

# SIXTY-SIXTH DAY

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FRIDAY, MAY 4, 2001

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## PROCEEDINGS

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

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

Absent-excused: Fraser.

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

The Reverend Chris Osborne, Central Baptist Church, Bryan, offered the invocation as follows:

Father, there are two groups of people in our land: electors and elected. Both are in this room today and I seek to pray for both. I ask that honor and respect be given to the electors for the elected. Whether or not we agree, let honor be paramount. Since You alone know and can change the future, then I ask Your wisdom for the elected. Give that wisdom so their decisions can be for our best. Amen.

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.

## **LEAVE OF ABSENCE**

On motion of Senator Sibley, Senator Fraser was granted leave of absence for today on account of important business.

## **CO-AUTHOR OF SENATE BILL 427**

On motion of Senator Lucio and by unanimous consent, Senator Van de Putte will be shown as Co-author of **SB 427**.

## **PERMISSION TO INTRODUCE BILL AND RESOLUTION**

Senator Truan moved to suspend Senate Rule 7.07(b) and Section 5, Article III of the Texas Constitution to permit the introduction of the following bill and resolution: **SB 1836, SCR 52**.

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

Present-not voting: Mr. President.

Absent-excused: Fraser.

### **SENATE BILLS AND RESOLUTION ON FIRST READING**

The following bills and resolution were introduced, read first time, and referred to the committees indicated:

**SB 1836** by Armbrister

Relating to charges for default on a motor vehicle retail installment contract.

To Committee on State Affairs.

**SB 1837** by Shapleigh, Barrientos, Carona, Lucio, Madla, Sibley, Truan, Van de Putte, Zaffirini

Relating to the creation of the Texas Border Strategic Investment Commission; making an appropriation. (Local bill)

To Committee on Business and Commerce.

**SCR 52** by Van de Putte

Commending the Texas Pharmacy Foundation and the Texas Institute for Health Policy Research.

To Committee on Health and Human Services.

### **HOUSE BILLS ON FIRST READING**

The following bills received from the House were read first time and referred to the committees indicated:

**HB 658** to Committee on Finance.

**HB 1004** to Committee on Health and Human Services.

**HB 1566** to Committee on Jurisprudence.

**HB 2033** to Committee on Natural Resources.

**HB 2053** to Committee on Intergovernmental Relations.

**HB 2097** to Committee on Criminal Justice.

**HB 2190** to Committee on Finance.

**HB 2246** to Committee on Natural Resources.

**HB 2262** to Committee on Intergovernmental Relations.

**HB 2273** to Committee on Intergovernmental Relations.

**HB 2312** to Committee on Administration.

**HB 2531** to Committee on Education.

**HB 2550** to Committee on Jurisprudence.

**HB 2691** to Committee on State Affairs.

**HB 2809** to Committee on Administration.

**HB 2888** to Committee on Education.

**HB 2987** to Committee on Criminal Justice.

**HB 3040** to Committee on Natural Resources.

**HB 3064** to Committee on Finance.

**HB 3149** to Committee on Criminal Justice.

**HB 3294** to Committee on Business and Commerce.

### CONCLUSION OF MORNING CALL

The President at 10:07 a.m. announced the conclusion of morning call.

### GUESTS PRESENTED

Senator Nelson was recognized and introduced to the Senate students from Lamar Middle School in Flower Mound.

The Senate welcomed its guests.

### 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:

**SB 15, SB 149, SB 219, SB 353, SB 495, SB 573, SB 607, SB 610, SB 739, SB 827, SJR 2.**

### SENATE BILL 555 WITH HOUSE AMENDMENTS

Senator Ellis called **SB 555** 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 555** by substituting in lieu thereof the following:

#### A BILL TO BE ENTITLED AN ACT

relating to a college savings plan for qualified higher education expenses.

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

SECTION 1. Chapter 54, Education Code, is amended by adding Subchapter G to read as follows:

#### SUBCHAPTER G. HIGHER EDUCATION SAVINGS PLAN

Sec. 54.701. DEFINITIONS. In this subchapter:

(1) "Beneficiary" means an individual designated as the individual whose qualified higher education expenses are expected to be paid from the savings trust account.

(2) "Board" means the Prepaid Higher Education Tuition Board.

(3) "Eligible educational institution" has the meaning assigned by Section 529, Internal Revenue Code of 1986, as amended.

(4) "Financial institution" means a bank, trust company, savings and loan association, credit union, broker-dealer, mutual fund, insurance company, or other similar financial institution authorized to transact business in this state.

(5) "Nonqualified withdrawal" means a withdrawal from a savings trust account other than:

(A) a qualified withdrawal;

(B) a withdrawal made as the result of the death or disability of the beneficiary of the account; or

(C) a withdrawal made due to a scholarship or to an allowance or payment described by Section 135(d)(1)(B) or (C), Internal Revenue Code of 1986, as amended, received by the beneficiary to the extent the amount of the withdrawal does

not exceed the amount of the scholarship, allowance, or payment, in accordance with federal law.

(6) "Plan" means the higher education savings plan established under this subchapter.

(7) "Plan manager" means a financial institution under contract with the board to serve as plan administrator.

(8) "Qualified higher education expenses" means tuition, fees, or expenses for books, supplies, and equipment required for the enrollment or attendance of an individual at an eligible educational institution, the costs of room and board, and any other higher education expenses that may be permitted under Section 529, Internal Revenue Code of 1986, as amended.

(9) "Qualified withdrawal" means a withdrawal from a savings trust account to pay the qualified higher education expenses of the beneficiary of the account.

(10) "Savings trust account" means an account established through the plan by an individual under this subchapter on behalf of a beneficiary in order to apply distributions from the account toward qualified higher education expenses at eligible educational institutions.

(11) "Savings trust agreement" means the agreement between an individual establishing a savings trust account and the board.

Sec. 54.702. POWERS AND DUTIES OF BOARD. (a) The board shall:

(1) develop and implement the plan in a manner consistent with this subchapter;

(2) select the financial institution or institutions to serve as plan manager; and

(3) adopt rules governing withdrawal of money from a savings trust account and develop policies and penalties for nonqualified withdrawals.

(b) The board may seek rulings and other guidance from the United States Department of the Treasury, the Internal Revenue Service, and the Securities and Exchange Commission relating to the plan as necessary for proper implementation and development of the plan. The board shall make changes to the plan as necessary for savings trust account owners and beneficiaries of the plan to obtain or maintain federal income tax benefits or treatment provided by Section 529, Internal Revenue Code of 1986, as amended, and exemptions under federal securities laws.

(c) The board shall collect administrative fees and service charges in connection with any agreement, contract, or transaction relating to the plan in amounts not exceeding the cost of establishing and maintaining the plan.

(d) A savings trust agreement must be developed and approved by the board. The board shall review for compliance with applicable law and must approve in advance any informational materials that the plan manager provides to participants or potential participants in the plan.

(e) The board shall adopt a policy to prevent contributions to an account on behalf of a beneficiary in excess of those necessary to pay the qualified higher education expenses of the beneficiary.

(f) The board shall monitor contributions to and withdrawals from the plan and each plan account to ensure that any applicable limits on contributions or withdrawals are not exceeded.

(g) The board shall prepare and file statements and information returns relating to accounts to the extent required by federal or state tax law.

Sec. 54.703. OPERATION OF PLAN; ACCOUNTS HELD IN TRUST. (a) The board shall administer a higher education savings plan to enable individuals to save money for the qualified higher education expenses of an individual by establishing a savings trust account in the plan.

(b) Money contributed to a savings trust account and earnings on the account are held in trust by the board for the sole benefit of the account owner and beneficiary.

Sec. 54.704. SELECTION OF FINANCIAL INSTITUTION AS PLAN MANAGER. (a) The board shall contract with one or more financial institutions to serve as plan manager and to invest the money in savings trust accounts. The board shall ensure that investments by a plan manager are made with the judgment and care that persons of prudence, discretion, and intelligence exercise in the management of the property of another, not in regard to speculation but in regard to the permanent disposition of funds, considering the probable income as well as the probable safety of capital.

(b) The board shall solicit proposals from financial institutions to serve as plan managers.

(c) The board shall select a plan manager or managers from among bidding financial institutions that demonstrate the most advantageous combination to account owners and beneficiaries, based on the following factors:

(1) financial stability and integrity;

(2) the ability of the financial institution, directly or through a subcontract, to satisfy recordkeeping and reporting requirements;

(3) the financial institution's strategy for promoting the plan and the investment that the financial institution is willing to make to promote the plan;

(4) the historic ability of the portfolios or investment strategies to be used by the financial institution to track the estimated costs of higher education as calculated by the United States Department of Education;

(5) the fees, if any, proposed to be charged to account owners for maintaining accounts;

(6) the minimum contributions that the financial institution will require and the willingness of the financial institution to accept contributions through payroll deduction plans or systematic deposit plans; and

(7) any other proposed benefits to this state or to its residents.

(d) The board may require that any financial institution selected provide several investment options to account owners, taking into consideration the age of the beneficiary and the number of years remaining until likely enrollment at an eligible educational institution.

Sec. 54.705. DUTIES OF PLAN MANAGER. (a) A plan manager shall:

(1) take all actions required to keep the plan in compliance with this subchapter, to ensure that the plan qualifies as a qualified state tuition program under Section 529, Internal Revenue Code of 1986, as amended, and to ensure that the plan is exempt from registration under federal securities law;

(2) keep adequate and separate records of each savings trust account and provide the board with the information necessary to prepare the reports required by Section 529, Internal Revenue Code of 1986, as amended, or to file those reports on behalf of the board;

(3) compile necessary information for statements to account owners and statements required by federal or state tax law and provide those compilations to the board; and

(4) provide representatives of the board with access to the books and records of the manager as necessary to determine compliance with the plan manager contract.

(b) A plan manager shall hold all savings trust accounts in trust as authorized by the board in the plan manager contract. The plan manager shall make investments according to the standard provided by Section 54.704(a).

(c) A plan manager shall develop a strategy to promote the plan and, on approval by the board, promote the plan according to that strategy.

Sec. 54.706. CONTRACT BETWEEN BOARD AND PLAN MANAGER. (a) A contract between the board and a financial institution to act as a plan manager under this subchapter must be for a term of at least five years and may be renewable.

(b) If the contract is not renewed, the following conditions apply at the end of the term of the contract, so long as applying the conditions does not disqualify the plan as a qualified state tuition program under Section 529, Internal Revenue Code of 1986, as amended:

(1) the board shall continue to maintain the plan at the financial institution;

(2) accounts previously established at the financial institution may not be terminated, except as provided by Subdivision (5) or Subsection (c);

(3) additional contributions may be made to the accounts;

(4) new accounts may not be opened with that financial institution; and

(5) if the board determines that continuing the accounts at that financial institution is not in the best interest of the account owners, the accounts may be transferred to another financial institution acting as a plan manager.

(c) The board may cancel a plan manager contract with a financial institution for a violation of the contract or a provision of this subchapter by the financial institution at any time. If a contract is terminated under this subsection, the board shall take custody of accounts held at that financial institution and shall promptly seek to transfer the accounts to another financial institution acting as a plan manager and into investment instruments as similar to the original investment instruments as possible.

Sec. 54.707. SAVINGS TRUST ACCOUNTS. (a) An individual may open a savings trust account to save money for the payment of the qualified higher education expenses of a beneficiary. The individual who opens the account is the owner of the account. The owner of the account may also be the beneficiary.

(b) An individual may open an account by entering into a savings trust agreement with the board as prescribed and approved by the board and making the minimum contribution required by the plan manager to open an account.

(c) A savings trust agreement must include the following terms:

(1) the name and address of the savings trust account owner;

(2) the name, address, and date of birth of the beneficiary on whose behalf the account is opened;

(3) the maximum and minimum contributions allowed to the account;

(4) provisions for withdrawals, refunds, transfers, and any penalties;

(5) terms and conditions for a substitution of the beneficiary originally named;

(6) terms and conditions for termination of the account, including any refunds, withdrawals, or transfers, and applicable penalties, and the name of the person or persons entitled to terminate the account;

(7) all other rights and obligations of the account owner, the plan manager, and the board; and

(8) any other terms and conditions the board considers necessary or appropriate, including those necessary to conform the savings trust account to the requirements of Section 529, Internal Revenue Code of 1986, as amended, or other applicable federal law.

(d) An account owner may change the designated beneficiary of an account as provided by Section 529, Internal Revenue Code of 1986, as amended, in accordance with procedures established by the board.

Sec. 54.708. CONTRIBUTIONS AND WITHDRAWALS; PENALTY FOR NONQUALIFIED WITHDRAWAL. (a) Contributions to a savings trust account may be made only in cash.

(b) An account owner may withdraw all or part of the balance of an account on prior notice as authorized by board rules. The board shall adopt rules governing the determination whether a withdrawal is a qualified withdrawal or a nonqualified withdrawal. The rules may require an account owner requesting to make a qualified withdrawal to provide a certification of qualified higher education expenses.

(c) In the case of a nonqualified withdrawal from an account, an amount equal to 10 percent of the portion of the withdrawal constituting income as determined in accordance with Section 529, Internal Revenue Code of 1986, as amended, shall be withheld as a penalty.

