

FIFTY-NINTH DAY

FRIDAY, APRIL 29, 2005

PROCEEDINGS

The Senate met at 9:30 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, Brimer, Deuell, Duncan, Ellis, Eltife, Estes, Fraser, Gallegos, Harris, Hinojosa, Jackson, Janek, Lindsay, Lucio, Madla, Nelson, Ogden, Seliger, Shapiro, Staples, Van de Putte, Wentworth, West, Whitmire, Williams, Zaffirini.

Absent-excused: Carona, Shapleigh.

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

The Reverend James L. Mayfield, Tarrytown United Methodist Church, Austin, offered the invocation as follows:

God, bless the Members of this Senate. As they deal with the stress and pressures of public service, give them inner calm so they can respond to all that is before them out of the best that is within them. When the tensions are high, rescue them from the temptation to speak and act in ways that will make matters worse rather than better. Bless them with wisdom to know what is best in the long run for the state as a whole. Give them compassion for those with the least power and the weakest voices in our state. Give them courage to do what they know is right, regardless of the cost. Bless each of them with such a deep awareness of their personal worth they do not look to the office they hold to give their lives meaning. This we ask You, Lord God of all that was, is, and will be. Amen.

Senator Whitmire moved that the reading of the Journal of the proceedings of yesterday be dispensed with and the Journal be approved as printed.

The motion prevailed without objection.

LEAVES OF ABSENCE

On motion of Senator Whitmire, Senator Carona was granted leave of absence for today on account of illness.

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

CO-AUTHOR OF SENATE BILL 1538

On motion of Senator Barrientos, Senator Zaffirini will be shown as Co-author of **SB 1538**.

CO-AUTHORS OF SENATE CONCURRENT RESOLUTION 30

On motion of Senator Lucio, Senators Seliger and Shapleigh will be shown as Co-authors of **SCR 30**.

PHYSICIAN OF THE DAY

Senator Deuell was recognized and presented Dr. Les Tingle of Garland as the Physician of the Day.

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

BILLS SIGNED

The President announced the signing of the following enrolled bills in the presence of the Senate after the captions had been read: **SB 492, SB 1299**.

MESSAGE FROM THE HOUSE

HOUSE CHAMBER
Austin, Texas
April 29, 2005

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 511, Relating to the processing of consumer rebates.

HB 628, Relating to debt collection after a consumer has filed a report with a law enforcement agency.

HB 857, Relating to the authority of a municipality to require the removal of certain vehicles from a freeway without the consent of the owner or person in charge of the vehicle.

HB 1021, Relating to the right of first refusal in certain real estate transactions.

HB 1153, Relating to the creation of an additional judicial district in Hidalgo County.

HB 1214, Relating to tuition and other charges and fees imposed by the governing board of a junior college district.

HB 1568, Relating to the definition of an agricultural operation.

HB 2110, Relating to the applicability of certain weapon laws to certain prosecutors and certain court employees.

HB 2313, Relating to noxious and invasive plants; providing a criminal penalty.

HB 2340, Relating to grants and loans for certain economic development projects to assist defense communities affected by the federal military base realignment and closure process.

HB 2438, Relating to the acquisition and regulation of manufactured homes.

HB 2481, Relating to air contaminant emissions reductions, including the continuation and provisions of the Texas emissions reduction plan and the use of money currently dedicated to the Texas emissions reduction plan fund, and to the making of accommodations in certain highway rights-of-way for certain entities.

HB 2579, Relating to procedures to ensure the involvement of parents or guardians of children placed in certain institutions.

HB 2680, Relating to services provided by health care practitioners to charities and medically underserved areas and liability insurance for those practitioners.

HB 2808, Relating to the duties of the P-16 Council.

HB 2940, Relating to migratory and upland game bird hunting; providing a penalty.

HB 3010, Relating to the transfer of a failure to attend school proceeding to juvenile court.

Respectfully,

/s/Robert Haney, Chief Clerk
House of Representatives

INTRODUCTION OF BILLS AND RESOLUTIONS POSTPONED

The President announced that the introduction of bills and resolutions on first reading would be postponed until the end of today's session.

There was no objection.

GUESTS PRESENTED

Senator Williams was recognized and introduced to the Senate a group of students from Little Cypress Junior High School in Orange.

The Senate welcomed its guests.

(Senator Armbrister in Chair)

SENATE RESOLUTION 707

Senator Barrientos offered the following resolution:

WHEREAS, Since its founding in 1938, Jack and Jill of America, Incorporated, has rendered exceptional service to our nation's youth, and the Austin chapter has supported the aims of its parent organization in its dedication to the well-being of the children of the Austin community; and

WHEREAS, Jack and Jill was established to provide constructive educational, cultural, civic, recreational, and social activities and programs for African American youths; it was initiated by Marion Stubbs Thomas and a group of 20 like-minded mothers in Philadelphia who were seeking to encourage social and cultural relationships between their children; the idea soon spread to other cities and, by 1946, 10 Jack and Jill groups had been established and members had held their first national meeting; and

WHEREAS, The nonprofit organization has expanded to encompass seven regional offices and 240 chapters and is considered one of the premier service organizations in the country; in 1968, the Jack and Jill Foundation was created as a national service project with a mission to fund educational, literary, scientific, and charitable projects that help eliminate some of the obstacles confronting African Americans in our society; and

WHEREAS, Chartered in 1953, the Austin Jack and Jill chapter operates under the jurisdiction of the South Central regional office and works within the Austin community through various groups and chapter projects; recent activities have included a food drive collection for the Capital Area Food Bank, participation in the American Cancer Society Relay For Life Event, a nursing home visit, an esteem-building workshop, field trips to area museums, and ACT and SAT review sessions, as well as fishing, bowling, and swim parties; and

WHEREAS, The Austin chapter's main fund-raiser, the biennial Beautillion, recognizes the accomplishments of outstanding young African American men in the community and presents these high school seniors and college freshmen much as a debutante ball presents young women; proceeds from the event are awarded in scholarships to the young men, or Beaux, as well as in donations to the United Negro College Fund, Brackenridge Children's Hospital, Austin Children's Museum Minority Scholarship Fund, Faith Home, George Washington Carver Library, and Jack and Jill Foundation; over the years, the chapter has presented more than 300 young African American men who have since gone on to lead successful personal and professional lives; and

WHEREAS, With the motto, "Let's work, let's play, let's live together," Jack and Jill of America, along with its Austin chapter, has enhanced the lives of innumerable African American youths through the stimulating family programs and activities that it sponsors as well as its educational and charitable projects; now, therefore, be it

RESOLVED, That the Senate of the 79th Texas Legislature hereby commend Jack and Jill of America, Incorporated, and its Austin chapter for the opportunities that they provide for young Texans and extend to them sincere best wishes for continued success with their important work; and, be it further

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

SR 707 was read and was adopted without objection.

