reading by a viva voce vote.

**HOUSE BILL 1712 ON THIRD READING**

Senator West moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1712** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0, Present-not voting 1.

Present-not voting: Mr. President.

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

**HOUSE BILL 792 ON SECOND READING**

On motion of Senator West 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 792**, Relating to certain procedures regarding state bar disciplinary proceedings.

The bill was read second time.

Senator West offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **HB 792**, (Senate committee printing), as follows:

(1) In SECTION 1 of the bill (page 1, line 25), between "member" and the period, insert "for each two attorney members".

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

Senator West offered the following amendment to the bill:

**Floor Amendment No. 2**

Amend **HB 792**, in SECTION 1 of the bill, as follows:

(1) In added Section 81.072(i), Government Code (senate committee printing, page 1 lines 19-20), strike "each party to" and substitute "the complainant and the respondent in".

(2) In added Section 81.072(m), Government Code (senate committee printing, page 1, line 38), strike "each party to" and substitute "the complainant and the respondent in".

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

Senator West offered the following amendment to the bill:

**Floor Amendment No. 3**

Amend **HB 792**, in SECTION 1 of the bill, in added Section 81.072(n), Government Code (senate committee printing, page 1, line 43), by striking "assigned" and substituting "assigned without the approval of the complainant and the respondent in the grievance matter".

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

Senator Shapleigh offered the following amendment to the bill:

**Floor Amendment No. 4**

Amend **HB 792**, in SECTION 1 of the bill, as follows:



(1) In the introductory language of the bill (senate committee printing, page 1, line 12), strike "Subsections (h)-(n)" and substitute "Subsections (h)-(o)".

(2) In amended Section 81.072, Government Code (senate committee printing, page 1, between lines 43 and 44), insert the following:

(o) On the filing of a motion by an attorney against whom a disciplinary action has been brought in which a district grievance committee of the state bar or a district court has determined that the allegation on which the action is based is unfounded, the district grievance committee or the district court, as appropriate, shall destroy all records relating to the action or, if destruction is impracticable, obliterate the portions of all records relating to the action that identify the attorney. An attorney for whom records relating to a disciplinary action are destroyed as provided by this subsection may deny the occurrence of the disciplinary action and the allegation on which the action was based.

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

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

**HB 792** as amended was passed to third reading by a viva voce vote.

#### **VOTE RECONSIDERED ON HOUSE BILL 1869**

On motion of Senator Harris and by unanimous consent, the vote by which **HB 1869** was passed to third reading was reconsidered:

**HB 1869**, Relating to the acquisition of manufactured homes through financing or other means and to persons associated with those acquisitions.

Question—Shall **HB 1869** be passed to third reading?

Senator Harris offered the following amendment to the bill:

#### **Floor Amendment No. 8**

Amend **HB 1869** as follows:

On page 1, line 30, strike "regardless of whether any financing of the manufactured home occurs through that agency" and substitute "Fanny Mae, or Freddie Mac for long-term mortgage loans or for FHA insurance".

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

Senator Sibley offered the following amendment to Floor Amendment No. 3:

#### **Floor Amendment No. 9**

Amend Floor Amendment No. 3 for **HB 1869** by striking subdivision (4) in its entirety (lines 12 through 17).

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

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

**HB 1869** as again amended was again passed to third reading by a viva voce vote.

#### **RECORD OF VOTES**

Senators Bernsen, Carona, Gallegos, Madla, Moncrief, Truan, and Whitmire asked to be recorded as voting "Nay" on the passage of **HB 1869** to third reading.

### HOUSE BILL 1869 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 **HB 1869** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 24, Nays 5, Present-not voting 1.

Yeas: Armbrister, Barrientos, Bivins, Brown, Cain, Duncan, Ellis, Fraser, Harris, Haywood, Jackson, Lindsay, Lucio, Madla, Nelson, Ogden, Shapiro, Shapleigh, Sibley, Staples, Van de Putte, Wentworth, West, Zaffirini.

Nays: Bernsen, Gallegos, Moncrief, Truan, Whitmire.

Present-not voting: Mr. President.

Absent: Carona.

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

### RECORD OF VOTES

Senators Bernsen, Carona, Gallegos, Madla, Moncrief, Truan, and Whitmire asked to be recorded as voting "Nay" on the final passage of **HB 1869**.

### GUESTS PRESENTED

The President introduced to the Senate fourth-grade students from Hughes Springs Elementary School in Hughes Springs.

The Senate welcomed its guests.

### HOUSE BILL 1053 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:

**HB 1053**, Relating to the creation of commercial and industrial development zones in certain populous counties; providing for taxes and the issuance of bonds.

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

### HOUSE BILL 1053 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 **HB 1053** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0, Present-not voting 1.

Present-not voting: Mr. President.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0, Present-not voting 1. (Same as previous roll call)

**COMMITTEE SUBSTITUTE  
HOUSE BILL 6 ON THIRD READING**

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

**CSHB 6**, Relating to open-enrollment charter schools.

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

**RECORD OF VOTES**

Senators Gallegos and Moncrief asked to be recorded as voting "Nay" on the final passage of **CSHB 6**.

**HOUSE BILL 1050 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 third reading:

**HB 1050**, Relating to liens on real property in favor of governmental entities.

The bill was read second time.

Senator Brown offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **HB 1050**, Senate Committee Report, in Section 4 of the bill, as follows:

(1) On page 1, line 58, strike "before".

(2) On page 1, lines 59 through 61, strike "In the case of such a lien that arose before the effective date of this Act, the lien must be recorded not later than December 31, 2002".

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

Senator Brown offered the following amendment to the bill:

**Floor Amendment No. 2**

Amend **HB 1050**, Senate Committee Report, as follows:

(1) In SECTION 1 of the bill, in added Subsection (c), Section 51.008, Property Code (page 1, line 28), strike "or".

(2) In SECTION 1 of the bill, at the end of added Subsection (c), Section 51.008, Property Code (page 1, line 29), strike the period and substitute "; or".

(3) In SECTION 1 of the bill, in added Subsection (c), Section 51.008, Property Code (page 1, between lines 29 and 30), insert the following:

(3) a lien established under Chapter 61 or 213, Labor Code.

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.

**HB 1050** as amended was passed to third reading by a viva voce vote.

**HOUSE BILL 1050 ON THIRD READINGc**

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 **HB 1050** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0, Present-not voting 1.

Present-not voting: Mr. President.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0, Present-not voting 1. (Same as previous roll call)

**HOUSE BILL 900 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 third reading:

**HB 900**, Relating to the administration of statutory probate courts and to the assignment of statutory probate court judges.

The bill was read second time.

Senator Jackson offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **HB 900** by striking SECTION 2 of the bill and renumbering the existing sections accordingly.

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.

**HB 900** as amended was passed to third reading by a viva voce vote.

**HOUSE BILL 900 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 **HB 900** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0, Present-not voting 1.

Present-not voting: Mr. President.

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

**HOUSE BILL 1154 ON SECOND READING**

On motion of Senator Zaffirini 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 1154**, Relating to authorizing the Health and Human Services Commission to make grants to community-based organizations to provide support for long-term care services.

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

### RECORD OF VOTE

Senator Wentworth asked to be recorded as voting "Nay" on the passage of **HB 1154** to third reading.

### HOUSE BILL 1154 ON THIRD READING

Senator Zaffirini moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1154** be placed on its third reading and final passage.

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

Yeas: Armbrister, Barrientos, Bernsen, Bivins, Brown, Cain, Carona, Duncan, Ellis, Fraser, Gallegos, Harris, Haywood, Jackson, Lindsay, Lucio, Madla, Moncrief, Nelson, Ogden, Shapiro, Shapleigh, Sibley, Staples, Truan, Van de Putte, West, Whitmire, Zaffirini.

Nays: Wentworth.

Present-not voting: Mr. President.

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

### RECORD OF VOTE

Senator Wentworth asked to be recorded as voting "Nay" on the final passage of **HB 1154**.

### GUEST PRESENTED

Senator Brown was recognized and introduced to the Senate Shane Pirtle, Mayor of Lake Jackson.

The Senate welcomed Mayor Pirtle.

### HOUSE BILL 2518 ON SECOND READING

On motion of Senator Haywood 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 2518**, Relating to the issuance of certain permits for the emission of air contaminants.

The bill was read second time.

Senator Barrientos offered the following amendment to the bill:

#### Floor Amendment No. 1

Amend **HB 2518** in SECTION 2, as follows:

(1) On page 1, line 60, between "character" and the period, insert ", and the facilities authorized under the amended permit have been the subject of a public hearing under Section 382.056 within the preceding 36 months."

(2) On page 1, line 64, between "character" and the period, insert ", and the facilities authorized under the amended permit have been the subject of a public hearing under Section 382.056 within the preceding 36 months."

The amendment was read and failed of adoption by the following vote: Yeas 12, Nays 17, Present-not voting 2.

Yeas: Barrientos, Ellis, Fraser, Gallegos, Lucio, Moncrief, Shapleigh, Truan, Van de Putte, West, Whitmire, Zaffirini.

Nays: Armbrister, Bivins, Brown, Cain, Carona, Duncan, Harris, Haywood, Jackson, Lindsay, Madla, Nelson, Ogden, Shapiro, Sibley, Staples, Wentworth.

Present-not voting: Bernsen, Mr. President.

**HB 2518** was passed to third reading by a viva voce vote.

### RECORD OF VOTES

Senators Barrientos and Truan asked to be recorded as voting "Nay" on the passage of **HB 2518** to third reading.

### MOTION TO PLACE HOUSE BILL 2518 ON THIRD READING

Senator Haywood moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2518** be placed on its third reading and final passage.

The motion was lost by the following vote: Yeas 22, Nays 7, Present-not voting 2. (Not receiving four-fifths vote of Members present)

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

Nays: Barrientos, Gallegos, Shapleigh, Truan, Van de Putte, West, Whitmire.

Present-not voting: Bernsen, Mr. President.

### HOUSE BILL 2804 ON SECOND READING

On motion of Senator Ogden 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 2804**, Relating to certain instruments recorded to create liens on property or to show satisfaction of a judgment.

The bill was read second time.