(d) The amount of the penalty prescribed by Subsection (c) may be increased if the board determines that the increased penalty is necessary to constitute a greater than de minimis penalty for purposes of qualifying the plan as a qualified state tuition program under Section 529, Internal Revenue Code of 1986, as amended.

(e) The amount of the penalty prescribed by Subsection (c) may be decreased by board rule if the board determines that:

(1) the amount of the penalty prescribed by Subsection (c) is greater than required to constitute a greater than de minimis penalty for purposes of qualifying the plan as a qualified state tuition program under Section 529, Internal Revenue Code of 1986, as amended; and

(2) the penalty together with other revenue generated under this subchapter is producing more revenue than required to cover the costs of operating the plan and to recover any prior costs not previously recovered.

(f) Penalties collected under this subchapter shall be used to cover costs of administering this subchapter, and any excess shall be treated as earnings of the savings trust accounts in the plan.

Sec. 54.709. ADMINISTRATION OF ACCOUNTS. (a) The plan manager shall provide separate accounting for each savings trust account.

(b) An account owner or beneficiary may not direct the investment of any contributions to or earnings on an account.

(c) If the board terminates the contract of a financial institution to act as a plan manager and accounts must be transferred from that financial institution to another financial institution, the board shall select the financial institution to which the balances of the accounts are transferred.

(d) A savings trust agreement must provide that, if after a specified period the savings trust agreement has not been terminated and the beneficiary's rights in the account have not been exercised, the board, after making reasonable efforts to contact the owner and beneficiary of the account or their agents, shall report the unclaimed money in the account to the comptroller.

(e) Money in a savings trust account is exempt from attachment, execution, and seizure for the satisfaction of debt or liability of an account owner or beneficiary.

(f) A savings trust account may not be assigned for the benefit of creditors, used as security or collateral for any loan, or otherwise subject to alienation, sale, transfer, assignment, pledge, encumbrance, or charge.

(g) A distribution from an account to any individual or for the benefit of any individual during a calendar year shall be reported to the Internal Revenue Service and to the account owner or the beneficiary to the extent required by federal law.

(h) The plan manager shall provide an annual statement to each account owner not later than the January 31 after the end of each calendar year and may provide statements more frequently than annually. A statement must identify the contributions made during the reporting period, the total contributions made through the end of the reporting period, the value of the account at the end of the reporting period, withdrawals made during the reporting period, and any other information the board requires.

Sec. 54.710. PLAN LIMITATIONS. (a) Nothing in this subchapter or in any savings trust agreement entered into under this subchapter may be construed to:

(1) give a beneficiary any rights or legal interest with respect to a savings trust account unless the beneficiary is the account owner;

(2) guarantee that amounts saved under the plan will be sufficient to cover the qualified higher education expenses of a beneficiary; or

(3) establish state residency for tuition or other purposes for a beneficiary because of the designation as a beneficiary.

(b) Nothing in this subchapter or in any savings trust agreement entered into under this subchapter may be construed to create any obligation of the state, any agency or instrumentality of the state, or the plan manager to guarantee for the benefit of an account owner or beneficiary:

(1) the return of any amount contributed to an account;

(2) the rate of interest or other return on an account;

(3) the payment of interest or other return on an account; or

(4) tuition rates or the cost of related education expenditures.

(c) The board by rule shall require that every savings trust agreement, deposit slip, and other similar document used in connection with a contribution to an account clearly indicate that the account is not insured by this state and that neither the principal deposited nor the investment return is guaranteed by this state.

Sec. 54.711. NO PROMISE OF ADMISSION, ENROLLMENT, OR GRADUATION. The opening or maintenance of a savings trust account does not promise or guarantee that a beneficiary of the account will:

(1) be admitted to any eligible educational institution;

(2) be admitted to a particular eligible educational institution;

(3) be allowed to continue enrollment at an eligible educational institution after admission; or

(4) receive a degree or certificate from an eligible educational institution.

Sec. 54.712. RESIDENCY NOT REQUIRED. A savings trust account owner or beneficiary is not required to be a resident of this state.

Sec. 54.713. POLICIES FOR PROMOTION AND DISCLOSURE OF INFORMATION. The board shall adopt policies for promotion of the plan and the disclosure of plan information to savings trust account owners and beneficiaries in a



manner consistent with this subchapter and the requirements of Section 529, Internal Revenue Code of 1986, as amended, to ensure that:

(1) promotional material and plan information disclose that no money invested in the plan is insured by this state and that neither the principal deposited nor the investment returned is guaranteed by this state; and

(2) any fees imposed under this subchapter are disclosed in promotional material and plan information provided to the public and to account owners and beneficiaries.

Sec. 54.714. CONFIDENTIALITY OF RECORDS. (a) Except as otherwise provided by this section, all information relating to the plan is public and subject to disclosure under Chapter 552, Government Code.

(b) Information relating to a beneficiary or owner of a savings trust account, including any personally identifiable information about an owner or beneficiary, is confidential except that the board may disclose that information to an account owner regarding the owner's account.

Sec. 54.715. TERMINATION OR MODIFICATION OF PLAN. If the comptroller determines that the plan is not financially feasible, the comptroller shall notify the governor and the legislature and recommend that the board not administer a higher education savings plan or that the plan be modified or terminated.

Sec. 54.716. EFFECT OF TERMINATION OF PLAN ON SAVINGS TRUST AGREEMENT. If the plan is terminated, the balance of each savings trust account shall be paid to the account owner, to the extent possible, and any unclaimed assets shall escheat to the state in accordance with general law regarding unclaimed property.

SECTION 2. Section 54.601, Education Code, is amended by amending Subdivision (4) and adding Subdivision (13) to read as follows:

(4) "Fund" means the Texas tomorrow constitutional trust fund.

(13) "Account" means the Texas college savings plan account.

SECTION 3. Section 54.602(b), Education Code, is amended to read as follows:

(b) The board shall administer the prepaid higher education tuition program established under this subchapter and the higher education savings plan established under Subchapter G.

SECTION 4. Sections 54.603 and 54.634, Education Code, are amended to read as follows:

Sec. 54.603. SUNSET PROVISION. The Prepaid Higher Education Tuition Board is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the board is abolished and the programs established under this subchapter and under Subchapter G terminate [~~program terminates~~] September 1, 2007.

Sec. 54.634. ESTABLISHMENT OF TRUST FUND; COLLEGE SAVINGS PLAN ACCOUNT. (a) The Texas tomorrow constitutional trust fund is created as a trust fund to be held with the comptroller [~~outside the state treasury~~]. The fund consists of:

- (1) state appropriations for purposes of the fund;
- (2) money acquired from other governmental or private sources;
- (3) money paid under prepaid tuition contracts; and
- (4) the income from money deposited in the fund.

(b) The board shall administer the assets of the fund. The board is the trustee of the fund's assets.

(c) The board may:

(1) segregate contributions and payments to the fund into various accounts; and

(2) acquire, hold, manage, purchase, sell, assign, trade, transfer, and dispose of any security, evidence of indebtedness, or other investment in which the fund's assets may be invested.

(d) The Texas college savings plan account is created within the Texas tomorrow constitutional trust fund and is financed through administrative fees and service charges as authorized by Section 54.702(c).

SECTION 5. Subchapter F, Chapter 54, Education Code, is amended by adding Section 54.6401 to read as follows:

Sec. 54.6401. COMPLIANCE WITH LIMITS ON CONTRIBUTIONS AND WITHDRAWALS. The board shall monitor contributions to and withdrawals from the fund and any account within the fund to ensure that any applicable limits on contributions or withdrawals are not exceeded.

SECTION 6. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2001.

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

Amend **CSSB 555** in SECTION 1 of the bill, in added Section 54.708, Education Code (House committee report, page 9, lines 15-16), by striking Subsection (a) and substituting the following:

(a) Contributions to a savings trust account may be made only in cash or by electronic funds transfer. An employee of the state or a political subdivision of the state may make contributions to a savings trust account by payroll deductions made by the appropriate officer of the state or political subdivision.

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

Amend **CSSB 555** on third reading as follows:

(1) In SECTION 1 of the bill, in Subsection (a)(2) of added Section 54.702, Education Code, strike "institution or institutions to serve as plan manager" and substitute "institutions to serve as plan managers".

(2) In SECTION 1 of the bill, in Subsection (d) of added Section 54.702, Education Code, strike "the plan manager" and substitute "a plan manager".

(3) In SECTION 1 of the bill, in added Section 54.704, Education Code, strike "SELECTION OF FINANCIAL INSTITUTION AS PLAN MANAGER. (a) The board shall contract with one or more financial institutions to serve as plan manager" and substitute "SELECTION OF FINANCIAL INSTITUTIONS AS PLAN MANAGERS. (a) The board shall contract with more than one financial institution to serve as plan managers".

(4) In SECTION 1 of the bill, in Subsection (c) of added Section 54.704, Education Code, strike "shall select a plan manager or managers" and substitute "shall select the plan managers".

(5) In SECTION 1 of the bill, in Subsection (d) of added Section 54.704, Education Code, strike "The board may require" and substitute "The board shall require".

(6) In SECTION 1 of the bill, at the end of Subsection (d) of added Section 54.704, Education Code, add "To the extent permitted by federal law, the investment options shall include mutual funds, fixed annuities, variable annuities, and variable life insurance policies.".

(7) In SECTION 1 of the bill, in Subsection (b) of added Section 54.705, Education Code, strike "The plan manager shall make investments" and substitute "A plan manager shall make investments".

(8) In SECTION 1 of the bill, at the end of added Section 54.705, Education Code, add Subsection (d) to read as follows:

(d) A plan manager shall provide for any financial institution to market the plan on its behalf and to provide account services to an individual who opens or owns a savings trust account administered by the plan manager. A financial institution that markets the plan or provides account services under this subsection may charge a fee or commission for those services.

(9) In SECTION 1 of the bill, in Subsection (b) of added Section 54.707, Education Code, immediately after "plan manager", insert "selected by the individual".

(10) In SECTION 1 of the bill, in Subsection (a) of added Section 54.709, Education Code, strike "The plan manager" and substitute "A plan manager".

(11) In SECTION 1 of the bill, in Subsection (h) of added Section 54.709, Education Code, strike "The plan manager" and substitute "A plan manager".

(12) In SECTION 1 of the bill, in Subsection (b) of added Section 54.710, Education Code, strike "the plan manager" and substitute "a plan manager".

### **Floor Amendment No. 2 on Third Reading**

Amend **CSSB 555** on third reading in SECTION 1 of the bill, in added Section 54.709, Education Code, by adding Subsection (i) to read as follows:

(i) Notwithstanding Subsection (b), if Section 529, Internal Revenue Code of 1986, as amended, is amended to permit an account owner to direct the investment of a contribution to or an account balance in a qualified State tuition program, the board in each subsequent plan manager contract shall provide that each plan manager provide a savings trust account owner with the ability to direct the investment of a contribution to the account or the balance in the account among a wide variety of investment options.

The amendments were read.

Senator Ellis 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 555** 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 Ellis, Chair; Bivins, Sibley, Zaffirini, and Van de Putte.

### GUESTS PRESENTED

Senator Zaffirini was recognized and introduced to the Senate students from the National Junior Honor Society of George West Junior High School in George West: Lucy Blevins, Mandi Jo Fox, Donnie Marie Garcia, Bradley Henicke, Rachel Hubert, Paul Munoz, Hannah Schorp, Tiffany Snelling, Amber Stewart, Jessica Troell, and Kali Wallek, accompanied by their program advisor, Nancy James.

The Senate welcomed its guests.

### GUESTS PRESENTED

Senator Wentworth was recognized and introduced to the Senate student council members from Vincent Patlan Elementary School in Seguin.

The Senate welcomed its guests.

### SENATE BILL 1596 WITH HOUSE AMENDMENT

Senator Bivins called **SB 1596** 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 1596** by substituting in lieu thereof the following:

#### A BILL TO BE ENTITLED AN ACT

relating to the establishment and operation of the Toward EXcellence, Access, & Success (TEXAS) grant II program.

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

SECTION 1. Chapter 56, Education Code, is amended by adding Subchapter O to read as follows:

#### SUBCHAPTER O. TOWARD EXCELLENCE, ACCESS, & SUCCESS (TEXAS) GRANT II PROGRAM

Sec. 56.351. DEFINITIONS. In this subchapter:

(1) "Coordinating board" means the Texas Higher Education Coordinating Board.

(2) "Eligible institution" means:

(A) a public junior college;

(B) a public technical institute; or

(C) a public state college.

(3) "Public junior college," "public technical institute," and "public state college" have the meanings assigned by Section 61.003.

Sec. 56.352. PROGRAM NAME; PURPOSE. (a) The student financial assistance program authorized by this subchapter is known as the Toward EXcellence, Access, & Success (TEXAS) grant II program, and an individual grant awarded under this subchapter is known as a TEXAS grant II.

(b) The purpose of this subchapter is to provide a grant of money to enable eligible students to attend two-year public institutions of higher education in this state.

