

SIXTY-SECOND DAY

MONDAY, MAY 5, 2003

PROCEEDINGS

The Senate met at 11:00 a.m. pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Armbrister, Averitt, Barrientos, Bivins, Brimer, Carona, Deuell, Duncan, Ellis, Estes, Fraser, Gallegos, Harris, Hinojosa, Jackson, Janek, Lindsay, Lucio, Madla, Nelson, Ogden, Ratliff, Shapiro, Shapleigh, Staples, Van de Putte, Wentworth, West, Whitmire, Williams, Zaffirini.

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

The Reverend Dr. Jaquelyn Donald-Mims, Imani Community Church, Austin, offered the invocation as follows:

Eternal God, our Lord, how excellent is Your name in all the Earth; You are our refuge and strength, a very present help in time of trouble; You are our shepherd, we shall not want, Your love never fails; Your knowledge is too deep, we praise You, for You created us, both fearfully and wonderfully. Today, we commit our cares to You. Fill us now with Your insight, Your spirit of compassion for the needs and aspirations of others here and in the world community, and move us to ease the index of misery for them and us. Just as You are present in the midst in the war overseas, Your omnipresence is in our midst in the wars here at home: wars of violence, terror, fear, insecurity, poverty, hunger, evil, oppression, physical and emotional abuse, debilitating disabilities.

As the great legislators deliberate in these proceedings, guide them to new opportunities for justice, hope, joy, and the grace to act here with power and strength, prick their hearts with the love You have for us. Accentuate our shared experiences, subdue all passions to divide because of our diversity, let us honor and value all men, women, girls, and boys and the conditions in which they live. Lord, bless our education and the new Texas graduates.

God bless America, God bless and help our great President Bush, and God bless our courageous armed services men and women and their families, risking life to protect freedom and justice; and God bless this great

State of Texas, bless and help our great Governor Rick Perry, the Lieutenant Governor, and all Senators active in the proceedings of this day and this session, and all lawmakers.

We are confident of what You will do here, because we know the great history of what You've done here, we are grateful, as we stand on the shoulders of those who have labored before us; we know that bridges over which we cross today are bridges that we did not build, trees that they planted now provide us shade in the noonday sun. Now bless us this day, we pray, in the name of the father, son, and holy spirit.

Senator Whitmire moved that the reading of the Journal of the proceedings of Friday, May 2, 2003, be dispensed with and the Journal be approved as printed.

The motion prevailed without objection.

CO-AUTHOR OF SENATE BILL 438

On motion of Senator Lindsay, Senator Wentworth will be shown as Co-author of **SB 438**.

CO-AUTHORS OF SENATE BILL 652

On motion of Senator Shapleigh, Senators Averitt, Ellis, Fraser, Hinojosa, Lucio, and Zaffirini will be shown as Co-authors of **SB 652**.

CO-AUTHOR OF SENATE BILL 1263

On motion of Senator Armbrister, Senator Williams will be shown as Co-author of **SB 1263**.

CO-AUTHOR OF SENATE BILL 1295

On motion of Senator Van de Putte, Senator Hinojosa will be shown as Co-author of **SB 1295**.

CO-AUTHOR OF SENATE BILL 1662

On motion of Senator Duncan, Senator Nelson will be shown as Co-author of **SB 1662**.

CO-AUTHOR OF SENATE BILL 1771

On motion of Senator Brimer, Senator Ellis will be shown as Co-author of **SB 1771**.

CO-AUTHOR OF SENATE RESOLUTION 608

On motion of Senator Brimer, Senator Harris will be shown as Co-author of **SR 608**.

CO-AUTHORS OF SENATE RESOLUTION 711

On motion of Senator Harris, Senators Armbrister, Averitt, Barrientos, Bivins, Brimer, Deuell, Duncan, Estes, Fraser, Gallegos, Jackson, Lucio, Madla, Nelson, and Williams will be shown as Co-authors of **SR 711**.

MESSAGE FROM THE HOUSE**HOUSE CHAMBER**

Austin, Texas

May 5, 2003

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 179, Relating to the qualification of a county fair association for an ad valorem tax exemption.

HB 453, Relating to a pilot program for early childhood teacher education and retention.

HB 499, Relating to the issuance of urban forestry license plates.

HB 534, Relating to Texas State Rifle Association license plates.

HB 571, Relating to special license plates approved by the Daughters of the Republic of Texas.

HB 659, Relating to the designation of the interchange at U.S. Highway 75 and Interstate Highway 635 in Dallas as the David M. Laney High Five Interchange.

HB 757, Relating to the continuation of the higher education assistance pilot program.

HB 771, Relating to the creation of an offense of using a telephone while operating a school bus.

HB 776, Relating to requiring that certain individuals who provide nursing services in a nursing institution receive annual training in caring for people with dementia.

HB 818, Relating to the setting of performance levels on assessment instruments used in the public school accountability system.

HB 826, Relating to the disposition of certain unclaimed wage payments.

HB 919, Relating to the review and approval of drainage reports by certain special districts.

HB 1027, Relating to the confidentiality of crime victim information.

HB 1097, Relating to the birth defects monitoring program.

HB 1109, Relating to collateral eligible to be pledged with the comptroller to secure state deposits.

HB 1163, Relating to contracts between certain health care providers and health benefit plans.

- HB 1166**, Relating to the on-line information needs and requirements of licensing agencies and their license holders.
- HB 1186**, Relating to the designation of a weight enforcement officer by a commissioners court in certain counties.
- HB 1194**, Relating to pipeline safety fees.
- HB 1197**, Relating to authorization for a development agreement between a municipality and an owner of land in the municipality's extraterritorial jurisdiction.
- HB 1203**, Relating to the use of site-specific information by a groundwater conservation district to develop its management plan.
- HB 1232**, Relating to the expiration of alcoholic beverage permits and licenses.
- HB 1241**, Relating to measures to protect the state from theft, lost lottery tickets, or other losses incurred by or in connection with lottery sales agents.
- HB 1246**, Relating to the prosecution of the offenses of sexual assault and aggravated sexual assault.
- HB 1296**, Relating to small business development programs of navigation districts and port authorities.
- HB 1315**, Relating to the regulation of talent agencies.
- HB 1344**, Relating to the election of an unopposed candidate for an office of a political subdivision and to omission of that candidate from the ballot.
- HB 1439**, Relating to the application and enforcement of traffic regulations in private subdivisions in certain counties.
- HB 1476**, Relating to the election of certain unopposed candidates.
- HB 1493**, Relating to the foreclosure of property and the authority of a mortgage servicer to administer the foreclosure on behalf of a mortgagee.
- HB 1496**, Relating to reduction in benefit fraud and claim overpayments in unemployment compensation.
- HB 1512**, Relating to meetings to exchange information regarding emergency management plans relating to pipeline safety.
- HB 1527**, Relating to the operation and movement of a vehicle when a traffic-control signal does not display an indication.
- HB 1534**, Relating to certain powers of groundwater conservation districts.
- HB 1570**, Relating to University Interscholastic League rules concerning a community celebration for a school team that participates in a league activity.
- HB 1575**, Relating to cost-based transportation rates for natural gas.
- HB 1576**, Relating to the telecommunications planning and oversight council.
- HB 1577**, Relating to the prohibition of glass containers within the boundaries of a state-owned riverbed; providing criminal penalties.

- HB 1602**, Relating to the availability on the Internet of electronic reports of political contributions and expenditures.
- HB 1615**, Relating to requirements for door restrictors or firefighter's service applicable to certain elevators, escalators, or related equipment.
- HB 1663**, Relating to the disposition of seized weapons.
- HB 1675**, Relating to an extension of the state law supporting the Olympic and Pan American Games to cover the 2011 Pan American Games.
- HB 1697**, Relating to recounts of elections in which direct recording electronic voting machines were used.
- HB 1701**, Relating to providing a uniform limit on the population of a county election precinct.
- HB 1769**, Relating to occupations regulated by the Texas Commission on Private Security.
- HB 1771**, Relating to use of certain 9-1-1 fees and surcharges in certain counties.
- HB 1791**, Relating to permits for the commercial composting of certain solid wastes.
- HB 1796**, Relating to the repeal of the exception from required disclosure under the public information law of certain information submitted by a potential vendor or contractor.
- HB 1813**, Relating to the conduct of a raffle by a qualified nonprofit organization.
- HB 1824**, Relating to adjusting formula funding for certain institutions of higher education to account for differences between estimated and actual receipts of educational and general funds.
- HB 1886**, Relating to the assessment of fees for the regulation of code enforcement officers.
- HB 1920**, Relating to certain immunization programs.
- HB 1952**, Relating to local regulation of public swimming pools.
- HB 1991**, Relating to the definition of a contribution for purposes of the regulation and reporting of political contributions.
- HB 1998**, Relating to changing the titles of the heads of the staff of the Texas Alcoholic Beverage Commission to executive director and deputy executive director.
- HB 2032**, Relating to the confidentiality of e-mail addresses under the public information law.
- HB 2056**, Relating to the maximum value of a charitable raffle prize.
- HB 2074**, Relating to the election of directors and validation of acts of the governing board of the Real-Edwards Conservation and Reclamation District.
- HB 2081**, Relating to an exemption from The Texas Engineering Practice Act for certain public works.

- HB 2112**, Relating to the liability of an employer for actions of an employee in the sale, service, dispensing, or delivery of alcoholic beverages.
- HB 2128**, Relating to the transfer of certain state property from the Department of Public Safety of the State of Texas to Childress County.
- HB 2131**, Relating to the regulation of certain operating room nurses employed by certain other health providers.
- HB 2172**, Relating to administration of certain workforce development programs by the Texas Workforce Commission.
- HB 2192**, Relating to the regulation of controlled substances under the Texas Controlled Substances Act and to the prosecution of certain offenses under that Act.
- HB 2200**, Relating to restrictions on apartment owners in a condominium regime relating to club membership.
- HB 2250**, Relating to the powers and duties of the Rio Grande watermaster and the delivery of water down the banks and bed of the Rio Grande.
- HB 2278**, Relating to the applicability of the exception to prosecution for the offense of abandoning or endangering child.
- HB 2297**, Relating to the manner in which the roll of members-elect is called when a house of the legislature convenes in regular session.
- HB 2298**, Relating to the authority of certain state agencies to purchase prescription drugs and other medications jointly with other states.
- HB 2334**, Relating to the right of residents of an area annexed for limited purposes to vote in certain municipal elections.
- HB 2379**, Relating to the recreational facility fee charged at The University of Texas at Dallas.
- HB 2385**, Relating to salary payments to municipal and county employees called to active military duty.
- HB 2400**, Relating to military leave and military leave time accounts for certain municipal fire fighters and police officers.
- HB 2455**, Relating to the governmental entities subject to, and the confidentiality of records under, the sunset review process.
- HB 2457**, Relating to an intercollegiate athletics fee at Texas A&M University-Kingsville.
- HB 2481**, Relating to excluding certain income in calculating child support and spousal maintenance.
- HB 2485**, Relating to internal auditing of state agencies.
- HB 2543**, Relating to allowing nonprofit corporations to offer limited cash prizes under the Charitable Raffle Enabling Act.
- HB 2567**, Relating to the disposal of brine from desalination operations.

- HB 2585**, Relating to an examination requirement for mortgage broker and loan officer license applicants.
- HB 2622**, Relating to certain governmental agency and private entity access to and use of criminal history record information maintained by the Department of Public Safety.
- HB 2636**, Relating to notifying an applicant of the omission of certain information from a federal postcard application to vote in an election.
- HB 2660**, Relating to the establishment of minimum levels of water conservation in water conservation plans.
- HB 2661**, Relating to the use of graywater.
- HB 2663**, Relating to the establishment of quantifiable goals for drought contingency plans.
- HB 2668**, Relating to the punishment and sentencing of defendants convicted of certain offenses under the Texas Controlled Substances Act.
- HB 2866**, Relating to coordination of inspections of certain licensed child-care facilities.
- HB 2875**, Relating to the definition of "dispose of" for purposes of criminal penalties imposed under the Water Code.
- HB 2881**, Relating to prohibiting an attack on an assistance animal; creating an offense.
- HB 2886**, Relating to certain certificates and reports filed with the bureau of vital statistics.
- HB 2889**, Relating to the authority of certain municipalities to issue bonds, notes, or warrants to finance the acquisition, construction, operation, or repair of certain health and recreational facilities.
- HB 2895**, Relating to the operations of the Texas Youth Commission.
- HB 2902**, Relating to the assessment of costs for the improvement of a road in a part of a subdivision.
- HB 2911**, Relating to designation of Farm-to-Market Road 68 in Fannin County as Speaker Jimmy Turman Road.
- HB 2940**, Relating to the funding of the administrative costs of the Texas Environmental Education Partnership Fund Board.
- HB 2964**, Relating to the operation of municipal school districts and the levy of municipal school district taxes.
- HB 2989**, Relating to an inquest when a body part is found and to the qualifications of a person conducting an inquest.
- HB 3014**, Relating to authorizing gifts and grants of drugs and other items to certain state agencies.

- HB 3024**, Relating to increasing governmental efficiency through the reduction of duplicative reporting and auditing requirements.
- HB 3034**, Relating to the rates of certain retail public utilities.
- HB 3039**, Relating to the lease of space for state agencies by the Texas Building and Procurement Commission.
- HB 3041**, Relating to school bus safety standards.
- HB 3042**, Relating to the administration of the Texas Building and Procurement Commission.
- HB 3043**, Relating to travel services contracts.
- HB 3044**, Relating to written comments by the General Land Office regarding leases executed by the Texas Building and Procurement Commission.
- HB 3045**, Relating to the limitation on the allocation of office space to state agencies.
- HB 3061**, Relating to regulation of the disposal of animal remains.
- HB 3074**, Relating to required activities and limits on the amounts of state financial assistance for which regional planning commissions may be eligible.
- HB 3087**, Relating to a release or satisfaction of a judgment for child support arrearages.
- HB 3113**, Relating to the definition of abuse of a child.
- HB 3114**, Relating to the definition of gross income under the Family Code.
- HB 3179**, Relating to the elimination of certain membership requirements for local workforce development boards and of certain programs administered by those boards.
- HB 3194**, Relating to an exemption for the Department of Protective and Regulatory Services from paying certain costs and fees.
- HB 3213**, Relating to the authority of veterinarians to form a professional association.
- HB 3229**, Relating to electing directors of the Blanco-Pedernales Groundwater Conservation District.
- HB 3232**, Relating to the collection of costs incurred by a municipality in remedying substandard conditions on a property.
- HB 3235**, Relating to certification training programs for municipal building inspectors and the implementation of Texas building energy efficiency performance standards by certified municipal building inspectors.
- HB 3242**, Relating to the use of the reverse auction procedure by state agencies.
- HB 3270**, Relating to establishing an appellate judicial system for the Eighth Court of Appeals.
- HB 3282**, Relating to the authority of certain counties to impose a hotel occupancy tax and to the rate of that tax.

HB 3303, Relating to the validation of certain acts and proceedings of the City of McAllen relating to the creation of two boards of trustees for the management of its international bridges.

HB 3324, Relating to the issuance of certain obligations and the imposition of assessments for the unemployment compensation system.

HB 3330, Relating to the definition of an eligible highway for purposes of applying to erect an information logo sign.

HB 3374, Relating to the creation, administration, powers, duties, operation, and financing of the Kenedy County Groundwater Conservation District.

HB 3376, Relating to the payment of court costs in certain asset forfeiture cases.

HB 3377, Relating to the filing of a notice of seizure and intended forfeiture in an asset forfeiture case.

HB 3414, Relating to the form used for filing a financing statement and certain other written records.

HB 3416, Relating to the appointment of notaries public.

HB 3420, Relating to a set-aside for certain colonia access roadway projects proposed by rural border counties.