GUESTS PRESENTED

Senator Barrientos was recognized and introduced to the Senate representatives from Jack and Jill of America, Incorporated: Izella Dornell, Regional Director; Susan Johnson, Past Regional Director; Ada Anderson, Austin Chapter Founder; Wendolyn Washington, Austin Chapter President; and Bertha Means, Chapter Founder; accompanied by a delegation of other members.

The Senate welcomed its guests.

PERMISSION TO INTRODUCE BILL

Senator Whitmire moved to suspend Senate Rule 7.07(b) and Section 5, Article III, of the Texas Constitution to permit the introduction of the following bill:

SB 1886.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent-excused: Carona, Shapleigh.

GUEST PRESENTED

Senator Barrientos was recognized and introduced to the Senate United States Marine Corps Sergeant First Class Bobby R. Williams, Sr.

The Senate welcomed its guest.

GUESTS PRESENTED

Senator Seliger was recognized and introduced to the Senate a group of fifth- and sixth-grade students from the gifted and talented program in Dumas.

The Senate welcomed its guests.

SENATE RESOLUTION 703

Senator Wentworth offered the following resolution:

WHEREAS, The Senate of the State of Texas is pleased to join citizens across the state in recognizing April 24 through April 30, 2005, as Texas Massage Awareness Week; and

WHEREAS, Massage therapy provides relief to people of all ages and in nearly all conditions of health; it is a proven means of restoring individual health and of preventing disease by reducing levels of stress; and

WHEREAS, Massage therapy increases circulation, is an effective treatment for chronic low back pain, boosts the body's immune system, and assists with stress management; and

WHEREAS, An increased awareness of the benefits of massage therapy will contribute to the health and welfare of all Texans; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 79th Legislature, hereby declare April 24 through April 30 Texas Massage Awareness Week and welcome the Texas Association of Massage Therapists and other massage groups from across the state to the Capitol; and, be it further

RESOLVED, That a copy of this Resolution be prepared for the massage therapists of Texas as an expression of esteem from the Texas Senate.

SR 703 was read and was adopted without objection.

GUESTS PRESENTED

Senator Wentworth was recognized and introduced to the Senate members of the Texas Association of Massage Therapists.

The Senate welcomed its guests.

SENATE RESOLUTION 702

Senator Wentworth offered the following resolution:

WHEREAS, The Senate of the State of Texas is pleased to designate the Texas Round-Up as The Official 10K of Texas; and

WHEREAS, Designed to educate Texans about the importance of health and physical activity, while challenging them to become more active, the Texas Round-Up serves as an event that celebrates the fitness of Texans; and

WHEREAS, Sedentary lifestyles are contributing to an increasing number of health problems for Texans, and the Texas Round-Up is intended to motivate all Texans to adopt and maintain healthier lifestyles; and

WHEREAS, The 2005 Texas Round-Up will be held April 29 and 30; there are numerous activities associated with the event, including the Texas-style 10K, an Activity Training Program, a Health and Fitness Expo, and a post-10K street party with live music; and

WHEREAS, The Texas Round-Up is for all Texans—seasoned athletes, recreational runners, or occasional walkers—and it is anticipated that it will have a positive effect on the health of all participants; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 79th Legislature, hereby proclaim the Texas Round-Up The Official 10K of Texas and extend best wishes for the future to its organizers and participants; and, be it further

RESOLVED, That a copy of this Resolution be prepared in honor of this event.

WENTWORTH
BARRIENTOS

SR 702 was read and was adopted without objection.

GUESTS PRESENTED

Senator Zaffirini was recognized and introduced to the Senate students from Bernarda Jaime Junior High School in San Diego, accompanied by their sponsors.

The Senate welcomed its guests.

(President in Chair)

SESSION TO CONSIDER EXECUTIVE APPOINTMENTS

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

Senator Lindsay moved confirmation of the nominees reported yesterday by the Committee on Nominations.

The President asked if there were requests to sever nominees.

Senator Barrientos requested the following nominee be severed:

Member, Employees Retirement System of Texas Board of Trustees: George W. "Bill" Ceverha, Dallas County.

The request was granted.

NOMINEES CONFIRMED

The following nominees, not severed and reported yesterday by the Committee on Nominations, were confirmed by the following vote: Yeas 29, Nays 0.

Absent-excused: Carona, Shapleigh.

Adjutant General: Charles Gary Rodriguez, Bexar County.

Members, Texas State Board of Medical Examiners: Lee S. Anderson, M.D., Tarrant County; Christine L. Canterbury, Nueces County; Melinda Susan Fredricks, Montgomery County; Amanullah Khan, M.D., Dallas County; Keith E. Miller, M.D., Shelby County; Larry Price, D.O., Bell County; Annette P. Ragette, Williamson County; Timothy J. Turner, Harris County.

Presiding Officer, Texas State Affordable Housing Corporation Board of Directors: Jerry Romero, El Paso County.

Members, Texas State Affordable Housing Corporation Board of Directors: Christopher D. DeCluitt, McLennan County; Thomas A. Leeper, Walker County; Charles G. Rencher, Fort Bend County; Jo Van Hovel, Bell County.

Member, Finance Commission of Texas: Cindy F. Lyons, El Paso County.

Presiding Officer, Manufactured Housing Board: Valeri Stiers Malone, Wichita County.

Members, Manufactured Housing Board: Michael H. Bray, El Paso County; Kimberly A. Shambley, Dallas County; Frances Shannon, Comal County.

Members, Texas Public Finance Authority Board of Directors: Linda Lea McKenna, Cameron County; H. L. Bert Mijares, Jr., El Paso County; Marcellus A. Taylor, Denton County.

Member, Sabine River Compact Administration: Robert Byron Reeves, Shelby County.