Sec. 56.353. ADMINISTRATION OF PROGRAM. (a) The coordinating board shall administer the TEXAS grant II program and shall adopt any rules necessary to implement the TEXAS grant II program or this subchapter. The coordinating board shall consult with the student financial aid officers of eligible institutions in developing the rules.

(b) The coordinating board shall adopt rules to provide a TEXAS grant II to an eligible student enrolled in an eligible institution in a manner consistent with the administration of federal student financial aid programs.

(c) The total amount of grants awarded under the TEXAS grant II program may not exceed the amount available for the program from appropriations, gifts, grants, or other funds.

(d) In determining who should receive a TEXAS grant II, the coordinating board and the eligible institutions shall give highest priority to awarding TEXAS grants II to students who demonstrate the greatest financial need.

Sec. 56.354. INITIAL ELIGIBILITY FOR GRANT. (a) To be eligible initially for a grant under the TEXAS grant II program, a person must:

(1) be a resident of this state as determined by coordinating board rules;

(2) meet financial need requirements as defined by the coordinating board;

(3) be enrolled in an associate degree or certificate program at an eligible institution;

(4) be enrolled as an entering student for at least one-half of a full course load for an entering student in the associate degree or certificate program, as determined by the coordinating board;

(5) have applied for any available financial aid or assistance; and

(6) comply with any additional nonacademic requirement adopted by the coordinating board under this subchapter.

(b) A person is not eligible to receive a TEXAS grant II if the person has been convicted of a felony or an offense under Chapter 481, Health and Safety Code (Texas Controlled Substances Act), or under the law of another jurisdiction involving a controlled substance as defined by Chapter 481, Health and Safety Code, unless the person has met the other applicable eligibility requirements under this subchapter and has:

(1) received a certificate of discharge by the Texas Department of Criminal Justice or a correctional facility or completed a period of probation ordered by a court, and at least two years have elapsed from the date of the receipt or completion; or

(2) been pardoned, had the record of the offense expunged from the person's record, or otherwise been released from the resulting ineligibility to receive a grant under this subchapter.

(c) A person is not eligible to receive a TEXAS grant II if the person has been granted a baccalaureate degree.

(d) A person may not receive a TEXAS grant II for more than 75 semester credit hours or the equivalent.

(e) A person may not receive a TEXAS grant II if the person is eligible for a TEXAS grant.

(f) A person's eligibility for a TEXAS grant II ends on the fourth anniversary of the initial award of a TEXAS grant II to the person and the person's enrollment in an eligible institution.

Sec. 56.355. CONTINUING ELIGIBILITY AND ACADEMIC PERFORMANCE REQUIREMENTS. (a) After initially qualifying for a TEXAS grant II, a person may continue to receive a TEXAS grant II during each semester or term in which the person is enrolled at an eligible institution only if the person:

(1) meets financial need requirements as defined by the coordinating board;  
(2) is enrolled in an associate degree or certificate program at an eligible institution;

(3) is enrolled for at least one-half of a full course load for a student in an associate degree or certificate program, as determined by the coordinating board;

(4) makes satisfactory academic progress toward an associate degree or certificate; and

(5) complies with any additional nonacademic requirement adopted by the coordinating board.

(b) A person is not eligible to continue to receive a TEXAS grant II under this section if the person has been convicted of a felony or an offense under Chapter 481, Health and Safety Code (Texas Controlled Substances Act), or under the law of another jurisdiction involving a controlled substance as defined by Chapter 481, Health and Safety Code, unless the person has met the other applicable eligibility requirements under this subchapter and has:

(1) received a certificate of discharge by the Texas Department of Criminal Justice or a correctional facility or completed a period of probation ordered by a court, and at least two years have elapsed from the date of the receipt or completion; or

(2) been pardoned, had the record of the offense expunged from the person's record, or otherwise been released from the resulting ineligibility to receive a grant under this subchapter.

(c) If a person fails to meet any of the requirements of Subsection (a) after the completion of any semester or term, the person may not receive a TEXAS grant II during the next semester or term in which the person enrolls. A person may become eligible to receive a TEXAS grant II in a subsequent semester or term if the person:

(1) completes a semester or term during which the student is not eligible for a scholarship; and

(2) meets all the requirements of Subsection (a).

(d) For the purpose of this section, a person makes satisfactory academic progress toward an associate degree or certificate only if the person:

(1) completes at least 75 percent of the semester credit hours attempted in the student's most recent academic year; and

(2) earns an overall grade point average of at least 2.5 on a four-point scale or the equivalent on course work previously attempted at institutions of higher education.

(e) A person who is eligible to receive a TEXAS grant II continues to remain eligible to receive the TEXAS grant II if the person enrolls in or transfers to another eligible institution.

Sec. 56.356. GRANT USE. A person receiving a TEXAS grant II may use the money to pay any usual and customary cost of attendance at an eligible institution incurred by the student. The institution may disburse all or part of the proceeds of a TEXAS grant II to an eligible person only if the tuition and required fees incurred by the person at the institution have been paid.

Sec. 56.357. GRANT AMOUNT. (a) The amount of a TEXAS grant II for a student enrolled full-time at an eligible institution is the amount determined by the

coordinating board as the average statewide amount of tuition and required fees that a resident student enrolled full-time in an associate degree or certificate program would be charged for that semester or term at eligible institutions.

(b) The coordinating board may adopt rules that allow the coordinating board to increase or decrease, in proportion to the number of semester credit hours in which a student is enrolled, the amount of a TEXAS grant II award under this section to a student who is enrolled in a number of semester credit hours in excess of or below the number of semester credit hours described in Section 56.354(a)(4) or 56.355(a)(3).

(c) The amount of a TEXAS grant II may not be reduced by any gift aid for which the person receiving the grant is eligible, unless the total amount of a person's grant plus any gift aid received exceeds the total cost of attendance at an eligible institution.

(d) Not later than January 31 of each year, the coordinating board shall publish the amounts of each grant established by the board for the academic year beginning the next fall semester.

(e) The total amount of grants that a student may receive in an academic year under this subchapter and under Section 61.221 may not exceed the maximum amount authorized under Section 61.227.

(f) An eligible institution may not deny admission to or enrollment in the institution based on a person's eligibility to receive a TEXAS grant II or a person's receipt of a TEXAS grant II.

(g) An institution may use other available sources of financial aid to cover any difference in the amount of a TEXAS grant II and the actual amount of tuition and required fees at the institution.

SECTION 2. (a) The Texas Higher Education Coordinating Board and the eligible institutions shall award scholarships under the TEXAS grant II program established under Subchapter O, Chapter 56, Education Code, as added by this Act, beginning with the 2001 fall semester.

(b) The Texas Higher Education Coordinating Board shall adopt the initial rules for awarding grants under the TEXAS grant II program established under Subchapter O, Chapter 56, Education Code, as added by this Act, not later than July 31, 2001.

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

The motion prevailed.

The President asked if there were any motions to instruct the conference committee on **SB 1596** 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 Bivins, Chair; Ellis, Van de Putte, Wentworth, and Staples.

(Senator Moncrief in Chair)

(Senator Bivins in Chair)

**COMMITTEE SUBSTITUTE  
HOUSE BILL 987 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:

**CSHB 987**, Relating to the collection of solid waste disposal service fees by a county or by certain public or private entities contracting with a county.

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

**COMMITTEE SUBSTITUTE  
HOUSE BILL 987 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 **CSHB 987** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 1, Present-not voting 1.

Yeas: Armbrister, Barrientos, Bernsen, Bivins, Brown, Cain, Carona, Duncan, Ellis, 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.

Absent-excused: Fraser.

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

**MESSAGE FROM THE HOUSE**

HOUSE CHAMBER  
Austin, Texas  
May 4, 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:**

**HB 370**, Relating to the fees imposed by certain counties for the preservation, restoration, and management of certain county records.

**HB 598**, Relating to fees imposed on defendants placed on community supervision.



**HB 849**, Relating to coverage of anorexia and bulimia as serious mental illnesses under certain group health benefit plans.

**HB 877**, Relating to the benefits provided to the surviving spouse and minor children of certain public employees killed in the line of duty.

**HB 1005**, Relating to the creation of a state program of temporary assistance and related support services for needy persons.

**HB 1053**, Relating to the creation of commercial and industrial development zones in certain populous counties; providing for taxes and the issuance of bonds.

**HB 1056**, Relating to the composition of the general investigating committee of the house of representatives and to certain records of a legislative general investigating committee.

**HB 1096**, Relating to the creation of fire control, prevention, and emergency medical services districts by certain municipalities.

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

**HB 1200**, Relating to the enactment of the Texas Economic Development Act, authorizing certain ad valorem tax incentives for economic development, including authorizing school districts to provide tax relief for certain corporations and limited liability companies that make large investments that create jobs in this state, to authorizing the imposition of certain impact fees, and to continuing the Property Redevelopment and Tax Abatement Act.

**HB 1234**, Relating to the presence of certain advocates during forensic medical examinations of alleged victims of sexual assaults.

**HB 1363**, Relating to the mediation of certain disputes by collaborative law procedures.

**HB 1491**, Relating to health benefit plan coverage for certain mental disorders in children.

**HB 1721**, Relating to certification examinations for educators certified in other jurisdictions.

**HB 1839**, Relating to research and excellence funding at certain institutions of higher education.

**HB 1852**, Relating to voting by presidential electors; providing a criminal penalty.

**HB 1856**, Relating to the use of certain voting systems.

**HB 2102**, Relating to the determination of premium rates for certain lines of insurance.

**HB 2313**, Relating to the disposing of abandoned motor vehicles.

**HB 2382**, Relating to coverage under a health benefit plan for prescription contraceptive drugs and devices and related services.

**HB 2456**, Relating to the authority of certain counties to implement a pilot program to provide certain indigent health care services and to the funding of the program.

**HB 2503**, Relating to a career development center's assessment of the job skills of certain persons.

**HB 2510**, Relating to the establishment of diabetes research and screening programs at certain institutions of higher education.

**HB 2614**, Relating to a dental services pilot program in border-region counties.

**HB 2649**, Relating to prohibiting the Texas Natural Resource Conservation Commission from imposing controls more stringent than federal controls on motor fuel content.

**HB 2684**, Relating to the authority of the Texas Transportation Commission to acquire certain protected property.

**HB 2997**, Relating to the implementation by the Texas Natural Resource Conservation Commission of a program to encourage the use of environmental management systems.

**HB 3303**, Relating to the service area of the Vernon Regional Junior College District.

**HB 3449**, Relating to the continuation and functions of the Texas Department of Housing and Community Affairs and to other matters relating to housing or community development, including the creation of the Manufactured Housing Board and the Office of Rural Community Affairs.

**HB 3507**, Relating to the regulation of dentistry and the provision of dental services.

Respectfully,

/s/Sharon Carter, Chief Clerk  
House of Representatives

### SENATE BILL 1764 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 engrossment:

**SB 1764**, Relating to the ratification of the creation of the McMullen Groundwater Conservation District and to the administration, powers, duties, operation, and financing of the district.

The bill was read second time.

Senator Zaffirini offered the following amendment to the bill:

#### Floor Amendment No. 1

Amend **SB 1764** (senate committee printing) as follows:

(1) In Subsection (a) of SECTION 8 of the bill (page 2, lines 45 and 46), strike "the first Saturday in October" and substitute "a uniform election date, as provided by Section 41.001(a), Election Code, selected by the initial directors,".

(2) In Subsection (b) of SECTION 8 of the bill (page 2, line 53), strike "first Saturday in October" and substitute "uniform election date selected under Subsection (a) of this section".

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

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

**SB 1764** as amended was passed to engrossment by a viva voce vote.

**SENATE BILL 1764 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 **SB 1764** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 1, Present-not voting 1.

Yeas: Armbrister, Barrientos, Bernsen, Bivins, Brown, Cain, Carona, Duncan, Ellis, 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.

Absent-excused: Fraser.

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

**(President in Chair)**

**SENATE BILL 583 WITH HOUSE AMENDMENTS**

Senator Duncan called **SB 583** from the President's table for consideration of the House amendments to the bill.

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

**Floor Amendment No. 1**

Amend **SB 583** in SECTION 1 by striking Subsection 55.004(d)(1), Property Code, in its entirety and by re-numbering the subsequent Subsections of Section (d), Property Code, accordingly.

**Floor Amendment No. 2**

Amend **SB 583**, House Committee Report, as follows:

(1) In SECTION 1 of the bill, in amended Subsection (d), Section 55.004, Property Code (page 2, line 15), strike "or".

(2) In SECTION 1 of the bill, in amended Subsection (d), Section 55.004, Property Code (page 2, line 20), strike the period and substitute "or".

(3) In SECTION 1 of the bill, in amended Subsection (d), Section 55.004, Property Code (page 2, between lines 20 and 21), insert the following:

(5) charges by the physician related to any services provided under Subsection (c) if the physician is a member of the legislature.

**Floor Amendment No. 3**

Amend **SB 583** as follows:

1) Amend SECTION 1, Sec. 55.004(d)(3), by striking "under a private medical indemnity plan or program." and by substituting "from any source other than the injured individual, including but not limited to, any health care plan as defined by Chapter 88, Civil Practice and Remedies Code, or any state or federally-funded program that undertakes to provide, arrange for, pay for, or reimburse any part of the cost of any health care services."