HB 3425, Relating to an intercollegiate athletics fee at Prairie View A&M University.

HB 3556, Relating to management of and certain actions and proceedings of the Sterling County Underground Water Conservation District.

HB 3568, Relating to the jurisdiction of the county courts at law in Cameron County.

HB 3595, Relating to the statutory county courts in El Paso County.

HCR 186, Expressing support and encouragement for the reopening of the bridge and border crossing at La Linda to accommodate trade and tourism between Texas and Coahuila, Mexico.

HCR 196, Honoring Marine Lance Corporal Kyle Howard of San Angelo for heroic bravery displayed during Operation Iraqi Freedom.

HCR 197, Honoring Dr. Gregory W. Bartha of Midland on his receipt of a Golden Deeds Award.

HJR 16, Proposing a constitutional amendment to authorize a county, a city or town, or a junior college district to establish an ad valorem tax freeze on residence homesteads of the disabled and of the elderly and their spouses.

HJR 44, Proposing a constitutional amendment to permit a six-person jury in a district court misdemeanor trial.

SB 234, Relating to the authority of certain counties bordering Lake Buchanan to impose a hotel occupancy tax.

SB 394, Relating to the Records Management Interagency Coordinating Council.

SB 446, Relating to the authority of the Rural Foundation.

SB 461, Relating to the operation of authorized emergency vehicles.

SB 553, Relating to the validation of any act, governmental proceeding, official, bond, or obligation of a navigation district or port authority.

SB 579, Relating to the confidentiality of certain records in an adoption placement by the Department of Protective and Regulatory Services.

SB 655, Relating to members and veterans of the armed forces.

SB 775, Relating to the use of TexasOnline by state agencies.

SB 814, Relating to an exemption for certain military personnel and veterans from the requirements of the Texas Academic Skills Program.

SB 985, Relating to the definition of an energy emergency.

SB 1084, Relating to interest-free loans from the Texas Water Development Board for water districts in economically distressed areas.

SB 1238, Relating to regulating leasing in manufactured home communities.

SB 1577, Relating to the effect of a criminal conviction on licensing and regulation of a mortgage broker or loan officer.
(Committee Substitute)

SB 1666, Relating to the definition of a financial institution for purposes of law governing savings banks.
(Committee Substitute)

SB 1667, Relating to obtaining criminal history record information on an applicant for or holder of a mortgage broker or loan officer license.
(Committee Substitute)

Respectfully,

/s/Robert Haney, Chief Clerk
House of Representatives

PHYSICIAN OF THE DAY

Senator Madla was recognized and presented Dr. Ramon Garcia of Del Rio 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.

SENATE RESOLUTION 711

Senator Harris offered the following resolution:

WHEREAS, The Senate of the State of Texas is pleased to recognize the Texas High School Rodeo Association for its outstanding contributions to the Texas rodeo tradition and the young people of our state; and

WHEREAS, The association consists of over 1,450 members and sponsors more than 150 rodeos in 10 different regions of the state each year; top rodeo participants from each region compete for numerous awards and scholarships and for the honor of representing the State of Texas at the national rodeo championship competition held each year in July; and

WHEREAS, The association is affiliated with the National High School Rodeo Association, which is dedicated to the development of sportsmanship, horsemanship, and character in the youth of our country; and

WHEREAS, The Texas High School Rodeo Association is the largest and most prestigious state high school rodeo organization in the nation; it supports family values, young people, and academic excellence; the association has given away \$90,000 in college scholarships each year; and

WHEREAS, The association and communities throughout our state take great pride in the 2002 national team from Texas for winning the national rodeo championship at the National High School Rodeo Finals in Farmington, New Mexico; members of the team were Rachel Oates, Queen; Brittney Pozzi, Elizabeth Sullivan, Kylee Burrus, and Cyndi Terry, Barrels; Lindsey Ewing, Cigi Allen, Callie Albrecht, and Cami Cartwright, Breakaway; Angie Bennett, Lindsey Ewing, Raelyn Gardner, and Kaycie Teague, Pole Bending; Nicole Lingo, Stephanie Jacks, Callie Albrecht, and Sarina Thornton, Goat Tying; Courtney Sokol, Ryan McCarty, Kenra Wing, and Megan McBride, Girls Cutting; Thomas Bray, Myles Coats, Clayton Foltyn, and Chet Dove, Boys Cutting; Jason Timmerman, Bradley Bynum, Jerrad Hofstetter, and Dillon Shults, Calf Roping; Clayton Hass, Marty Eakin, Clayton Sebesta, and BJ Lawson, Steer Wrestling; Clayton Foltyn, Kevin Loyd, Skye Yocum, and Chad Mask, Bareback Riding; Bobby Wood, Marty Eakin, Wes Burns, and Rowdy Rathmell, Saddle Bronc; Koby Adcock, Kevin Ventura, Clayton Foltyn, and Josh Blackburn, Bull Riding; and Justin Tomlinson and Chad Brock, Jake Cooper and Jimmy Cooper, Randy Blackburn and James Lockhart, and Jake Swinney and Ryan Nolen, Team Roping; and

WHEREAS, The members of the championship team worked hard all year in their studies and in building their rodeo skills, and they are rightfully proud of their exemplary accomplishments; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 78th Legislature, hereby commend the Texas High School Rodeo Association for its invaluable contributions to our young citizens and extend congratulations to the 2002 national championship team on a well-deserved victory; and, be it further

RESOLVED, That a copy of this Resolution be prepared for all the Texas youth and sponsors involved in the association as an expression of esteem from the Texas Senate.

HARRIS
HINOJOSA
STAPLES

The resolution was read and was adopted without objection.

GUESTS PRESENTED

Senator Harris was recognized and introduced to the Senate members of the Texas High School Rodeo Association.

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 43, SB 164, SB 200, SB 339, SB 490, SB 513, SB 724, SB 752, HB 233, HB 234, HB 522, HB 601, HB 641, HB 935, HB 970, HB 988, HB 1049, HB 1138, HB 1234, HB 1369, HB 1522, HB 1677, HB 1819, HB 1820, HB 2091, HCR 36.

SENATE RESOLUTION 745

Senator Wentworth offered the following resolution:

WHEREAS, On June 15, 2003, residents of the Alamo City will mark an important occasion in the history of their community when they celebrate the 100th anniversary of the San Antonio Public Library; and

WHEREAS, The city's first free public library, Carnegie Library of San Antonio, was established in 1903; funded by a \$50,000 grant from Andrew Carnegie, it was built on land donated by Caroline Kampmann and originally housed some 7,500 books; and

WHEREAS, Since that time, the San Antonio Public Library has experienced tremendous growth; the library system now comprises the Central Library in downtown San Antonio, 19 auxiliary branches in the surrounding communities, and a bookmobile program that serves areas throughout Bexar County; and

WHEREAS, Continually evolving to meet the changing needs of its patrons, this exemplary institution offers a variety of unique services, including access to Spanish Internet computers, a Books-by-Mail service for residents who are homebound, and a Teacher's Card for educators and day-care providers who need to borrow large numbers of books for classroom use; and

WHEREAS, The San Antonio Public Library has served as an intellectual beacon to generations of Texans during its first century of service, and it will undoubtedly strive to maintain this tradition of excellence in the years to come; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 78th Legislature, hereby recognize the 100th anniversary of the San Antonio Public Library and extend sincere best wishes for its continued success; and, be it further

RESOLVED, That an official copy of this Resolution be prepared for prominent display at the San Antonio Public Library as an expression of high regard by the Texas Senate.

The resolution was read and was adopted without objection.

GUESTS PRESENTED

Senator Brimer was recognized and introduced to the Senate Connie Smith, Principal, Tanglewood Elementary School in Fort Worth, and fifth-grade students, accompanied by Senator Brimer's sister, Kay Nader.

The Senate welcomed its guests.

CONCLUSION OF MORNING CALL

The President at 11:48 a.m. announced the conclusion of morning call.

COMMITTEE SUBSTITUTE SENATE BILL 1374 ON SECOND READING

Senator Armbrister moved to suspend the regular order of business to take up for consideration **CSSB 1374** at this time on its second reading:

CSSB 1374, Relating to public waters and provision for environmental flows by the Texas Commission on Environmental Quality.

The motion prevailed by a viva voce vote.

The bill was read second time.

Senator Armbrister offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSSB 1374**, in SECTION 1 of the bill, in Subsection (j), Section 11.0236, Water Code (committee printing page 2, line 26), between "the" and "commission", by inserting "study".

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

Senator Armbrister offered the following amendment to the bill:

Floor Amendment No. 2

Amend **CSSB 1374** as follows:

(1) In SECTION 1 of the bill, strike Subsection (f), Section 11.0235, Water Code (committee printing page 1, line 38).

(2) In SECTION 1 of the bill, strike Subsection (a), Section 11.0237, Water Code (committee printing page 2, line 65 through page 3, line 4), and substitute "(a) The commission may not issue a new permit for instream flows dedicated to environmental needs or bay and estuary inflows. This section does not prohibit the commission from issuing an amendment to an existing permit or certificate of adjudication to change the use to or add a use for instream flows dedicated to environmental needs or bay and estuary inflows."

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

Senator Barrientos offered the following amendment to the bill:

Floor Amendment No. 3

Amend **CSSB 1374** by striking proposed Subsection 11.0237(a) (committee printing page 2, lines 64-69; page 3, lines 1-4), substituting the following, and renaming proposed Section 11.0237, to read as follows:

Sec. 11.0237. PROCESSING OF WATER RIGHTS APPLICATIONS DURING STUDY PERIOD. (a) In order to preserve options for protecting environmental flows, the commission shall suspend action on all applications for permits for new appropriations of water for instream flows dedicated to environmental needs or bay and estuary inflows and on all applications for new appropriations for the use of 25,000 acre feet or more of water for consumptive purposes. The commission may proceed with the processing of an application for a new appropriation for the use of 25,000 acre feet or more of water for consumptive purposes if the agency finds that the processing of the application prior to the expiration date for this section is necessary to address a water emergency. This section does not prohibit the commission from issuing an amendment to an existing permit or certificate of adjudication to change the use to or add a use for instream flows dedicated to environmental needs or bay and estuary inflows. This section does not apply to any permit granted before the effective date of this section.

The floor amendment was read.

On motion of Senator Barrientos, Floor Amendment No. 3 was withdrawn.

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

CSSB 1374 as amended was passed to engrossment by a viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 1374 ON THIRD READING**

Senator Armbrister moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1374** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

GUESTS PRESENTED

Senator Ogden was recognized and introduced to the Senate students and their teacher from Jane Long Middle School in Bryan.

The Senate welcomed its guests.

GUESTS PRESENTED

Senator Estes was recognized and introduced to the Senate students and their teacher from McGaha Elementary School in Wichita Falls.

The Senate welcomed its guests.

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

On motion of Senator Harris and by unanimous consent, Senate Rule 2.02 was suspended to grant floor privileges to his staff during the deliberation of **CSHB 1365**.

**COMMITTEE SUBSTITUTE
HOUSE BILL 1365 ON SECOND READING**

Senator Harris moved to suspend the regular order of business to take up for consideration **CSHB 1365** at this time on its second reading:

CSHB 1365, Relating to the Texas emissions reduction plan.

The motion prevailed by a viva voce vote.

The bill was read second time.

(Senator Whitmire in Chair)

Senator Harris offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSHB 1365** by adding a new Section 18 to read as follows and renumber the subsequent sections accordingly:

SECTION 18. Section 386.157, Health and Safety Code, and Section 386.159, Health and Safety Code, are repealed.

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

(President in Chair)

Senator Bivins offered the following amendment to the bill:

Floor Amendment No. 2

Amend **CSHB 1365** (committee printing) by adding the word "and" after the ";" on page 4, line 30.

On page 4, line 31, strike the word "and".

On page 4, strike lines 32-33.

Strike SECTION 16 (page 4, lines 63-69 and page 5, lines 1-15, committee printing) and insert a new SECTION 16 to read as follows:

SECTION 16. Sections 501.138(a) and (b), Transportation Code, are amended to read as follows:

(a) An applicant for a certificate of title, other than the state or a political subdivision of the state, must pay the county assessor-collector a fee of: [\$13.]

(1) \$33 if the applicant's residence is a county located within a non-attainment area as defined under Section 107(d) of the federal Clean Air Act (42 U.S.C. Section 7407), as amended, or is an affected county, as defined by Section 386.001, Health and Safety Code; or

(2) \$25 if the applicant's residence is any other county.

(b) The county assessor-collector shall send:

(1) \$5 of the fee to the county treasurer for deposit in the officers' salary fund; and

(2) \$8 of the fee to the department:

(A) together with the application within the time prescribed by Section 501.023; or

(B) if the fee is deposited in an interest-bearing account or certificate in the county depository or invested in an investment authorized by Subchapter A, Chapter 2256, Government Code, not later than the 35th day after the date on which the fee is received; and

(3) The following amount to the comptroller at the time and in the manner prescribed by the comptroller:

(A) \$20 of the fee if the applicant's residence is a county located within a non-attainment area as defined under Section 107(d) of the federal Clean Air Act (42 U.S.C. Section 7407), as amended, or is an affected county, as defined by Section 386.001, Health and Safety Code; or

(B) \$12 of the fee if the applicant's residence is any other county.

(C) Fees collected under this subsection to be sent to the comptroller shall be deposited as follows:

(1) before September 1, 2008, to the credit of the Texas emissions reduction fund; and

(2) after September 1, 2008, to the credit of the Texas Mobility Fund.

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

Senator Barrientos offered the following amendment to the bill:

Floor Amendment No. 3

Amend **CSHB 1365** (Senate committee printing) by adding appropriately numbered new SECTIONS to the bill and renumbering subsequent SECTIONS accordingly, to read as follows:

SECTION ____ . Chapter 388, Health and Safety Code, is amended by adding Sections 388.009 and 388.010 to read as follows:

Sec. 388.009. ENERGY-EFFICIENT BUILDING PROGRAM. (a) In this section, "National Housing Act" means Section 203(b), (i), or (k) of the National Housing Act (12 U.S.C. Sections 1709(b), (i), and (k)), as amended.

(b) The General Land Office, in consultation with the laboratory, the commission, and an advisory committee appointed by the General Land Office, may develop an energy-efficient building accreditation program for buildings that exceed the building energy performance standards under Section 388.003 by 15 percent or more.

(c) If the General Land Office adopts a program under this section, the General Land Office, in consultation with the laboratory, shall update the program on or before December 1 of each even-numbered year using the best available energy-efficient building practices.

(d) If the General Land Office adopts a program under this section, the program shall use a checklist system to produce an energy-efficient building scorecard to help:

(1) home buyers compare potential homes and, by providing a copy of the completed scorecard to a mortgage lender, qualify for energy-efficient mortgages under the National Housing Act; and

(2) communities qualify for emissions reduction credits by adopting codes that meet or exceed the energy-efficient building or energy performance standards established under this chapter.

(e) The General Land Office may establish a public information program to inform homeowners, sellers, buyers, and others regarding energy-efficient building ratings.

(f) If the General Land Office adopts a program under this section, the laboratory shall establish a system to measure the reduction in energy and emissions produced under the energy-efficient building program and report those savings to the commission.

Sec. 388.010. OUTREACH TO NEAR-NONATTAINMENT AREAS. The commission shall conduct outreach to non-attainment areas, near-nonattainment areas and affected counties on the benefits of implementing energy efficiency initiatives, including the promotion of energy-efficient building programs and urban heat island mitigation techniques, as a way to meet air quality attainment goals under the federal Clean Air Act (42 U.S.C. Section 7401 et seq.).

SECTION _____. Chapter 389, Health and Safety Code, is amended by adding Section 389.003 to read as follows:

Sec. 389.003. COMPUTING ENERGY EFFICIENCY EMISSIONS REDUCTIONS. The commission shall develop a method to use in computing emissions reductions obtained through energy efficiency initiatives.