Member, Risk Management Board: Kenneth N. Mitchell, El Paso County.

Members, Sulphur River Basin Authority Board of Directors: James Richard "Dick" Goodman, Red River County; Patricia A. Wommack, Morris County.

NOMINEE CONFIRMED

Senator Lindsay moved that the following severed nominee be confirmed:

Member, Employees Retirement System of Texas Board of Trustees: George W. "Bill" Ceverha, Dallas County.

The motion prevailed by the following vote: Yeas 22, Nays 7.

Yeas: Armbrister, Averitt, Brimer, Deuell, Duncan, Eltife, Estes, Fraser, Harris, Jackson, Janek, Lindsay, Lucio, Madla, Nelson, Ogden, Seliger, Shapiro, Staples, Wentworth, West, Williams.

Nays: Barrientos, Ellis, Gallegos, Hinojosa, Van de Putte, Whitmire, Zaffirini.

Absent-excused: Carona, Shapleigh.

(Senator Armbrister in Chair)

SENATE BILL 407 WITH HOUSE AMENDMENT

Senator Jackson called **SB 407** from the President's table for consideration of the House amendment to the bill.

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

Amendment

Amend **SB 407** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED
AN ACT

relating to the continuation and functions of the State Board of Veterinary Medical Examiners.

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

SECTION 1. Section 801.003, Occupations Code, is amended to read as follows:

Sec. 801.003. APPLICATION OF SUNSET ACT. The State Board of Veterinary Medical Examiners is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the board is abolished and this chapter expires September 1, 2017 [~~2005~~].

SECTION 2. Section 801.052, Occupations Code, is amended by amending Subsection (b) and adding Subsection (c) to read as follows:

(b) A person is not eligible for appointment as a public member of the board if the person [~~or the person's spouse~~]:

(1) is licensed by an occupational regulatory agency in the field of health care;

(2) is employed by or participates in the management of a business entity or other organization that:

(A) provides health care services;

(B) sells, manufactures, or distributes health care supplies or equipment; or

(C) is regulated by or receives funds from the board;

(3) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization that:

(A) provides health care services;

(B) sells, manufactures, or distributes health care supplies or equipment; or

(C) is regulated by or receives funds from the board; or

(4) uses or receives a substantial amount of tangible goods, services, or funds from the board, other than compensation or reimbursement authorized by law for board membership, attendance, or expenses.

(c) A person is not eligible for appointment as a public member of the board if the person's spouse:

(1) is licensed by an occupational regulatory agency in the field of veterinary medicine;

(2) is employed by or participates in the management of a business entity or other organization that:

(A) provides veterinary health care services;

(B) sells, manufactures, or distributes veterinary health care supplies or equipment; or

(C) is regulated by or receives funds from the board;

(3) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization that:

(A) provides veterinary health care services;

(B) sells, manufactures, or distributes veterinary health care supplies or equipment; or

(C) is regulated by or receives funds from the board; or

(4) uses or receives a substantial amount of tangible goods, services, or funds from the board, other than compensation or reimbursement authorized by law for board membership, attendance, or expenses.

SECTION 3. Section 801.053, Occupations Code, is amended to read as follows:

Sec. 801.053. MEMBERSHIP AND EMPLOYEE RESTRICTIONS. (a) In this section, "Texas trade association" means a [~~nonprofit,~~] cooperative[;] and voluntarily joined statewide association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest.

(b) A person may not be a member of the board and may not be an employee of the board employed in a "bona fide executive, administrative, or professional capacity," as that phrase is used for purposes of establishing an exemption to the overtime provisions of the federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.), if:

(1) the person is an officer, employee, or paid consultant of a Texas trade association in the field of health care; or

(2) the person's spouse is an officer, manager, or paid consultant of a Texas trade association in the field of veterinary medicine. [~~An officer, employee, or paid consultant of a Texas trade association in the field of health care may not be a member or employee of the board who is exempt from the state's position classification plan or is compensated at or above the amount prescribed by the General Appropriations Act for step 1, salary group A17, of the position classification salary schedule.]~~

(c) [~~A person who is the spouse of an officer, manager, or paid consultant of a Texas trade association in the field of health care may not be a member of the board and may not be an employee of the board who is exempt from the state's position~~

~~classification plan or is compensated at or above the amount prescribed by the General Appropriations Act for step 1, salary group A17, of the position classification salary schedule.~~

~~(d)~~ A person may not be ~~[serve as]~~ a member of the board or act as the general counsel to the board if the person is required to register as a lobbyist under Chapter 305, Government Code, because of the person's activities for compensation on behalf of a profession related to the operation of the board.

SECTION 4. Section 801.055, Occupations Code, is amended to read as follows:

Sec. 801.055. OFFICERS. (a) The governor shall designate a member of the board as the presiding officer of the board to serve in that capacity at the pleasure of the governor.

(b) At the first meeting of the board each year, the board shall elect from its members ~~[a president and]~~ any other officer the board considers necessary or convenient.

SECTION 5. Sections 801.056(a) and (c), Occupations Code, are amended to read as follows:

(a) It is a ground for removal from the board that a member:

(1) does not have at the time of taking office ~~[appointment]~~ the qualifications required by Section 801.052;

(2) does not maintain during service on the board the qualifications required by Section 801.052;

(3) is ineligible for membership under Section 801.052 or ~~[violates a prohibition established by Section]~~ 801.053;

(4) cannot, because of illness or disability, discharge the member's duties for a substantial part of the member's term; or

(5) is absent from more than half of the regularly scheduled board meetings that the member is eligible to attend during a calendar year without an excuse approved ~~[, unless the absence is excused]~~ by a majority vote of the board.

(c) If the executive director has knowledge that a potential ground for removal exists, the executive director shall notify the presiding officer of the board ~~[president]~~ of the potential ground. The presiding officer ~~[president]~~ shall then notify the governor and the attorney general that a potential ground for removal exists. If the potential ground for removal involves the presiding officer, the executive director shall notify the next highest ranking officer of the board, who shall then notify the governor and the attorney general that a potential ground for removal exists.