Senator Ogden offered the following amendment to the bill:

#### Floor Amendment No. 1

Amend **HB 2804** (Senate Committee Printing) by striking SECTION 4 of the bill and substituting a new SECTION 4 to read as follows:

SECTION 4. This Act takes effect September 1, 2001, and applies only to an abstract of judgment filed on or after that date.

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

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

**HB 2804** as amended was passed to third reading by a viva voce vote.

#### **HOUSE BILL 460 ON THIRD READING**

Senator West moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 460** be placed on its third reading and final passage:

**HB 460**, Relating to the penalty for the offense of prostitution.

The motion prevailed by the following vote: Yeas 30, Nays 0, Present-not voting 1.

Present-not voting: Mr. President.

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

#### **COMMITTEE SUBSTITUTE HOUSE BILL 1287 ON SECOND READING**

On motion of Senator Whitmire 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 1287**, Relating to the establishment of drug court programs and to a study of drug court programs by the Criminal Justice Policy Council.

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

#### **COMMITTEE SUBSTITUTE HOUSE BILL 1287 ON THIRD READING**

Senator Whitmire moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 1287** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0, Present-not voting 1.

Present-not voting: Mr. President.

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

#### **HOUSE BILL 1267 ON SECOND READING**

On motion of Senator Carona 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 1267**, Relating to the investigation by a local law enforcement agency of certain reports alleging child abuse.

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

**HOUSE BILL 1267 ON THIRD READING**

Senator Carona moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1267** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0, Present-not voting 1.

Present-not voting: Mr. President.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0, Present-not voting 1. (Same as previous roll call)

**COMMITTEE SUBSTITUTE  
HOUSE BILL 3665 ON SECOND READING**

On motion of Senator Sibley 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 3665**, Relating to the creation, administration, powers, duties, operation, and financing of the Middle Trinity Groundwater Conservation District.

The bill was read second time.

Senator Sibley offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **CSHB 3665** (Senate Committee Printing) by striking all below the enacting clause and substituting the following:

**SECTION 1. CREATION.** (a) A groundwater conservation district, to be known as the Middle Trinity Groundwater Conservation District, is created in Bosque, Callahan, Coryell, Eastland, Erath, Somervell, Comanche, and Hamilton counties, subject to a confirmation election under Section 10 of this Act. The district is a governmental agency and a body politic and corporate.

(b) The district is created under and is essential to accomplish the purposes of Section 59, Article XVI, Texas Constitution.

**SECTION 2. DEFINITION.** In this Act, "district" means the Middle Trinity Groundwater Conservation District.

**SECTION 3. BOUNDARIES.** The boundaries of the district are coextensive with the boundaries of Bosque, Callahan, Coryell, Eastland, Erath, Somervell, Comanche, and Hamilton counties.

**SECTION 4. FINDING OF BENEFIT.** All of the land and other property included within the boundaries of the district will be benefited by the works and projects that are to be accomplished by the district under powers conferred by Section 59, Article XVI, Texas Constitution. The district is created to serve a public use and benefit.

**SECTION 5. GENERAL POWERS.** (a) The district has all of the rights, powers, privileges, authority, functions, and duties provided by the general law of this state, including Chapter 36, Water Code, applicable to groundwater conservation districts created under Section 59, Article XVI, Texas Constitution. This Act prevails over any provision of general law that is in conflict or inconsistent with this Act.



(b) Notwithstanding Subsection (a) of this section, the following provisions prevail over a conflicting or inconsistent provision of this Act:

- (1) Sections 36.1071 through 36.108, Water Code;
- (2) Sections 36.159, 36.160, and 36.161, Water Code; and
- (3) Subchapter I, Chapter 36, Water Code.

(c) Chapter 49, Water Code, does not apply to the district.

**SECTION 6. BOARD OF DIRECTORS.** (a) The district is governed by a board of not fewer than five or more than 16 directors.

(b) Temporary directors named under Section 8 of this Act serve until initial directors are elected under Section 10 of this Act.

(c) Initial directors serve until permanent directors are elected under Section 11 of this Act.

(d) Permanent directors serve staggered four-year terms.

(e) Each director must qualify to serve as director in the manner provided by Section 36.055, Water Code.

(f) A director serves until the director's successor has qualified.

**SECTION 7. COMPENSATION OF DIRECTORS.** A director may not receive compensation for service on the board but is entitled to reimbursement of actual expenses reasonably and necessarily incurred while engaging in activities on behalf of the district.

**SECTION 8. TEMPORARY DIRECTORS.** (a) The temporary board of directors consists of:

- (1) Calvin Rueter and Truman Blum, from Bosque County;
- (2) Bryan Farmer and Cecil Barton, from Callahan County;
- (3) Jack Wall and Lyle Zoeller, from Coryell County;
- (4) Brad Stephenson and Ron Bailey, from Eastland County;
- (5) Tab Thompson and John Moser, from Erath County;
- (6) Walter Maynard and Jeff Mackey, from Somervell County;
- (7) Lance Wilkerson and John Robert Adcock, from Comanche County; and
- (8) Joe McGowen and Charlie Thomas, from Hamilton County.

(b) If a temporary director fails to qualify for office, the commissioners court that appointed the director shall appoint a person to fill the vacancy.

**SECTION 9. METHOD OF ELECTING DIRECTORS.** (a) Two directors shall be elected from each county in the district as provided by this section.

(b) To be qualified to be a candidate for or to serve as director, a person must be a registered voter in the county the person seeks to represent.

(c) The initial or permanent directors may revise the number of directors as necessary or appropriate, subject to Section 6(a) of this Act, to exclude directors representing counties that do not confirm the establishment of the district, to include directors representing counties that are annexed to the district, or to maintain compliance with the federal Voting Rights Act of 1965 (42 U.S.C. Section 1973 et seq.), as amended. The initial or permanent directors may appoint an at-large director to maintain an odd number of directors. An at-large director must be a registered voter in the district.

(d) The initial or permanent directors may revise the number of directors to be elected from each county, subject to Section 6(a) of this Act, if necessary to provide for better representation of the residents of the district on the board of directors.

**SECTION 10. CONFIRMATION AND INITIAL DIRECTORS' ELECTION.**

(a) The temporary board of directors shall call and hold an election in each county in

the district to confirm establishment of the district and to elect initial directors to represent the county.

(b) At the confirmation and initial directors' election, the temporary board of directors shall have placed on the ballot in each county the names of any candidates filing for an initial director's position from that county and blank spaces to write in the names of other persons.

(c) Section 41.001(a), Election Code, does not apply to a confirmation and initial directors' election held as provided by this section.

(d) Except as provided by this section, a confirmation and initial directors' election must be conducted as provided by Sections 36.017(b)-(h), Water Code, and the Election Code.

(e) The district is established if a majority of the votes cast at the election in at least one county favors the establishment of the district. A county is included in the district and may elect directors to the board only if a majority of the votes cast at the election in that county favors the establishment of the district. Counties included in the district are not required to be contiguous.

**SECTION 11. ELECTION OF PERMANENT DIRECTORS.** (a) On the first Saturday in May of the first even-numbered year after the year in which the district is authorized to be created at a confirmation election, an election shall be held in each county in the district for the election of permanent directors. The initial directors in each participating county shall draw lots to determine which permanent director from that county shall serve a two-year term and which permanent director from that county shall serve a four-year term.

(b) On the first Saturday in May of each subsequent second year following the election, the appropriate number of directors shall be elected.

**SECTION 12. DISTRICT REVENUES.** The board of directors may impose taxes annually to pay the maintenance and operating expenses of the district at a rate not to exceed five cents on each \$100 of assessed valuation.

**SECTION 13. FINDINGS RELATED TO PROCEDURAL REQUIREMENTS.** (a) The proper and legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published as provided by law, and the notice and a copy of this Act have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished by the constitution and other laws of this state, including the governor, who has submitted the notice and Act to the Texas Natural Resource Conservation Commission.

(b) The Texas Natural Resource Conservation Commission has filed its recommendations relating to this Act with the governor, lieutenant governor, and speaker of the house of representatives within the required time.

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

**SECTION 14. EFFECTIVE DATE; EXPIRATION DATE.** (a) This Act takes effect September 1, 2001.

(b) If the creation of the district is not confirmed at a confirmation election held under Section 10 of this Act before September 1, 2003, this Act expires on that date.

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

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

**CSHB 3665** as amended was passed to third reading by a viva voce vote.

**COMMITTEE SUBSTITUTE  
HOUSE BILL 171 ON SECOND READING**

On motion of Senator Nelson 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 171**, Relating to the prosecution of certain offenses involving damage or destruction of property.

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

**COMMITTEE SUBSTITUTE  
HOUSE BILL 171 ON THIRD READING**

Senator Nelson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 171** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0, Present-not voting 1.

Present-not voting: Mr. President.

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

**HOUSE BILL 3587 ON SECOND READING**

On motion of Senator Barrientos 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 3587**, Relating to the exemption from permitting requirements for certain wells in a groundwater conservation district.

The bill was read second time.

Senator Barrientos offered the following committee amendment to the bill:

**Committee Amendment No. 1**

Amend **HB 3587** in SECTION 1, as follows:

(1) On page 4, line 26, between "rules" and "of" insert "applicable to all permitted water wells".

(2) On page 5, between lines 16 and 17, insert the following:

"(k) Groundwater withdrawn from a well exempt from permitting or regulation under this section and subsequently transported outside the boundaries of the district shall be subject to any applicable production and export fees under Sections 36.122 and 36.205.

(1) This chapter applies to water wells, including water wells used to supply water for activities related to the exploration or production of hydrocarbons or minerals. This chapter does not apply to production or injection wells drilled for oil, gas, sulphur, uranium, or brine, or for core tests, or for injection of gas,

saltwater, or other fluids, under permits issued by the Railroad Commission of Texas."

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

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

**HB 3587** as amended was passed to third reading by a viva voce vote.

### **HOUSE BILL 3587 ON THIRD READING**

Senator Barrientos moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 3587** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0, Present-not voting 1.

Present-not voting: Mr. President.

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

### **HOUSE BILL 978 ON SECOND READING**

On motion of Senator Bernsen 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 978**, Relating to the appeal of certain orders, judgments, and decrees.

The bill was read second time.