2) Amend SECTION 1, Sec. 55.004(d)(4), by striking "under a private medical indemnity plan or program." and by substituting "from any source other than the

injured individual, including but not limited to any health care plan as defined by Chapter 88, Civil Practice and Remedies Code, or any state or federally-funded program that undertakes to provide, arrange for, pay for, or reimburse any part of the cost of any health care services."

The amendments were read.

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

The motion prevailed.

The President asked if there were any motions to instruct the conference committee on **SB 583** before appointment.

There were no motions offered.

The President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Duncan, Chair; Bernsen, Carona, Moncrief, and Fraser.

### **SENATE RESOLUTION 948**

Senator Nelson offered the following resolution:

WHEREAS, The Dallas Mavericks have advanced to the second round of the NBA playoffs by virtue of their phenomenal come-from-behind victory over the Utah Jazz in the decisive fifth game of that series; and

WHEREAS, After dropping the first two contests in Salt Lake City, the Mavericks refused to allow the Jazz to deliver the knockout blow by winning the next two games at Renunion Arena in Dallas, setting up an elimination game to remain alive in the NBA playoffs; and

WHEREAS, Game five saw the Mavericks trailing by 14 points after three quarters, but with the season on the line Dallas demonstrated true championship heart in overcoming the Jazz on their home floor, winning the game in thrilling fashion, 84-83; and

WHEREAS, Head Coach Don Nelson and owner Mark Cuban have worked tirelessly to turn the Mavericks into a contender for the NBA crown, and their efforts have been rewarded with the franchise's first playoff series victory since 1988; and

WHEREAS, The Dallas Mavericks' extraordinary performance against the Utah Jazz is truly indicative of the team's determination and dedication to excellence, and it is most appropriate that the team be honored at this time; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 77th Texas Legislature, hereby congratulate the team members, coaching staff, and management of the Dallas Mavericks on their remarkable victory over the Utah Jazz and that they be extended sincere best wishes for continued success in their series against the San Antonio Spurs; and, be it further

RESOLVED, That an official copy of this Resolution be prepared for the Dallas Mavericks as an expression of high regard by the Texas Senate.

NELSON  
CAIN  
SHAPIRO  
WEST

The resolution was read and was adopted by viva voce vote.

**RECORD OF VOTES**

Senators Madla, Shapleigh, Van de Putte, Wentworth, and Zaffirini asked to be recorded as voting "Yea" for the San Antonio Spurs.

**PHYSICIAN OF THE DAY**

Senator Barrientos was recognized and presented Dr. Daniel Garcia of Austin as the Physician of the Day.

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

**HOUSE BILL 317 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 317**, Relating to the location where the court of appeals for the Sixth Court of Appeals District transacts business.

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

**HOUSE BILL 317 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 317** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 1, Present-not voting 1.

Yeas: Armbrister, Barrientos, Bernsen, Bivins, Brown, Cain, Carona, Duncan, Ellis, 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.

Absent-excused: Fraser.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 0, Present-not voting 1.

Present-not voting: Mr. President.

Absent-excused: Fraser.

**COMMITTEE SUBSTITUTE  
SENATE BILL 1686 ON SECOND READING**

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

**CSSB 1686**, Relating to the creation of the West Galveston Island Conservation District; providing the authority to impose taxes and issue bonds.

The bill was read second time.

Senator Jackson offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **CSSB 1686** (Senate Committee report) by striking all below the enacting clause and substituting the following:

**SECTION 1. LEGISLATIVE FINDINGS; PURPOSES.** (a) The West Galveston Island Conservation District is created as a special district under Section 59, Article XVI, Texas Constitution.

(b) The creation of the district is declared to be essential to the accomplishment of the purposes of Section 59, Article XVI, and Section 52-a, Article III, Texas Constitution, and to the accomplishment of the other public purposes stated in this Act.

(c) The creation of the district is necessary to promote, develop, encourage, and maintain employment, commerce, economic development, and the public welfare in the area of the district.

(d) The creation of the district and this Act may not be interpreted to relieve any county or municipality from providing services to the area included in the district or to release the county or municipality from the obligation it has to provide services to that area. The district is created to supplement and not supplant the services of the county or municipality.

(e) All of the land and other property to be included within the boundaries of the district will be benefited by the works and projects that are to be accomplished and the services to be provided by the district under powers conferred by Section 59, Article XVI, and Section 52-a, Article III, Texas Constitution, and other powers granted in this Act.

(f) The district is created to serve a public use and benefit.

(g) The creation of the district is essential to further the public purposes of development and diversification of the economy of the state, the elimination of unemployment and underemployment, and the development or expansion of commerce and is in the public interest.

(h) The creation of the district is necessary to protect the state's natural resources by restoration and protection of natural resources along the boundaries of and within the district, through improvement projects, matching fund contributions to improvement projects by the state or county, and services provided by the district under this Act.

(i) The creation of the district is necessary to promote, develop, and encourage navigation along the state's coastal waters, bays, and inlets, including the deepening and widening of navigation channels.

(j) Each improvement project or service authorized by this chapter is found and declared to carry out a public purpose.

**SECTION 2. CONSTRUCTION OF ACT.** This Act shall be liberally construed in conformity with the findings and purposes in Section 1 of this Act.

**SECTION 3. DEFINITIONS.** In this Act:

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

(2) "Bond" means any type of interest-bearing obligation, including a bond, note, bond anticipation note, certificate of participation, lease, contract, or other evidence of indebtedness.

(3) "Commission" means the Texas Natural Resource Conservation Commission.

(4) "County" means Galveston County.

(5) "District" means the West Galveston Island Conservation District.

SECTION 4. GOVERNMENTAL AGENCY. Except as provided by Section 14 of this Act, the district is a governmental agency, a body politic and corporate, and a political subdivision of the state.

SECTION 5. BOUNDARIES. The district includes all of the territory contained in the following described land:

BEGINNING at the intersection of the southerly projection of the centerline of 103rd Street in the City of Galveston, Texas, and the mean high tide line of the Gulf of Mexico on Galveston Island;

Thence along the mean high tide line of the Gulf of Mexico and San Luis Pass in a westerly then northerly direction to the intersection of such line with the centerline of FM 3005;

Thence along the centerline of FM 3005 in a westerly direction to the intersection of such line with the Galveston County-Brazoria County line;

Thence along the Galveston County-Brazoria County line in a northerly direction to the intersection of such line with the centerline of the Intracoastal Waterway;

Thence along the centerline of the Intracoastal Waterway in an easterly direction to the intersection of such line with the northerly projection of the centerline of 103rd Street in the City of Galveston, Texas; and

Thence along the centerline of 103rd Street in the City of Galveston, Texas, and the northerly and southerly projection thereof to the PLACE OF BEGINNING.

SECTION 6. FINDINGS RELATED 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, it does not affect the district's:

(1) organization, existence, or validity;

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

(3) right to impose or collect an assessment or ad valorem taxes; or

(4) legality or operation.

SECTION 7. CONFIRMATION ELECTION. (a) The initial directors shall meet as soon as practicable after all initial directors have qualified for office. At the first meeting of the board, the board shall call an election to be held within the boundaries of the district to confirm the creation of the district. 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.

(b) The district may not issue any bonds or other obligations, impose an assessment or ad valorem tax, or conduct any other activity before a confirmation election is held.

(c) The board shall give notice of the confirmation election. The notice must state:

(1) the nature of the election, including the proposition that is to appear on the ballot;

(2) the date of the election;

(3) the hours during which the polls will be open; and

(4) the location of the polling places.

(d) The ballot shall be printed to permit voting "For District" or "Against District."

(e) Immediately after the confirmation election, the presiding judge of each election precinct shall take returns of the result to the board. The board shall canvass the returns and declare the results at the earliest practicable time.

(f) If a majority of the votes cast in the election favor the creation of the district, the board shall declare that the district is created and enter the result in its minutes. If a majority of the votes cast in the election are against the creation of the district, the board shall declare that the proposition to create the district was defeated and enter the result in its minutes. A certified copy of the minute order declaring that the district is created or declaring that the proposition to create the district was defeated shall be filed with the commission.

(g) If the proposition to create the district is defeated, another election to confirm the creation of the district may not be held until the expiration of six months after the date of the most recent confirmation election. The board may not call more than three confirmation elections.

(h) The order canvassing the results of the confirmation election shall contain a description of the district's boundaries and shall be filed with the executive director of the commission and in the deed records of the county.

SECTION 8. ANNEXATION. The district may annex land as provided by Subchapter J, Chapter 49, Water Code, subject to the approval of the commissioners court of the county.

SECTION 9. EXCLUDING TERRITORY. (a) At any time during which the district does not have outstanding bonds, the board on its own motion may call a hearing on the question of the exclusion of land from the district in the manner provided by Subchapter J, Chapter 49, Water Code, if the board finds that the exclusions are practicable, just, or desirable.

(b) The board shall call a hearing on the exclusion of land or other property from the district if a landowner or property owner in the district files with the secretary of the board a written petition requesting the hearing before the issuance of bonds.

SECTION 10. BOARD OF DIRECTORS. (a) The district is governed by a board of five directors who serve staggered terms of four years, with three directors' terms expiring June 1 of an odd-numbered year and two directors' terms expiring June 1 of the following odd-numbered year.

(b) The commissioners court of the county shall appoint the initial directors from persons recommended by members of the commissioners court. A person is appointed if the county judge and a majority of the commissioners of the county vote to appoint that person.

(c) As soon as practicable after the first anniversary of the date on which the creation of the district is confirmed, the board shall call and hold an election to elect the initial permanent directors.

(d) The election shall be held in the manner provided by Section 49.102, Water Code.

(e) 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. The initial directors elected at the election shall draw lots to determine their terms so that two serve terms expiring on the first July 1 of an odd-numbered year after the election and three serve terms expiring July 1 of the second year after the year in which the first terms expire.



(f) An election to elect the appropriate number of successor directors shall be held on the uniform election date, established by the Election Code, in May of each odd-numbered year.

(g) To be qualified to serve as a director, a person must be at least 18 years old and:

(1) a resident and qualified voter of the district; and

(2) an owner of property in the district.

(h) A director may serve successive terms.

(i) The commissioners court may remove a director for misconduct or failure to carry out the director's duties or for any other reason on petition by a majority of the remaining directors or a majority of the commissioners court and after notice and hearing.

(j) A vacancy in the office of director shall be filled by appointment by the commissioners court for the unexpired term.

(k) As soon as practicable after a director is appointed or elected, the director shall execute a \$10,000 bond payable to the district and conditioned on the faithful performance of the director's duties. Each director's bond must be approved by the board, and each director shall take the oath of office for public officers prescribed by the constitution of this state. The bond and oath shall be filed with the district and retained in its records.

(l) After directors are appointed or elected and have qualified by executing a bond and taking the oath, they shall organize by electing a president, a vice president, a secretary, and any other officers the board considers necessary.

(m) In accordance with Section 49.060, Water Code, a director is entitled to compensation for service on the board and is entitled to be reimbursed for necessary expenses incurred in carrying out the duties and responsibilities of a director.

(n) A majority of the directors constitutes a quorum.

(o) The vote of a majority of directors is required for any official action of the district.

**SECTION 11. GENERAL POWERS OF DISTRICT.** (a) Except for the limitations set forth in this Act, the district has the rights, powers, privileges, authority, and functions conferred by the general law of this state applicable to conservation and reclamation districts created under Section 59, Article XVI, Texas Constitution, including those conferred by Chapter 54, Water Code, with respect to the purposes for which the district is created.

(b) The district may contract and manage its affairs and funds for any district purpose in accordance with Chapter 54, Water Code.

**SECTION 12. SPECIFIC POWERS AND DUTIES OF DISTRICT.** (a) A district has the powers necessary or convenient to carry out and effect the purposes and provisions of this chapter, including the powers granted in this section.

(b) The district has perpetual succession.

(c) The district may:

(1) sue and be sued in courts of competent jurisdiction, and institute and prosecute suits;

(2) incur liabilities and borrow money on terms the board determines;

(3) issue bonds;

(4) acquire by grant, purchase, gift, devise, lease, or otherwise and hold, use, sell, lease, or dispose of real and personal property, licenses, patents, rights, and interests necessary, convenient, or useful for the full exercise of any of its powers under this Act;

(5) acquire, construct, complete, develop, own, operate, and maintain permanent improvements and provide services inside and outside its boundaries, except as specifically limited in this Act;

(6) enter into agreements with a public or private person for the joint use of facilities, installations, and property;

(7) enter into contracts, leases, and agreements with and accept grants and loans from the United States and its departments and agencies, the state and its agencies, counties, municipalities, and political subdivisions, public or private corporations, and other persons and perform all acts necessary for the full exercise of the powers vested in it on terms and for the term the board may determine to be advisable;

(8) acquire property under conditional sales contracts, leases, equipment trust certificates, or any other form of contract or trust agreement;

(9) sell, lease, convey, or otherwise dispose of any of its rights, interests, or properties that are not needed for or, in the case of leases, that are not consistent with, the efficient operation and maintenance of the district's improvements;

(10) sell, lease, or otherwise dispose of any surplus material or personal or real property not needed for its requirements or for the purpose of carrying out its powers under this Act;

(11) procure and pay premiums to insurers for insurance of any type in amounts considered necessary or advisable by the board; and

(12) do anything necessary, convenient, or desirable to carry out the powers expressly granted or implied by this Act.