SECTION 6. Section 801.057, Occupations Code, is amended to read as follows:

Sec. 801.057. TRAINING. (a) A person who is appointed to and qualifies for office as a member of the board may not vote, deliberate, or be counted as a member in attendance at a meeting of the board until the person completes a ~~[Before a board member may assume the member's duties, the member must complete at least one course of the]~~ training program that complies with ~~[established by the board under]~~ this section. ~~[Before the member may be confirmed by the senate, the member must pass an examination given in conjunction with the attorney general on the subjects described by Subsections (b)(7), (8), and (9).]~~

(b) The training program must ~~shall~~ provide the person with information regarding:

(1) the legislation that created the board and the board's programs, functions, rules, and budget ~~[this chapter];~~

~~[(2) the programs operated by the board;~~

~~[(3) the role and functions of the board;~~

~~[(4) the rules of the board, with an emphasis on the rules that relate to disciplinary and investigatory authority;~~

~~[(5) the current budget for the board;~~

~~[(6) the results of the most recent formal audit of the board;~~

(3) ~~[(7)]~~ the requirements of laws relating to open meetings, public information, administrative procedure, and conflicts of interest ~~[Chapters 551, 552, 2001, and 2002, Government Code;~~

~~[(8) the requirements of the conflict of interest laws and other laws relating to public officials]; and~~

(4) ~~[(9)]~~ any applicable ethics policies adopted by the board or the Texas Ethics Commission.

(c) A person appointed to the board is entitled to reimbursement, as provided by the General Appropriations Act, for the travel expenses incurred in attending the training program regardless of whether the attendance at the program occurs before or after the person qualifies for office. ~~[In developing the training program, the board shall consult with the governor, the attorney general, and the Texas Ethics Commission.~~

~~[(d) If another state agency or entity is given the authority to establish the training requirements for board members, the board shall allow that training instead of developing its own program.]~~

SECTION 7. Section 801.104, Occupations Code, is amended to read as follows:

Sec. 801.104. DIVISION OF RESPONSIBILITIES. The board shall develop and implement policies that clearly separate ~~[define]~~ the policymaking ~~[respective]~~ responsibilities of the board and the management responsibilities of the executive director and the staff of the board.

SECTION 8. Subchapter D, Chapter 801, Occupations Code, is amended by adding Sections 801.161 and 801.162 to read as follows:

Sec. 801.161. USE OF TECHNOLOGY. The board shall implement a policy requiring the board to use appropriate technological solutions to improve the board's ability to perform its functions. The policy must ensure that the public is able to interact with the board on the Internet.

Sec. 801.162. ALTERNATIVE RULEMAKING AND DISPUTE RESOLUTION PROCEDURES. (a) The board shall develop and implement a policy to encourage the use of:

(1) negotiated rulemaking procedures under Chapter 2008, Government Code, for the adoption of board rules; and

(2) appropriate alternative dispute resolution procedures under Chapter 2009, Government Code, to assist in the resolution of internal and external disputes under the board's jurisdiction.

(b) The board's procedures relating to alternative dispute resolution must conform, to the extent possible, to any model guidelines issued by the State Office of Administrative Hearings for the use of alternative dispute resolution by state agencies.

(c) The board shall designate a trained person to:

- (1) coordinate the implementation of the policy adopted under Subsection (a);
- (2) serve as a resource for any training needed to implement the procedures for negotiated rulemaking or alternative dispute resolution; and
- (3) collect data concerning the effectiveness of those procedures, as implemented by the board.

SECTION 9. Section 801.204, Occupations Code, is amended to read as follows:

Sec. 801.204. RECORDS OF COMPLAINTS. (a) The board shall maintain a system to promptly and efficiently act on complaints [~~keep an information file about each complaint~~] filed with the board. The board shall maintain [~~The~~] information about parties to the complaint, the subject matter of the complaint, a summary of the results of the review or investigation of the complaint, and its disposition [~~file must be kept current and contain a record for each complaint of:~~

- ~~[(1) each person contacted in relation to the complaint;~~
- ~~[(2) a summary of findings made at each step of the complaint process;~~
- ~~[(3) an explanation of the legal basis and reason for a complaint that is dismissed;~~
- ~~[(4) the schedule established for the complaint under Section 801.206(a) and a notation of any change in the schedule; and~~
- ~~[(5) other relevant information].~~

(b) The board shall make information available describing its procedures for complaint investigation and resolution [~~If a written complaint is filed with the board that the board has authority to resolve, the board, at least quarterly and until final disposition of the complaint, shall notify the parties to the complaint of the status of the complaint unless the notice would jeopardize an undercover investigation].~~

(c) The board shall periodically notify the complaint parties of the status of the complaint until final disposition.

SECTION 10. Subchapter E, Chapter 801, Occupations Code, is amended by adding Sections 801.2051, 801.2055, and 801.2056 to read as follows:

Sec. 801.2051. PRIORITY OF COMPLAINTS. The board shall prioritize complaints to resolve the more serious complaints first.

Sec. 801.2055. COMPLAINTS REQUIRING MEDICAL EXPERTISE. (a) A complaint that requires medical expertise to review must be reviewed by two or more veterinarian board members. The board members shall determine whether to dismiss the complaint or refer it to an informal proceeding under Section 801.408.

(b) If the veterinarian members do not agree to dismiss or refer the complaint to an informal proceeding, the complaint is referred to an informal proceeding under Section 801.408.

Sec. 801.2056. COMPLAINTS NOT REQUIRING MEDICAL EXPERTISE.

(a) The board may delegate to a committee of board staff the authority to dismiss or enter into an agreed settlement of a complaint that does not require medical expertise. The disposition determined by the committee must be approved by the board at a public meeting.

(b) A complaint delegated under this section shall be referred for informal proceedings under Section 801.408 if:

(1) the committee determines that the complaint should not be dismissed or settled;

(2) the committee is unable to reach an agreed settlement; or

(3) the veterinarian who is the subject of the complaint requests that the complaint be referred for informal proceedings.

SECTION 11. Section 801.254(b), Occupations Code, is amended to read as follows:

(b) The board may conduct a licensing examination [~~orally~~] in writing, by a practical demonstration of the applicant's skill, or by a combination of those methods. The board shall arrange for the written portion of the examination, if any, to be validated by an independent testing professional.

SECTION 12. Subchapter F, Chapter 801, Occupations Code, is amended by adding Section 801.2555 to read as follows:

Sec. 801.2555. EXAMINATION FEE REFUND. (a) The board shall refund the examination fee paid by an applicant who:

(1) provides advance notice of the applicant's inability to take the examination; or

(2) is unable to take the examination because of an emergency.