Senator Bivins offered the following amendment to the bill:

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

Amend **HB 978** in SECTION 1 of the bill, Section 51.014, Civil Practice and Remedies Code, as follows:

1) In line 13, page 1, committee printing, between "(b)" and "interlocutory", strike "An" and insert "Except as provided by Subsection (c), an";

2) After line 16, page 1, committee printing, insert a new subsection (c) to read as follows and renumber remaining subsection appropriately:

(c) An interlocutory appeal under Subsection (a)(3) stays all proceedings in the trial court pending resolution of the appeal.

The amendment was read.

On motion of Senator Bivins and by unanimous consent, the amendment was withdrawn.

On motion of Senator Bernsen and by unanimous consent, further consideration of **HB 978** was temporarily postponed.

Question—Shall **HB 978** be passed to third reading?

**COMMITTEE SUBSTITUTE  
HOUSE BILL 1323 ON SECOND READING**

On motion of Senator Staples 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 1323**, Relating to the expunction of arrest records and files when an indictment or information is dismissed or quashed.

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

**COMMITTEE SUBSTITUTE  
HOUSE BILL 1323 ON THIRD READING**

Senator Staples moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 1323** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0, Present-not voting 1.

Present-not voting: Mr. President.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0, Present-not voting 1. (Same as previous roll call)

**MESSAGE FROM THE HOUSE**

HOUSE CHAMBER

Austin, Texas

May 17, 2001

The Honorable President of the Senate  
Senate Chamber  
Austin, Texas

Mr. President:

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

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

**HB 102** (140 Ayes, 0 Nays, 2 Present Not Voting)

**HB 445** (142 Ayes, 0 Nays, 2 Present Not Voting)

**HB 459** (143 Ayes, 0 Nays, 1 Present Not Voting)

**HB 490** (non-record vote)

**HB 663** (non-record vote)

**HB 741** (145 Ayes, 0 Nays, 1 Present Not Voting)

**HB 815** (non-record vote)

**HB 2494** (140 Ayes, 0 Nays, 1 Present Not Voting)

**HB 2628** (142 Ayes, 0 Nays, 1 Present Not Voting)

**HB 2690** (142 Ayes, 0 Nays, 1 Present Not Voting)

**HB 2828** (non-record vote)

**HB 2853** (140 Ayes, 0 Nays, 1 Present Not Voting)

**HB 2959** (142 Ayes, 0 Nays, 1 Present Not Voting)

**HB 3286** (non-record vote)

**HB 3309** (145 Ayes, 0 Nays, 1 Present Not Voting)

**HB 3421** (non-record vote)

**HB 3626** (non-record vote)

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

**HB 2**

House Conferees: Gallego - Chair/Averitt/Danburg/Hodge/Madden

**HB 606**

House Conferees: Smithee - Chair/Averitt/Eiland/Lewis, Glenn/Uresti

**HB 695**

House Conferees: Reyna, Arthur - Chair/Goolsby/Haggerty/Moreno, Joe E./Yarbrough

**HB 915**

House Conferees: Gray - Chair/Brown, Fred/Eiland/Junell/Maxey

**HB 1166**

House Conferees: Denny - Chair/Averitt/Hopson/Menendez/Solomons

**HB 2589**

House Conferees: Hochberg - Chair/Bailey/McCall/Merritt/Turner, Sylvester

**HB 2912**

House Conferees: Bosse - Chair/Chisum/Counts/Dukes/Puente

**HJR 97**

House Conferees: Junell - Chair/Coleman/Gallego/Heflin/West, George "Buddy"

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

**SB 382**

House conferees: Ehrhardt - Chair/Bailey/Burnam/Carter/Thompson

**SB 406**

House conferees: Hawley - Chair/Alexander/Davis, Yvonne/Gallego/Swinford

**SB 684**

House conferees: Uresti - Chair/Capelo/Delisi/Glaze/Solis, Jim

**SB 846**

House conferees: Naishtat - Chair/Callegari/Hill/Jones, Jesse/Najera

**SB 1472**

House conferees: Williams - Chair/Goolsby/Jones, Jesse/Rangel/Reyna, Elvira

Respectfully,

/s/Sharon Carter, Chief Clerk  
House of Representatives

**HOUSE BILL 3652 ON SECOND READING**

On motion of Senator Armbrister 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 3652**, Relating to the creation, administration, powers, duties, operation, and financing of the Lavaca County Groundwater Conservation District.

The bill was read second time.

**(Senator Sibley in Chair)**

Senator Armbrister offered the following committee amendment to the bill:

**Committee Amendment No. 1**

Amend **HB 3652** by adding a new section on appropriate page and line and renumbering subsequent sections.

Section \_\_\_\_\_. REGIONAL COOPERATION. (a) In recognition of the need for uniform regional monitoring and regulation of common, scientifically recognized groundwater sources, and within designated management areas, the district shall establish rules:

- (1) requiring the permitting of all water wells that are:
  - (A) not exempted from permitting by Chapter 36, Water Code; and
  - (B) capable of producing in excess of 25,000 gallons per day;
- (2) providing for the prevention of waste, as defined by Section 36.001, Water Code;
- (3) providing for timely capping or plugging of abandoned wells; and
- (4) requiring reports to be filed with the district on all new, nonexempt water wells.

(b) Reports required under Subsection (a)(4) must include the driller's log, a description of the casing and pumping equipment installed, the capacity of the well so equipped, and the intended use of the water.

(c) To further regional continuity, the district shall:

- (1) seek to participate in at least one coordination meeting annually with each adjacent district that shares an aquifer with the district;
- (2) coordinate the collection of data with adjacent districts in a manner designed to achieve uniformity of data quality;
- (3) coordinate efforts to monitor water quality with adjacent districts, local governments, and state agencies;
- (4) investigate any groundwater pollution with the intention of locating its source and report its findings to adjacent districts and appropriate state agencies;
- (5) provide to adjacent districts annually an inventory of new water wells in the district and an estimate of groundwater production within the district; and
- (6) include adjacent districts on the mailing lists for district newsletters, seminars, public education events, news articles, and field days.

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

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

**HB 3652** as amended was passed to third reading by a viva voce vote.

**HOUSE BILL 3652 ON THIRD READING**

Senator Armbrister moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 3652** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0, Present-not voting 1.

Present-not voting: Mr. President.

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

**HOUSE BILL 1107 ON SECOND READING**

On motion of Senator Cain 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 1107**, Relating to the use of money in the county law library fund.

The bill was read second time.

Senator Cain offered the following committee amendment to the bill:

**Committee Amendment No. 1**

Amend **HB 1107** by striking "in a county with 30 or more district courts," on page 1, line 18 of the bill (House Engrossed Version).

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

Senator Duncan offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **HB 1107** (Senate Committee Printing) as follows:

(1) In the recitation to SECTION 1 of the bill (page 1, lines 16 through 18), strike all after "adding" and substitute "new Subsections (c) and (d) and relettering existing Subsection (c) as Subsection (e) to read as follows:".

(2) In SECTION 1 of the bill, proposed Subsection (c), Section 323.023, Local Government Code (page 1, line 34), between "(c)" and "Expenditures" insert the following:

Money in the fund may be used for the purposes described by Subsection (b)(3) only if the county's law librarian or, if the county has no law librarian, the person responsible for the county's law library, authorizes the use in consultation with the county auditor.

(d)

(3) In SECTION 1 of the bill, proposed Subsection (d), Section 323.023, Local Government Code (page 1, line 39), strike "(d)" and substitute "(e)".

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

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

**HB 1107** as amended was passed to third reading by a viva voce vote.



**HOUSE BILL 1107 ON THIRD READING**

Senator Cain moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1107** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0, Present-not voting 1.

Present-not voting: Mr. President.

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

**HOUSE BILL 2616 ON SECOND READING**

On motion of Senator Lucio 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 2616**, Relating to a prohibition against converting the Queen Isabella Causeway to a turnpike project.

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

**HOUSE BILL 2616 ON THIRD READING**

Senator Lucio moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2616** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0, Present-not voting 1.

Present-not voting: Mr. President.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0, Present-not voting 1. (Same as previous roll call)

**HOUSE BILL 3637 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 3637**, Relating to the County Court at Law of Burnet County.

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

**HOUSE BILL 3637 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 3637** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0, Present-not voting 1.

Present-not voting: Mr. President.

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

**COMMITTEE SUBSTITUTE  
HOUSE BILL 1716 ON SECOND READING**

On motion of Senator Van de Putte 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 1716**, Relating to the establishment and operation of the San Antonio Life Sciences Institute in The University of Texas System.

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

**COMMITTEE SUBSTITUTE  
HOUSE BILL 1716 ON THIRD READING**

Senator Van de Putte moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 1716** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0, Present-not voting 1.

Present-not voting: Mr. President.

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

**HOUSE BILL 472 ON THIRD 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 third reading and final passage:

**HB 472**, Relating to the regulation of telemarketing solicitation; providing penalties.

The bill was read third time.

Senator Staples offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **HB 472** on third reading by striking second reading Floor Amendments No. 1 and No. 2 by Staples.

By unanimous consent, 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.

**HB 472** as again amended was finally passed by the following vote: Yeas 30, Nays 0, Present-not voting 1.

Present-not voting: Mr. President.

**COMMITTEE SUBSTITUTE  
HOUSE BILL 1144 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 third reading:

**CSHB 1144**, Relating to public school accountability and to measures to improve proficiency in certain subjects.

The bill was read second time.

Senator Bivins offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **CSHB 1144** as follows:

(1) In SECTION 2 of the bill (Committee Printing page 1, line 50), strike "develop and make available a service" and substitute "help make available services".

(2) In SECTION 2 of the bill (Committee Printing page 1, line 52), strike "service" and substitute "services".

(3) In SECTION 2 of the bill (Committee Printing page 1, line 54), strike "making the service" and substitute "helping make the services".

(4) In SECTION 2 of the bill (Committee Printing page 1, line 59), strike "developed for the service" and substitute "offered through the service".

(5) In SECTION 2 of the bill (Committee Printing page 2, line 3), strike "and".

(6) In SECTION 2 of the bill (Committee Printing page 2, line 5), after "particular student" and ",", insert "; and

(5) to the extent possible, should correlate to an instructional program or programs being used in classrooms in this state".