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

RECORD OF VOTE

Senator Estes asked to be recorded as voting "Nay" on the adoption of Floor Amendment No. 3

Senator Barrientos offered the following amendment to the bill:

Floor Amendment No. 4

Amend **CSHB 1365** (Senate committee printing) by adding this appropriately numbered new SECTION to the bill and renumbering subsequent SECTIONS accordingly, to read as follows:

SECTION _____. Section 386.202(b), Health and Safety Code, is amended to read as follows:

(b) Programs approved under this subchapter and other energy efficiency programs administered by the utility commission must include energy conservation programs for the retirement of materials and appliances that contribute to energy consumption or peak energy demand to ensure the reduction of energy consumption, energy demand, or peak loads, and associated emissions of air contaminants.

The floor amendment was read.

On motion of Senator Barrientos, Floor Amendment No. 4 was temporarily withdrawn.

Senator Averitt offered the following amendment to the bill:

Floor Amendment No. 5

Amend **CSHB 1365**, committee printing, by deleting Section 12, page 3 line 37, and substituting the following:

SECTION 12. Section 386.252, Health and Safety Code, is amended to read as follows:

Sec. 386.252. USE OF FUND. (a) Money in the fund may be used only to implement and administer programs established under the plan and shall be allocated as follows:

(1) for the diesel emissions reduction incentive program, 87.5 [72] percent of the money in the fund, of which not more than ~~[three percent may be used for infrastructure projects and not more than]~~ 10 percent may be used for on-road diesel purchase or lease incentives;

(2) ~~[for the motor vehicle purchase or lease incentive program, 15 percent of the money in the fund;~~

~~[(3) for the energy efficiency grant program, 7.5 percent of the money in the fund;~~

~~[(4)]~~ for the new technology research and development program, 9.5 [7.5] percent of the money in the fund, of which up to \$250,000 is allocated for administration, up to \$200,000 is allocated for a health effects study, ~~[and]~~ \$500,000 is to be deposited in the state treasury to the credit of the clean air account created under Section 382.0622 to supplement funding for air quality planning activities in affected counties, and not less than 20 percent is to be allocated each year to support research related to air quality for the Houston-Galveston-Brazoria and Dallas-Fort Worth nonattainment areas by a nonprofit organization based in Houston.

(3) ~~[(5)]~~ for administrative costs incurred by ~~[the utility commission,]~~ the commission~~[], the comptroller,]~~ and the laboratory, three percent.

(b) Up to 25 [15] percent of the money allocated under Subsection (a) to a particular program and not expended under that program by January [March] 1 of the second fiscal year of a fiscal biennium may be used for another program under the plan as determined by the commission in consultation with the advisory board.

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

Senator Armbrister offered the following amendment to the bill:

Floor Amendment No. 6

Amend **CSHB 1365** as follows:

On page 5, line 16 insert the following new section and renumber the subsequent sections accordingly.

SECTION 17. Section 387.003(b), Health and Safety Code, is amended to read as follows:

(b) Under the program, the Texas Council on Environmental Technology shall provide grants to be used to support development of emissions-reducing technologies that may be used for projects eligible for awards under Chapter 386 and other new technologies that show promise for commercialization. The primary objective of this

chapter is to promote the development of commercialization technologies that will support projects that may be funded under Chapter 386 and this chapter, including advanced technologies such as fuel cells, catalysts, and fuel additives.

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

Senator Barrientos again offered the following amendment to the bill:

Floor Amendment No. 4

Amend **CSHB 1365** (Senate committee printing) by adding this appropriately numbered new SECTION to the bill and renumbering subsequent SECTIONS accordingly, to read as follows:

SECTION _____. Section 386.202(b), Health and Safety Code, is amended to read as follows:

(b) Programs approved under this subchapter and other energy efficiency programs administered by the utility commission must include energy conservation programs for the retirement of materials and appliances that contribute to energy consumption or peak energy demand to ensure the reduction of energy consumption, energy demand, or peak loads, and associated emissions of air contaminants.

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

Senator Averitt offered the following amendment to the bill:

Floor Amendment No. 7

Amend **CSHB 1365** as follows:

Add a new SECTION ____ to the bill and renumber subsequent Sections accordingly.

Section 386.116. SMALL BUSINESS INCENTIVES. (a) In this section, "small business" means a business owned by a person who:

(1) owns and operates not more than two vehicles, one of which is:

(A) an on-road diesel with a pre-1994 engine model; or

(B) a non-road diesel with an engine with uncontrolled emissions; and

(2) has owned the vehicle described by Subdivision (1)(A) or (B) for more than one year.

(b) The commission by rule shall develop a method of providing fast and simple access to grants under this subchapter for a small business.

(c) The commission shall publicize and promote the availability of grants under this section to encourage the use of vehicles that produce fewer emissions.

(d) On or before December 1 of each even-numbered year, the commission shall report commission actions and results under this section to the governor, lieutenant governor, and speaker of the house of representatives.

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

Senator Janek offered the following amendment to the bill:

Floor Amendment No. 8

Amend **CSHB 1365** (Senate committee printing) by adding the following SECTIONS to the bill, appropriately numbered, and renumbering subsequent SECTIONS accordingly:

SECTION _____. Section 388.003, Health and Safety Code, is amended by adding Subsection (i) to read as follows:

(i) A building certified by a national, state, or local accredited energy efficiency program shall be considered in compliance.

SECTION _____. Section 388.004, Health and Safety Code, is amended to read as follows:

Sec. 388.004. ENFORCEMENT OF ENERGY STANDARDS OUTSIDE OF MUNICIPALITY. (a) For construction outside of the local jurisdiction of a municipality:

(1) a building certified by a national, state, or local accredited energy efficiency program shall be considered in compliance;

(2) a building with inspections from private code-certified inspectors using the energy efficiency chapter of the International Residential Code or International Energy Conservation Code shall be considered in compliance; and

(3) a builder who does not have access to either of the above methods for a building shall certify compliance using a form provided by the laboratory, enumerating the code-compliance features of the building.

(b) A builder shall retain until the third anniversary of the date on which compliance is achieved the original copy of any documentation that establishes compliance under this section. The builder on receipt of any compliance documentation shall provide a copy to the owner of the building.

(c) A single-family residence built in the unincorporated area of a county the construction of which was completed on or after September 1, 2001, but not later than August 31, 2002, shall be considered in compliance.

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

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

CSHB 1365 as amended was passed to third reading by a viva voce vote.

COMMITTEE SUBSTITUTE HOUSE BILL 1365 ON THIRD READING

Senator Harris moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 1365** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

COMMITTEE SUBSTITUTE SENATE BILL 987 ON SECOND READING

Senator Armbrister moved to suspend the regular order of business to take up for consideration **CSSB 987** at this time on its second reading:

CSSB 987, Relating to the expunction of certain arrest records and files.

The motion prevailed by a viva voce vote.

(Senator Whitmire in Chair)

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

**COMMITTEE SUBSTITUTE
SENATE BILL 987 ON THIRD READING**

Senator Armbrister moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 987** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

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

**COMMITTEE SUBSTITUTE
HOUSE BILL 804 ON SECOND READING**

Senator Lindsay moved to suspend the regular order of business to take up for consideration **CSHB 804** at this time on its second reading:

CSHB 804, Relating to the minimum wage.

The motion prevailed by a viva voce vote.

RECORD OF VOTES

Senators Barrientos and Shapleigh asked to be recorded as voting "Nay" on the suspension of the regular order of business.

The bill was read second time.

Senator Shapleigh offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSHB 804** as follows:

(1) In SECTION 3 of the bill, in added Section 62.0515, Labor Code, insert a new Subsection (d) (Senate committee printing, page 1, between lines 59 and 60) to read as follows:

(d) This section does not apply to a minimum wage established in a county that is located on an international border and has a population greater than 600,000.

(2) In SECTION 3 of the bill, in added Section 62.0515, Labor Code, in added Subsection (d) (Senate committee printing, page 1, line 60), strike "(d)" and substitute "(e)".

The floor amendment was read.

Senator Lucio offered the following amendment to the amendment:

Floor Amendment No. 2

Amend Floor Amendment No. 1 to **CSHB 804** by striking "600,000" and substituting "300,000".

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

RECORD OF VOTE

Senator Barrientos asked to be recorded as voting "Nay" on the adoption of Floor Amendment No. 2.

Question recurring on the adoption of Floor Amendment No. 1 as amended, the amendment as amended failed of adoption by the following vote: Yeas 10, Nays 19, Present-not voting 1.

Yeas: Armbrister, Barrientos, Ellis, Gallegos, Hinojosa, Lucio, Shapleigh, Van de Putte, West, Zaffirini.

Nays: Averitt, Bivins, Brimer, Carona, Deuell, Duncan, Estes, Fraser, Harris, Jackson, Janek, Lindsay, Nelson, Ogden, Ratliff, Shapiro, Staples, Wentworth, Williams.

Present-not voting: Whitmire.

Absent: Madla.

CSHB 804 was passed to third reading by a viva voce vote.

RECORD OF VOTES

Senators Barrientos, Lucio, and Shapleigh asked to be recorded as voting "Nay" on the passage of **CSHB 804** to third reading.

SENATE BILL 488 ON THIRD READING

Senator Ogden moved to suspend the regular order of business to take up for consideration **SB 488** at this time on its third reading and final passage:

SB 488, Relating to vehicle weight.

The motion prevailed by a viva voce vote.

The bill was read third time.

Senator Williams offered the following amendment to the bill:

Floor Amendment No. 1 on Third Reading

Amend **SB 488** by striking SECTION 5 of the bill and renumbering subsequent SECTIONS of the bill accordingly.

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

SB 488 as amended was finally passed by a viva voce vote.

COMMITTEE SUBSTITUTE

SENATE BILL 467 ON SECOND READING

Senator Averitt moved to suspend the regular order of business to take up for consideration **CSSB 467** at this time on its second reading:

CSSB 467, Relating to the operation of the Texas Health Insurance Risk Pool.

The motion prevailed by a viva voce vote.

The bill was read second time.

Senator Averitt offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSSB 467** on page 1 by striking lines 45-47.

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

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

CSSB 467 as amended was passed to engrossment by a viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 467 ON THIRD READING**

Senator Averitt moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 467** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

**COMMITTEE SUBSTITUTE
SENATE BILL 344 ON SECOND READING**

Senator Ogden moved to suspend the regular order of business to take up for consideration **CSSB 344** at this time on its second reading:

CSSB 344, Relating to the required reporting to the Texas Department of Transportation of information regarding railroad crossings; imposing a penalty.

The motion prevailed by a viva voce vote.

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

**COMMITTEE SUBSTITUTE
SENATE BILL 344 ON THIRD READING**

Senator Ogden moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 344** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

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

MESSAGE FROM THE HOUSE

HOUSE CHAMBER

Austin, Texas

May 5, 2003

The Honorable President of the Senate

Senate Chamber

Austin, Texas

Mr. President:

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

THE HOUSE HAS PASSED THE FOLLOWING MEASURES:

SB 880, Relating to the time allowed for disposition of certain charges regarding a violation of parole or other forms of release from prison.
(Committee Substitute)

SB 1065, Relating to a pilot project to address continuing needs for more child protective services caseworkers in certain regions of this state.

Respectfully,

/s/Robert Haney, Chief Clerk
House of Representatives

SENATE BILL 687 ON SECOND READING

Senator West moved to suspend the regular order of business to take up for consideration **SB 687** at this time on its second reading:

SB 687, Relating to the authority of school districts to purchase electricity through a political subdivision corporation.

The motion prevailed by a viva voce vote.

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

SENATE BILL 687 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 **SB 687** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

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

COMMITTEE SUBSTITUTE**SENATE BILL 1611 ON SECOND READING**

Senator Ellis moved to suspend the regular order of business to take up for consideration **CSSB 1611** at this time on its second reading:

CSSB 1611, Relating to the determination and clarification of certain dates, deadlines, and procedures under the Election Code.

The motion prevailed by a viva voce vote.

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

**COMMITTEE SUBSTITUTE
SENATE BILL 1611 ON THIRD READING**

Senator Ellis moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1611** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

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

**COMMITTEE SUBSTITUTE
HOUSE BILL 660 ON SECOND READING**

Senator Deuell moved to suspend the regular order of business to take up for consideration **CSHB 660** at this time on its second reading:

CSHB 660, Relating to access to criminal history record information by certain licensing and regulatory agencies.

The motion prevailed by a viva voce vote.

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

**COMMITTEE SUBSTITUTE
HOUSE BILL 660 ON THIRD READING**

Senator Deuell moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 660** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

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

**COMMITTEE SUBSTITUTE
SENATE BILL 1618 ON SECOND READING**

Senator Ellis moved to suspend the regular order of business to take up for consideration **CSSB 1618** at this time on its second reading:

CSSB 1618, Relating to regulation of certain life insurance.

The motion prevailed by a viva voce vote.

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

**COMMITTEE SUBSTITUTE
SENATE BILL 1618 ON THIRD READING**

Senator Ellis moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1618** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

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

**COMMITTEE SUBSTITUTE
SENATE BILL 279 ON SECOND READING**

Senator Jackson moved to suspend the regular order of business to take up for consideration **CSSB 279** at this time on its second reading:

CSSB 279, Relating to the continuation and functions of the Texas Department of Licensing and Regulation, including certain functions transferred to the department from the Texas Department of Insurance and the Texas Commission on Environmental Quality and including certain functions transferred from the department to the Department of Public Safety of the State of Texas.

The motion prevailed by a viva voce vote.

The bill was read second time.

Senator Jackson offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSSB 279**, Senate committee printing, in SECTION 1.021 of the bill, in added Subchapter I, Chapter 51, Occupations Code, by striking added Sections 51.453 and 51.454 (page 7, lines 39-46).

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

Senator Jackson offered the following amendment to the bill:

Floor Amendment No. 2

Amend **CSSB 279** (Senate committee printing) as follows:

(1) In SECTION 1.024(b) of the bill (page 8, line 6), between "TexasOnline" and the period, insert "or another electronic licensing system".

(2) In SECTION 1.024(c) of the bill (page 8, line 9), between "TexasOnline" and the period, insert "or another electronic licensing system".

The floor amendment was read.

On motion of Senator Jackson, Floor Amendment No. 2 was withdrawn.

Senator Jackson offered the following amendment to the bill:

Floor Amendment No. 3

Amend **CSSB 279**, Senate committee printing, as follows:

(1) In amended Section 1202.104(a)(3), Occupations Code (page 27, line 9), strike "or 1202.206".

(2) Strike SECTION 28.077 of the bill (page 71, lines 30-64).

(3) Strike SECTION 28.092 of the bill (page 74, lines 14-19).

(4) Renumber the SECTIONS of ARTICLE 28 of the bill accordingly.

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

Senator Armbrister offered the following amendment to the bill:

Floor Amendment No. 4

Amend **CSSB 279** as follows:

(1) On page 73, delete lines 20-32, and substitute the following therefor:

SECTION 28.089. Subsection (a), Section 7, Article 9035, Revised Statutes, is amended to read as follows:

(a) To ensure the adequate performance of a warrantor's obligations to a consumer, each warrantor shall comply with financial security requirements by:

(1) insuring its vehicle protection products under a reimbursement insurance policy issued by an insurer authorized to engage in the business of insurance in this state or under a surplus lines insurance policy issued by an insurer eligible to place coverage in this state as regulated under Chapter 981 [~~Article 1.14-2~~], Insurance Code; or

(2) providing any other form of comparable financial security approved by the executive director [~~commissioner~~].

(b) The department may not require any other financial security requirements or financial standards for warrantors.