**SECTION 13. USE AND ALTERATION OF LAND AND PUBLIC WAYS.** (a) Except as otherwise provided by this Act, the district may construct all improvements and facilities necessary to accomplish the purposes for which it was created on lands, whether publicly or privately owned.

(b) Before the district may construct an improvement or facility on lands owned by the county, the state, a municipality, or another political subdivision, the district must obtain from the entity prior approval of the plans and specifications of the improvement or facility and any required easement, lease, or permit.

(c) The district shall bear all of the costs, expenses, and damages suffered by owners of property or facilities if the district, in exercising any of the powers conferred by this Act, requires the relocation, adjustment, raising, lowering, rerouting, or changing the grade of or altering the construction of any:

(1) streets, alleys, highways, overpasses, underpasses, or roads;

(2) railroad tracks, bridges, or other facilities or property;

(3) electric lines, conduits, or other facilities or property;

(4) telephone or telegraph lines, conduits, or other facilities or property;

(5) gas transmission or distribution pipes, pipelines, mains, or other facilities or property;

(6) water, sanitary sewer or storm sewer pipes, pipelines, mains, or other facilities or property;

(7) cable television lines, cables, conduits, or other facilities or property; or

(8) other pipelines and any facilities or properties relating to those pipelines.

**SECTION 14. PROTECTION OF PUBLIC BEACHES.** (a) The district is not an agency, department, institution, subdivision, or instrumentality of this state for purposes of Section 61.022, Natural Resources Code.

(b) Construction by the district in a critical dune area identified by the commissioner of the General Land Office under Section 63.121, Natural Resources Code, that affects or that may affect public health or public access to or use of a public beach must be approved by an order of the commissioners court of the county as provided by Subchapter C, Chapter 63, Natural Resources Code. Construction by the district on land adjacent to and landward of a public beach that affects or that may affect public health or public access to or use of the public beach must be approved by an order of the commissioners court of the county as provided by Section 61.015, Natural Resources Code. After the commissioners court by order approves the construction in a critical dune area or on land adjacent to and landward of a public beach, the district shall submit the order and supporting documentation to the General Land Office for approval, disapproval, comment, or other action considered appropriate by the General Land Office and to the office of the attorney general. The district may not begin the construction without the prior approval of the General Land Office. The district may not construct or undertake a project on a public beach seaward of the natural vegetation line, as defined by Section 61.001, Natural Resources Code. The district may provide district funds for a state, county, or local government project that complies with Section 61.022, Natural Resources Code, for the protection of the shore or another lawful purpose.

**SECTION 15. NO EMINENT DOMAIN POWER.** The district may not exercise the power of eminent domain. The county may exercise its power of eminent domain to implement a district facility or improvement.

**SECTION 16. POWERS AND DUTIES OF BOARD.** (a) The responsibility for the management, operation, and control of the property belonging to the district is vested in the board.

(b) The board may:

(1) employ all persons, firms, partnerships, or corporations considered necessary by the board for the conduct of the affairs of the district, including a general manager, bookkeepers, auditors, engineers, attorneys, financial advisers, peace or traffic control officers, architects, and operating or management companies, and prescribe the duties, tenure, and compensation of each;

(2) dismiss employees;

(3) adopt a seal for the district;

(4) invest the district's money in any investments authorized by Subchapter A, Chapter 2256, Government Code, and provide, by resolution, that an authorized representative manage the district's funds and invest and reinvest the money on terms the board considers advisable;

(5) establish a fiscal year for the district;

(6) establish a complete system of accounts for the district; and

(7) designate one or more banks to serve as the depository bank or banks.

(c) Each year the board shall have prepared an audit of the district's affairs by an independent certified public accountant or a firm of independent certified public accountants. The audit prepared under this subsection must be open to public inspection.

(d) Money of the district shall be deposited in the depository bank or banks unless otherwise required by orders or resolutions authorizing the issuance of the district's bonds. To the extent that money in the depository bank or banks is not insured by the Federal Deposit Insurance Corporation, the money must be secured in the manner

provided by law for the security of funds of counties. The board by resolution may authorize a designated representative to supervise the substitution of securities pledged to secure the district's money.

(e) The board may adopt and enforce reasonable rules governing the administration of the district and its programs and projects.

(f) The name of the district may be established or changed by resolution of the board.

**SECTION 17. HEARINGS EXAMINER; ADMINISTRATIVE PROCEDURE ACT.** (a) The board may appoint a hearings examiner to conduct any hearing called by the board, including a hearing required by Chapter 395, Local Government Code. The hearings examiner may be an employee of the district or a member of the board.

(b) The hearing shall be conducted in accordance with Chapter 2001, Government Code.

**SECTION 18. GENERAL POWERS RELATING TO ASSESSMENTS; IMPROVEMENT PROJECTS.** (a) The board may impose and collect an assessment for any purpose authorized by and in the manner provided by this Act if the commissioners court of the county approves the assessment.

(b) The board may undertake an improvement project or service that confers a special benefit on all or a definable part of the district. The board may impose and collect a special assessment on property in that area, based on the benefit conferred by the improvement project or service, to pay all or part of the cost of the project or service. If the board determines that there is a benefit to the district, the district may provide an improvement or service to an area outside the boundaries of the district.

(c) The district may not undertake an improvement project or provide a service unless the district uses a method approved by the General Land Office, the office of the attorney general, or any other governmental entity with the authority to regulate the improvement project or service.

**SECTION 19. PROPOSED ASSESSMENTS.** An improvement project or service may be financed under this Act after notice of a hearing is given as required by Section 21 of this Act and the board holds a public hearing on the advisability of the improvement project or service and the proposed assessment.

**SECTION 20. PETITION REQUIRED.** The board may finance an improvement project or service if a written petition is filed with the board requesting the improvement project or service. If more than 25 persons are qualified voters of the district and own real property in the district, according to the most recent certified property tax rolls, the petition must be signed by at least 25 persons who are qualified voters of the district and who own real property in the district.

**SECTION 21. NOTICE OF HEARING.** (a) Notice of the hearing shall be given in a newspaper with general circulation in the county. The publication must be made not later than the 30th day before the date of the hearing.

(b) The notice must include:

- (1) the time and place of the hearing;
- (2) the general nature of the proposed improvement project or service;
- (3) the estimated cost of the improvement project or service, including interest during construction and associated financing costs; and
- (4) the proposed method of assessment.

(c) Written notice containing the information required by this section shall be mailed by certified mail, return receipt requested, not later than the 30th day before the

date of the hearing to each property owner in the district who will be subject to assessment at the current address of the property to be assessed as reflected on the tax rolls or the address provided by the property owner for tax purposes.

**SECTION 22. CONCLUSION OF HEARING; FINDINGS.** (a) A hearing on the improvement project or service, whether conducted by the board or a hearings examiner, may be adjourned from time to time.

(b) If the board conducts the hearing, at the conclusion of the hearing the board shall make findings by resolution or order relating to the advisability of the improvement project or service, the estimated cost, the area benefited, the method of assessment, and the method and time for payment of the assessment.

(c) If a hearings examiner is appointed to conduct the hearing, after conclusion of the hearing the hearings examiner shall file with the board a report stating the examiner's findings and conclusions. Based on the findings and conclusions of the hearings examiner, the board shall make findings by resolution or order relating to the advisability of the improvement project or service, the estimated cost, the area benefited, the method of assessment, and the method and time for payment of the assessment.

**SECTION 23. AREA TO BE ASSESSED.** (a) The area of the district to be assessed according to the findings of the board may be the entire district or any part of the district and may be less than the area proposed in the notice of the hearing.

(b) Except as provided by Subsection (c) of this section, the area to be assessed may not include property that is not within the district boundaries at the time of the hearing unless there is an additional hearing preceded by the required notice.

(c) The owner of improvements constructed or land annexed to the district after the district has imposed an assessment may waive the right to notice and an assessment hearing and may agree to the imposition and payment of an assessment at an agreed rate for improvements constructed or land annexed to the district.

**SECTION 24. OBJECTIONS; IMPOSITION OF ASSESSMENT.** (a) At a hearing on proposed assessments, at any adjournment of the hearing or after consideration of the hearings examiner's report, the board shall hear and rule on all objections to each proposed assessment.

(b) The board may amend a proposed assessment for any parcel.

(c) After all objections have been heard and action has been taken with regard to those objections, the board, by order or resolution, shall impose the assessment as a special assessment on the property, shall specify the method of payment of the assessment, and may provide that the assessment be paid in periodic installments, including interest.

(d) A periodic installment of the payment of an assessment shall be in an amount sufficient to meet annual costs for improvements and services as provided by this Act and continue for the number of years required to retire indebtedness or pay for the services to be rendered. The board may provide interest charges or penalties for failure to make timely payment and may impose an amount to cover delinquencies and expenses of collection.

(e) If an assessment is imposed for more than one improvement project or service, the board may provide that an assessment collected for one improvement project or service may be borrowed to be used for another improvement project or service.

(f) The board shall establish a procedure for the distribution or use of any assessment in excess of those necessary to finance the improvement project or service for which the assessment was collected.

SECTION 25. APPORTIONMENT OF COST. The portion of the cost of an improvement project or service to be assessed against the property in the district shall be apportioned by the board based on the special benefits accruing to the property because of the improvement project or service. The cost may be assessed:

(1) equally by front foot or square foot of land area against all property in the district;

(2) according to the value of the property as determined by the board, with or without regard to structures or other improvements on the property; or

(3) using any other reasonable assessment plan that results in imposing fair and equitable shares of the cost on property similarly benefited.

SECTION 26. ASSESSMENT ROLL. The board shall impose the assessment against each parcel of land against which an assessment may be imposed in the district after the total cost of an improvement project or service is determined. With regard to an assessment for services, the board may impose an additional annual assessment that may be lower but not higher than the initial assessment. The board shall have an assessment roll prepared showing the assessment against each property and the board's basis for the assessment. The assessment roll shall be filed with the secretary of the board or other officer who performs the function of secretary and shall be open for public inspection.

SECTION 27. INTEREST ON ASSESSMENTS; LIEN. (a) An assessment bears interest at a rate specified by the board that may not exceed the interest rate permitted by Chapter 1204, Government Code.

(b) Interest on an assessment between the effective date of the order or resolution imposing the assessment and the date the first installment and any related penalty is payable shall be added to the first installment. The interest or penalties on all unpaid installments shall be added to each subsequent installment until paid.

(c) 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 are:

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

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

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

(d) The lien is effective from the date of the resolution of the board imposing 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.

(e) The owner of any property assessed may pay at any time the entire assessment against any lot or parcel with accrued interest to the date of the payment.

SECTION 28. SUPPLEMENTAL ASSESSMENTS. After notice and hearing in the manner required for original assessments, the board may make supplemental assessments to correct omissions or mistakes in the assessment:

(1) relating to the total cost of the improvement project or service; or

(2) covering delinquencies or costs of collection.

SECTION 29. APPEAL. (a) After determination of an assessment, a property owner against whom an assessment is made may appeal the assessment to the board. The property owner must file a notice of appeal with the board not later than the 30th

day after the date that the assessment is adopted. The board shall set a date to hear the appeal.

(b) The property owner may appeal the board's decision on the assessment to a district court in the county in the manner provided for the appeal of contested cases in Chapter 2001, Government Code. The property owner must file notice of the appeal with the district court not later than the 30th day after the date of the board's final decision with respect to the assessment. Review by the district court is by trial de novo.

(c) Failure to file a notice of appeal in the time required by this section results in a loss of the right to appeal the assessment.

(d) If an assessment against a parcel of land is set aside by the district court, found excessive by the board, or determined to be invalid by the board, the board may make a reassessment or new assessment of the parcel.

**SECTION 30. APPROVAL OF COMMISSIONERS COURT.** An ad valorem tax, an assessment, or a combination of an ad valorem tax and an assessment, including an apportionment of an assessment, must be approved by the commissioners court of the county.

**SECTION 31. EXEMPTIONS.** (a) The district may not impose an assessment on the property, equipment, or facilities of a public utility. For purposes of this section, "utility" means a person that provides to the public gas, electricity, telephone, sewerage, or water service.

(b) Payment of assessments by municipalities, counties, other political subdivisions, and organizations exempt from federal income tax under Section 501(a), Internal Revenue Code of 1986, by being listed under Section 501(c)(3), Internal Revenue Code of 1986, shall be established by contract. Municipalities, counties, and other political subdivisions may contract with the district under terms and conditions those entities consider advisable to provide for the payment of assessments.

**SECTION 32. TAX FOR BONDS.** At the time bonds payable wholly or partly from taxes are issued, the board shall impose a continuing direct annual ad valorem tax, for each year that all or part of the bonds are outstanding, on all taxable property within the district in a sufficient amount to pay the interest on the bonds as it becomes due, to create a sinking fund for the payment of the principal of the bonds when due or the redemption price at any earlier required redemption rate, and to pay the expenses of assessing and collecting the taxes.