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

Senator Shapleigh offered the following amendment to the bill:

**Floor Amendment No. 2**

Amend **CSHB 1144** (Senate committee printing) as follows:

(1) In proposed Section 39.131 on page 9, line 3, between "(a-1)" and "to", add "and Subsections (f) and (j)"

(2) In proposed Section 39.131 on page 9, lines 7 and 8, between "managers" and "residents," strike "composed of" and insert ", a majority of whom must be"

(3) In proposed Section 39.131 on page 9, line 8, between "district" and "to", insert ","

(4) In proposed Section 39.131 on page 9, line 10, insert the following subsections and re-alphabetize as appropriate:

(f) A board of managers may exercise all of the powers and duties assigned to a board of trustees of a school district by law, rule, or regulation. This section applies to a district governed by a board of managers in the same manner that this section applies to any other district. A master or a member of a management team appointed to serve on a board of managers may continue to be compensated as determined by the commissioner. At the direction of the commissioner but not later than the second anniversary of the date the board of managers was appointed, the board of managers

shall order an election of members of the district board of trustees. The election must be held on a uniform election date on which an election of district trustees may be held under Section 41.001, Election Code, that is at least 180 days after the date the election was ordered. On qualification of members for office, the board of trustees assumes all of the powers and duties assigned to a board of trustees by law, rule, or regulation.

(j) An employee, volunteer, or contractor acting on behalf of the commissioner under this subchapter is immune from civil liability to the same extent as a professional employee of a school district under Section 22.051.

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

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

**CSHB 1144** as amended was passed to third reading by a viva voce vote.

### **HOUSE BILL 978 ON SECOND READING**

The Presiding Officer, Senator Sibley in Chair, laid before the Senate **HB 978** on its second reading. The bill was read second time and further consideration was postponed.

**HB 978**, Relating to the appeal of certain orders, judgments, and decrees.

Question—Shall **HB 978** be passed to third reading?

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

### **RECORD OF VOTE**

Senator Harris asked to be recorded as voting "Nay" on the passage of **HB 978** to third reading.

### **HOUSE BILL 978 ON THIRD READING**

Senator Bernsen moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 978** be placed on its third reading and final passage.

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

Yeas: Armbrister, Barrientos, Bernsen, Bivins, Brown, Cain, Carona, Duncan, Ellis, Fraser, Gallegos, Haywood, Jackson, Lindsay, Lucio, Madla, Moncrief, Nelson, Ogden, Shapiro, Shapleigh, Sibley, Staples, Truan, Van de Putte, Wentworth, West, Whitmire, Zaffirini.

Nays: Harris.

Present-not voting: Mr. President.

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

### **RECORD OF VOTE**

Senator Harris asked to be recorded as voting "Nay" on the final passage of **HB 978**.

(Senator Brown in Chair)

### HOUSE BILL 396 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:

**HB 396**, Relating to the requirement that an applicant for a driver's license provide certain identification information to the Department of Public Safety.

The bill was read second time.

(President in Chair)

Senator Staples offered the following amendment to the bill:

#### Floor Amendment No. 1

Amend **HB 396** by striking Section 2 of the bill and substituting in lieu thereof the following:

SECTION 2. Section 521.142(a), Transportation Code, is amended to read as follows:

(a) An application for an original license must state the applicant's full name and place and date of birth. This information must be verified by presentation of valid proof of identity from an independent verifiable source [satisfactory] to the department. Proof of identity is sufficient if the proof presented is:

(1) a driver's license or personal identification certificate issued to the applicant by the department, regardless of whether the license or certificate has expired;

(2) a valid driver's license or valid identification document bearing a photograph of the applicant and issued to the applicant by another state;

(3) a passport, federal identification card, voter identification card or work permit bearing a photograph of the applicant and issued to the applicant by another country or a governmental agency of another country;

(4) a duplicate original birth certificate or a certified copy of a birth certificate issued by this or another state or by another country, if accompanied by supporting documentation required by department rule; or

(5) any other proof of identity satisfactory to the department.

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

Senator Gallegos offered the following amendment to the bill:

#### Floor Amendment No. 2

Amend **HB 396** (Committee Printing) as follows:

(1) In SECTION 1 of the bill, added Subsection (h)(3), Section 231.302, Family Code, on page 1, line 37, strike "temporary" and substitute "tax".

(2) In SECTION 1 of the bill, added Subsection (h)(4), Section 231.302, Family Code, on page 1, line 41, strike "temporary" and substitute "tax".

(3) In SECTION 1 of the bill, added Subsection (i), Section 231.302, Family Code, on page 1, line 49, strike "temporary" and substitute "tax".

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

Senator Sibley offered the following amendment to the bill:

**Floor Amendment No. 3**

Amend **HB 396** by inserting the following new SECTION, appropriately numbered, and renumbering the subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Section 20.063, Election Code, is amended by amending Subsection (a) and adding Subsection (e) to read as follows:

(a) Except as provided by Subsection (e), the [The] Department of Public Safety shall provide to each person who applies in person at the department's offices for an original or renewal of a driver's license, a personal identification card, or a duplicate or corrected license or card an opportunity to complete a voter registration application form.

(e) The Department of Public Safety may not provide a voter registration application form to a person described by Subsection (a) who presents as proof of identity a document described by Section 521.142(a)(3), Transportation Code, or a duplicate original birth certificate issued by another country or a certified copy of a birth certificate issued by another country unless the person also presents acceptable proof that the person is a United States citizen.

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.

**HB 396** as amended was passed to third reading by a viva voce vote.

**RECORD OF VOTE**

Senator Nelson asked to be recorded as voting "Nay" on the passage of **HB 396** to third reading.

**HOUSE BILL 2700 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 third reading:

**HB 2700**, Relating to certain services provided through telemedicine.

The bill was read second time.

Senator Duncan offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **HB 2700** (Senate Committee Printing) as follows:

(1) In SECTION 1 of the bill, in proposed Section 531.02171, Government Code (page 1, lines 13 through 18), strike Subsection (a) and substitute the following:

(a) In this section:

(1) "Health professional" means:

(A) a physician;

(B) an individual who is licensed or certified in this state to perform health care services and who is authorized to assist a physician in providing telemedicine medical services that are delegated and supervised by the physician; or

(C) a licensed or certified health professional acting within the scope of the license or certification who does not perform a telemedicine medical service.

(2) "Physician" means a person licensed to practice medicine in this state under Subtitle B, Title 3, Occupations Code.

(3) "Telehealth service" means a health service, other than a telemedicine medical service, delivered by a licensed or certified health professional acting within the scope of the health professional's license or certification who does not perform a telemedicine medical service that requires the use of advanced telecommunications technology, other than by telephone or facsimile, including:

(A) compressed digital interactive video, audio, or data transmission;

(B) clinical data transmission using computer imaging by way of still-image capture and store and forward; and

(C) other technology that facilitates access to health care services or medical specialty expertise.

(4) "Telemedicine medical service" means a health care service initiated by a physician or provided by a health professional acting under physician delegation and supervision, for purposes of patient assessment by a health professional, diagnosis or consultation by a physician, treatment, or the transfer of medical data, that requires the use of advanced telecommunications technology, other than by telephone or facsimile, including:

(A) compressed digital interactive video, audio, or data transmission;

(B) clinical data transmission using computer imaging by way of still-image capture and store and forward; and

(C) other technology that facilitates access to health care services or medical specialty expertise.

(2) In SECTION 1 of the bill, in proposed Section 531.02171(b), Government Code (page 1, lines 19 through 27), strike "health care professional" in each place the phrase appears in that subsection and substitute "health professional".

(3) In SECTION 1 of the bill, in proposed Section 531.02171, Government Code, in Subsections (b) and (c) (page 1, line 19 through page 1, line 53), strike "telemedicine medical services" each place the phrase appears in that section and substitute "telemedicine medical services or telehealth services".

(4) In SECTION 1 of the bill, in proposed Section 531.02171(c)(3), Government Code (page 1, line 43), between "service" and the semicolon, insert "or telehealth service".

(5) In SECTION 1 of the bill, in proposed Section 531.0272(a), Government Code (page 1, lines 59 and 60) strike "telemedicine medical service pilot programs" and substitute "telemedicine medical services or telehealth services pilot programs".

(6) In SECTION 1 of the bill, in proposed Section 531.02172, Government Code (page 1, line 54 through page 2, line 28), strike "telemedicine medical services" each place the phrase appears in that section and substitute "telemedicine medical services or telehealth services".

(7) In SECTION 2 of the bill, strike proposed Section 57.0471, Utilities Code (page 2, lines 31 through 37), and substitute the following:

Sec. 57.0471. GRANTS TO CERTAIN HEALTH CARE FACILITIES. (a) A health care facility providing telemedicine medical services or telehealth services and participating in a pilot program under Section 531.02171, Government Code, is eligible to receive a grant under Section 57.047.

(b) The health care facility is not eligible to receive private network services under Section 58.253(a), except with respect to a project that would have been eligible to be funded by the telecommunications infrastructure fund under this subchapter as it existed on January 1, 2001.

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

Senator Duncan offered the following amendment to the bill:

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

Amend **HB 2700** (Senate Committee Printing) as follows:

(1) In SECTION 1 of the bill, in proposed Section 531.02171, Government Code, insert the following new subsections:

(d) Notwithstanding an eligibility requirement prescribed by other law or rule, the commission may establish requirements for a person to participate in a pilot project under this section.

(e) Participation in the pilot project does not entitle a participant to other services under a government-funded health program.

(f) The commission may limit the number of participants of a pilot project under this section.

(2) In SECTION 2 of the bill add the following:

"SECTION 6. If before implementing any provision of this Act the Commissioner of Health and Human Services determines that a waiver or authorization from a federal agency is necessary for implementation of that provision, the agency affected by the provisions shall request the waiver or authorization and may delay implementing that provision until the waiver or authorization is granted."

Renumber accordingly.

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.

**HB 2700** as amended was passed to third reading by a viva voce vote.

### **HOUSE BILL 2700 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 **HB 2700** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0, Present-not voting 1.

Present-not voting: Mr. President.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0, Present-not voting 1. (Same as previous roll call)

### **HOUSE BILL 396 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 **HB 396** be placed on its third reading and final passage:



**HB 396**, Relating to the requirement that an applicant for a driver's license provide certain identification information to the Department of Public Safety.