(c) Vehicle protection services must abide by the financial responsibility requirements provided by Chapter 686, Transportation Code. The department may coordinate with the Texas Department of Insurance to assure consistency with the standard proof of motor vehicle liability insurance form prescribed by 601.081, Transportation Code.

(2) On page 74, line 30, insert new Articles 30 and 31 to read as follows:

ARTICLE 30. SECTION 30.01. Section 2, Article 9035, Revised Statutes, is amended by adding a new Subsection 10 to read as follows:

(10) "Vehicle protection service" means a valet parking service as defined by Section 686.001(3), Transportation Code.

ARTICLE 31. VALET PARKING SERVICES
FINANCIAL RESPONSIBILITY

SECTION 31.01. Subtitle H, Title 7, Transportation Code, is amended by adding Chapter 686 to read as follows:

CHAPTER 686. VALET PARKING SERVICES

Sec. 686.001. DEFINITIONS. In this chapter:

(1) "Financial responsibility" means the ability to respond in damages for liability for an accident that:

(A) occurs after the effective date of the document evidencing the establishment of the financial responsibility; and

(B) arises out of the operation of a motor vehicle by an employee of a valet parking service.

(2) "Public accommodation" means any:

(A) inn, hotel, or motel;

(B) restaurant, cafeteria, or other facility principally engaged in selling food for consumption on the premises;

(C) bar, nightclub, or other facility engaged in selling alcoholic beverages for consumption on the premises;

(D) motion picture house, theater, concert hall, stadium, or other place of exhibition or entertainment; or

(E) other facility used by or open to members of the public.

(3) "Valet parking service" means a parking service through which the motor vehicles of patrons of a public accommodation are parked for a fee by a third party who is not an employee of the public accommodation.

Sec. 686.002. REQUIREMENT OF FINANCIAL RESPONSIBILITY FOR VALET PARKING SERVICES. A person may not operate a valet parking service unless financial responsibility for each employee who operates a motor vehicle for the service is established through:

(1) a motor vehicle liability or comprehensive general liability and garage insurance policy in an amount established by Section 686.004;

(2) a surety bond filed under Section 601.121; or

(3) a deposit in the amount of \$450,000 under Section 601.122, notwithstanding any other amount prescribed by that section.

Sec. 686.003. EVIDENCE OF FINANCIAL RESPONSIBILITY. (a) The owner or operator of a valet parking service shall provide evidence of financial responsibility in the same manner as required under Section 601.053.

(b) In addition to complying with Subsection (a), an owner or operator of a valet parking service shall exhibit, for public inspection, evidence of financial responsibility at a public accommodation whose patrons use the service.

Sec. 686.004. MINIMUM COVERAGE AMOUNTS. (a) The minimum amounts of motor vehicle liability insurance coverage required to establish financial responsibility under this chapter are:

(1) \$100,000 for bodily injury to or death of one person in one accident;

(2) \$300,000 for bodily injury to or death of two or more persons in one accident, subject to the amount provided by Subdivision (1) for bodily injury to or death of one of the persons; and

(3) \$50,000 for damage to or destruction of property of others in one accident.

(b) The comprehensive general liability insurance must be on a broad form and provide limits of liability for bodily injury and property damage of not less than \$300,000 combined single limit, or the equivalent.

(c) The garage insurance must provide limits of liability for bodily injury and property damage of not less than \$300,000 combined single limit, or the equivalent, and must provide the following coverages:

(1) comprehensive and collision coverage for physical damage;

(2) coverage for vehicle storage; and

(3) coverage for a vehicle driven by or at the direction of the valet parking service.

Sec. 686.005. COMMON LAW DEFENSES. In an action against an owner or operator of a valet parking service that has not established financial responsibility as required by this chapter to recover damages for personal injuries, death, or property damage sustained in a motor vehicle accident arising out of the operation of a valet parking service, it is not a defense that the party who brings the action:

(1) was guilty of contributory negligence; or

(2) assumed the risk of injury, death, or property damage.

Sec. 686.006. OPERATION OF MOTOR VEHICLE IN VIOLATION OF FINANCIAL RESPONSIBILITY REQUIREMENT; OFFENSE. (a) A person commits an offense if the person, while in the course and scope of the person's employment with a valet parking service, operates a motor vehicle of a patron of the service without the financial responsibility required by this chapter.

(b) Except as provided by Subsections (c) and (d), an offense under this section is a misdemeanor punishable by a fine of not less than \$175 or more than \$350.

(c) If a person has been previously convicted of an offense under this section, an offense under this section is a misdemeanor punishable by a fine of not less than \$350 or more than \$1,000.

(d) If the court determines that a person who has not been previously convicted of an offense under this section is economically unable to pay the fine, the court may reduce the fine to not less than \$175.

Sec. 686.007. DEFENSE: FINANCIAL RESPONSIBILITY IN EFFECT AT TIME OF ALLEGED OFFENSE. It is a defense to prosecution under Section 686.002 that the person charged produces one of the documents listed in Section 601.053 that was valid at the time the offense is alleged to have occurred.

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

Senator Jackson offered the following amendment to the bill:

Floor Amendment No. 5

Amend **CSSB 279**, Senate committee printing, as follows:

- (1) Strike ARTICLE 22 of the bill (page 41, line 64, through page 43, line 37).
- (2) In SECTION 26.002 of the bill, in amended Section 37.002(1), Water Code (page 49, line 39), strike "341.034(a) and (b)" and substitute "341.034(a), (b), and (c)".
- (3) In SECTION 26.003 of the bill, in amended Section 37.003, Water Code (page 49, line 51), strike "341.034(a) or (b)" and substitute "341.034(a), (b), or (e)".
- (4) In SECTION 26.004 of the bill, in added Section 38.052(1), Water Code (page 49, line 69, through page 50, line 1), strike "341.034(c), (d), and (e)" and substitute "341.034(c) and (d)".
- (5) In SECTION 26.004 of the bill, in added Section 38.101, Water Code (page 50, line 22), strike "341.034(c), (d), or (e)" and substitute "341.034(c) or (d)".

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

Senator Carona offered the following amendment to the bill:

Floor Amendment No. 6

Amend **CSSB 279** by striking Article 11 of the bill (Senate committee printing, page 22, line 3, through page 26, line 23) and substituting the following:

ARTICLE 11. ELEVATORS, ESCALATORS,
AND RELATED EQUIPMENT

SECTION 11.01. Subchapter B, Chapter 754, Health and Safety Code, is amended to read as follows:

SUBCHAPTER B. INSPECTION, ~~[AND]~~
CERTIFICATION, AND REGISTRATION

Sec. 754.011. DEFINITIONS. In this subchapter:

(1) "Acceptance inspection" means an inspection performed at the completion of the initial installation or alteration of equipment and in accordance with the applicable ASME Code A17.1.

(2) "Accident" means an event involving equipment that results in death or serious bodily injury to a person.

(3) "Alteration" means a change in or modernization of existing equipment. The term does not include maintenance, repair, replacement, or a cosmetic change that does not affect the operational safety of the equipment or diminish the safety of the equipment below the level required by the ASME Code A17.1, ASME Code A17.3, ASME Code A18.1, or ASCE Code 21, as applicable, at the time of alteration.

(4) "Annual inspection" means an inspection of equipment performed in a 12-month period in accordance with the applicable ASME Code A17.1, ASME Code A17.3, ASME Code A18.1, or ASCE Code 21. The term includes an acceptance inspection performed within that period.

(5) "ASCE Code 21" means the American Society of Civil Engineers Code 21 for people movers operated by cables.

(6) "ASME Code A17.1" means the American Society of Mechanical Engineers Safety Code for Elevators and Escalators A17.1.

(6-a) "Executive director" means the executive director of the department.

(7) [~~2~~] "ASME Code A17.3" means the 2002 American Society of Mechanical Engineers Safety Code for Elevators and Escalators A17.3.

(8) "ASME Code A18.1" means the American Society of Mechanical Engineers Safety Code for Platform Lifts and Stairway Chairlifts A18.1.

(9) [~~3~~] "Board" means the elevator advisory board.

(10) [~~4~~] "Commission" means the Texas Commission of Licensing and Regulation.

(11) [~~5~~] "Commissioner" means the commissioner of licensing and regulation.

(12) "Contractor" means a person engaged in the installation, repair, or maintenance of equipment. The term does not include an employee of a contractor or a person engaged in cleaning or any other work performed on equipment that does not affect the operational safety of the equipment or diminish the safety of the equipment below the level required by the ASME Code A17.1, ASME Code A17.3, ASME Code A18.1, or ASCE Code 21, as applicable.

(13) [~~6~~] "Department" means the Texas Department of Licensing and Regulation.

(14) "Equipment" means an elevator, escalator, chairlift, platform lift, automated people mover operated by cables, or moving sidewalk, or related equipment.

(15) "Industrial facility" means a facility to which access is primarily limited to employees or contractors working in that facility.

(16) [~~7~~] "Qualified historic building or facility" means a building or facility that is:

(A) listed in or eligible for listing in the National Register of Historic Places; or

(B) designated as a Recorded Texas Historic Landmark or State Archeological Landmark.

(17) [(8)] "Related equipment" means:

(A) automatic equipment that is used to move a person in a manner that is similar to that of an elevator, an [or] escalator, a chairlift, a platform lift, an automated people mover operated by cables, or [and includes] a moving sidewalk; and

(B) hoistways, pits, and machine rooms for equipment.

(18) "Serious bodily injury" means a major impairment to bodily function or serious dysfunction of any bodily organ or part requiring medical attention.

(19) "Unit of equipment" means one elevator, escalator, chairlift, platform lift, automated people mover operated by cables, or moving sidewalk, or related equipment.

Sec. 754.0111. EXEMPTION. (a) This subchapter does not apply to ~~[an elevator, escalator, or related]~~ equipment in a private building for a labor union, trade association, private club, or charitable organization that has two or fewer floors.

(b) This subchapter does not apply to an elevator located in a single-family dwelling, except as provided by Section 754.0141.

Sec. 754.012. ELEVATOR ADVISORY BOARD. (a) The elevator advisory board is composed of nine members appointed by the presiding officer of the commission, with the commission's approval, ~~[commissioner]~~ as follows:

(1) a representative of the insurance industry or a certified elevator inspector;

(2) a representative of ~~[elevator, escalator, and related]~~ equipment constructors;

(3) a representative of owners or managers of a building ~~[buildings]~~ having fewer than six stories and having ~~[an elevator, an escalator, or related]~~ equipment;

(4) a representative of owners or managers of a building ~~[buildings]~~ having six stories or more and having ~~[an elevator, an escalator, or related]~~ equipment;

(5) a representative of independent ~~[elevator, escalator, and related]~~ equipment maintenance companies;

(6) a representative of ~~[elevator, escalator, and related]~~ equipment manufacturers;

(7) a licensed or registered engineer or architect ~~[representative of professional engineers or architects];~~

(8) a public member; and

(9) a public member with a physical disability.

(b) Board members serve at the will of the commission ~~[commissioner]~~.

(c) The presiding officer of the commission, with the commission's approval, ~~[commissioner]~~ shall appoint a presiding officer of the board to serve for two years.

(d) The board shall meet at least twice each calendar year.

(e) A board member serves without compensation but is entitled to reimbursement for travel as provided for in the General Appropriations Act ~~[and other necessary expenses incurred in performing duties under this subchapter]~~.

Sec. 754.013. BOARD DUTIES. To protect public safety and to identify and correct potential hazards, the board shall advise the commission ~~[commissioner]~~ on:

- (1) the adoption of appropriate standards for the installation, alteration, operation, and inspection of ~~[elevators, escalators, and related]~~ equipment;
- (2) the status of ~~[elevators, escalators, and related]~~ equipment used by the public in this state; ~~[and]~~
- (3) sources of information relating to equipment safety;
- (4) public awareness programs related to elevator safety, including programs for sellers and buyers of single-family dwellings with elevators, chairlifts, or platform lifts; and
- (5) any other matter considered relevant by the commission ~~[commissioner]~~.

Sec. 754.014. STANDARDS ADOPTED BY COMMISSION ~~[COMMISSIONER]~~. (a) The commission ~~[commissioner]~~ shall adopt standards for the installation, maintenance, alteration, operation, and inspection of ~~[elevators, escalators, and related]~~ equipment used by the public in:

- (1) buildings owned or operated by the state, a state-owned institution or agency, or a political subdivision of the state; and
- (2) buildings that contain ~~[an elevator, an escalator, or related]~~ equipment that is open to the general public, including a hotel, motel, apartment house, boardinghouse, church, office building, shopping center, or other commercial establishment.

(b) Standards adopted by the commission ~~[commissioner]~~ may not contain requirements in addition to the requirements in the ASME Code A17.1, ~~[or]~~ ASME Code A17.3, ASME Code A18.1, or ASCE Code 21. The standards must allow alteration of existing equipment if the alteration does not diminish the safety of the equipment below the level required by this subchapter at the time of alteration.

(c) Standards adopted by the commission ~~[commissioner]~~ must require ~~[elevators, escalators, and related]~~ equipment to comply with the installation requirements of the ~~[following, whichever is the least restrictive:~~

~~[(1) the] ASME Code A17.1, ASME Code A18.1, or ASCE Code 21 that was in effect and applicable on the date of installation of the [elevators, escalators, and related] equipment[; or~~

~~[(2) an applicable municipal ordinance governing the installation of elevators, escalators, and related equipment that was in effect on the date of installation].~~

(d) Standards adopted by the commission ~~[commissioner]~~ must require ~~[elevators, escalators, and related]~~ equipment to comply with the installation requirements of the ~~[1994]~~ ASME Code A17.3 that contains minimum safety standards for all ~~[elevators, escalators, and related]~~ equipment, regardless of the date of installation.

(e) The executive director ~~[On written request, the commissioner]~~ shall grant a delay for compliance with the applicable ASME Code A17.1, ~~[or the 1994]~~ ASME Code A17.3, or ASME Code A18.1 until a specified time if compliance is not readily achievable, as that phrase is defined in the Americans with Disabilities Act (42 U.S.C.

Section 12101 et seq.), or regulations adopted under that Act. The accumulated total time of all delays may not exceed three years, except as provided by Subsection (f) or as allowed in the discretion of the executive director.

(f) The executive director [~~On written request, the commissioner~~] shall grant a delay until September 1, 2005, for compliance with the requirements for door restrictors or firefighter's service in the [~~1994~~] ASME Code A17.3 if those requirements were not included in the ASME Code A17.1 that was in effect on the date of installation [~~of the elevator, escalator, or related equipment~~] and the [that] equipment was not subsequently installed [~~by an owner of the elevator, escalator, or related equipment~~].

(g) The executive director [~~commissioner~~] may grant a waiver of compliance from an applicable code requirement [~~with the applicable ASME Code A17.1 or the 1994 ASME Code A17.3~~] if the executive director [~~commissioner~~] finds that:

(1) the building in which the [~~elevator, escalator, or related~~] equipment is located is a qualified historic building or facility or the noncompliance is due to structural components of the building; [~~and~~]

(2) noncompliance will not constitute a significant threat to passenger safety; and

(3) noncompliance, with adequate alternative safeguards, will not constitute a significant threat to worker safety.

(h) The executive director shall grant a waiver of compliance if the noncompliance resulted from compliance with a municipal equipment construction code at the time of the original installation and the noncompliance does not pose imminent and significant danger. The executive director [~~commissioner~~] may grant a waiver of compliance with the firefighter's service provisions of the ASME Code A17.1 or the [~~1994~~] ASME Code A17.3 in an elevator that exclusively serves a vehicle parking garage in a building that:

(1) is used only for parking;

(2) is constructed of noncombustible materials; and

(3) is not greater than 75 feet in height.