**SECTION 33. ESTABLISHMENT OF TAX RATE IN EACH YEAR.** (a) In determining the actual rate to be imposed in each year, the board shall consider:

(1) the amount that is necessary for maintenance and operation purposes, if an operation and maintenance tax has been authorized as provided by Section 34 of this Act;

(2) the amount that is necessary for the payment of principal, interest, and redemption price of each series of bonds payable wholly or partly from taxes;

(3) the amount that is necessary for the purpose of paying all other contractual obligations of the district payable wholly or partly from taxes; or

(4) the percentage of anticipated tax collections and the cost of collecting the taxes.

(b) In determining the amount of taxes that are necessary each year, the board may consider whether proceeds from the sale of bonds have been placed in escrow to pay interest during construction and whether the board reasonably expects to have revenue or receipts available for other sources that are legally available to pay the principal of or interest on or redemption price of the bonds. The board shall impose a tax in the first full year after issuance of its first series of bonds.

**SECTION 34. OPERATION AND MAINTENANCE TAX.** (a) The district may impose and collect a tax for operation and maintenance purposes, including funds for planning, constructing, acquiring, maintaining, repairing, and operating all necessary land, plants, works, facilities, improvements, appliances, and equipment of the district and for paying costs of proper services, engineering and legal fees, and organization and administrative expenses.

(b) An operation and maintenance tax may not be imposed by the district until it is approved by a majority of the qualified voters within the district voting at an election held for that purpose. After the district's voters have authorized an operation and maintenance tax, the board may impose the tax and have it assessed and collected as other district taxes.

(c) An operation and maintenance tax election may be held at the same time and in conjunction with any other district election. The election may be called by a separate election order or as part of any other election order.

(d) The proposition in an operation and maintenance tax election may be for a specific maximum rate or for an unlimited rate.

(e) If the district has any surplus operation and maintenance tax funds that are not needed for the purposes for which they were collected, the funds may be used for any lawful purpose.

**SECTION 35. FUNDS AVAILABLE FOR PAYMENT OF PROJECTS AND SERVICES.** (a) The cost of any improvement project or service, including interest during construction and costs of issuance of bonds, may be paid from general or available funds, ad valorem taxes, assessments, or the proceeds of bonds payable from revenues, ad valorem assessments, grants, gifts, contracts, or leases, or any combination of those funds.

(b) During the progress of an improvement project or service, the board may issue temporary notes to pay the costs of the improvement project or service and issue bonds on completion.

(c) The costs of more than one improvement project or service may be paid from a single issue and sale of bonds without other consolidation proceeding before the bond issue.

**SECTION 36. BONDS.** (a) For the payment of all or part of the costs of an improvement project or service, the board may issue bonds in one or more series payable from and secured by assessments, ad valorem taxes, revenues, grants, gifts, contracts, or leases, or any combination of those funds. Bonds may be liens on all or part of the revenue derived from improvements authorized under this Act, including installment payments of special assessments, ad valorem taxes, or any other source pledged to their payment.

(b) The district may issue bonds, and the bonds shall be approved in the manner prescribed by Subchapter J, Chapter 375, Local Government Code.

(c) The board may issue and approve bonds without the consent of the county, any municipality, or the commission.

**SECTION 37. ELECTION TO APPROVE ISSUANCE OF BONDS.** (a) Bonds secured by assessments or ad valorem taxes, or a combination of assessments and ad valorem taxes, may not be issued unless the bonds are approved by a majority of the qualified voters in the district voting at an election held for that purpose.

(b) Bonds that are not secured by assessments or ad valorem taxes, or a combination of assessments and ad valorem taxes, may be issued without an election.



(c) An election required by this section shall be conducted in accordance with Chapter 375, Local Government Code.

**SECTION 38. COMPETITIVE BIDDING ON CERTAIN PUBLIC WORKS CONTRACTS.** (a) Contracts of the district are subject to the competitive bidding requirements of Subchapter I, Chapter 49, Water Code.

(b) This Act states the required procedures necessary for the district to award contracts and supersedes any law or other requirement with respect to the award of contracts.

**SECTION 39. DISSOLUTION.** (a) Except as provided by Subsection (c) of this section, the board by majority vote may dissolve the district at any time.

(b) Except as provided by Subsection (c) of this section, the commissioners court of the county, by a vote of not less than two-thirds, may adopt a resolution dissolving the district.

(c) A district may not be dissolved if the district has any outstanding bonded indebtedness until that bonded indebtedness is repaid or decreased in accordance with the order or resolution authorizing the issuance of the bonds.

**SECTION 40. CONTRACTS WITH DISTRICT.** (a) A municipality, county, or other political subdivision of the state, without further authorization, may contract with the district to implement a project of the district or aid and assist the district in providing the services authorized under this Act. A contract under this section may:

(1) be for a period on which the parties agree;

(2) include terms on which the parties agree;

(3) be payable from assessments or any other sources of revenue that may be available for that purpose; or

(4) provide that assessments 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.

(b) The district may enter into a contract, lease, or agreement with or make or accept grants and loans to or from:

(1) the United States, including federal departments and agencies;

(2) the state or a state agency;

(3) a county, municipality, or other political subdivision of the state;

(4) a public or private corporation; or

(5) any other person.

(c) The district may perform all acts necessary for the full exercise of the powers vested in the district on terms and for the term the board may determine to be advisable.

**SECTION 41. FINDINGS RELATING TO PROCEDURAL REQUIREMENTS.** 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, and 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 commission;

(2) the 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 42. EFFECTIVE DATE. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2001.

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

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

**CSSB 1686** as amended was passed to engrossment by a viva voce vote.

**COMMITTEE SUBSTITUTE  
SENATE BILL 1686 ON THIRD READING**

Senator Jackson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1686** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 1, Present-not voting 1.

Yeas: Armbrister, Barrientos, Bernsen, Bivins, Brown, Cain, Carona, Duncan, Ellis, 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.

Absent-excused: Fraser.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 0, Present-not voting 1.

Present-not voting: Mr. President.

Absent-excused: Fraser.

**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 197, HB 769, HB 898, HB 966, HB 992, HB 997, HB 1041, HB 1100, HB 1629, HB 1632, HB 1634, HB 1679, HB 1790, HB 1840, HB 1881, HB 1979, HB 2220, HB 2275, HB 2428, HCR 119, HCR 201.**

**VOTE RECONSIDERED ON  
COMMITTEE SUBSTITUTE HOUSE BILL 987**

On motion of Senator Truan and by unanimous consent, the vote by which **CSHB 987** was finally passed was reconsidered.

**CSHB 987**, Relating to the collection of solid waste disposal service fees by a county or by certain public or private entities contracting with a county.

Question—Shall **CSHB 987** be finally passed?

Senator Armbrister offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **CSHB 987**, which amends Section 364.034, Health and Safety Code, by adding subsection (e) to read as follows:

(e) This section does not apply to a person that provides the public agency or county with written documentation that the person is currently receiving solid waste disposal services from another entity.

By unanimous consent, 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.

**CSHB 987** as amended was again finally passed by a viva voce vote.

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

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

**CSSB 801**, Relating to the liability of certain state-operated treatment facilities and mental health facilities.

There was objection.

Senator Duncan then moved to suspend the regular order of business and take up **CSSB 801** for consideration at this time.

The motion was lost by the following vote: Yeas 15, Nays 12, Present-not voting 1. (Not receiving two-thirds vote of Members present)

Yeas: Armbrister, Bivins, Brown, Duncan, Haywood, Jackson, Lindsay, Lucio, Nelson, Ogden, Shapiro, Sibley, Staples, Wentworth, West.

Nays: Barrientos, Bernsen, Cain, Ellis, Gallegos, Madla, Moncrief, Shapleigh, Truan, Van de Putte, Whitmire, Zaffirini.

Present-not voting: Mr. President.

Absent: Carona, Harris.

Absent-excused: Fraser.

**GUESTS PRESENTED**

Senator Zaffirini was recognized and introduced to the Senate students from Trautmann Middle School in Laredo.

The Senate welcomed its guests.

(Senator Brown in Chair)

### HOUSE BILL 551 ON SECOND READING

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

**HB 551**, Relating to the authority of a cosmetologist to treat a person's mustache or beard.

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

Present-not voting: Mr. President.

Absent-excused: Fraser.

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

### HOUSE BILL 551 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 551** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 1, Present-not voting 1.

Yeas: Armbrister, Barrientos, Bernsen, Bivins, Brown, Cain, Carona, Duncan, Ellis, 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.

Absent-excused: Fraser.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 0, Present-not voting 1.

Present-not voting: Mr. President.

Absent-excused: Fraser.

### HOUSE BILL 261 ON THIRD 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 third reading and final passage:

**HB 261**, Relating to the transfer of a defendant from county jail to the institutional division of the Texas Department of Criminal Justice pending an appeal by the defendant.

The bill was read third time.

Senator Bernsen offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **HB 261** by striking the Second Reading Floor Amendment by Bernsen.

By unanimous consent, 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 261** as amended was finally passed by the following vote: Yeas 29, Nays 0, Present-not voting 1.

Present-not voting: Mr. President.

Absent-excused: Fraser.

**LEAVE OF ABSENCE**

On motion of Senator Sibley, Senator Carona was granted leave of absence for the remainder of today on account of important business.

**MESSAGE FROM THE HOUSE**

HOUSE CHAMBER

Austin, Texas

May 4, 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 276**, Paying tribute to the late Thomas D. "Tom" Wells of Paris for his public service.

**HCR 277**, In memory of J. C. Fisher, Jr., of Cooper.

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

**SB 65**

House conferees: Turner, Bob - Chair/Gray/Hawley/Maxey/Wohlgemuth

**SB 187**

House conferees: Solomons - Chair/Counts/Isett/Maxey/McCall

**SB 304**

House conferees: Bosse - Chair/Alexander/Chisum/McCall/Wilson

Respectfully,

/s/Sharon Carter, Chief Clerk  
House of Representatives

(Senator Armbrister in Chair)

**COMMITTEE SUBSTITUTE  
SENATE BILL 702 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 engrossment:

**CSSB 702**, Relating to compensatory, intensive, and accelerated education in public schools.

The bill was read second time.

(President in Chair)

Senator Truan offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **CSSB 702** as follows:

In SECTION 11 of the bill (proposed committee substitute, page 7, line 35) sec. 42.152(c), insert the following after "Chapter 29."

Notwithstanding any other provisions of this section:

(1) To ensure that a sufficient amount of the funds allotted under this section are available to supplement instructional programs and services, no more than twenty percent of the funds allotted under this section may be used to fund disciplinary alternative education programs established under Section 37.008, Subchapter A of this Code, ("Alternative Settings for Behavior Management").

(2) No more than half of any disciplinary alternative education program campus' total budget may be funded from this section's allotment.

(3) The commissioner may waive the limitations of subsections (1) and (2) upon an annual petition, by a district's board and a district's site-based decision making committee, presenting the reason for the need to spend supplemental compensatory education funds on disciplinary programs under Section 37.008 in excess of the limits established in subsection (a) and (b). The district shall in its petition report the number of students in each grade level, by demographic subgroup, not making satisfactory progress under the state's assessment system. The commissioner will make this waiver request information available annually to the public on the agency's website.

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.

**CSSB 702** as amended was passed to engrossment by a viva voce vote.

**COMMITTEE SUBSTITUTE  
SENATE BILL 702 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 **CSSB 702** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 27, Nays 1, Present-not voting 1.

Yeas: Armbrister, Barrientos, Bernsen, Bivins, Brown, Cain, Duncan, Ellis, 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.

Absent-excused: Carona, Fraser.

The bill was read third time and was passed by the following vote:  
Yeas 28, Nays 0, Present-not voting 1.

Present-not voting: Mr. President.

Absent-excused: Carona, Fraser.

**SENATE CONCURRENT RESOLUTION 22  
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:

**SCR 22**, Requesting the United States Environmental Protection Agency to provide maximum flexibility to the states in dealing with federal environmental programs.

The resolution was read second time and was adopted by a viva voce vote.

**(Senator Armbrister in Chair)**

**SENATE CONCURRENT RESOLUTION 23  
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:

**SCR 23**, Urging the Texas Natural Resource Conservation Commission to expand its coordination efforts to increase flexibility of federal regulations delegated to the states.

The resolution was read second time and was adopted by a viva voce vote.

**COMMITTEE SUBSTITUTE  
HOUSE BILL 822 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:

**CSHB 822**, Relating to the deferral of proceedings in a justice, municipal, or juvenile court against certain persons for purposes of attending a teen court program.

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

**COMMITTEE SUBSTITUTE  
HOUSE BILL 822 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 **CSHB 822** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 27, Nays 1, Present-not voting 1.

Yeas: Armbrister, Barrientos, Bernsen, Bivins, Brown, Cain, Duncan, Ellis, 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.

Absent-excused: Carona, Fraser.

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

**COMMITTEE SUBSTITUTE  
SENATE BILL 456 ON SECOND READING**

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

**CSSB 456**, Relating to the designation of Farm-to-Market Road 528 as the Ralph L. Lowe Parkway.

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

**COMMITTEE SUBSTITUTE  
SENATE BILL 456 ON THIRD READING**

Senator Brown moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 456** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 26, Nays 2, Present-not voting 1.