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

Yeas: Armbrister, Barrientos, Bernsen, Bivins, Brown, Cain, Carona, Duncan, Ellis, Fraser, Gallegos, Harris, Haywood, Jackson, Lindsay, Lucio, Madla, Moncrief, Ogden, Shapiro, Shapleigh, Sibley, Staples, Truan, Van de Putte, Wentworth, West, Whitmire, Zaffirini.

Nays: Nelson.

Present-not voting: Mr. President.

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

### RECORD OF VOTE

Senator Nelson asked to be recorded as voting "Nay" on the final passage of **HB 396**.

### HOUSE BILL 1562 ON SECOND READING

On motion of Senator Moncrief 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 1562**, Relating to the control of health insurance fraud; providing administrative penalties.

The bill was read second time.

### (Senator Brown in Chair)

Senator Moncrief offered the following amendment to the bill:

#### Floor Amendment No. 1

Amend **HB 1562** as follows:

(1) Insert a new SECTION 5 of the bill (page 2, after line 69, senate committee printing), to read as follows:

SECTION 5. Section 402.084, Labor Code, is amended by amending Subsection (b) and by adding Subsection (d) to read as follows:

(b) Information on a claim may be released as provided by Subsection (a) to:

- (1) the employee or the employee's legal beneficiary;
- (2) the employee's or the legal beneficiary's representative;
- (3) the employer at the time of injury;
- (4) the insurance carrier;
- (5) the Texas Certified Self-Insurer Guaranty Association established under

Subchapter G, Chapter 407, if that association has assumed the obligations of an impaired employer;

(6) the Texas Property and Casualty Insurance Guaranty Association, if that association has assumed the obligations of an impaired insurance company; ~~or~~

(7) a third-party litigant in a lawsuit in which the cause of action arises from the incident that gave rise to the injury; or

(8) a subclaimant under Section 409.009 that is an insurance carrier that has adopted an antifraud plan under Article 3.97-3, Insurance Code, or the authorized representative of such a subclaimant.

(d) Information on a claim relating to a subclaimant under Subsection (b)(8) may include information, in an electronic data format, on all workers' compensation claims necessary to determine if a subclaim exists. The information on a claim remains subject to confidentiality requirements while in the possession of a subclaimant or representative. The commission by rule may establish a reasonable fee for all information requested under this subsection in an electronic data format by subclaimants or authorized representatives of subclaimants. The commission shall adopt rules under Section 401.024(d) to establish:

(1) reasonable security parameters for all transfers of information requested under this subsection in electronic data format; and

(2) requirements regarding the maintenance of electronic data in the possession of a subclaimant or the subclaimant's representative.

(2) Renumber the subsequent SECTIONS of the bill appropriately.

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

Senator Moncrief offered the following amendment to the bill:

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

Amend **HB 1562** (Senate committee printing) in SECTION 3 of the bill, in added Article 3.97-2(a), Insurance Code (page 2, line 17), by striking "as follows" and substituting "substantially similar to the following".

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

Senator Moncrief offered the following amendment to the bill:

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

Amend **HB 1562** (Senate committee printing) in SECTION 3 of the bill, in added Article 3.97-3(a), Insurance Code (page 2, line 23), between "insurer" and "shall", by inserting "who collects direct written premium".

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

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

**HB 1562** as amended was passed to third reading by a viva voce vote.

### **HOUSE BILL 1562 ON THIRD READING**

Senator Moncrief moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1562** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0, Present-not voting 1.

Present-not voting: Mr. President.

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

**HOUSE BILL 1505 ON SECOND READING**

On motion of Senator Carona 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 1505**, Relating to the regulation of plumbing; providing a penalty.

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

**HOUSE BILL 1505 ON THIRD READING**

Senator Carona moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1505** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0, Present-not voting 1.

Present-not voting: Mr. President.

The bill was read third time and was passed by viva voce vote.

**HOUSE BILL 152 ON SECOND READING**

On motion of Senator Ogden 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 152**, Relating to a pilot program to provide for reduced undergraduate tuition during a summer term or session at certain institutions of higher education.

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

**HOUSE BILL 152 ON THIRD READING**

Senator Ogden moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 152** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0, Present-not voting 1.

Present-not voting: Mr. President.

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

**HOUSE BILL 776 ON SECOND READING**

On motion of Senator Staples 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 776**, Relating to the implementation, operation, and maintenance of the criminal justice information system.

The bill was read second time.

Senator Armbrister offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **HB 776** by adding appropriately numbered SECTIONS to read as follows and by renumbering existing SECTIONS accordingly:

SECTION \_\_\_\_\_. Subchapter D, Chapter 411, Government Code, is amended by adding Section 411.048 to read as follows:

Sec. 411.048. THREATS AGAINST PEACE OFFICERS. (a) In this section:

(1) "Criminal justice agency" has the meaning assigned by Article 60.01, Code of Criminal Procedure.

(2) "Peace officer" has the meaning assigned by Section 1.07, Penal Code.

(b) The bureau of identification and records shall establish and maintain a central index in the law enforcement information system maintained by the department to:

(1) collect and disseminate information relating to an individual's expression of intent to inflict serious bodily injury or death on a peace officer; and

(2) alert a peace officer of an expression of intent to inflict serious bodily injury or death on the officer.

(c) A criminal justice agency, after making each determination required under Subsection (d), shall immediately enter into the information system an electronic report of an individual who expresses an intent to inflict serious bodily injury or death on a peace officer. The agency shall enter the information in the form and manner provided by rules adopted by the director.

(d) Before entering information collected under this section into the information system, a criminal justice agency must determine that the report described by Subsection (c):

(1) is not from an anonymous source; and

(2) consists of an expression of intent to inflict serious bodily injury or death on a peace officer.

(e) On proper inquiry into the information system, the department shall disseminate information collected under this section to a criminal justice agency as reasonably necessary to protect the safety of a peace officer. The criminal justice agency may use information disseminated under this subsection in the manner provided by rules adopted by the director.

(f) The department shall promptly respond to a request to disclose information collected under this section by an individual who is the subject of the information.

(g) An individual who is the subject of information collected under this section may request that the director, the director's designee, or a court review the information to determine whether the information complies with rules adopted by the director. The review shall be conducted using the same procedure for reviewing criminal information collected under Chapter 61, Code of Criminal Procedure.

(h) A peace officer or criminal justice agency is not liable for an act or omission relating to the collection, use, or dissemination of information collected under this section in accordance with rules adopted by the director.

(i) The director may adopt rules to implement and enforce this section. Any rule adopted by the director under this section must comply with the provisions of the Code of Federal Regulations, Title 28, Part 23, as it applies to criminal intelligence systems.

SECTION \_\_\_\_\_. Section 552.108(a), Government Code, is amended to read as follows:

(a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from the requirements of Section 552.021 if:

(1) release of the information would interfere with the detection, investigation, or prosecution of crime;

(2) it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication; [or]

(3) it is information relating to a threat against a peace officer collected or disseminated under Section 411.048; or

(4) it is information that:

(A) is prepared by an attorney representing the state in anticipation of or in the course of preparing for criminal litigation; or

(B) reflects the mental impressions or legal reasoning of an attorney representing the state.

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

Senator Armbrister offered the following amendment to the bill:

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

Amend **HB 776** by adding an appropriately numbered SECTION to read as follows and by renumbering existing SECTIONS accordingly:

SECTION \_\_\_\_\_. Subchapter A, Chapter 495, Government Code, is amended by adding Section 495.008 to read as follows:

Sec. 495.008. AUDITING AND MONITORING CONTRACTS. (a) The department shall develop a comprehensive methodology for enhanced auditing and monitoring of all facilities operated under contract with the department that house inmates of the department and releasees under the supervision of the department. To achieve this objective, the department shall first review existing auditing, monitoring, and oversight capabilities of the department to determine what further procedures and resources are necessary to achieve this goal.

(b) The department shall ensure that all new and renewed contracts described by Subsection (a) include:

(1) a provision that the department or a designee of the department may conduct periodic contract compliance reviews, without advance notice, to monitor vendor performance;

(2) minimum acceptable standards of performance prescribed by the department that include provisions regarding the health, safety, and welfare of inmates and releasees;

(3) a provision that if a review determines that a vendor is not in compliance with the contract, the department may require that the vendor's per diem compensation be withheld until the vendor meets contract requirements or the vendor is replaced;

(4) a provision requiring a vendor not in compliance with the contract to implement a plan of corrective action approved by the department; and

(5) a provision under which the state is indemnified for costs of litigation and for any damages in lawsuits alleging that the health, safety, or welfare of an inmate or releasee in a contract facility is not protected.

(c) The department shall complete at least one enhanced audit for each facility described by Subsection (a), without regard to whether the facility is operated by a

public or private vendor. The enhanced audit must include an enhanced contract compliance review of any vendors hired by a community supervision and corrections department to operate a facility.

(d) The department, in conjunction with an advisory committee composed of state officials and private officials from within the industry, shall adopt rules to implement the requirements of this section.

(e) The department shall develop an appeals process, incorporated by reference into all new and renewed contracts, under which a vendor may appeal any imposed sanction under the contract, with the appeals process including the right to a formal hearing and a right to a final determination by the board.

(f) The department shall submit a report to the governor and the Legislative Budget Board not later than January 1, 2003, describing its efforts to implement the requirements of this section. The report must include a summary of contracts and vendors, compliance reviews conducted, incidents of contract noncompliance, sanctions imposed, corrective actions taken, and current contract status. This subsection expires February 1, 2003.

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

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

**HB 776** as amended was passed to third reading by a viva voce vote.

#### **HOUSE BILL 776 ON THIRD READING**

Senator Staples moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 776** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0, Present-not voting 1.

Present-not voting: Mr. President.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0, Present-not voting 1. (Same as previous roll call)

#### **VOTE RECONSIDERED ON HOUSE BILL 152**

On motion of Senator Ogden and by unanimous consent, the vote by which **HB 152** was finally passed was reconsidered:

**HB 152**, Relating to a pilot program to provide for reduced undergraduate tuition during a summer term or session at certain institutions of higher education.

Question—Shall **HB 152** be finally passed?

**(President in Chair)**

#### **HOUSE BILL 2367 ON SECOND READING**

On motion of Senator Bernsen 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 2367**, Relating to the liability of certain nonprofit organizations and their employees and volunteers.