(b) The board shall adopt rules that establish the required notification period and the emergency situations that warrant a refund.

SECTION 13. Section 801.257(a), Occupations Code, is amended to read as follows:

(a) The board may grant a provisional license to an applicant who presents proof that the applicant:

(1) is licensed in good standing as a veterinarian in another state that:

(A) has licensing requirements substantially equivalent to the requirements of this chapter; and

(B) maintains professional standards the board considers equivalent to the professional standards of this chapter; and

(2) has passed a national or other examination recognized by the board relating to veterinary medicine[~~;~~ and

~~[(3) is sponsored by a person licensed by the board under this chapter with whom the provisional license holder may practice veterinary medicine].~~

SECTION 14. Section 801.303, Occupations Code, is amended to read as follows:

Sec. 801.303. PROCEDURE FOR RENEWAL. (a) A person who is otherwise eligible to renew a license may renew an unexpired license by paying the required renewal fee to the board before the expiration date of the license. A person whose license has expired may not engage in activities that require a license until the license has been renewed.

(b) A person whose license has been expired for 90 days or less may renew the license by paying to the board a ~~[the required]~~ renewal fee ~~[and a fee]~~ that is equal to the sum of 1-1/2 times the renewal ~~[one half of the amount of the examination]~~ fee set by the board under Section 801.154(a) and the additional fee required by Section 801.154(b) [for the license].

(c) A person whose ~~[if a]~~ license has been expired for more than 90 days but less than one year~~[, the person]~~ may renew the license by paying to the board ~~[all unpaid renewal fees and]~~ a renewal fee that is equal to the sum of two times the renewal [amount of the examination] fee set by the board under Section 801.154(a) and the additional fee required by Section 801.154(b) [for the license].

(d) ~~(e)~~ A person whose license has been expired for one year or more may not renew the ~~[a]~~ license ~~[that has been expired for one year or more]~~. The person may obtain a new license by ~~[submitting to reexamination and]~~ complying with the requirements and procedures, including the examination requirements, for obtaining an original license [under this chapter].

SECTION 15. Section 801.305, Occupations Code, is amended to read as follows:

Sec. 801.305. RENEWAL OF EXPIRED LICENSE BY OUT-OF-STATE PRACTITIONER. (a) A [The board may renew without reexamination an expired license of a] person who was licensed in this state, moved to another state, and is currently licensed in good standing and has been in practice in the other state for the two years preceding the date of application may obtain a new license without reexamination.

(b) The person must pay to the board a fee that is equal to the amount of the renewal fee set by the board under Section 801.154(a) and the additional [amount of the examination] fee required by Section 801.154(b) [for the license].

SECTION 16. Section 801.307, Occupations Code, is amended by adding Subsection (c) to read as follows:

(c) The board may require a license holder who does not complete the required number of hours of continuing education in a year to make up the missed hours in later years. Hours required to be made up in a later year are in addition to the hours normally required to be completed in that year.

SECTION 17. Subchapter G, Chapter 801, Occupations Code, is amended by adding Section 801.308 to read as follows:

Sec. 801.308. CONTINUING EDUCATION AUDITS. (a) The board shall monitor compliance with continuing education requirements by conducting random audits of license holders seeking renewal. The board staff may conduct an audit at any time. The board may perform additional compliance monitoring by other means.

(b) A license holder who is audited shall provide proof of course completion to the board, including certificates of completion.

(c) A list of completed continuing education courses from the license holder on one presigned form does not establish compliance.

SECTION 18. Sections 801.401(a) and (d), Occupations Code, are amended to read as follows:

(a) If an applicant or license holder is subject to denial of a license or to disciplinary action under Section 801.402, the board may:

- (1) refuse to examine an applicant or to issue or renew a license;
- (2) revoke or suspend a license;
- (3) place on probation a license holder or person whose license has been suspended;
- (4) reprimand a license holder; or
- (5) impose an administrative [~~a civil~~] penalty.

(d) In addition to other disciplinary actions authorized by this subchapter, the board may require a license holder who violates this chapter to participate in a continuing education program. The board shall specify the continuing education programs that the license holder may attend and the number of hours that the license holder must complete. A continuing education program specified by the board must be relevant to the violation committed by the license holder. ~~[The hours required by the board under this subsection are not in addition to the hours required to renew a license under this chapter.]~~

SECTION 19. Section 801.406(a), Occupations Code, is amended to read as follows:

(a) On conviction of a license holder of a felony under Section 485.033, Health and Safety Code, or Chapter 481 or 483 of that code, the board shall, after conducting an administrative hearing in which the fact of conviction is determined, impose a penalty as provided by Section 801.401. The board shall set the amount of the penalty to match the seriousness of the conviction [~~suspend the person's license~~].

SECTION 20. Section 801.407(a), Occupations Code, is amended to read as follows:

(a) A person is entitled to a hearing before the State Office of Administrative Hearings if the board:

- (1) refuses to examine the person;
- (2) denies the person's application for a license;
- (3) revokes or suspends the person's license;
- (4) places the person on probation;
- (5) reprimands the person; or
- (6) assesses an administrative [~~a civil~~] penalty against the person.

SECTION 21. Section 801.408, Occupations Code, is amended by amending Subsection (b) and adding Subsections (c), (d), (e), and (f) to read as follows:

(b) Rules adopted under Subsection (a) must:

- (1) provide the complainant and the license holder an opportunity to be heard; and
- (2) require the presence of the board's general counsel or a representative of the attorney general during an informal proceeding to advise the board or the board's employees.

(c) A committee of two or more veterinarian board members and one or more public board members must be present at an informal proceeding for a complaint that requires medical expertise. The committee shall recommend enforcement action at the informal proceeding.

(d) A committee of board staff may recommend enforcement action at an informal proceeding for a complaint that does not require medical expertise or may refer the complaint to the committee of board members under Subsection (c).

(e) At an informal proceeding under this section, and on agreement with the license holder, the board may order the license holder to refund an amount not to exceed the amount a client paid to the license holder instead of or in addition to imposing an administrative penalty under this chapter. The board may not require payment of other damages or estimate harm under this subsection.

(f) Before an informal disposition is effective, the board must review and approve at a public meeting an informal disposition of the complaint recommended by board members or board staff.