Yeas: Armbrister, Barrientos, Bernsen, Bivins, Brown, Cain, Duncan, Ellis, Harris, Haywood, Jackson, Lindsay, Lucio, Madla, Moncrief, Nelson, Ogden, Shapiro, Shapleigh, Sibley, Staples, Truan, Van de Putte, West, Whitmire, Zaffirini.

Nays: Gallegos, Wentworth.

Present-not voting: Mr. President.

Absent-excused: Carona, Fraser.

The bill was read third time and was passed by the following vote: Yeas 27, Nays 1, Present-not voting 1.

Yeas: Armbrister, Barrientos, Bernsen, Bivins, Brown, Cain, Duncan, Ellis, Harris, Haywood, Jackson, Lindsay, Lucio, Madla, Moncrief, Nelson, Ogden,



Shapiro, Shapleigh, Sibley, Staples, Truan, Van de Putte, Wentworth, West, Whitmire, Zaffirini.

Nays: Gallegos.

Present-not voting: Mr. President.

Absent-excused: Carona, Fraser.

#### **SENATE BILL 934 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 engrossment:

**SB 934**, Relating to allowing recreational metal detecting in designated areas of state parks.

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

**(President in Chair)**

#### **SENATE BILL 934 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 **SB 934** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 27, Nays 1, Present-not voting 1.

Yeas: Armbrister, Barrientos, Bernsen, Bivins, Brown, Cain, Duncan, Ellis, 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.

Absent-excused: Carona, Fraser.

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

#### **COMMITTEE SUBSTITUTE SENATE BILL 1445 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 engrossment:

**CSSB 1445**, Relating to the issuance of special license plates for elected county officials.

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

**COMMITTEE SUBSTITUTE**  
**SENATE BILL 1445 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 **CSSB 1445** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 27, Nays 1, Present-not voting 1.

Yeas: Armbrister, Barrientos, Bernsen, Bivins, Brown, Cain, Duncan, Ellis, 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.

Absent-excused: Carona, Fraser.

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

**PERMISSION TO INTRODUCE BILLS**

Senator Truan moved to suspend Senate Rule 7.07(b) and Section 5, Article III of the Texas Constitution to permit the introduction of the following bills: **SB 1838, SB 1839**.

The motion prevailed by the following vote: Yeas 28, Nays 0, Present-not voting 1.

Present-not voting: Mr. President.

Absent-excused: Carona, Fraser.

**SENATE BILLS ON FIRST READING**

The following bills were introduced, read first time, and referred to the committees indicated:

**SB 1838** by Duncan

Relating to certain long-term care facilities.

To Committee on Finance.

**SB 1839** by Moncrief, Duncan

Relating to certain long-term care facilities.

To Committee on Health and Human Services.

**SENATE RULES SUSPENDED**  
**(Posting Rules)**

On motion of Senator Wentworth and by unanimous consent, Senate Rule 11.10 and Senate Rule 11.18 were suspended in order that the Committee on Redistricting might meet and consider **SB 499** today.

**SENATE RESOLUTION 949**

Senator Barrientos offered the following resolution:

WHEREAS, The Senate of Texas takes pleasure in recognizing Cinco de Mayo, the festive day on which Mexico celebrates her successful struggle for independence from the French in the 19th century; the date memorializes the famous Battle of Puebla on May 5, 1862; and

WHEREAS, The French occupation of Mexico was part of a larger scheme to threaten the United States; the French planned to govern Mexico and then support the Confederate States of America who were engaged in a civil war with the hope of permanently dividing the Union; and

WHEREAS, As a result of this battle, the people of Mexico learned that they had the power to control their destiny and they were inspired to unite as a nation in a common cause to end foreign intervention; and

WHEREAS, Many Texans and Tejanos served in the volunteer ranks of the Mexican Army during the historic Battle of Puebla on that day; many Hispanic Texans trace their ancestral roots to Mexico and proudly join family and neighbors to the south in celebrating freedom; and

WHEREAS, Celebrants enjoy hearing mariachi bands, watching ballet de folklorico, viewing arts and crafts, eating luscious specialty foods, and seeing coronations and dances; and

WHEREAS, It is entirely fitting that Hispanic Americans and all Texans should celebrate this day and pay tribute to General Ignacio Zaragoza de Seguin, who was born in Goliad, Texas, in 1829; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 77th Legislature, hereby commemorate the heroism of those who fought for independence on Cinco de Mayo, recognize the great value of the celebration in building a sense of community among all the citizens of this state, and encourage all Texans to take part in the celebration and festivities; and, be it further

RESOLVED, That a copy of this Resolution be prepared as an expression of the goodwill and high esteem of the Texas Senate.

BARRIENTOS  
GALLEGOS  
LUCIO  
MADLA  
TRUAN  
VAN DE PUTTE  
ZAFFIRINI

The resolution was read.

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

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

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 187**

Senator Shapleigh submitted the following Conference Committee Report:

Austin, Texas  
May 4, 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 187** 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.

SHAPLEIGH	SOLOMONS
GALLEGOS	ISETT
BERNSEN	MAXEY
VAN DE PUTTE	COUNTS
On the part of the Senate	On the part of the House

**A BILL TO BE ENTITLED  
AN ACT**

relating to the creation of an authority and related projects and duties regarding government services provided through online systems.

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

**SECTION 1.** Section 2054.051, Government Code, is amended by adding Subsection (f) to read as follows:

(f) The department shall identify opportunities for state agencies to coordinate with each other in the adoption and implementation of information resources technology projects.

**SECTION 2.** Section 2054.096(a), Government Code, is amended to read as follows:

(a) Each agency strategic plan must be consistent with the state strategic plan and include:

- (1) a statement of the state agency's goals, objectives, and programs as found in the agency's legislative appropriations request;
- (2) a description of the agency's major data bases and their applications;
- (3) a description of the agency's information resources management organizations, policies, and practices;
- (4) a description of interagency computer networks in which the agency participates;
- (5) a statement of the strategic objectives of the agency relating to information resources management for the next five fiscal years, beginning with the fiscal year during which the plan is submitted, with a description of how those objectives help achieve the agency's programs and goals, and a description of how those objectives support and promote the goals and policies of the state strategic plan;

(6) a description of any information resources technology projects proposed by the agency, including:

(A) a statement of how the projects relate to similar projects, as identified by the department, implemented or proposed by other agencies; and

(B) a description of any proposed plans for coordinating the projects with other agencies; and

(7) [~~6~~] other planning components that the department may prescribe.

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

SUBCHAPTER I. TEXASONLINE AUTHORITY AND PROJECT

Sec. 2054.251. DEFINITIONS. In this subchapter:

(1) "Authority" means the TexasOnline Authority.

(2) "Division" means the TexasOnline division created by the department under Section 2054.264.

(3) "Licensing entity" means a department, commission, board, office, or other agency of the state or a political subdivision of the state that issues an occupational license.

(4) "Local government" means a county, municipality, special district, school district, junior college district, or other political subdivision of the state.

(5) "Occupational license" means a license, certificate, registration, or other form of authorization that a person must obtain to practice or engage in a particular business, occupation, or profession.

(6) "Project" means the project implemented under Section 2054.252.

Sec. 2054.252. TEXASONLINE PROJECT. (a) The authority shall implement a project designated "TexasOnline" that establishes a common electronic infrastructure through which state agencies and local governments, including licensing entities, may electronically:

(1) send and receive documents or required payments to and from:

(A) members of the public;

(B) persons who are regulated by the agencies or local governments; and

(C) the agencies and local governments;

(2) receive applications for original and renewal licenses and permits, including occupational licenses, complaints about occupational license holders, and other documents for filing from members of the public and persons who are regulated by a state agency or local government that, when secure access is necessary, can be electronically validated by the agency, local government, member of the public, or regulated person;

(3) send original and renewal occupational licenses to persons regulated by licensing entities;

(4) send profiles of occupational license holders to persons regulated by licensing entities and to the public;

(5) store information; and

(6) provide and receive any other service to and from the agencies and local governments or the public.

(b) The electronic infrastructure established by the authority under Subsection (a) may include the Internet, intranets, extranets, and wide area networks.

(c) The authority may implement this section in phases. Each state agency or local government that chooses to participate in the project and each licensing entity shall comply with the schedule established by the authority.

(d) The authority may contract with a private vendor to implement this section.

(e) The authority shall charge fees to licensing entities in amounts sufficient to cover the cost of implementing this section with respect to licensing entities. The authority shall charge a subscription fee to be paid by each licensing entity.

(f) The authority may exempt a licensing entity from subscription fees under Subsection (e) if the authority determines that the licensing entity has established an Internet portal that is performing the functions described by Subsection (a).

(g) Each licensing entity shall increase the occupational license renewal fees imposed by the licensing entity by an amount sufficient to cover the cost of the subscription fee imposed on the licensing entity under Subsection (e) but not to exceed:

(1) \$5 for an occupational license that is required to be renewed annually; or

(2) \$10 for an occupational license that is required to be renewed biennially.

Sec. 2054.253. MEMBERSHIP. (a) The authority consists of 15 members, as follows:

(1) a representative of each of the following state officers or agencies appointed by the state officer or the governing body of the agency:

(A) the comptroller; and

(B) the department;

(2) three representatives of local governments appointed by the governor, including one representative from a junior college district;

(3) three representatives of businesses that are regulated by a state agency or local government, appointed by the governor, including one representative from a rural area;

(4) four representatives of state agencies, including an institution of higher education other than a junior college district, appointed by the governor, including one representative from a rural area; and

(5) three public members appointed by the governor, including one representative from a rural area.

(b) A representative of the state auditor shall advise the authority.

Sec. 2054.254. TERMS. The members of the authority are appointed for staggered terms of six years with five members' terms expiring on February 1 of each odd-numbered year.

Sec. 2054.255. PRESIDING OFFICER. The member of the authority representing the department is the presiding officer.

Sec. 2054.256. MEETINGS. The authority shall meet at least quarterly.

Sec. 2054.257. REIMBURSEMENT OF EXPENSES. A member of the authority is not entitled to compensation but is entitled to reimbursement for the member's travel expenses as provided by Chapter 660 and the General Appropriations Act.

Sec. 2054.258. TRAINING FOR AUTHORITY MEMBERS. Not later than six months after the date on which an authority member is appointed, the member must complete training on the following:

(1) the legislation that created the authority, the division, and the project;

(2) the department rules that relate to the authority and the project;

(3) the programs operated by the authority and division;

(4) the role and functions of the authority and division;

(5) the current budget for the authority and division;

(6) the results of the most recent formal audit of the authority;

(7) the requirements of:

(A) the open meetings law, Chapter 551;

(B) the public information law, Chapter 552;

(C) the administrative procedure law, Chapter 2001; and

(D) other laws relating to public officials, including conflict of interest

laws; and

(8) any applicable ethics policies adopted by the authority or the Texas Ethics Commission.

Sec. 2054.259. GENERAL POWERS AND DUTIES OF TEXAS ONLINE AUTHORITY. The authority shall:

(1) develop policies related to operation of the project;

(2) consider services to be provided by the project;

(3) operate and promote the project;

(4) manage contract performance for the project;

(5) comply with department financial requirements;

(6) oversee money generated for the operation and expansion of the project;

(7) develop project pricing policies, including policies regarding any fees that a state agency or local government may charge for a transaction that uses the project;

(8) evaluate participation in the project to determine if performance efficiencies or other benefits and opportunities are gained through project implementation;

(9) advise the department about the project; and

(10) coordinate with the department to receive periodic security audits of the operational facilities of the project.

Sec. 2054.260. REPORTING REQUIREMENTS: AUTHORITY. (a) Not later than September 1 of each even-numbered year, the authority shall report on the status, progress, benefits, and efficiency gains of the project. The authority shall provide the report to:

(1) the presiding officer of each house of the legislature;

(2) the chair of each committee in the legislature that has primary jurisdiction over the department;

(3) the governor; and

(4) each state agency or local government participating in the project.

(b) As required by the department, the authority shall report to the department regarding financial matters, including project costs and revenues.

(c) The authority shall report to the department on any significant issues regarding contract performance on the project.

Sec. 2054.2605. REPORTING REQUIREMENTS: LICENSING ENTITIES. (a) Each licensing entity shall report to the Legislative Budget Board on the licensing entity's progress in using the project in performing the functions described by Section 2054.252(a).

(b) This section applies only to a licensing entity for which the authority has begun implementation of the project under the schedule established by the authority.

(c) A report required by this section shall be submitted every six months according to a reporting schedule established by the Legislative Budget Board.

Sec. 2054.2606. REPORTING PROFILE INFORMATION. (a) The following licensing entities shall establish a profile system consisting of the specific license holder information prescribed by Subsection (c):

(1) Texas Board of Chiropractic Examiners, with respect to chiropractors;  
(2) Texas State Board of Podiatric Medical Examiners, with respect to podiatrists;

(3) State Board of Dental Examiners, with respect to dentists;  
(4) Texas Optometry Board, with respect to optometrists and therapeutic optometrists;

(5) Texas Board of Physical Therapy Examiners, with respect to physical therapists and physical therapy facilities;

(6) Texas Board of Occupational Therapy Examiners, with respect to occupational therapists and occupational therapy facilities;

(7) Texas State Board of Examiners of Psychologists, with respect to psychologists; and

(8) Texas State Board of Pharmacy, with respect to pharmacists and pharmacies.