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

### HOUSE BILL 2367 ON THIRD READING

Senator Bernsen moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2367** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0, Present-not voting 1.

Present-not voting: Mr. President.

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

### HOUSE BILL 1418 ON SECOND READING

On motion of Senator Carona 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 1418**, Relating to certain employees of nursing homes and related institutions.

The bill was read second time.

Senator Moncrief offered the following amendment to the bill:

#### Floor Amendment No. 1

Amend **HB 1418** as follows:

(1) Strike SECTIONS 3 and 4 of the bill (Senate committee printing, page 1, lines 44-64, and page 2, lines 1-25).

(2) Add the following appropriately numbered SECTIONS to the bill and renumber the remaining SECTIONS of the bill as appropriate:

SECTION \_\_\_\_\_. Section 250.002, Health and Safety Code, is amended to read as follows:

Sec. 250.002. INFORMATION OBTAINED BY FACILITY, REGULATORY AGENCY, OR PRIVATE AGENCY. (a) A facility, a regulatory agency, or a private agency on behalf of a facility is entitled to obtain from the Department of Public Safety of the State of Texas criminal history record information maintained by the Department of Public Safety that relates to a person who is:

(1) an applicant for employment at a facility other than a facility licensed under Chapter 142;

(2) [licensed, certified, or under contract with the agency, as specified by Section 250.001(3), or who is] an employee of a [that] facility other than a facility licensed under Chapter 142; or

(3) an applicant for employment at or an employee of a facility licensed under Chapter 142[-and] whose employment duties would or do involve direct contact with a consumer in the [a] facility.

(b) A facility may:

(1) pay a private agency to obtain criminal history record information for an applicant or employee described by Subsection (a) directly from the Department of Public Safety of the State of Texas; or

(2) obtain the information directly from the Department of Public Safety ~~[from the regulatory agency that obtains the information from the Department of Public Safety of the State of Texas regarding that facility].~~

(c) The ~~[regulatory agency or]~~ private agency~~[-, as appropriate,]~~ shall forward criminal history record information received under this section to the facility requesting the information.

(d) A regulatory agency may adopt rules relating to the processing of information requested or obtained under this chapter.

SECTION \_\_\_\_\_. Section 250.003, Health and Safety Code, is amended to read as follows:

Sec. 250.003. VERIFICATION OF EMPLOYABILITY; DISCHARGE. (a) A facility may not employ a person ~~[in a position the duties of which involve direct contact with a consumer in the facility]~~ if the facility determines, as a result of a criminal history check, that a person has been convicted of an offense listed in this chapter that bars employment or that a conviction is a contraindication to employment with the consumers the facility serves, and if the applicant is a nurse aide, until the facility further verifies that the applicant is listed in the nurse aide registry and verifies that the applicant is not designated in the registry as having a finding entered into the registry concerning abuse, neglect, or mistreatment of a consumer of a facility, or misappropriation of a consumer's property. A person licensed under another law of this state is exempt from the requirements of this chapter.

(b) The facility may not employ an applicant covered by Subsection (a), except that in an emergency requiring immediate employment, a facility may hire on a temporary or interim basis a person not listed in the registry pending the results of a criminal conviction check, which must be requested within 72 hours of employment. ~~[The request shall be mailed, sent by telephonic facsimile machine, sent by electronic means, or otherwise forwarded to the facility's regulatory agency by the facility or a private agency working with the facility, or to the Department of Public Safety of the State of Texas by a private agency working with the facility.]~~

(c) A facility shall immediately discharge any employee ~~[in a position the duties of which involve direct contact with a consumer in the facility]~~ who is designated in the nurse aide registry or the employee misconduct registry established under Chapter 253 as having committed an act of abuse, neglect, or mistreatment of a consumer of a facility, or misappropriation of a consumer's property, or whose criminal history check reveals conviction of a crime that bars employment or that the facility determines is a contraindication to employment as provided by this chapter.

SECTION \_\_\_\_\_. Subsection (a), Section 250.004, Health and Safety Code, is amended to read as follows:

(a) Identifying information of an employee ~~[in direct contact with a consumer]~~ in a covered facility shall be submitted electronically, on disk, or on a typewritten form to the Department of Public Safety to obtain the person's criminal conviction record when the person applies for employment and at other times as the facility may determine appropriate. In this subsection, "identifying information" includes:

- (1) the complete name, race, and sex of the employee;
- (2) any known identifying number of the employee, including social security number, driver's license number, or state identification number; and
- (3) the employee's date of birth.

SECTION \_\_\_\_\_. Section 250.006, Health and Safety Code, is amended to read as follows:



Sec. 250.006. CONVICTIONS BARRING EMPLOYMENT. (a) A person for whom the facility is entitled to obtain criminal history record information may not be employed in a facility if the person has been convicted of an offense listed in this subsection [~~section may not be employed in a position the duties of which involve direct contact with a consumer in a facility~~]:

- (1) an offense under Chapter 19, Penal Code (criminal homicide);
- (2) an offense under Chapter 20, Penal Code (kidnapping and unlawful restraint [~~false imprisonment~~]);
- (3) an offense under Section 21.11, Penal Code (indecenty with a child);
- (4) an offense under Section 22.011, Penal Code (sexual assault);
- (5) an offense under Section 22.02, Penal Code (aggravated assault);
- (6) an offense under Section 22.04, Penal Code (injury to a child, elderly individual, or disabled individual);
- (7) an offense under Section 22.041, Penal Code (abandoning or endangering child);
- (8) an offense under Section 22.08, Penal Code (aiding suicide);
- (9) an offense under Section 25.031, Penal Code (agreement to abduct from custody);
- (10) an offense under Section 25.08, Penal Code (sale or purchase of a child);
- (11) an offense under Section 28.02, Penal Code (arson);
- (12) an offense under Section 29.02, Penal Code (robbery); [~~or~~]
- (13) an offense under Section 29.03, Penal Code (aggravated robbery); or
- (14) a conviction under the laws of another state, federal law, or the Uniform Code of Military Justice for an offense containing elements that are substantially similar to the elements of an offense listed under Subdivisions (1)-(13).

(b) A person convicted of an offense under Chapter 31, Penal Code, that is punishable as a felony may not be employed in a position the duties of which involve direct contact with a consumer in a facility before the fifth anniversary of the date of the conviction.

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

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

**HB 1418** as amended was passed to third reading by a viva voce vote.

### **HOUSE BILL 1418 ON THIRD READING**

Senator Carona moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1418** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0, Present-not voting 1.

Present-not voting: Mr. President.

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

**HOUSE BILL 223 ON SECOND READING**

On motion of Senator Bernsen 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 223**, Relating to procedural requirements applicable to the release on parole of certain sex offenders.

The bill was read second time.

Senator Bernsen offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **HB 223**, Senate Committee Printing, as follows:

(1) On page 1, lines 32 and 33, strike "with respect to" and insert "go in, on, or within a distance specified by the panel of"

(2) On page 1, strike lines 37-40

(3) On page 1, strike lines 46-60

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

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

**HB 223** as amended was passed to third reading by a viva voce vote.

**HOUSE BILL 223 ON THIRD READING**

Senator Bernsen moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 223** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0, Present-not voting 1.

Present-not voting: Mr. President.

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

**HOUSE BILL 2191 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 2191**, Relating to availability of health benefit plan coverage under the Texas Health Insurance Risk Pool.

The bill was read second time.

Senator Fraser offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **HB 2191** (Senate committee printing) as follows:

(1) In SECTION 2 of the bill, in Subsection (e)(2)(B), Section 10, Article 3.77, Insurance Code (page 2, line 27) strike "(b)(1) or (2)" and substitute "(b)(1) or (3)".

(2) In SECTION 3 of the bill, strike the recital (page 3, lines 19-20) and substitute the following:

Section 13, Article 3.77, Insurance Code, is amended by amending Subsection (d) and adding Subsection (e) to read as follows:

(3) In SECTION 3 of the bill, after Subsection (d), Section 13, Article 3.77, Insurance Code (page 3, between lines 37 and 38) insert the following:

(e) An insurer may petition the commissioner for an abatement or deferment of all or part of an assessment imposed by the board. The commissioner may abate or defer all or part of the assessment if the commissioner determines that payment of the assessment would endanger the ability of the insurer to fulfill its contractual obligations. If all or part of an assessment against an insurer is abated or deferred, the amount by which the assessment is abated or deferred shall be assessed against the other insurers in a manner consistent with the basis for computing assessments under this section. An insurer receiving an abatement or deferment under this subsection remains liable to the pool for the deficiency.

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.

**HB 2191** as amended was passed to third reading by a viva voce vote.

### **HOUSE BILL 824 ON SECOND READING**

On motion of Senator Bernsen 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 824**, Relating to the exemption from ad valorem taxation of property owned by certain nonprofit county fair associations.

The bill was read second time.

Senator Bernsen offered the following amendment to the bill:

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

Amend **HB 824**, Senate Committee Printing, as follows:

On page 1, line 18, insert the following after "fairs." and before "To":

An association that holds a license under the Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes) to conduct a horse race meeting or a greyhound race meeting with pari-mutuel wagering is not entitled to an exemption under this subsection. Land or a building used to conduct a horse race meeting or a greyhound race meeting with pari-mutuel wagering under that Act may not be exempted under this subsection.

The amendment was read.

On motion of Senator Bernsen and by unanimous consent, the amendment was withdrawn.

On motion of Senator Bernsen and by unanimous consent, further consideration of **HB 824** was postponed.

Question—Shall **HB 824** be passed to third reading?

**HOUSE BILL 299 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 299**, Relating to speed limits on state highways.

The bill was read second time.

Senator Ogden offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **HB 299** by adding the following Sections and renumbering subsequent Sections:

SECTION \_\_\_\_\_. Subchapter H, Chapter 545, Transportation Code, is amended by adding Section 545.366 to read as follows:

Sec. 545.366. PENALTY: DRIVING 95 MILES PER HOUR OR MORE. A person who commits an offense under this subtitle by driving at a speed of 95 miles per hour or more shall be punished by a fine of not less than \$200 or more than \$500.

SECTION \_\_\_\_\_. (a) The change in law made in Section \_\_\_\_ of this Act applies only to an offense committed on or after the effective date of this Act. For the purposes of this section, an offense is committed before the effective date of this Act if any element of the offense occurs before that date.