SECTION 22. Sections 801.452(a) and (c), Occupations Code, are amended to read as follows:

(a) The amount of an administrative penalty may not exceed[=

~~(1) \$2,500 for each violation not related to a controlled substance; and~~

~~(2) \$5,000 for each violation per day [related to a controlled substance].~~

(c) ~~A committee described by Section 801.408(c) or (d) [board subcommittee with at least one public member of the board]~~ shall recommend the amount of the administrative penalty based on a standardized penalty schedule. The board by rule shall develop the standardized penalty schedule based on the criteria listed in Subsection (b).

SECTION 23. Section 801.453, Occupations Code, is amended to read as follows:

Sec. 801.453. ~~COMMITTEE~~ [SUBCOMMITTEE] RECOMMENDATIONS.

(a) On a determination by a committee ~~[the board subcommittee]~~ described by Section 801.408(c) or (d) ~~[801.452(e)]~~ that a violation of this chapter or a rule adopted or order issued under this chapter occurred, the committee ~~[subcommittee]~~ may issue a report to the board stating:

(1) the facts on which the determination is based; and

(2) the committee's ~~[subcommittee's]~~ recommendation on the imposition of an administrative penalty, including a recommendation on the amount of the penalty.

(b) Not later than the 14th day after the date the report is issued, the executive director shall give written notice of the committee's ~~[subcommittee's]~~ report to the person on whom the penalty may be imposed. The notice may be given by certified mail.

(c) The notice given under this section must:

(1) include a notice of each alleged violation;

(2) state the amount of any ~~[the]~~ recommended penalty; and

(3) inform the person of the person's right to a hearing on the occurrence of the violation, the amount of the penalty, or both.

SECTION 24. Section 801.454, Occupations Code, is amended to read as follows:

Sec. 801.454. PENALTY TO BE PAID OR HEARING REQUESTED ON COMMITTEE'S RECOMMENDATIONS. (a) Not later than the 20th day after the date a person receives the notice, the person may in writing:

(1) accept the committee's [~~subcommittee's~~] determination and recommended administrative penalty; or

(2) request a hearing on the occurrence of the violation, the amount of the penalty, or both.

(b) If the person accepts the committee's [~~subcommittee's~~] determination and recommended penalty, the board by order may:

(1) [~~shall~~] approve the determination and impose the recommended penalty;

(2) modify the determination or recommended penalty; or

(3) reject the determination or recommended penalty.

SECTION 25. The heading to Section 801.455, Occupations Code, is amended to read as follows:

Sec. 801.455. HEARING ON COMMITTEE'S [~~SUBCOMMITTEE'S~~] RECOMMENDATIONS.

SECTION 26. Subchapter K, Chapter 801, Occupations Code, is amended by adding Sections 801.508 and 801.509 to read as follows:

Sec. 801.508. CEASE AND DESIST ORDER. (a) If it appears to the board that a person is engaging in an act or practice that constitutes the practice of veterinary medicine without a license under this chapter, the board, after notice and opportunity for a hearing, may issue a cease and desist order prohibiting the person from engaging in the activity.

(b) A violation of an order under this section constitutes grounds for imposing an administrative penalty under Subchapter J.

Sec. 801.509. ENFORCEMENT POLICY. The board shall adopt a formal policy to focus enforcement efforts toward investigating complaints.

SECTION 27. The following are repealed:

(1) Section 801.257(b), Occupations Code; and

(2) Section 801.406(b), Occupations Code.

SECTION 28. (a) Not later than January 1, 2006, the State Board of Veterinary Medical Examiners shall adopt the formal policy required by Section 801.509, Occupations Code, as added by this Act.

(b) Not later than January 1, 2006, the State Board of Veterinary Medical Examiners shall adopt rules as required by Section 801.2555, Occupations Code, as added by this Act.

SECTION 29. (a) The changes in law made by this Act in the prohibitions or qualifications applying to members of the State Board of Veterinary Medical Examiners do not affect the entitlement of a member serving on the board immediately before September 1, 2005, to continue to serve and function as a member of the board for the remainder of the member's term. Those changes in law apply only to a member appointed on or after September 1, 2005.

(b) Sections 801.2051, 801.2055, and 801.2056, Occupations Code, as added by this Act, and Sections 801.408, 801.452, 801.453, 801.454, and 801.455, Occupations Code, as amended by this Act, apply only to a complaint filed with the State Board of

Veterinary Medical Examiners on or after the effective date of this Act. A complaint filed before the effective date of this Act is governed by the law in effect on the date the complaint was filed, and the former law is continued in effect for that purpose.

(c) Sections 801.303 and 801.305, Occupations Code, as amended by this Act, apply to fees for renewal of a license granted by the State Board of Veterinary Medical Examiners that become due on or after the effective date of this Act. Fees for renewal of a license that became due before the effective date of this Act are governed by the law in effect on the date the membership fees became due, and the former law is continued in effect for that purpose.

SECTION 30. This Act takes effect September 1, 2005.

The amendment was read.

Senator Jackson moved to concur in the House amendment to **SB 407**.

The motion prevailed by the following vote: Yeas 29, Nays 0.

Absent-excused: Carona, Shapleigh.

GUESTS PRESENTED

Senator Zaffirini was recognized and introduced to the Senate students from the historical society of Gateway Academy in Laredo, accompanied by their principal and teachers.

The Senate welcomed its guests.

CONCLUSION OF MORNING CALL

The Presiding Officer, Senator Armbrister in Chair, at 10:45 a.m. announced the conclusion of morning call.

COMMITTEE SUBSTITUTE SENATE BILL 121 ON SECOND READING

On motion of Senator Duncan and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 121** at this time on its second reading:

CSSB 121, Relating to a requestor's right of access to investment information of governmental bodies.

The bill was read second time.

Senator Duncan offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSSB 121** as follows:

1) On page 2, lines 33-35 delete the following sentence: "This subsection does not apply to the Texas growth fund, created under Section 70, Article XVI, Texas Constitution."

2) On page 2 line 33 insert the following language after the ".": "This subsection applies to information regarding a direct purchase, holding, or disposal of restricted securities by the Texas growth fund, created under Section 70, Article XVI, Texas Constitution that is not listed in Section 552.0225(b)."