(i) This subchapter does not apply to [~~an elevator, an escalator, or related~~] equipment in an industrial facility, or in a grain silo, radio antenna, bridge tower, underground facility, or dam, to which access is limited primarily [~~principally~~] to employees of or working in that facility or structure.

(j) [~~The commissioner may charge a reasonable fee as set by the commission for an application for waiver or delay.~~] One application for a waiver or delay may contain all requests related to a unit of equipment [~~particular building~~]. A delay may not be granted indefinitely but must be granted for [to] a specified time not to exceed three years.

(k) For purposes of this section, the date of installation or alteration of equipment is the date that the owner of the real property entered into a contract for the installation or alteration of the [~~purchase of the elevators, escalators, or related~~] equipment. If that date cannot be established, the date of installation or alteration is the date of issuance of the municipal building permit under which the [~~elevators, escalators, or related~~] equipment was installed or altered [~~constructed~~] or, if a

municipal building permit was not issued, the date that electrical consumption began for the construction of the building in which the ~~[elevators, escalators, or related]~~ equipment was installed.

Sec. 754.0141. STANDARDS FOR EQUIPMENT IN SINGLE-FAMILY DWELLINGS; REQUIRED INFORMATION. (a) Elevators, chairlifts, or platform lifts installed in a single-family dwelling on or after January 1, 2004, must comply with the ASME Code A17.1 or A18.1, as applicable, and must be inspected by a QEI-1 certified inspector after the installation is complete. The inspector shall provide the dwelling owner a copy of the inspection report.

(b) The commission shall, before January 1, 2004, adopt rules containing minimum safety standards that must be used by QEI-1 certified inspectors when inspecting elevators, chairlifts, and platform lifts installed in single-family dwellings.

(c) A municipality may withhold a certificate of occupancy for a dwelling or for the installation of the elevator or chairlift until the owner provides a copy of the QEI-1 inspection report to the municipality.

(d) A contractor is not required to report to the department any information concerning equipment in a single-family dwelling or the contractor's work on the equipment.

(e) On completing installation of equipment in a single-family dwelling, a contractor shall provide the dwelling owner with relevant information, in writing, about use, safety, and maintenance of the equipment, including the advisability of having the equipment periodically and timely inspected by a QEI-1 certified inspector.

(f) An inspection by a QEI-1 certified inspector of equipment in a single-family dwelling may be performed only at the request and with the consent of the owner. The owner of a single-family dwelling is not subject to Section 754.022, 754.023, or 754.024.

Sec. 754.015. RULES. (a) The commission ~~[commissioner]~~ by rule shall provide for:

(1) an annual ~~[the]~~ inspection and certification of the ~~[once each calendar year of elevators, escalators, and related]~~ equipment covered by standards adopted under this subchapter;

(2) [the] enforcement of those standards;

(3) registration ~~[the certification]~~ of qualified ~~[persons as]~~ inspectors and contractors ~~[for the purposes of this subchapter]; [and]~~

(4) the form of ~~[the]~~ inspection documents, contractor reports, ~~[report]~~ and certificates ~~[certificate]~~ of compliance;

(5) notification to building owners, architects, and other building industry professionals regarding the necessity of annually inspecting equipment;

(6) approval of continuing education programs for registered QEI-1 certified inspectors; and

(7) standards of conduct for individuals who are registered under this subchapter.

(b) The commission ~~[commissioner]~~ by rule may not ~~[require that]:~~

(1) require inspections of equipment to ~~[inspection]~~ be made more often than every 12 months, except as provided by Subsection (c) ~~[once per year of elevators, escalators, and related equipment];~~

(2) require persons to post a bond or furnish insurance or to have minimum experience or education as a condition of certification or registration; ~~and~~

(3) require building owners to submit to the department proposed plans for equipment installation or alteration; or

(4) prohibit a QEI-1 certified inspector who is registered with the department from inspecting equipment.

(c) The commission by rule may require a reinspection or recertification of equipment if the equipment has been altered and poses a significant threat to passenger or worker safety or if an annual inspection report indicates an existing violation has continued longer than permitted in a delay granted by the executive director.

(d) The executive director may charge a reasonable fee as set by the commission for:

(1) registering or renewing registration of an inspector;

(2) registering or renewing registration of a contractor;

(3) applying for a certificate of compliance;

(4) filing an inspection report as required by Section 754.019(a)(3), 30 days or more after the date the report is due, for each day the report remains not filed after the date the report is due;

(5) applying for a waiver or delay; and

(6) attending a continuing education program sponsored by the department for registered QEI-1 inspectors ~~[inspection reports or certificates of compliance be placed in locations other than one provided in Section 754.019(4)].~~

Sec. 754.016. INSPECTION REPORTS ~~[REPORT]~~ AND CERTIFICATES ~~[CERTIFICATE]~~ OF COMPLIANCE. (a) Inspection reports ~~[An inspection report]~~ and certificates ~~[a certificate]~~ of compliance required under this subchapter must cover all ~~[elevators, escalators, and related]~~ equipment in a building or structure appurtenant to the building, including a parking facility, that are owned by the same person or persons. ~~[There shall be only one inspection report and one certificate of compliance for each building.]~~

(b) An inspector shall date and sign an inspection report and shall issue the report to the building owner not later than the 10th calendar day after the date of inspection. ~~[The inspection report shall be on forms designated by the commissioner.]~~

(c) The executive director ~~[commissioner]~~ shall date and sign a certificate of compliance and shall issue the certificate to the building owner. The certificate of compliance shall state:

(1) that the ~~[elevators, escalators, and related]~~ equipment has ~~[have]~~ been inspected by a certified inspector and found by the inspector to be in compliance, except for any delays or waivers granted by the executive director ~~[commissioner]~~ and stated in the certificate;

(2) the date of the last inspection and the due date for the next inspection;
and

(3) contact information at the department to report a violation of this subchapter.

(d) The commission by rule shall:

(1) specify what information must be contained in a certificate of compliance;

(2) describe the procedure by which a certificate of compliance is issued;

(3) require that a certificate of compliance related to an elevator be posted in a publicly visible area of the building; and

(4) determine what constitutes a "publicly visible area" under Subdivision

(3).

Sec. 754.017. CERTIFIED INSPECTORS. (a) In order to inspect equipment, an individual must:

(1) be registered [~~An inspector must register~~] with the department;

(2) attend educational programs approved by the department;

(3) [~~and~~] be certified as a QEI-1 [~~an ASME QEI-1~~] inspector by an organization accredited by the American Society of Mechanical Engineers; and

(4) pay all applicable fees. [~~Any certification charges or fees shall be paid by the inspector.~~]

(b) [~~The commissioner may not by rule prohibit an ASME QEI-1 certified inspector who is registered with the department from inspecting under this subchapter an elevator, an escalator, or related equipment.~~] A person assisting a certified inspector and working under the direct, on-site supervision of the inspector is not required to be [~~ASME QEI-1~~] certified.

(c) A registration expires on the first anniversary of the date of issuance.

(d) A certified inspector may not be required to attend more than seven hours of continuing education during each licensing period. [~~The commissioner may charge a \$15 fee to certified inspectors for registering with the department.~~]

Sec. 754.0171. CONTRACTOR REGISTRATION. (a) A person may not install, repair, or maintain equipment without registering as a contractor with the department as required by this subchapter.

(b) A contractor shall submit an application for registration and pay appropriate fees to the department. The registration application form may require information concerning the background, experience, or identity of the applicant.

(c) A registration expires on the first anniversary of the date of issuance.

(d) A person registering as a contractor under this subchapter shall submit to the department an initial report, not later than the 60th day following the application date, containing:

(1) the street address of each building or location at which the person performed installation, repair, alteration, or maintenance of equipment for the previous two years; and

(2) the name and mailing address of the building owner.

(e) After the initial report required by Subsection (d), a contractor registered as required by this subchapter shall submit to the department a quarterly report containing:

(1) the street address of each building or location at which the contractor performed installation, repair, alteration, or maintenance of equipment not reported in the contractor's initial report to the department under Subsection (d); and

(2) the name and mailing address of the building owner.

(f) Installation, repair, alteration, and maintenance standards for contractors must be consistent with ASME Code A17.1, ASME Code A17.3, ASME Code A18.1, and ASCE Code 21.

Sec. 754.0172. INSPECTION FEE. ~~[(a) A person inspecting an elevator, an escalator, or related equipment under this subchapter may not charge more than \$65 per elevator cab or per escalator for each inspection.~~

~~[(b) The amount charged for an inspection or the performance of an inspection of equipment under this subchapter may not be contingent on the existence of a maintenance contract between the person performing the inspection and any other person.~~

Sec. 754.018. POWERS OF MUNICIPALITIES. Subject to Section 754.014(h), if [H] a municipality operates a program for the installation, maintenance, alteration, inspection, or [and] certification of [elevators, escalators, and related] equipment, this subchapter shall not apply to the [elevators, escalators, and related] equipment in that municipality, provided that the standards of installation, maintenance, alteration, inspection, and certification are at least equivalent to [no less stringent than] those contained in this subchapter.

Sec. 754.019. DUTIES OF REAL PROPERTY OWNERS. (a) The owner of real property on which ~~[an elevator, an escalator, or related]~~ equipment covered by this subchapter is located shall:

(1) have the ~~[elevator, escalator, or related]~~ equipment inspected annually by a [an ASME QEI-1] certified inspector ~~[in accordance with the commissioner's rules];~~

(2) obtain an inspection report from the inspector evidencing that all ~~[elevators, escalators, and related]~~ equipment in a building on the real property was ~~[were]~~ inspected in accordance with this subchapter and rules adopted under this subchapter;

(3) file with the executive director ~~[commissioner a copy of]~~ each inspection report, and all applicable fees, ~~[and a \$20 filing fee for each report, plus \$5 for each elevator, escalator, or related equipment]~~ not later than the 60th day after the date on which an inspection is made under this subchapter;

(4) display the certificate of compliance:

(A) in a publicly visible area of the building, as determined by commission rule under Section 754.016, ~~[the elevator mechanical room]~~ if the certificate relates to an elevator;

(B) in the escalator box if the certificate relates to an escalator; or

(C) in a place designated by the executive director ~~[commissioner]~~ if the certificate relates to ~~[related]~~ equipment other than an elevator or escalator; and

(5) display the inspection report at the locations designated in Subdivision (4) until a certificate of compliance is issued ~~[by the commissioner].~~

(b) When an inspection report is filed ~~[with the commissioner],~~ the owner shall submit to the executive director, as applicable ~~[commissioner]:~~

(1) verification that any deficiencies in the inspector's report have been remedied or that a bona fide contract to remedy the deficiencies has been entered into; or

(2) any application for delay or waiver of an applicable standard.

(c) ~~[An inspection must be made not later than 18 months after the previous calendar year's inspection. This subsection does not affect the requirement that elevators, escalators, or related equipment be inspected at least once each calendar year.~~

~~[(d)]~~ For the purpose of determining timely filing under Subsection (a)(3) and Section 754.016(b), an inspection report and filing fees ~~[fee]~~ are considered filed on the earlier of:

(1) the date of personal delivery;

(2) the date of postmark ~~[mailing]~~ by United States mail if properly addressed to the executive director; or

(3) the date of deposit with a commercial courier service, if properly addressed to the executive director ~~[commissioner].~~

~~(d) [(e)]~~ If the inspection report and fee required by Subsection (a)(3) are not timely filed, the commissioner may charge the owner of the real property on which the elevator, escalator, or related equipment is located an additional \$100 fee for late filing.

~~[(f)]~~ The commissioner may not require that an inspection report or certificate of compliance be placed inside or immediately outside an elevator cab or escalator or in the lobby or hallways of a building.

~~[(g)]~~ A fee may not be charged or collected for a certificate of compliance for an institution of higher education as defined in Section 61.003, Education Code.

(e) An owner shall report to the department each accident involving equipment not later than 72 hours following the accident.

Sec. 754.020. CHIEF ELEVATOR INSPECTOR ~~[DEPOSIT OF FEES]~~. The executive director may appoint a chief elevator inspector to administer the equipment inspection and registration program. The chief elevator inspector:

(1) may not have a financial or commercial interest in the manufacture, maintenance, repair, inspection, installation, or sale of equipment; and

(2) must possess a QEI-1 certification or obtain the certification within six months after becoming chief inspector ~~[Fees collected under this subchapter shall be deposited to the credit of an account in the general revenue fund that may be used by the commissioner only to administer and enforce this subchapter and to reimburse expenses of board members provided by this subchapter].~~

Sec. 754.021. LIST OF REGISTERED INSPECTORS AND CONTRACTORS ~~[- PERSONNEL]~~. The executive director shall ~~[commissioner may]~~:

(1) compile a list of [ASME QEI-1] certified inspectors and contractors who are registered with the department ~~[to perform an inspection under this subchapter];~~ and

(2) employ personnel who are [as] necessary to enforce this subchapter.

Sec. 754.022. NOTICE OF NONCOMPLIANCE. If the department ~~[commissioner]~~ learns of a situation of noncompliance under Section 754.019, the department ~~[commissioner]~~ shall send notice by certified mail of the noncompliance and the actions required to remedy the noncompliance to the record owner of the real property on which the equipment that is the subject of the noncompliance is located.

Sec. 754.023. INVESTIGATION; REGISTRATION [~~LICENSE~~]; PROCEEDINGS; INJUNCTION; EMERGENCY ORDERS. (a) If there is good cause for the executive director [~~commissioner~~] to believe that [~~an elevator, an escalator, or related~~] equipment on real property poses an imminent and significant danger [~~is dangerous~~] or that an accident involving [~~an elevator, an escalator, or related~~] equipment occurred on the property and serious bodily injury or property damage resulted, the executive director [~~the commissioner~~] may enter the property during regular business hours after notice to the owner, operator, or person in charge of the property to inspect the [~~elevator, escalator, or related~~] equipment or investigate the danger or accident at no cost to the owner.

(b) The executive director [~~commissioner~~] may enter real property during regular business hours after notice to the owner, operator, or person in charge of the property to verify, at no cost to the owner, whether an inspection report or certificate of compliance has been displayed as required under Section 754.019(a).

(c) The commission [~~commissioner~~] may deny, suspend, or revoke a [~~the~~] registration under this subchapter and may assess an administrative penalty [~~of any ASME QEI 1 certified inspector~~] for:

(1) obtaining registration with the executive director [~~commissioner~~] by fraud or false representation;

(2) falsifying a [~~any inspection~~] report submitted to the executive director [~~commissioner~~]; or

(3) violating this subchapter or a rule adopted under this subchapter.

(d) Proceedings for the denial, suspension, or revocation of a registration and appeals from those proceedings are governed by Chapter 2001, Government Code.

(e) The executive director [~~commissioner~~] is entitled to appropriate injunctive relief to prevent a violation or threatened violation of this subchapter or a rule adopted under this subchapter.

(f) [~~(e)~~] The executive director [~~commissioner~~] may bring suit in a district court in Travis County or in the county in which the violation or threatened violation occurs. If requested, the attorney general shall represent the executive director [~~commissioner~~] in the suit.

(g) The executive director may issue an emergency order as necessary to enforce this subchapter if the executive director determines that an emergency exists requiring immediate action to protect the public health and safety.

(h) The executive director may issue an emergency order with simultaneous notice and without hearing or with the notice and opportunity for hearing practicable under the circumstances.

(i) If an emergency order is issued under this section without a hearing, the executive director shall set the time and place for a hearing to affirm, modify, or set aside the emergency order not later than the 10th day after the date the order was issued.

(j) An emergency order may direct a building owner or manager to disconnect power to or lock out equipment if:

(1) the department determines imminent and significant danger to passenger safety exists if action is not taken immediately and reasonable effort has been made for voluntary compliance by notification to the building owner or manager of the danger before the issuance of an emergency order; or

(2) an annual inspection has not been performed in more than two years and:

(A) the department gives the building owner or manager, or the agent of the building owner or manager, 60 days' written notice by certified mail directing the equipment to be inspected according to this subchapter; and

(B) after the expiration of the notice period under Paragraph (A), the department gives the building owner or manager, or the agent of the building owner or manager, written notice by certified mail stating that an order to disconnect power or lock out equipment will be made after the seventh day after the date notice is delivered.