(b) An offense committed before the effective date of this Act is governed by the law in effect when the offense was committed, and the former law is continued in effect for that purpose.

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

Senator Shapleigh offered the following amendment to the bill:

**Floor Amendment No. 2**

Amend **HB 299** (Senate committee printing) as follows:

- (1) On page 1, line 22, between "hour" and "on", insert "in daytime."
- (2) On page 1, lines 24 and 25, between "hour" and "is", insert "in daytime."

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.

**HB 299** as amended was passed to third reading by a viva voce vote.

**RECORD OF VOTES**

Senators Barrientos and Harris asked to be recorded as voting "Nay" on the passage of **HB 299** to third reading.

**HOUSE BILL 1138 ON SECOND READING**

On motion of Senator Truan 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 1138**, Relating to the form of a proposal guaranty for a contract of the Texas Department of Transportation.

The bill was read second time.

Senator Truan offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend the Committee Report for **HB 1138** on page 1, line 19 by inserting after "state" and before the period new language to read as follows:  
: or

(3) any other method determined to be suitable by the department.

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

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

**HB 1138** as amended was passed to third reading by a viva voce vote.

**HOUSE BILL 1138 ON THIRD READING**

Senator Truan moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1138** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0, Present-not voting 1.

Present-not voting: Mr. President.

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

**HOUSE BILL 1697 ON SECOND READING**

On motion of Senator Ogden 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 1697**, Relating to the erection and maintenance of outdoor advertising by certain nonprofit organizations or schools.

The bill was read second time.

Senator Ogden offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **HB 1697**, in added Section 391.037, Transportation Code (Committee Printing page 1, between lines 15 and 16), by inserting the following new Subdivision (1) and renumbering subsequent subdivisions accordingly:

(1) the sign is erected or maintained in a county with a population of 65,000 or less;

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

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

**HB 1697** as amended was passed to third reading by a viva voce vote.

**HOUSE BILL 1697 ON THIRD READING**

Senator Ogden moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1697** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0, Present-not voting 1.

Present-not voting: Mr. President.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0, Present-not voting 1. (Same as previous roll call)

**HOUSE BILL 1739 ON SECOND READING**

On motion of Senator Van de Putte 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 1739**, Relating to the penalty for a violation of certain laws involving the restraint of a child in a motor vehicle.

The bill was read second time.

Senator Lindsay offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **HB 1739** as follows:

(1) In SECTION 1 of the bill, at the end of added Subsection (g), Section 545.412, Transportation Code, add:

(h) Notwithstanding Section 542.402(a), a municipality or county, at the end of the municipality's or county's fiscal year, shall send to the comptroller an amount equal to 50 percent of the fines collected by the municipality or the county for violations of this section. The comptroller shall deposit the amount received to the credit of the tertiary care fund for use by trauma centers.

(2) In SECTION 2 of the bill, at the end of added Subsection (i), Section 545.413, Transportation Code, add:

(j) Notwithstanding Section 542.402(a), a municipality or county, at the end of the municipality's or county's fiscal year, shall send to the comptroller an amount equal to 50 percent of the fines collected by the municipality or the county for violations of this section. The comptroller shall deposit the amount received to the credit of the tertiary care fund for use by trauma centers.

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

Senator Armbrister offered the following amendment to the bill:

**Floor Amendment No. 2**

Amend **HB 1739** as follows:

(1) In SECTION 1 of the bill, proposed Subsection (g), Section 545.412, Transportation Code (page 1, Committee Printing), strike lines 23-28 and substitute the following:

defendant has successfully completed a specialized driving safety course approved by the Texas Education Agency under the Texas Driver and Traffic Safety Education Act (Article 4413(29c), Vernon's Texas Civil Statutes) that includes four hours of instruction that encourages the use of child passenger safety seat systems and the wearing of seat belts and emphasizes:

(1) the effectiveness of child passenger safety seat systems and seat belts in reducing the harm to children being transported in motor vehicles; and

(2) In SECTION 2 of the bill, proposed Subsection (i), Section 545.413, Transportation Code (page 1, Committee Printing), strike lines 44 and 45 and substitute the following:

defendant has successfully completed a specialized driving safety course approved by the Texas Education Agency under the Texas Driver and Traffic Safety Education Act (Article 4413(29c), Vernon's Texas Civil Statutes) that includes four hours of instruction that encourages the use of child passenger safety seat systems and the wearing of seat belts and emphasizes:

(1) the effectiveness of child passenger safety seat systems and seat belts in reducing the harm to children being transported in motor vehicles; and

(2) the requirements of this section and the penalty for noncompliance.

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

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

**HB 1739** as amended was passed to third reading by a viva voce vote.

### **HOUSE BILL 1739 ON THIRD READING**

Senator Van de Putte moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1739** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0, Present-not voting 1.

Present-not voting: Mr. President.

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

### **HOUSE BILL 3055 ON SECOND READING**

On motion of Senator Barrientos 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 3055**, Relating to authorizing a county to pay the costs of an owner-controlled insurance program with the proceeds of certain securities issued by the county.

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

**HOUSE BILL 3055 ON THIRD READING**

Senator Barrientos moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 3055** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0, Present-not voting 1.

Present-not voting: Mr. President.

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

**HOUSE BILL 1856 ON SECOND READING**

On motion of Senator Shapiro 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 1856**, Relating to the use of certain voting systems.

The bill was read second time.

Senator Shapiro offered the following committee amendment to the bill:

**Committee Amendment No. 1**

Amend **HB 1856** as follows:

On page 1, line 16, add the following sentence:

"This subdivision does not prohibit the use of a punch card ballot system or similar form of tabulating card if such system was adopted prior to September 1, 2001."

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

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

**HB 1856** as amended was passed to third reading by a viva voce vote.

**HOUSE BILL 1856 ON THIRD READING**

Senator Shapiro moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1856** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0, Present-not voting 1.

Present-not voting: Mr. President.

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

**HOUSE BILL 1572 ON SECOND READING**

On motion of Senator Staples 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 1572**, Relating to the rights of victims of crime, participation by victims and witnesses in certain criminal proceedings, and the payment of restitution to victims.

The bill was read second time.



Senator Staples offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **HB 1572** as follows:

(1) Strike SECTION 8 and SECTION 9 of the bill (Engrossed version page 8, line 23, through page 12, line 5) and renumber the subsequent sections appropriately.

(2) Add a new SECTION 18 to the bill (Engrossed version page 18, line 6) to read as follows and renumber the subsequent section appropriately:

"SECTION 18. (a) The office of the attorney general is required to complete its pilot project regarding a computer network victim notification system by January 1, 2002, or as soon as practicable. In completing the project, the office of the attorney general shall consult with the office of court administration and the Texas Department of Criminal Justice. The office of the attorney general shall continue to provide funding for continuation of the operation of the project in the counties comprising the pilot project until the computer network victim notification system is operational in those counties.

(b) The office of the attorney general may contract with the office of court administration or the Texas Department of Criminal Justice, or both, to implement a computer network victim notification system. Implementation of the state-wide system shall begin no later than by June 1, 2002, according to a written schedule developed by the implementing agency or agencies."

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

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

**HB 1572** as amended was passed to third reading by a viva voce vote.

**HOUSE BILL 1572 ON THIRD READING**

Senator Staples moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1572** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0, Present-not voting 1.

Present-not voting: Mr. President.

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

**HOUSE BILL 2191 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 2191** be placed on its third reading and final passage:

**HB 2191**, Relating to availability of health benefit plan coverage under the Texas Health Insurance Risk Pool.

The motion prevailed by the following vote: Yeas 30, Nays 0, Present-not voting 1.

Present-not voting: Mr. President.

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

**HOUSE BILL 2351 ON SECOND READING**

On motion of Senator Van de Putte 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 2351**, Relating to requiring the corroboration of certain testimony in a criminal case involving controlled substances.

The bill was read second time.

Senator Van de Putte offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **HB 2351** by striking SECTION 1 of the bill and substituting the following:

SECTION 1. Chapter 38, Code of Criminal Procedure, is amended by adding Article 38.141 to read as follows:

Art. 38.141. TESTIMONY OF UNDERCOVER PEACE OFFICER OR SPECIAL INVESTIGATOR. (a) A defendant may not be convicted of an offense under Chapter 481, Health and Safety Code, on the testimony of a person who is not a licensed peace officer or a special investigator but who is acting covertly on behalf of a law enforcement agency or under the color of law enforcement unless the testimony is corroborated by other evidence tending to connect the defendant with the offense committed.

(b) Corroboration is not sufficient for the purposes of this article if the corroboration only shows the commission of the offense.

(c) In this article, "peace officer" means a person listed in Article 2.12, and "special investigator" means a person listed in Article 2.122.

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

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

**HB 2351** as amended was passed to third reading by a viva voce vote.

**RECORD OF VOTE**

Senator Duncan asked to be recorded as "Present-not voting" on the passage of **HB 2351** to third reading.

**HOUSE BILL 2351 ON THIRD READING**

Senator Van de Putte moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2351** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 0, Present-not voting 2.

Yeas: Armbrister, Barrientos, Bernsen, Bivins, Brown, Cain, Carona, Ellis, Fraser, Gallegos, Harris, Haywood, Jackson, Lindsay, Lucio, Madla, Moncrief,

Nelson, Ogden, Shapiro, Shapleigh, Sibley, Staples, Truan, Van de Putte, Wentworth, West, Whitmire, Zaffirini.

Present-not voting: Duncan, Mr. President.

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

### **RECORD OF VOTE**

Senator Duncan asked to be recorded as "Present-not voting" on the final passage of **HB 2351**.

### **BILLS AND RESOLUTION SIGNED**

The President announced the signing of the following enrolled bills and resolution in the presence of the Senate after the captions had been read:

**HB 1506, HB 1837, HCR 291.**

### **HOUSE BILL 2260 ON SECOND READING**

On motion of Senator Zaffirini 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 2260**, Relating to accommodations and work assignments for certain pregnant municipal and county employees.

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

### **HOUSE BILL 2260 ON THIRD READING**

Senator Zaffirini moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2260** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0, Present-not voting 1.

Present-not voting: Mr. President.