3) On page 2, line 36 delete the word "section" and insert in its place the word "Chapter"

The amendment to **CSSB 121** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1 except as follows:

Absent-excused: Carona, Shapleigh.

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

CSSB 121 as amended was passed to engrossment by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to engrossment except as follows:

Absent-excused: Carona, Shapleigh.

**COMMITTEE SUBSTITUTE
SENATE BILL 121 ON THIRD READING**

Senator Duncan moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 121** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 1.

Nays: Wentworth.

Absent-excused: Carona, Shapleigh.

Reason for Vote

Senator Wentworth submitted the following reason for vote on suspension of the Constitutional Three-day Rule:

I cast a "No" vote on the procedural motion to suspend the Constitutional Rule requiring that bills be read on three several days in order to take up and consider **CSSB 121**, because in my judgment no circumstance exists in this case to justify the extraordinary act of suspending a requirement of the Texas Constitution. The suspension of this Constitutional Rule has the direct and immediate effect of denying the people of Texas knowledge and notice of the passage of this measure until it has already been finally passed on third reading. Were we to have followed the requirement of the Texas Constitution, third reading and a vote on **CSSB 121** would have occurred on the next legislative day, allowing for Texans to have learned through news reports of our second reading vote exactly what we had tentatively passed. Third reading and a vote on the next legislative day would also have allowed our professional staff an opportunity overnight to make sure any amendments passed on second reading are technically correct.

/s/Jeff Wentworth
Senator, District 25

The bill was read third time and was passed by the following vote: Yeas 29, Nays 0.

Absent-excused: Carona, Shapleigh.

SENATE RESOLUTION 689

Senator Barrientos offered the following resolution:

WHEREAS, The Senate of the State of Texas is pleased to join the Communities In Schools State Office in recognizing the recipients of the 2005 Best of Texas CIS Awards; and

WHEREAS, Communities In Schools is a nationwide network with 26 area programs in Texas that focus on decreasing the student dropout rate by providing school-based quality social services and links to community resources; and

WHEREAS, The Best of Texas CIS Award recipients are those individuals who have made exceptional contributions to students, families, the community at large, and the CIS program; they are selected for the award by representatives of a number of state social service and education agencies from nominations made by local programs; and

WHEREAS, Award winners and their Communities In Schools programs are LuAnn Morgan, of the Permian Basin, Board Member of the Year; Doug McDurham, of McLennan County Youth Collaboration, Executive Director of the Year; Irene Loera Thomas, of the Permian Basin, Staff Member of the Year; Lilia Garcia, of El Paso, Volunteer of the Year; and Luis Gonzales, of El Paso, Student of the Year; and

WHEREAS, Other recipients are Dr. John Hall, Lockhart Independent School District, of Central Texas, Superintendent of the Year; Leigh Ann Dees, Lamar Primary School, of South Central Texas, Principal of the Year; Debbie Landers, Little Elm Independent School District, of North Texas, Teacher of the Year; and Cadbury Schweppes, of North Texas, Business/Company of the Year; and

WHEREAS, These dedicated citizens have helped many young Texans stay in school, prepare for successful lives, and contribute to their communities, and they are indeed worthy of legislative recognition; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 79th Legislature, hereby commend all those involved with the Communities In Schools programs of Texas for their exceptional work and extend congratulations to the worthy recipients of the 2005 Best of Texas CIS Awards; and, be it further

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

SR 689 was again read.

The resolution was previously adopted on Monday, April 25, 2005.

**COMMITTEE SUBSTITUTE
SENATE BILL 179 ON THIRD READING**

Senator Wentworth moved to suspend the regular order of business to take up for consideration **CSSB 179** at this time on its third reading and final passage:

CSSB 179, Relating to retirement benefits for visiting judges.

The motion prevailed.

Senators Estes, Ogden, Seliger, and Staples asked to be recorded as voting "Nay" on suspension of the regular order of business.

The bill was read third time and was passed by the following vote: Yeas 25, Nays 4.

Yeas: Armbrister, Averitt, Barrientos, Brimer, Deuell, Duncan, Ellis, Eltife, Fraser, Gallegos, Harris, Hinojosa, Jackson, Janek, Lindsay, Lucio, Madla, Nelson, Shapiro, Van de Putte, Wentworth, West, Whitmire, Williams, Zaffirini.

Nays: Estes, Ogden, Seliger, Staples.

Absent-excused: Carona, Shapleigh.

**COMMITTEE SUBSTITUTE
SENATE BILL 1050 ON SECOND READING**

On motion of Senator Van de Putte and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 1050** at this time on its second reading:

CSSB 1050, Relating to the promotional system for municipal civil service fire fighters.

The bill was read second time.

Senator Seliger offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSSB 1050**, committee printing, by inserting the following new SECTION 1 and renumbering subsequent SECTIONS of the bill accordingly:

SECTION 1. Subchapter A, Chapter 143, Local Government Code, is amended by adding Section 143.0051 to read as follows:

Sec. 143.0051. STATUS OF EMPLOYEES IN CERTAIN FIRE DEPARTMENTS. (a) This section applies only to a fire department employee employed by a municipality with a population of 150,000 or more and with a governing body of five or fewer members.

(b) Notwithstanding any other provision of this chapter, a previously nonclassified fire department employee who serves in a position described by Section 143.003(4)(B), (D), (G), or (J) has the status of a civil service employee and is not required to take a competitive examination to remain in the employee's position if:

(1) the employee was appointed to that position on or before May 1, 2005, and was serving in that position on the date described by Subsection (c); and

(2) the municipality's governing body by ordinance amends the municipality's existing classification of fire department employees to include the employee's position as provided by Section 143.021.

(c) The civil service status of an employee to which Subsection (b) applies is effective on the date that the ordinance amending the municipality's classification system to include the employee's position takes effect.

(d) A fire department employee who has civil service status under Subsection (b) may be promoted only:

(1) by competitive examination in accordance with the competitive civil service procedures prescribed in this chapter; and

(2) within the employee's existing division.

(e) A fire department employee who has civil service status under Subsection (b) may not:

(1) supervise or evaluate classified civil service personnel assigned to fire suppression or emergency medical operations; or

(2) laterally transfer to fire suppression or emergency medical operations.

(f) If a fire department employee who has civil service status under Subsection (b) leaves the employee's position for any reason, a person selected to fill that position must be selected in accordance with the competitive civil service procedures prescribed in this chapter.