(k) If an emergency order to disconnect power or lock out equipment is issued, the building owner or manager may have the power reconnected or the equipment unlocked only if:

(1) a registered inspector or contractor or a department representative has filed a written form with the department verifying the imminent and significant danger has been removed by repair, replacement, or other means; and

(2) the building owner, before the reconnection of power or unlocking of equipment, reimburses the department for all expenses incurred relating to the disconnection of power or lockout.

(l) The executive director or the executive director's designee may allow delayed payment if the building owner or manager commits in writing to pay the department for the expenses required by Subsection (k) not later than the 10th day after the date power is reconnected or equipment is unlocked.

(m) If an emergency order to disconnect power or lock out equipment is issued and the building owner later notifies the department that the imminent and significant danger no longer exists, the executive director or the executive director's designee shall, after the requirements of Subsection (k) are satisfied, promptly issue written permission to reconnect power or unlock the equipment and notify the owner.

Sec. 754.024. CRIMINAL PENALTY. (a) A person commits an offense if the person receives notice of noncompliance under Section 754.022 and the person has not remedied the noncompliance or entered into a bona fide contract to remedy the noncompliance before the 61st day after the date on which the notice is received.

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

(c) Each day of an offense under Subsection (a) constitutes a separate offense.

Sec. 754.025. APPLICATION OF CERTAIN LAW. (a) Chapter 53, Occupations Code, applies to a registration under this subchapter.

(b) Sections 51.401 and 51.404, Occupations Code, do not apply to this subchapter.

SECTION 11.02. Not later than March 1, 2004, the Texas Commission of Licensing and Regulation shall adopt the rules required by Section 754.016 and Subsection (a), Section 754.019, Health and Safety Code, as amended by this article.

SECTION 11.03. The changes in law made by this article apply only to an inspection report or certificate of compliance issued on or after the effective date of this article. An inspection report or certificate issued before the effective date of this article is covered by the law in effect when the report or certificate was issued and is valid until the renewal date of that report or certificate under the terms of the former law, and the former law is continued in effect for that purpose. On renewal, an inspection report or certificate is subject to Chapter 754, Health and Safety Code, as amended by this article.

SECTION 11.04. (a) This article takes effect September 1, 2003, except that:

(1) a contractor is not required to be registered under Section 754.0171, Health and Safety Code, as amended by this article, before January 1, 2004; and

(2) an escalator constructed before September 1, 2003, is not required to comply with step/skirt index requirements imposed under the 2002 American Society of Mechanical Engineers Safety Code for Elevators and Escalators A17.3 before September 1, 2009.

(b) A member of the elevator advisory board serving on the effective date of this article continues to serve until removed by the governor or until the member's successor is appointed by the governor.

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

Senator Wentworth offered the following amendment to the bill:

Floor Amendment No. 7

Amend **CSSB 279** by striking ARTICLE 27 of the bill (committee printing, page 50, line 59 through page 58, line 28) and renumbering subsequent sections of the bill accordingly.

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

(President in Chair)

Senator Duncan offered the following amendment to the bill:

Floor Amendment No. 8

Amend **CSSB 279** by adding the following:

SECTION 1. Subtitle B, Title 5, Occupations Code, is amended by adding Chapter 953 to read as follows:

CHAPTER 953. REGULATION OF FOR-PROFIT LEGAL SERVICE

CONTRACT COMPANIES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 953.001. DEFINITIONS. In this chapter:

(1) "Administrator" means the person responsible for the administration of a legal service contract. The term includes a person responsible for any filing required by this chapter.

(2) "Company" means a person who:

(A) is contractually obligated to a legal service contract holder under the terms of a legal service contract;

(B) enters into a contract with a contracting attorney to provide or obtain covered legal services for a legal service contract holder; and

(C) operates as a for-profit legal service contract company.

(3) "Contracting attorney" means an attorney who has entered into a contract with a company to provide or obtain covered legal services for a legal service contract holder.

(4) "Department" means the Texas Department of Licensing and Regulation.

(5) "Executive director" means the executive director of the Texas Department of Licensing and Regulation or the executive director's designee.

(6) "Financial security" means a surety bond, a certificate of deposit, or any other item approved by the executive director.

(7) "Legal service contract" means an agreement:

(A) that is entered into for a separately stated consideration; and

(B) under which the company obtains legal services for a legal service contract holder through a contracting attorney.

(8) "Legal service contract holder" means the person who purchases or otherwise holds a legal service contract or who is covered under a group legal service contract.

(9) "Person" means an individual or a partnership, company, corporation, association, or other private group.

(10) "Sales representative" means a person who sells or solicits legal service contracts to a person on behalf of a company.

Sec. 953.002. EXEMPTIONS. This chapter does not apply to:

(1) a nonprofit legal services corporation under Chapter 961, Insurance Code;

(2) an automobile club supplying services under Chapter 722, Transportation Code;

(3) a prepaid legal services program under Chapter 951;

(4) a lawyer referral service under Chapter 952;

(5) a retainer contract between an attorney and a client, and similar contracts made with a group of clients involved in the same or closely related legal matters; or

(6) a contingency fee contract between an attorney and a client.

Sec. 953.003. EXEMPTIONS FROM CERTAIN OTHER LAWS. The acts of marketing, selling, offering for sale, issuing, making, proposing to make, and administering a legal service contract that is regulated by this chapter are exempt from the Insurance Code and other laws of this state regulating the business of insurance.

Sec. 953.004. PREPAID LEGAL SERVICE CONTRACT PROGRAMS. (a) An insurer who issues or renews prepaid legal service contracts under Article 5.13-1, Insurance Code, shall notify the commissioner of insurance in writing not later than the 60th day before transferring regulation of the insurer's legal service contracts from the Texas Department of Insurance to the Texas Department of Licensing and Regulation. An insurer that complies with this section is exempt from the requirements of:

(1) Articles 21.49-2, 21.49-2A, 21.49-2B, 21.49-2D, and 21.49-2E, Insurance Code; and

(2) Chapter 827, Insurance Code.

(b) The exemptions described by Subsection (a) begin on the date the commissioner receives the notice under Subsection (a) and apply until the insurer registers with the department as required by Section 953.052.

Sec. 953.005. POWERS AND DUTIES OF EXECUTIVE DIRECTOR. (a) The executive director may investigate a company, administrator, sales representative, or other person as necessary to enforce this chapter and protect legal service contract holders in this state.

(b) On request of the executive director, a company or sales representative shall make the records relevant to the regulation of legal service contracts in this state available to the executive director as necessary to enable the executive director to reasonably determine compliance with this chapter.

(c) After contacting the company that has contracted with the contracting attorney, the executive director may refer a complaint received by the department concerning the performance of a contracting attorney to:

(1) the State Bar of Texas;
(2) the appropriate licensing agency of another jurisdiction, if applicable; or
(3) any person designated by law to receive complaints from the public concerning the performance of an attorney.

(d) The executive director may adopt rules as necessary to implement this chapter.

[Sections 953.006-953.050 reserved for expansion]

SUBCHAPTER B. REGISTRATION REQUIREMENTS

Sec. 953.051. REGISTRATION REQUIRED. (a) A person may not operate as a company or sales representative of legal service contracts sold in this state unless the person is registered with the department. A company's contract may only be sold by a sales representative who is registered with the department.

(b) A person who collects commissions for the sale of legal service contracts but who does not actively sell or solicit legal service contracts is not required to register under this subchapter.

Sec. 953.052. APPLICATION FOR REGISTRATION. (a) An applicant for registration must submit an application to the department. The application must be in the form prescribed by the executive director.

(b) An application for registration as a company must include evidence satisfactory to the executive director of compliance with the applicable financial security requirements prescribed by Subchapter C.

(c) An application for registration as a sales representative must include a list of the companies for which the sales representative will sell or solicit legal service contracts.

Sec. 953.053. FEES. (a) The executive director shall develop a tiered fee schedule of annual registration fees under which a company's registration fee is based on the number of legal service contracts the company sold in this state during the preceding 12-month period. The executive director shall set the amounts of the fees required by this subsection to cover the costs of administering this chapter.

(b) In addition to the annual registration fee required by Subsection (a), the executive director shall collect from each company a fee equal to 1.7 percent of the annual price of each legal service contract the company sells in this state. The executive director shall establish a schedule and procedure for collecting this fee.

(c) To be registered, a company must pay the appropriate fees required by this section.

Sec. 953.054. INFORMATION CONCERNING NUMBER OF LEGAL SERVICE CONTRACTS SOLD. Information concerning the number of legal service contracts sold by a company that is submitted under Section 953.053 is a trade secret to which Section 552.110, Government Code, applies.

Sec. 953.055. ADDITIONAL REQUIREMENTS FOR SALES REPRESENTATIVES. (a) The executive director may deny an application from a sales representative who:

(1) made a material misrepresentation or fraudulent statement in the application;

(2) has had a license revoked under the Insurance Code;

(3) has had a license suspended or revoked under Section 82.062, Government Code; or

(4) fails to pay the fee required under Subsection (b).

(b) Each registered sales representative shall pay an annual registration fee in the amount set by the executive director to cover the costs of administering this chapter.

Sec. 953.056. MODIFICATION OF REGISTRATION INFORMATION. The executive director may adopt rules regarding the procedures and fees a company or sales representative must follow and pay when requesting a modification to the company's or sales representative's registration information that is on file with the department.

Sec. 953.057. RENEWAL OF REGISTRATION. The executive director shall adopt rules for the renewal of a company's or sales representative's registration, including a rule that addresses late renewals.

[Sections 953.058-953.100 reserved for expansion]

SUBCHAPTER C. FINANCIAL SECURITY REQUIREMENTS FOR LEGAL SERVICE CONTRACT COMPANIES

Sec. 953.101. FINANCIAL SECURITY REQUIREMENTS. (a) To ensure the faithful performance of a company's obligations to its legal service contract holders, each company must deposit and maintain a form of financial security with the executive director. The financial security deposited with the director must maintain at all times the following market values:

(1) a company generating \$300,000 or less in annual gross revenue in this state from the sale of legal service contracts in the preceding year shall deposit at least \$50,000 with the executive director;

(2) a company generating more than \$300,000 but less than \$750,000 in annual gross revenue in this state from the sale of legal service contracts in the preceding year shall deposit at least \$75,000 with the executive director; and

(3) a company generating \$750,000 or more in annual gross revenue in this state from the sale of legal service contracts in the preceding year shall deposit at least \$100,000 with the executive director.

(b) For purposes of Subsection (a), if a company that had no gross revenue in this state from the sale of legal service contracts in the preceding year previously generated revenue from the sale of prepaid legal service contracts under Article 5.13-1, Insurance Code, the company shall deposit an amount of financial security based on the revenue generated from the sale of prepaid legal service contracts under the Insurance Code in the preceding year.

(c) The department is responsible for the safeguarding of financial security deposited with the executive director under this section. Financial security is not subject to taxation and is to be used exclusively to guarantee the company's performance of its obligations to its legal service contract holders.

(d) The executive director may order an increase in the amount of financial security required of a company under this section if the executive director finds that there has been a substantial change in the company, including an increase in the amount of fees the company is charging consumers or an increase in the company's annual gross revenue.

(e) Not later than the 30th day after the date the executive director orders a financial security increase under Subsection (d), the company may request a hearing on the issue. The executive director shall hold a hearing not later than the 30th day after the date a company requests a hearing.

(f) Failure of a company to meet the financial security requirements in this section not later than the 30th day after the date the executive director issues a final decision in the event of a hearing or the 30th day after the date the period for submitting a request for a hearing expires constitutes a ground for revocation of the company's registration.

Sec. 953.102. REPLACEMENT OR RENEWAL OF FINANCIAL SECURITY. (a) If a company's financial security under Section 953.101 is issued or written for a specified term, not later than the 90th day before the date the term expires, the company shall:

(1) replace the financial security; or

(2) notify the executive director of the company's intention to renew the financial security.

(b) If, not later than the 60th day before the date the term of a company's financial security expires, the executive director does not receive satisfactory notification of a company's renewal or replacement of the financial security, the executive director may draw on the company's financial security to the extent necessary to ensure that the company's obligations to its legal service contract holders are met in accordance with this chapter.

Sec. 953.103. DURATION OF DEPOSIT OF FINANCIAL SECURITY. The executive director shall maintain a company's financial security deposit so long as the company continues to do business in this state. When a company ceases to do business in this state and furnishes the executive director with satisfactory proof that the company has discharged or otherwise adequately met all obligations to its legal service contract holders in this state, the executive director shall release the deposited financial security to the company.

Sec. 953.104. SUIT ON FINANCIAL SECURITY. (a) The state, on behalf of a legal service contract holder injured because of a company's violation of this chapter, may bring a suit for payment from the company's financial security deposit held by the executive director.

(b) The state is the only party that may bring suit for payment from a company's financial security deposit held by the executive director. This chapter does not create a private right of action.

(c) The state may only seek damages for the cost of the legal services the company failed to provide to a legal service contract holder under the terms of the legal service contract.

(d) The court shall determine the amount the executive director shall pay the consumer from the company's financial security deposit held by the executive director.

Sec. 953.105. ADDITIONAL FINANCIAL SECURITY REQUIREMENTS.

(a) In addition to the financial security requirements established by this subchapter, the executive director shall annually review:

(1) the audited financial statements of a company; and

(2) a certified statement regarding the reserves of a company. This certified statement shall be made by an actuary that is a member in good standing of the American Academy of Actuaries.

(b) After reviewing the information required by paragraph (a), the executive director may require the company to maintain certain reserves in order to obtain or maintain its registration.

[Sections 953.106-953.150 reserved for expansion]

SUBCHAPTER D. PRACTICE BY LEGAL SERVICE
CONTRACT COMPANIES

Sec. 953.151. COMPANY REQUIREMENTS. (a) A company may not sell, offer for sale, or issue a legal service contract in this state unless the company gives the legal service contract holder:

(1) a receipt for, or other written evidence of, the purchase of the contract;
and

(2) a copy of the legal service contract.

(b) A company shall perform the services as stated in the legal service contract.

Sec. 953.152. GROUP LEGAL SERVICE CONTRACTS. A company may issue group legal service contracts. The company shall provide a legal service contract holder who obtains a group contract with a document that describes the company's services and complies with the requirements of this chapter.

Sec. 953.153. CONTRACTING ATTORNEY REQUIREMENTS. A contracting attorney must:

(1) be licensed in the jurisdiction in which the legal services are performed;

(2) be in good standing with the entity that licenses attorneys in that jurisdiction; and

(3) maintain professional liability and errors and omissions insurance with minimum annual limits of \$100,000 for each occurrence and \$300,000 in the aggregate.

Sec. 953.154. COMPANY INTERFERENCE WITH ATTORNEY'S DUTIES PROHIBITED. A company may not interfere with the attorney-client relationship or with the contracting attorney's independent exercise of professional judgment.

Sec. 953.155. COMPANY RECORDS. (a) A company shall maintain accurate accounts, books, and other records regarding transactions regulated under this chapter. The company's records must include:

(1) a copy of each unique form of legal service contract filed with the executive director under Section 953.156;

(2) the name and address of each legal service contract holder;

(3) a list of the sales representatives authorized by the company to market, sell, or offer to sell the company's legal service contracts;

(4) a copy of each contract entered into between the company and a contracting attorney; and

(5) a list of complaints the company has received from legal service contract holders, including the name of the sales representative involved in the transaction leading to the complaint.