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

### **CONFERENCE COMMITTEE REPORT ON SENATE BILL 577**

Senator Bivins submitted the following Conference Committee Report:

Austin, Texas  
May 15, 2001

Honorable Bill Ratliff  
President of the Senate

Honorable James E. "Pete" Laney  
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **SB 577** have had the same under

consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

BIVINS

DRIVER

OGDEN

B. TURNER

WEST

G. LEWIS

SIBLEY

P. KING

WHITMIRE

DANBURG

On the part of the Senate

On the part of the House

A BILL TO BE ENTITLED  
AN ACT

relating to driving privileges of drivers under 18 years of age.

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

SECTION 1. Section 521.204, Transportation Code, is amended to read as follows:

Sec. 521.204. RESTRICTIONS ON MINOR. (a) The department may issue a Class C driver's license to an applicant under 18 years of age only if the applicant:

(1) is 16 years of age or older;

(2) has submitted to the department a driver education certificate issued under Section 9A, Texas Driver and Traffic Safety Education Act (Article 4413(29c), Vernon's Texas Civil Statutes), that states that the person has completed and passed a driver education course approved by the department under Section 521.205 or by the Texas Education Agency;

(3) has obtained a high school diploma or its equivalent or is a student:

(A) enrolled in a public school, home school, or private school who attended school for at least 80 days in the fall or spring semester preceding the date of the driver's license application; or

(B) who has been enrolled for at least 45 days, and is enrolled as of the date of the application, in a program to prepare persons to pass the high school equivalency exam; and

(4) has passed the examination required by Section 521.161.

(b) The department may not issue a Class A, B, or C driver's license other than a hardship license to an applicant under 18 years of age unless the applicant has held an instruction permit or hardship license for at least six months preceding the date of the application.

SECTION 2. Section 521.222(d), Transportation Code, is amended to read as follows:

(d) An instruction permit entitles the holder to operate a type of motor vehicle on a highway while:

(1) the permit is in the holder's possession; and

(2) the holder is accompanied by a person occupying the seat by the operator who:

(A) holds a license that qualifies the operator to operate that type of vehicle;

(B) is 21 [~~18~~] years of age or older; and

(C) has at least one year of driving experience.

SECTION 3. Subchapter I, Chapter 545, Transportation Code, is amended by adding Section 545.424 to read as follows:

Sec. 545.424. OPERATION OF VEHICLE BY PERSON UNDER 18 YEARS OF AGE. (a) A person under 18 years of age, during the six-month period following issuance of an original Class A, B, or C driver's license to the person, may not operate a motor vehicle:

(1) after midnight and before 5 a.m. unless the operation of the vehicle is necessary for the operator to attend or participate in employment or a school-related activity or because of a medical emergency; or

(2) with more than one passenger in the vehicle under 21 years of age who is not a family member.

(b) A person under 17 years of age who holds a restricted motorcycle license or moped license, during the six-month period following the issuance of an original motorcycle license or moped license to the person, may not operate a motorcycle or moped after midnight and before 5 a.m. unless:

(1) the person is in sight of the person's parent or guardian; or

(2) the operation of the vehicle is necessary for the operator to attend or participate in employment or a school-related activity or because of a medical emergency.

(c) This section does not apply to:

(1) the holder of a hardship license; or

(2) a person operating a motor vehicle while accompanied in the manner required by Section 521.222(d)(2) for the holder of an instruction permit.

(d) For the purposes of this section, employment includes work on a family farm by a member of the family that owns or operates the farm.

(e) A peace officer may not stop a vehicle or detain the operator of a vehicle for the sole purpose of determining whether the operator of the vehicle has violated this section.

SECTION 4. This Act does not affect the validity or effect of a driver's license, including an instruction permit, issued before the effective date of this Act. A license issued before the effective date of this Act is governed by the law in effect when the license was issued, and that law is continued in effect for that purpose.

SECTION 5. This Act takes effect January 1, 2002.

The Conference Committee Report was filed with the Secretary of the Senate.

### **CONFERENCE COMMITTEE REPORT ON SENATE BILL 583**

Senator Duncan submitted the following Conference Committee Report:

Austin, Texas  
May 15, 2001

Honorable Bill Ratliff  
President of the Senate

Honorable James E. "Pete" Laney  
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **SB 583** have had the same under

consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

DUNCAN  
CARONA  
MONCRIEF  
FRASER  
BERNSEN

On the part of the Senate

JANEK  
DUKES  
WOOLLEY  
SOLOMONS  
J. DAVIS

On the part of the House

A BILL TO BE ENTITLED  
AN ACT

relating to liens for certain services provided by physicians.

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

SECTION 1. Section 55.004, Property Code, is amended to read as follows:

Sec. 55.004. AMOUNT OF LIEN. (a) In this section, "emergency hospital care" means health care services provided in a hospital to evaluate, stabilize, and treat a serious medical problem of recent onset or severity, including severe pain that would lead a prudent layperson possessing an average knowledge of medicine and health to believe that the condition, illness, or injury is of such a nature that failure to obtain immediate medical care would in all reasonable probability:

- (1) seriously jeopardize the patient's health;
- (2) seriously impair one or more bodily functions;
- (3) seriously harm an organ or other part of the body;
- (4) cause serious disfigurement; or
- (5) in the case of a pregnant woman, seriously jeopardize the health of

the fetus.

(b) The lien is for the amount of the hospital's charges for services provided to the injured individual during the first 100 days of the injured individual's hospitalization.

(c) The lien may also include the amount of a physician's reasonable and necessary charges for emergency hospital care services provided to the injured individual during the first seven days of the injured individual's hospitalization. At the request of the physician, the hospital may act on the physician's behalf in securing and discharging the lien.

(d) The ~~[-, except that the]~~ lien does not cover:

(1) ~~[charges for operating costs that exceed the cost limits established under Section 405.460, 42 Code of Federal Regulations; or~~

~~[(2)] charges for other services that exceed a reasonable and regular rate for the services;~~

(2) charges by the physician related to any services provided under Subsection (c) for which the physician has accepted insurance benefits or payment under a private medical indemnity plan or program, regardless of whether the benefits or payment equals the full amount of the physician's charges for those services;

(3) charges by the physician for services provided under Subsection (c) if the injured individual has coverage under a private medical indemnity plan or program from which the physician is entitled to recover payment for the physician's services under an assignment of benefits or similar rights; or

(4) charges by the physician related to any services provided under Subsection (c) if the physician is a member of the legislature.

(e) ~~[(b)]~~ The lien is not affected by a hospital's use of a method of classifying patients according to their ability to pay that is solely intended to obtain a lien for services provided to an indigent injured individual.

SECTION 2. (a) This Act takes effect September 1, 2001.

(b) The change in law made by this Act applies only to health care services provided by a physician on or after the effective date of this Act. Health care services provided by a physician before the effective date of this Act are covered by the law in effect at the time the services were provided, and the former law is continued in effect for that purpose.

The Conference Committee Report was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 684**

Senator Madla submitted the following Conference Committee Report:

Austin, Texas  
May 16, 2001

Honorable Bill Ratliff  
President of the Senate

Honorable James E. "Pete" Laney  
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **SB 684** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

MADLA	URESTI
BERNSEN	CAPELO
CARONA	DESHOTEL
LUCIO	NORIEGA
SHAPLEIGH	SOLIS
On the part of the Senate	On the part of the House

A BILL TO BE ENTITLED  
AN ACT

relating to the definition of non-physician mental health professional for purposes of a proceeding or evaluation under the Texas Mental Health Code.

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

SECTION 1. Section 571.003(15), Health and Safety Code, is amended to read as follows:

(15) "Non-physician mental health professional" means:

(A) a psychologist licensed to practice in this state and designated as a health-service provider;

(B) a registered nurse with a master's or doctoral degree in psychiatric nursing; ~~or~~

(C) a licensed ~~certified~~ social worker with a master's or doctoral degree and advanced clinical practitioner recognition;

(D) a licensed professional counselor licensed to practice in this state; or

(E) a licensed marriage and family therapist licensed to practice in this state.

SECTION 2. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2001.

The Conference Committee Report was filed with the Secretary of the Senate.

### **RESOLUTIONS OF RECOGNITION**

The following resolutions were adopted by the Senate:

#### **Memorial Resolution**

**SR 1088** by Shapleigh, In memory of Charlotte Massey of El Paso.

**SR 1095** by Brown, Armbrister, and Whitmire, In memory of Royal Wade Lorenz of Stockdale.

#### **Congratulatory Resolutions**

**SR 1080** by Nelson, Commending F. M. Gilbert School in Irving.

**SR 1081** by Ellis, Congratulating Carolyn and James Corcoran on the birth of their daughter, Kira Helene Isabelle Corcoran.

**SR 1082** by Ellis, Congratulating Kimberly Machel Hatter.

**SR 1083** by Ellis, Congratulating Maggie and Jim Baker on the birth of their son, Joshua Avery Baker.

**SR 1085** by Gallegos, Congratulating Claude L. Cole of Houston.

**SR 1087** by Barrientos, Congratulating Maxine Rios Mendez.

**SR 1089** by Cain, Congratulating the members of the Bishop Thomas K. Gorman High School girls track team.

**SR 1090** by Truan, Congratulating Dr. Jesus H. Chavez of Corpus Christi.

**SR 1091** by Truan, Recognizing the 3rd Annual El Veterano Conjunto Jam and honoring the life of Eligio Roque Escobar.

**SR 1092** by Harris, Congratulating Joshua D. Stewart of Arlington.

**SR 1096** by Nelson, Commending the Palace Arts Center in Grapevine.

**HCR 239** (Staples), Honoring the Nine Flags Festival for promoting public awareness about the rich heritage of Nacogdoches County.

**HCR 283** (President Ratliff), Honoring Fred G. Wilkerson as he retires as superintendent of the Cooper I.S.D.

**HCR 286** (Brown), Honoring Darrell K Royal on his many achievements.

#### **Designation Resolution**

**SR 1079** by Nelson, Declaring Sir David and Lady Valerie Howard to be honorary citizens of Texas.

### **ADJOURNMENT**

On motion of Senator Truan, the Senate at 5:58 p.m. adjourned, in memory of Justice Martin Dies of Beaumont, until 9:00 a.m. tomorrow.