(b) A licensing entity other than a licensing entity listed in Subsection (a) is encouraged to establish a profile system consisting of the specific license holder information prescribed by Subsection (c).

(c) A licensing entity that establishes a profile system under this section shall determine the information to be included in the system and the manner for collecting and reporting the information. At a minimum, the entity shall include the following information in the profile system:

(1) the name of the license holder and the address and telephone number of the license holder's primary practice location;

(2) whether the license holder's patient, client, user, customer, or consumer service areas, as applicable, are accessible to disabled persons, as defined by federal law;

(3) the type of language translating services, including translating services for a person with impairment of hearing, that the license holder provides for patients, clients, users, customers, or consumers, as applicable;

(4) if applicable, insurance information, including whether the license holder participates in the state child health plan under Chapter 62, Health and Safety Code, or the Medicaid program;

(5) the education and training received by the license holder, as required by the licensing entity;

(6) any specialty certification held by the license holder;

(7) the number of years the person has practiced as a license holder; and

(8) if applicable, any hospital affiliation of the license holder.

(d) The authority shall prepare rules for adoption by the board to prescribe the amount of the fee to be collected by a state agency that establishes a profile system for its license holders.

(e) The authority shall prepare additional rules as necessary to assist in the funding and administration of the profile systems established by state agencies, including rules prescribing policies for vendor contracts relating to the collection and entry of profile data.



Sec. 2054.261. ASSISTANCE AND COORDINATION WITH OTHER GOVERNMENTAL ENTITIES. The authority shall:

(1) assist state agencies and local governments in researching and identifying potential funding sources for the project;

(2) assist state agencies and local governments in using the project;

(3) assist the legislature and other state leadership in coordinating electronic government initiatives; and

(4) coordinate operations between state agencies and local governments to achieve integrated planning for the project.

Sec. 2054.262. RULES. (a) The authority shall prepare rules regarding operation of the project for consideration by the board.

(b) The board may adopt rules prepared by the authority.

Sec. 2054.263. SEAL. The authority shall adopt an icon, symbol, brand, seal, or other identifying device to represent the project.

Sec. 2054.264. TEXASONLINE DIVISION. The department shall create a division in the department designated "TexasOnline" to assist the authority in implementing its powers and duties under this subchapter.

Sec. 2054.265. SEPARATION OF RESPONSIBILITIES. The authority shall develop and implement policies that clearly separate the policymaking responsibilities of the authority and the management responsibilities of the division.

Sec. 2054.266. DONATIONS AND GRANTS. The authority may request and accept a donation or grant from any person for use by the authority in implementing or managing the project.

Sec. 2054.267. APPLICABILITY OF OTHER LAW. Chapter 2110 does not apply to the authority.

SECTION 4. Subsection (f), Section 2054.062, Government Code, is amended to read as follows:

(f) The task force is abolished and this section expires November [September] 1, 2001.

SECTION 5. Subchapter F, Chapter 2054, Government Code, is amended by adding Sections 2054.111 and 2054.112 to read as follows:

Sec. 2054.111. USE OF TEXASONLINE PROJECT. (a) In this section, "authority," "local government," and "project" have the meanings assigned by Section 2054.251.

(b) A state agency shall consider using the project for agency services provided on the Internet, including:

(1) financial transactions;

(2) applications for licenses, permits, registrations, and other related documents from the public;

(3) electronic signatures; and

(4) any other applications that require security.

(c) If a state agency chooses not to use the project under Subsection (b), the agency must provide documentation to the authority that shows the services and security required by the agency. The authority shall prescribe the documentation required.

(d) A state agency that chooses to use the project under Subsection (b) shall comply with rules adopted by the department, including any rules regarding:

(1) the appearance of the agency's Internet site and the ease with which the site can be used; and

(2) the use of the authority seal.

(e) A state agency or local government that uses the project may charge a fee if:

(1) the fee is necessary to recover the actual costs directly and reasonably incurred by the agency or local government because of the project; and

(2) the authority approves the amount of the fee.

(f) A local government may not charge a fee under Subsection (e) that is otherwise prohibited under Section 195.006 or 195.007, Local Government Code.

Sec. 2054.112. SECURITY REVIEW FOR NEW INTERNET SITES. Each state agency shall review its requirements for forms, data collection, and notarization when planning to deliver a service through the Internet, to determine if the information is necessary and, if necessary, the appropriate level of authentication. Based on this review, the agency shall:

(1) eliminate any unnecessary requirements; and

(2) adjust security to the appropriate level for any necessary requirements.

SECTION 6. The project created by Subchapter I, Chapter 2054, Government Code, as added by this Act, is a continuation and expansion of the demonstration project created by Section 2054.062, Government Code.

SECTION 7. Section 2054.252(g), Government Code, as added by this Act, expires September 1, 2005.

SECTION 8. (a) Not later than October 31, 2001, the officers and other entities responsible for making appointments under Section 2054.253, Government Code, as added by this Act, shall make their initial appointments.

(b) The governor shall designate the initial terms so that the terms of five members described by Section 2054.253, Government Code, as added by this Act, expire on each of the following dates:

(1) February 1, 2003;

(2) February 1, 2005; and

(3) February 1, 2007.

(c) The TexasOnline Authority may not hold its first meeting before November 1, 2001.

SECTION 9. Not later than November 1, 2002, the TexasOnline Authority shall report on the feasibility of allowing the sale or placement of advertising on the project described by Section 2054.252, Government Code, as added by this Act. The authority shall provide the report to:

(1) the presiding officer of each house of the legislature;

(2) the chair of each committee in the legislature that has primary jurisdiction over the Department of Information Resources; and

(3) the governor.

SECTION 10. (a) Not later than April 1, 2002, the TexasOnline Authority shall adopt a schedule for implementing Section 2054.252, Government Code, as added by this Act. The schedule shall permit the initial group of licensing entities to perform the functions described by Section 2054.252(a), Government Code, as added by this Act, not later than September 1, 2002.

(b) Not later than January 1, 2003, the TexasOnline Authority shall report to the presiding officer of each house of the legislature and to the presiding officers of the committees of each house of the legislature that have primary oversight jurisdiction over the authority or over a licensing entity subject to Subchapter I, Chapter 2054, Government Code, as added by this Act, on the authority's progress in implementing Section 2054.252, Government Code, as added by this Act.

SECTION 11. (a) Each licensing entity required under this Act to establish a profile system shall adopt rules under this Act not later than January 1, 2002. The entity shall make the initial profiles required under this Act available to the public not later than January 1, 2005.

(b) Each licensing entity required under this Act to establish a profile system shall collect the fee prescribed by the TexasOnline Authority under Section 2054.2606(d), Government Code, as added by this Act. The authority shall prescribe the amount of the fee not later than January 1, 2002. A licensing entity required to collect the fee shall begin collecting the fee as part of the entity's license renewal system on that date.

SECTION 12. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2001.

The Conference Committee Report was filed with the Secretary of the Senate.

### **RESOLUTIONS OF RECOGNITION**

The following resolutions were adopted by the Senate:

#### **Congratulatory Resolutions**

- SR 895** by Ellis, Congratulating Vanessa Wilson.
- SR 896** by Ellis, Congratulating Naila Ahmed.
- SR 897** by Ellis, Congratulating Deonne Cunningham.
- SR 898** by Ellis, Congratulating Jennifer Davis.
- SR 899** by Ellis, Congratulating Chad Dunn.
- SR 900** by Ellis, Congratulating Phillip Dupre.
- SR 901** by Ellis, Congratulating Craig Dykes.
- SR 902** by Ellis, Congratulating La Tonya Edwards.
- SR 903** by Ellis, Congratulating Edinia E. Espinoza.
- SR 904** by Ellis, Congratulating Jose Garza.
- SR 905** by Ellis, Congratulating Julie Glasco.
- SR 906** by Ellis, Congratulating Elizabeth Green.
- SR 907** by Ellis, Congratulating Carla B. Harleaux.
- SR 908** by Ellis, Congratulating Daniel Hernandez.
- SR 909** by Ellis, Congratulating Stacy A. Hill.
- SR 910** by Ellis, Congratulating Michelle Hinson.
- SR 911** by Ellis, Congratulating Rodney Hughes.
- SR 912** by Ellis, Congratulating Darrin Johnson.
- SR 913** by Ellis, Congratulating Natalie Johnson.
- SR 914** by Ellis, Congratulating Nakiya Jones.
- SR 915** by Ellis, Congratulating Lisa D. Juarez.

- SR 916** by Ellis, Congratulating Patrick J. Lin.
- SR 917** by Ellis, Congratulating Sara McCuiston.
- SR 918** by Ellis, Congratulating Jason McLemore.
- SR 919** by Ellis, Congratulating Jennifer Parrott.
- SR 920** by Ellis, Congratulating Alene Riley.
- SR 921** by Ellis, Congratulating Corey Williams.
- SR 922** by Ellis, Congratulating Teniesa Byrd of Temple.
- SR 923** by Ellis, Congratulating Etta Weaver.
- SR 924** by Ellis, Congratulating Sheronica Willis of Temple.
- SR 925** by Ellis, Congratulating Shaniqua Lewis of Killeen.
- SR 926** by Ellis, Congratulating Michelle McDade of Temple.
- SR 927** by Ellis, Congratulating Shuquetta Williams of Temple.
- SR 928** by Ellis, Congratulating LaToya Moon of Harker Heights.
- SR 929** by Ellis, Congratulating Oritsesemaye Nealy of Temple.
- SR 930** by Ellis, Congratulating Candice Dotsey of Temple.
- SR 931** by Ellis, Congratulating Crystal Collins of Temple.
- SR 932** by Ellis, Congratulating Tiffany Gardner of Temple.
- SR 933** by Ellis, Congratulating Marquita Campbell of Temple.
- SR 934** by Haywood, Congratulating Peggy Edgar of Wichita Falls.
- SR 935** by Whitmire, Commending the Thurgood Marshall Elementary Magnet School cheerleaders.
- SR 936** by Whitmire, Commending the Daughters of W.A.R. in Houston.
- SR 937** by Staples, Congratulating Virginia Goodrow of Palestine.
- SR 938** by Carona, Congratulating Elsie Angele of Houston.
- SR 939** by Carona, Celebrating the 30th anniversary of the invention of the frozen margarita and margarita machine.
- SR 942** by Fraser, Congratulating Dr. Lamar Johanson of Killeen.
- SR 943** by Fraser, Congratulating Brenda King of Killeen.
- SR 944** by Ellis, Congratulating Cleandres Ponder of Temple.
- SR 945** by Ellis, Congratulating Jennifer Clay.
- SR 946** by Ellis, Congratulating Rico Reyes.
- SR 947** by Ellis, Congratulating Daron Roberts.

#### **ADJOURNMENT**

On motion of Senator Truan, the Senate at 12:05 p.m. adjourned until 10:00 a.m. Monday, May 7, 2001.

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**APPENDIX**

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**COMMITTEE REPORTS**

The following committee reports were received by the Senate:

May 4, 2001

**HEALTH AND HUMAN SERVICES — HCR 84, HB 1516, HB 1782, HB 2463, HB 3365**

**EDUCATION — CSHB 467, CSHB 1685**

**ADMINISTRATION — HCR 38, HCR 74, HCR 181, HCR 192, HCR 196, HCR 197, HB 1059, HB 2147, HB 2796**

**CRIMINAL JUSTICE — HB 587**

**BUSINESS AND COMMERCE — CSHB 2828, CSHB 2255**

**INTERGOVERNMENTAL RELATIONS — SB 1714, SB 1830, HB 958, HB 1222, HB 1264, HB 1299, HB 1512, HB 1621, HB 1990, HB 2307, HB 2314, HB 2384, HB 2874, HB 2875, HB 3132, HB 3334, HB 3661, HJR 8**

**EDUCATION — CSHB 1938**

**HEALTH AND HUMAN SERVICES — CSHB 663**

**NATURAL RESOURCES — CSHB 2572, HB 651 (Amended), CSHB 2959, HB 3286 (Amended), CSSB 1821, CSHB 2690, HB 3355**

**CRIMINAL JUSTICE — HB 2663, SB 1453, HB 1314**

**BUSINESS AND COMMERCE — CSHB 1763**

**NATURAL RESOURCES — SCR 51**

**ADMINISTRATION — HB 2877 (Amended)**

**SIGNED BY GOVERNOR**

May 3, 2001

**SB 181, SB 479, SB 481, SB 509, SB 611, SB 627, SB 628, SB 640, SB 738, SB 774, SB 797, SB 831, SB 835, SB 989, SCR 12, SCR 20, SCR 47**

**SENT TO SECRETARY OF STATE**

May 4, 2001

**SJR 2**

**SENT TO GOVERNOR**

May 4, 2001

**SB 15, SB 149, SB 219, SB 353, SB 495, SB 573, SB 607, SB 610, SB 739, SB 827**