(b) The records required by this section may be maintained in an electronic medium or through other recordkeeping technology. If a record is not in a hard copy, the company must be able to reformat the record into a legible hard copy at the request of the executive director.

(c) Except as provided by Subsection (d), a company shall retain the records required by this section until at least the second anniversary of the termination date of the specified period of coverage under the legal service contract.

(d) A company that discontinues business in this state shall retain its records until the company furnishes the executive director with proof satisfactory to the executive director that the company has discharged all obligations to legal service contract holders in this state.

Sec. 953.156. FORM OF LEGAL SERVICE CONTRACT AND REQUIRED DISCLOSURES. (a) A legal service contract must be filed with the executive director before it is marketed, sold, offered for sale, administered, or issued in this state. Any subsequent endorsement or attachment to the contract must also be filed with the executive director before the endorsement or attachment is delivered to legal service contract holders.

(b) A legal service contract marketed, sold, offered for sale, administered, or issued in this state must:

(1) be written, printed, or typed in clear, understandable language that is easy to read;

(2) include the name and full address of the company;

(3) include the purchase price of the contract and the terms under which the contract is sold;

(4) include the terms and restrictions governing cancellation of the contract by the company or the legal service contract holder;

(5) identify:

(A) any administrator, if the administrator is not the company;

(B) the sales representative; and

(C) the name of the legal service contract holder;

- (6) include the amount of any deductible or copayment;
- (7) specify the legal services and other benefits to be provided under the contract, and any limitation, exception, or exclusion;
- (8) specify the legal services, if any, for which the company will provide reimbursement and the amount of that reimbursement;
- (9) specify any restriction governing the transferability of the contract or the assignment of benefits;
- (10) include the duties of the legal service contract holder;
- (11) include the contact information for the department, including the department's toll-free number and electronic mail address, as well as a statement that the department regulates the company and the company's sales representatives;
- (12) explain the method to be used in resolving the legal service contract holder's complaints and grievances;
- (13) explain how legal services may be obtained under the legal service contract;
- (14) include a provision stating that no change in the contract is valid until the change has been approved by an executive officer of the company and unless the approval is endorsed or attached to the contract;
- (15) include any eligibility and effective date requirements, including a definition of eligible dependents and the effective date of their coverage;
- (16) include the conditions under which coverage will terminate;
- (17) explain any subrogation arrangements;
- (18) contain a payment provision that provides for a grace period of at least 31 days;
- (19) include conditions under which contract rates may be modified; and
- (20) include any other items required by the executive director as determined by rule.

Sec. 953.157. TERMINATING A LEGAL SERVICE CONTRACT. A legal service contract holder may terminate the legal service contract if the legal service contract holder provides the company with written notice of the legal service contract holder's intention of terminating the contract not later than the seventh day after the date the legal service contract holder receives the contract.

Sec. 953.158. VOIDING A LEGAL SERVICE CONTRACT. (a) If a legal service contract holder terminates a legal service contract in accordance with Section 953.157 and the holder has not sought legal services under the contract before the contract is terminated, the contract is void.

(b) A legal service contract holder may void the legal service contract at a later time as provided by the contract.

(c) If a legal service contract is voided, the company shall refund to the legal service contract holder or credit to the account of the legal service contract holder the full purchase price of the contract. If the company does not pay the refund or credit the legal service contract holder's account before the 46th day after the date the contract is voided, the company is liable to the legal service contract holder for a penalty each month an amount remains outstanding. The monthly penalty may not exceed 10 percent of the amount outstanding.

(d) The right to void a legal service contract is not transferable.

Sec. 953.159. CANCELLING A LEGAL SERVICE CONTRACT. (a) A company may cancel a legal service contract by mailing a written notice of cancellation to the legal service contract holder at the legal service contract holder's last known address according to the records of the company. The company must mail the notice before the fifth day preceding the effective date of the cancellation. The notice must state the effective date of the cancellation and the reason for the cancellation.

(b) The company is not required to provide prior notice of cancellation if the legal service contract is cancelled because of:

(1) nonpayment of the consideration for the contract;

(2) a material misrepresentation by the legal service contract holder to the company;

(3) a substantial breach of a duty by the legal service contract holder; or

(4) cancellation of the contract by the legal service contract holder.

Sec. 953.160. LIMITATIONS ON COMPANY NAME. (a) A company may not use a name that:

(1) includes "insurance," "casualty," "surety," or "mutual" or any other word descriptive of the insurance, casualty, or surety business; or

(2) is deceptively similar to the name or description of an insurance or surety corporation or to the name of any other company.

(b) This section does not apply to a company that, before September 1, 2003, included a word prohibited under this section in its name. A company described by this subsection must include in each legal service contract a statement substantially similar to the following: "This agreement is not an insurance contract."

Sec. 953.161. MISLEADING STATEMENTS PROHIBITED. A company, a sales representative, or a representative of a sales representative may not, in the company's contracts or marketing:

(1) make, permit, or cause to be made any false or misleading statement; or

(2) deliberately omit a material statement if the omission would be considered misleading.

Sec. 953.162. APPOINTMENT AND RESPONSIBILITIES OF ADMINISTRATOR. (a) A company may appoint an administrator or designate a person to be responsible for:

(1) all or any part of the administration or sale of legal service contracts; and

(2) compliance with this chapter.

(b) The executive director may adopt rules regarding the registration of an administrator with the department.

[Sections 953.163-953.200 reserved for expansion]

SUBCHAPTER E. DISCIPLINARY ACTION

Sec. 953.201. DISCIPLINARY ACTION. On a finding that a ground for disciplinary action exists under this chapter, the executive director may impose an administrative sanction, including any administrative penalty, as provided by Chapter 51.

Sec. 953.202. EMERGENCY CEASE AND DESIST ORDER. (a) The executive director may issue an emergency cease and desist order to enforce this chapter if the executive director determines that an emergency exists requiring immediate action to protect the public.

(b) The executive director may issue the emergency cease and desist order without notice and hearing if the executive director determines that an immediate issuance is necessary under the circumstances.

(c) The executive director shall set the time and place for a hearing to affirm, modify, or set aside an emergency cease and desist order that was issued without a hearing.

Sec. 953.203. INJUNCTIVE RELIEF; CIVIL PENALTY. (a) The executive director may institute an action against a company or sales representative for injunctive relief under Section 51.352 to restrain a violation or a threatened violation of this chapter or an order issued or rule adopted under this chapter.

(b) In addition to the injunctive relief provided by Subsection (a), the executive director may institute an action for a civil penalty as provided by Section 51.352.

Sec. 953.204. ADMINISTRATIVE PROCEDURE. Sections 51.310, 51.353, and 51.354 apply to a disciplinary action taken under this chapter.

Sec. 953.205. APPEAL. A person affected by a ruling, order, decision, or other action of the executive director or department may appeal by filing a petition in a district court in Travis County.

SECTION 2. Article 5.13-1, Insurance Code, is amended by adding Subsection (h) to read as follows:

(h) An insurer may not issue or renew a prepaid legal service contract under this article after March 1, 2004.

SECTION 3. Subsection (b), Section 951.003, Occupations Code, is amended to read as follows:

(b) A law pertaining to legal service contracts under Chapter 953 or insurance does not apply to a program under this chapter.

SECTION 4. (a) Chapter 953, Occupations Code, as added by this Act, applies only to:

(1) a legal service contract entered into on or after March 1, 2004; or
(2) a legal service contract entered into before March 1, 2004, that meets the requirements of Subsection (c) of this section.

(b) A person regulated under Chapter 953, Occupations Code, as added by this Act, is not required to comply with that chapter until March 1, 2004, but may implement the requirements of that chapter before March 1, 2004. The failure of a legal service contract company or other person to comply with Chapter 953, Occupations Code, as added by this Act, or otherwise to administer a legal service contract plan in the manner required by that chapter before March 1, 2004, is not admissible in any court, arbitration, or alternative dispute resolution proceeding and may not otherwise be used to prove that the action of any person or the affected legal service contract was unlawful or otherwise improper.

(c) The Texas Department of Licensing and Regulation and the Texas Department of Insurance may enter into a memorandum of understanding for a transition plan to transfer the regulation of legal service contracts from the Texas Department of Insurance to the Texas Department of Licensing and Regulation. The transition plan at a minimum shall:

(1) allow persons licensed under Chapter 21, Insurance Code, who have not registered with the Texas Department of Licensing and Regulation to continue to sell legal service contracts regulated by the Texas Department of Licensing and Regulation until March 1, 2004; and

(2) allow a prepaid legal service contract issued subject to Article 5.13-1, Insurance Code, to be maintained by the legal service contract holder if:

(A) the insurer that issued the contract or a related entity is registered with the Texas Department of Licensing and Regulation under Chapter 953, Occupations Code, as added by this Act, not later than March 1, 2004;

(B) the legal service contract complies with the requirements established by Chapter 953, Occupations Code, as added by this Act, for a legal service contract; and

(C) any addition or deletion to the contract made by a legal service contract company registered with the Texas Department of Licensing and Regulation is approved by the company and the approval is endorsed or attached to the contract.

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

Senator Jackson offered the following amendment to the bill:

Floor Amendment No. 9

Amend **CSSB 279**, Senate committee printing, in SECTION 27.001 of the bill, as follows:

(1) In added Section 953.005(d), Occupations Code (page 52, line 16), strike "executive director" and substitute "commission".

(2) In added Section 953.056, Occupations Code (page 53, line 6), strike "executive director" and substitute "commission".

(3) In added Section 953.057, Occupations Code (page 53, lines 11-12), strike "executive director" and substitute "commission".

(4) In added Section 953.156(b)(20), Occupations Code (page 56, lines 11-12), strike "executive director" and substitute "commission".

(5) In added Section 953.162(b), Occupations Code (page 57, line 12), strike "executive director" and substitute "commission".

(6) In added Section 953.201, Occupations Code (page 57, line 18), strike "executive director" and substitute "commission".

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

Senator Jackson again offered the following amendment to the bill:

Floor Amendment No. 2

Amend **CSSB 279** (Senate committee printing) as follows:

(1) In SECTION 1.024(b) of the bill (page 8, line 6), between "TexasOnline" and the period, insert "or another electronic licensing system".

(2) In SECTION 1.024(c) of the bill (page 8, line 9), between "TexasOnline" and the period, insert "or another electronic licensing system".

The floor amendment was again read and failed of adoption by the following vote: Yeas 15, Nays 15.

Yeas: Armbrister, Averitt, Brimer, Carona, Duncan, Estes, Fraser, Harris, Jackson, Janek, Lindsay, Ogden, Ratliff, Shapiro, Staples.

Nays: Barrientos, Bivins, Deuell, Ellis, Gallegos, Hinojosa, Lucio, Madla, Nelson, Shapleigh, Wentworth, West, Whitmire, Williams, Zaffirini.

Absent: Van de Putte.

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

CSSB 279 as amended was passed to engrossment by a viva voce vote.

COMMITTEE SUBSTITUTE SENATE BILL 279 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 279** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

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

GUESTS PRESENTED

Senator Madla was recognized and introduced to the Senate students and their principal from Cameron Elementary School in San Antonio.

The Senate welcomed its guests.

SENATE RESOLUTION 718

Senator Zaffirini offered the following resolution:

WHEREAS, The Senate of the State of Texas is pleased to recognize the Floresville High School Tiger Mariachi Group and welcome its members to the State Capitol on May 5, 2003; and

WHEREAS, These students are completing their first year as participants in an official program at Floresville High School, and they are making quite an impression on the people who have the good fortune to hear them perform; and

WHEREAS, They recently performed on a river barge during the San Antonio Mariachi Festival, and they will be performing in downtown Floresville during the Cinco de Mayo Festival and on the south steps of the State Capitol during their visit in Austin; and

WHEREAS, Under the capable direction of Steve Montalvo and Pete Moreno, the band has performed admirably for the Floresville Economic Development Corporation's Lighting Ceremony and for numerous school events; and

WHEREAS, The talented young people who make up the Floresville Tiger Mariachi Group are Andrew Trujillo, Mark Hanson, Scott Simpkins, Marisol Castaneda, Ashley Quintanilla, Adan Orta, Jena Quintanilla, Bianca Garcia, Krystal Campbell, Fabian Vela, Marisol Arguellez and Jackie Sanchez; and

WHEREAS, These exemplary young citizens are a source of tremendous pride to their fellow students, the school's faculty and their parents, and they are indeed worthy of legislative recognition; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 78th Legislature, hereby commend the Floresville High School Tiger Mariachi Group for their stellar performances and extend to them a warm welcome to the State Capitol; and, be it further

RESOLVED, That a copy of this Resolution be prepared for the group as a token of esteem from the Texas Senate.

The resolution was read and was adopted without objection.

GUESTS PRESENTED

Senator Zaffirini was recognized and introduced to the Senate members of the Floresville High School Tiger Mariachi Group: Andrew Trujillo, Mark Hanson, Scott Simpkins, Marisol Castaneda, Ashley Quintanilla, Adan Orta, Jena Quintanilla, and Marisol Arguellez; accompanied by Pete Moreno, Instructor; Steve Montalvo, Band Director; Harry Grove, Floresville Main Street Manager; Cissy Gonzalez, Floresville Alderman; and Gary Pelech, Floresville City Administrator.

The Senate welcomed its guests.

COMMITTEE SUBSTITUTE SENATE BILL 1771 ON SECOND READING

Senator Brimer moved to suspend the regular order of business to take up for consideration **CSSB 1771** at this time on its second reading:

CSSB 1771, Relating to economic development programs and funding.

The motion prevailed by a viva voce vote.

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

RECORD OF VOTES

Senators Ogden and Wentworth asked to be recorded as voting "Nay" on the passage of **CSSB 1771** to engrossment.

COMMITTEE SUBSTITUTE SENATE BILL 1771 ON THIRD READING

Senator Brimer moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1771** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 2.

Yeas: Armbrister, Averitt, Barrientos, Bivins, Brimer, Carona, Deuell, Duncan, Ellis, Estes, Fraser, Gallegos, Harris, Hinojosa, Jackson, Janek, Lindsay, Lucio, Madla, Nelson, Ratliff, Shapiro, Shapleigh, Staples, Van de Putte, West, Whitmire, Williams, Zaffirini.

Nays: Ogden, Wentworth.

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

RECORD OF VOTES

Senators Ogden and Wentworth asked to be recorded as voting "Nay" on the final passage of **CSSB 1771**.

(Senator Whitmire in Chair)

COMMITTEE SUBSTITUTE SENATE BILL 502 ON SECOND READING

Senator Armbrister moved to suspend the regular order of business to take up for consideration **CSSB 502** at this time on its second reading:

CSSB 502, Relating to criminal and civil fees remitted to the comptroller of public accounts.

The motion prevailed by a viva voce vote.

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

COMMITTEE SUBSTITUTE SENATE BILL 502 ON THIRD READING

Senator Armbrister moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 502** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

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

COMMITTEE SUBSTITUTE SENATE BILL 309 ON SECOND READING

Senator Gallegos moved to suspend the regular order of business to take up for consideration **CSSB 309** at this time on its second reading:

CSSB 309, Relating to providing health care services without regard to a person's immigration status.

The motion prevailed by a viva voce vote.

RECORD OF VOTE

Senator Nelson asked to be recorded as voting "Nay" on the suspension of the regular order of business.

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

RECORD OF VOTE

Senator Nelson asked to be recorded as voting "Nay" on the passage to **CSSB 309** to engrossment.

**COMMITTEE SUBSTITUTE
SENATE BILL 309 ON THIRD READING**

Senator Gallegos moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 309** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 2.

Yeas: Armbrister, Averitt, Barrientos, Bivins, Brimer, Carona, Deuell, Duncan, Ellis, Estes, Fraser, Gallegos, Harris, Hinojosa, Jackson, Janek, Lindsay, Lucio, Madla, Ogden, Ratliff, Shapleigh, Staples, Van de Putte, Wentworth, West, Whitmire, Williams, Zaffirini.

Nays: Nelson, Shapiro.

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

RECORD OF VOTES

Senators Nelson and Shapiro asked to be recorded as voting "Nay" on the final passage of **CSSB 309**.

**COMMITTEE SUBSTITUTE
SENATE BILL 689 ON SECOND READING**

Senator West moved to suspend the regular order of business to take up for consideration **CSSB 689** at this time on its second reading:

CSSB 689, Relating to the awarding of contracts by municipalities.

The motion prevailed by a viva voce vote.

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

**COMMITTEE SUBSTITUTE
SENATE BILL 689 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 689** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Estes.

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

RECORD OF VOTE

Senator Estes asked to be recorded as voting "Nay" on the final passage of **CSSB 689**.

**COMMITTEE SUBSTITUTE
SENATE BILL 1601 ON SECOND READING**

Senator Ellis moved to suspend the regular order of business to take up for consideration **CSSB 1601** at this time on its second reading:

CSSB 1601, Relating to unclaimed funds in class actions.

The motion prevailed by a viva voce vote.

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

**COMMITTEE SUBSTITUTE
SENATE BILL 1601 ON THIRD READING**

Senator Ellis moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1601** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

**COMMITTEE SUBSTITUTE
SENATE BILL 652 ON SECOND READING**

Senator Shapleigh moved to suspend the regular order of business to take up for consideration **CSSB 652** at this time on its second reading:

CSSB 652, Relating to economic development, strategic planning, and other issues regarding military facilities, and the merger of certain state agencies with military responsibilities; establishing a related bond guarantee program.

The motion prevailed by a viva voce vote.

The bill was read second time.

(President in Chair)

Senator Shapleigh offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSSB 652** as follows:

(1) In the introductory language to Section 3 of the bill (committee printing, page 1, line 37), strike "A through E" and substitute "A through D".

(2) In Section 3 of the bill, in added Section 436.051(b), Government Code (committee printing, page 2, line 4), strike "command" and substitute "operation".

(3) In Section 3 of the bill, strike all variations of "executive director", regardless of whether the term is singular or possessive or is in lower case or capitalized and substitute the corresponding variation of "director" in singular or possessive or lower case or capitalized as appropriate (committee printing, on the following pages:

page 3, line 8;

page 3, line 9;

page 3, line 14;
page 3, line 17;
page 3, line 21;
page 3, line 23;
page 3, line 30;
page 3, line 51;
page 3, line 58; and
page 4, line 39.)

(4) In Section 3 of the bill, in added Section 436.057(a), Government Code (committee printing, page 3, line 18), strike "an executive director" and substitute "a director".

(5) In Section 3 of the bill, in added Section 436.057(b), Government Code (committee printing, page 3, line 22), strike "commission" and substitute "governor".

(6) In Section 3 of the bill, in added Section 436.103(d), Government Code (committee printing, page 6, line 26), strike "an annual meeting" and substitute "annual meetings".

(7) In Section 3 of the bill, in added Section 436.152(c), Government Code (committee printing, page 6, line 65), strike "under the commission's project analysis criteria" and substitute "to bases considered by the commission to be most likely affected by closure and realignment".

(8) In Section 3 of the bill, in added Section 436.152, Government Code, strike added Subsections (d) and (e) (committee printing, page 6, line 66 through page 7, line 4), and substitute the following:

(d) The commission shall refer the defense community to the appropriate state agency that has an existing program to provide financing for each project identified in the community's military value enhancement statement that adds military value to a military facility. If there is no existing program to finance a project, the commission may provide a loan of financial assistance to the defense community for the project.

Sec. 436.153. LOANS. (a) The commission may provide a loan of financial assistance to a defense community for a project that will enhance the military value of a military facility located in, near, or adjacent to the defense community.

(b) On receiving an application for a loan under this section, the commission shall confirm that the project adds military value to the military facility.

(c) If the commission determines that a project will enhance the military value of the military facility, the commission shall, in consultation with the Texas Department of Economic Development:

(1) analyze the creditworthiness of the defense community to determine the defense community's ability to repay the loan; and

(2) evaluate the feasibility of the project to be financed to ensure that the defense community has pledged a source of revenue or taxes sufficient to repay the bonds issued to fund the loan for the project.

(d) If the commission, in consultation with the Texas Department of Economic Development, determines that the funds will be used to enhance the military value of the military facility based on the base realignment and closure criteria and that the project is financially feasible, the commission may award a loan to the defense community for the project.

(e) After the commission approves an application for a loan to a defense community, the commission shall notify the Texas Department of Economic Development of the loan approval. The Texas Department of Economic Development shall issue the general obligation bonds to fund the project and transfer funds from the Texas military value revolving loan account to the defense community.

(f) The Texas Department of Economic Development shall administer the loan and repay the general obligation bonds issued to finance the project.

(g) The commission may provide a loan only for a project that is included in the political subdivision's statement under Section 397.002, Local Government Code, or to prepare a comprehensive defense installation and community strategic impact plan under Section 397.003, Local Government Code.

(h) A project financed with a loan under this section must be completed on or before the fifth anniversary of the date the loan is awarded.

(i) The amount of a loan under this section may not exceed the total cost of the project.

Sec. 436.154. LOAN APPLICATION. (a) The commission shall adopt a loan application form. The application form may include:

(1) the name of the defense community and its principal officers;

(2) the total cost of the project;

(3) the amount of state financial assistance requested;

(4) the plan for repaying the loan; and

(5) any other information the commission requires to perform its duties and to protect the public interest.

(b) The commission may not accept an application for a loan from the Texas military value revolving loan account unless the application is submitted in affidavit form by the officials of the defense community. The board shall prescribe the affidavit form.

Sec. 436.155. INCURRENCE OF DEBT BY PUBLIC ENTITY. (a) A defense community in this state may borrow money from the state, including by direct loan, based on the credit of the defense community to finance a project included in the community's military value enhancement statement.

(b) A defense community may enter into a loan agreement with the state to provide financing for a project. The defense community may pledge the taxes of the community or provide any other guarantee for the loan.

(c) Money borrowed must be segregated from other funds under the control of the defense community and may only be used for purposes related to a specific project.

(d) The authority granted by this section does not affect the ability of a defense community to incur debt using other statutorily authorized methods.

Sec. 436.156. TEXAS MILITARY VALUE REVOLVING LOAN ACCOUNT. (a) The Texas military value revolving loan account is an account in the general revenue fund.

(b) The account may be used only for loans made under this subchapter.

(c) The Texas Department of Economic Development shall deposit to the credit of the account all loan payments made by a political subdivision for a loan under Section 436.153.

(9) In Section 3 of the bill, in the heading to added Section 436.153, Government Code, strike "436.153" and substitute "436.157" (committee printing, page 7, line 5).

(10) In Section 3 of the bill (committee printing, page 7, between lines 12 and 13), insert a new Section 436.158, Government Code, to read as follows:

Sec. 436.158. ISSUANCE OF GENERAL OBLIGATION BONDS FOR MILITARY VALUE ACCOUNT. (a) The Texas Department of Economic Development may issue and sell general obligation bonds of the state as authorized by the Texas Constitution for the purpose of providing money to establish the Texas military value revolving loan account. The authority may issue the bonds in one or several installments.

(b) Proceeds of the bonds issued under this section shall be deposited in the Texas military value revolving loan account.

(c) The bonds issued by the Texas Department of Economic Development must mature not later than the 25th anniversary of the date the bonds are issued.

(11) In Section 3 of the bill, after added Section 436.153, Government Code (committee printing, page 7, line 13), strike the expansion clause.

(12) In Section 3 of the bill, strike added Subchapter E, Chapter 436, Government Code (committee printing, page 7, line 14 through page 8, line 17).

(13) In Section 5 of the bill, in added Section 486.052(d), Government Code (committee printing, page 8, line 27), between the comma and "before" insert "after the effective date of the legislation enacting this subsection and".

(14) In Section 6 of the bill, in amended Section 2056.002(b), Government Code (committee printing, page 8, lines 34 and 36), between "of Budget" and "and" insert ", Policy,".

(15) In Section 9 of the bill, in added Section 397.001(1), Local Government Code (committee printing, page 9, lines 30-33), strike "or has been closed or realigned under the Defense Base Closure and Realignment Act of 1990 (10 U.S.C. Section 2687 note) and its subsequent amendments".

(16) In Section 9 of the bill, in added Section 397.002(a), Local Government Code (committee printing, page 9, line 40), strike "Texas Military Preparedness Commission" and substitute "Texas military value revolving loan account".

(17) In Section 9 of the bill, in added Section 397.002(a), Local Government Code (committee printing, page 9, line 44), between "installations" and "and" insert "and mitigate the effects of potential realignment and closure".

(18) In Section 9 of the bill, in added Section 397.002(a)(3), Local Government Code (committee printing, page 9, line 50), between "installation" and the semicolon insert "and mitigate the effects of potential realignment and closure".

(19) In Section 9 of the bill, in added Section 397.002(c), Local Government Code (committee printing, page 9, lines 66-67), strike "to the Texas Military Preparedness Commission" and substitute "from the Texas military value revolving loan account".

(20) In Section 9 of the bill, in added Section 397.003(a), Local Government Code (committee printing, page 10, lines 8-9), strike "Texas Military Preparedness Commission" and substitute "Texas military value revolving loan account".

(21) In Section 9 of the bill, in added Section 397.003(a)(2), Local Government Code (committee printing, page 10, line 18), between "costs" and the semicolon insert "and mitigating the effect of potential realignment and closure".

(22) In Section 26(b) of the bill (committee printing, page 16, lines 9 and 10), strike "an executive director" and substitute "a director".

(23) In Section 30 of the bill (committee printing, page 17, line 53), strike "executive director" and substitute "director".

(24) In Section 31 of the bill (committee printing, page 17, line 56), strike "Legislative Budget Board" and substitute "Office of the Governor".

(25) Strike Section 34 of the bill (committee printing, page 17, line 69 through page 18, line 10) and substitute the following:

SECTION 34. Section 436.158, Government Code, as added by this Act, takes effect only if the constitutional amendment proposed by the 78th Texas Legislature, Regular Session, 2003, authorizing the issuance of general obligation bonds to provide loans to defense-related communities for economic development projects, including projects that enhance the military value of military installations is approved by the voters. If that amendment is not approved by the voters, Section 436.158, Government Code, has no effect.

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

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

CSSB 652 as amended was passed to engrossment by a viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 652 ON THIRD READING**

Senator Shapleigh moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 652** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

MESSAGE FROM THE HOUSE

HOUSE CHAMBER
Austin, Texas
May 5, 2003

The Honorable President of the Senate
Senate Chamber
Austin, Texas

Mr. President:

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

THE HOUSE HAS PASSED THE FOLLOWING MEASURES:

SB 409, Relating to the membership of the Texas Transportation Commission.
(Amended)

SB 1091, Relating to the composition of the Recycling Market Development Board and the termination of certain duties of the General Land Office relating to the board and the recycling awareness campaign.

SB 1265, Relating to prosecution of environmental crimes.
(Amended)

SB 1829, Relating to the designation and obligations of a telecommunications provider of last resort and to the recovery of certain costs incurred in transitioning to a successor utility.

Respectfully,

/s/Robert Haney, Chief Clerk
House of Representatives

**COMMITTEE SUBSTITUTE
SENATE BILL 1295 ON SECOND READING**

Senator Van de Putte moved to suspend the regular order of business to take up for consideration **CSSB 1295** at this time on its second reading:

CSSB 1295, Relating to providing financial assistance to defense communities.

The motion prevailed by a viva voce vote.

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

**SENATE RULE 11.18(a) SUSPENDED
(Public Hearings)**

On motion of Senator Ratliff and by unanimous consent, Senate Rule 11.18(a) was suspended in order that the Committee on State Affairs might consider **SB 563** today.

**BILL ADDED TO
LOCAL AND UNCONTESTED CALENDAR**

On motion of Senator Harris and by unanimous consent, Senate Rule 9.04(d) was suspended to allow **SB 1934** to be added to the Local and Uncontested Calendar scheduled for tomorrow.

**NOTICE GIVEN FOR
LOCAL AND UNCONTESTED CALENDAR**

Senator Harris announced that a Local and Uncontested Calendar had been furnished to each Member of the Senate. He then gave notice that the Local and Uncontested Calendar Session would be held at 8:00 a.m. tomorrow and that all bills and resolutions would be considered on second and third reading in the order in which they were listed.

**SENATE RULE 11.18(a) SUSPENDED
(Public Hearings)**

On motion of Senator Averitt and by unanimous consent, Senate Rule 11.18(a) was suspended in order that the Subcommittee on Higher Education might consider **SB 1200** today.

**SENATE RULE 11.13 SUSPENDED
(Consideration of Bills in Committees)**

On motion of Senator Whitmire and by unanimous consent, Senate Rule 11.13 was suspended to grant all committees permission to meet while the Senate is meeting tomorrow.

MOTION TO ADJOURN

On motion of Senator Whitmire and by unanimous consent, the Senate at 4:08 p.m. agreed to adjourn, upon conclusion of the Local and Uncontested Calendar Session, until 11:00 a.m. tomorrow.

RESOLUTIONS OF RECOGNITION

The following resolutions were adopted by the Senate:

Memorial Resolutions

SR 743 by Wentworth, In memory of Leonard Charles Neely of San Antonio.

SR 744 by Van de Putte, In memory of Anthony Scott Miller of San Antonio.

Congratulatory Resolutions

SR 739 by Shapiro, Recognizing The Moving Wall as a tribute to the sons and daughters of America, fallen and missing.

SR 740 by Whitmire, Commending Roland Kapalski of Houston for achieving the rank of Eagle Scout.

SR 741 by Wentworth, Congratulating Karen Lee and David Zachry on the birth of their daughter, Olivia Grace Zachry.

SR 742 by Wentworth, Recognizing Farmers Insurance Group of Companies on its 75th anniversary.

SR 746 by Ogden, Commending the citizens of Williamson County for creating the Williamson County Veterans Memorial Plaza.

SR 748 by West, Commending Unique Samantha Garner for earning the Girl Scout Gold Award.

SR 749 by West, Commending Danielle C. Youngblood for earning the Girl Scout Gold Award.

SR 750 by West, Commending Cristina Marie Esparza for earning the Girl Scout Gold Award.

SR 751 by Estes, Congratulating the gymnastics team of Texas Woman's University for winning a national championship.

RECESS

On motion of Senator Whitmire, the Senate at 4:09 p.m. recessed until 8:00 a.m. tomorrow for the Local and Uncontested Calendar Session.

APPENDIX

COMMITTEE REPORTS

The following committee reports were received by the Secretary of the Senate in the order listed:

May 5, 2003

STATE AFFAIRS — **CSSB 1160, CSSB 1388, CSSB 1643, CSSB 1695**

JURISPRUDENCE — **CSSB 1011, CSSB 1450, CSHB 227, CSHB 1471**

INTERGOVERNMENTAL RELATIONS — **CSSB 1466**

NATURAL RESOURCES — **SB 25, CSSB 799, SB 1325, SB 1925, CSSB 1930, HB 839, HB 1078, HB 1120, HB 1231, HB 1328, HB 2012**

INFRASTRUCTURE DEVELOPMENT AND SECURITY — **CSSB 1463**

NATURAL RESOURCES — **CSSB 1396**

INTERGOVERNMENTAL RELATIONS — **SB 1731, SB 1777**

STATE AFFAIRS — **CSSB 1572, CSSB 1573, CSSB 1574**

SENT TO GOVERNOR

May 5, 2003

SB 43, SB 164, SB 200, SB 339, SB 490, SB 513, SB 724, SB 752