The amendment to **CSSB 1050** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1 except as follows:

Absent-excused: Carona, Shapleigh.

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

CSSB 1050 as amended was passed to engrossment by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to engrossment except as follows:

Nays: Brimer.

Absent-excused: Carona, Shapleigh.

COMMITTEE SUBSTITUTE SENATE BILL 1050 ON THIRD READING

Senator Van de Putte moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1050** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 27, Nays 2.

Yeas: Armbrister, Averitt, Barrientos, Deuell, Duncan, Ellis, Eltife, Estes, Fraser, Gallegos, Harris, Hinojosa, Jackson, Janek, Lindsay, Lucio, Madla, Nelson, Ogden, Seliger, Shapiro, Staples, Van de Putte, West, Whitmire, Williams, Zaffirini.

Nays: Brimer, Wentworth.

Absent-excused: Carona, Shapleigh.

Reason for Vote

Senator Wentworth submitted the following reason for vote on suspension of the Constitutional Three-day Rule:

I cast a "No" vote on the procedural motion to suspend the Constitutional Rule requiring that bills be read on three several days in order to take up and consider **CSSB 1050**, because in my judgment no circumstance exists in this case to justify the extraordinary act of suspending a requirement of the Texas Constitution. The suspension of this Constitutional Rule has the direct and immediate effect of denying the people of Texas knowledge and notice of the passage of this measure until it has

already been finally passed on third reading. Were we to have followed the requirement of the Texas Constitution, third reading and a vote on **CSSB 1050** would have occurred on the next legislative day, allowing for Texans to have learned through news reports of our second reading vote exactly what we had tentatively passed. Third reading and a vote on the next legislative day would also have allowed our professional staff an opportunity overnight to make sure any amendments passed on second reading are technically correct.

/s/Jeff Wentworth
Senator, District 25

The bill was read third time and was passed by the following vote: Yeas 28, Nays 1.

Nays: Brimer.

Absent-excused: Carona, Shapleigh.

COMMITTEE SUBSTITUTE SENATE BILL 1311 ON SECOND READING

On motion of Senator Hinojosa and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 1311** at this time on its second reading:

CSSB 1311, Relating to the establishment of an off-highway vehicle trail and recreational area program; providing a penalty.

The bill was read second time.

Senator Hinojosa offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSSB 1311** (Senate committee printing) as follows:

(1) In SECTION 1 of the bill, in added Section 29.002, Parks and Wildlife Code (page 1, lines 38-43), strike Subsection (b) and substitute the following:

(b) The department shall establish and maintain trails and recreational areas for use by owners and riders of off-highway vehicles:

(1) on public land over which the department has authority or on land purchased or leased by the department; or

(2) by making grants to federal agencies, political subdivisions of this state, and nonprofit organizations under Section 29.008.

(2) In SECTION 1 of the bill, in added Subsection (a), Section 29.003, Parks and Wildlife Code, strike "chapter or on other public land without" (page 1, lines 51 and 52), and insert "chapter, on other public land, or on land purchased or developed under a grant made under Section 29.008 or any other grant program operated or administered by the department without".

(3) In SECTION 1 of the bill, in added Section 29.010, Parks and Wildlife Code (page 2, lines 35-36), strike Subdivision (2) and substitute the following:

(2) may adopt rules:

(A) exempting certain classes of persons from the requirements of Section 29.003; or

(B) concerning the department's use of funding from sources outside the general revenue fund under Section 29.007.

The amendment to **CSSB 1311** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1 except as follows:

Absent-excused: Carona, Shapleigh.

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

CSSB 1311 as amended was passed to engrossment by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to engrossment except as follows:

Absent-excused: Carona, Shapleigh.

**COMMITTEE SUBSTITUTE
SENATE BILL 1311 ON THIRD READING**

Senator Hinojosa moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1311** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 1.

Nays: Wentworth.

Absent-excused: Carona, Shapleigh.

Reason for Vote

Senator Wentworth submitted the following reason for vote on suspension of the Constitutional Three-day Rule:

I cast a "No" vote on the procedural motion to suspend the Constitutional Rule requiring that bills be read on three several days in order to take up and consider **CSSB 1311**, because in my judgment no circumstance exists in this case to justify the extraordinary act of suspending a requirement of the Texas Constitution. The suspension of this Constitutional Rule has the direct and immediate effect of denying the people of Texas knowledge and notice of the passage of this measure until it has already been finally passed on third reading. Were we to have followed the requirement of the Texas Constitution, third reading and a vote on **CSSB 1311** would have occurred on the next legislative day, allowing for Texans to have learned through news reports of our second reading vote exactly what we had tentatively passed. Third reading and a vote on the next legislative day would also have allowed our professional staff an opportunity overnight to make sure any amendments passed on second reading are technically correct.

/s/Jeff Wentworth
Senator, District 25

The bill was read third time and was passed by the following vote: Yeas 29, Nays 0.

Absent-excused: Carona, Shapleigh.

**COMMITTEE SUBSTITUTE
SENATE BILL 190 ON SECOND READING**

On motion of Senator Zaffirini and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 190** at this time on its second reading:

CSSB 190, Relating to the operation of the Texas School for the Deaf.

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

All Members are deemed to have voted "Yea" on the passage to engrossment except as follows:

Absent-excused: Carona, Shapleigh.

**COMMITTEE SUBSTITUTE
SENATE BILL 190 ON THIRD READING**

Senator Zaffirini moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 190** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 1.

Nays: Wentworth.

Absent-excused: Carona, Shapleigh.

Reason for Vote

Senator Wentworth submitted the following reason for vote on suspension of the Constitutional Three-day Rule:

I cast a "No" vote on the procedural motion to suspend the Constitutional Rule requiring that bills be read on three several days in order to take up and consider **CSSB 190**, because in my judgment no circumstance exists in this case to justify the extraordinary act of suspending a requirement of the Texas Constitution. The suspension of this Constitutional Rule has the direct and immediate effect of denying the people of Texas knowledge and notice of the passage of this measure until it has already been finally passed on third reading. Were we to have followed the requirement of the Texas Constitution, third reading and a vote on **CSSB 190** would have occurred on the next legislative day, allowing for Texans to have learned through news reports of our second reading vote exactly what we had tentatively passed. Third reading and a vote on the next legislative day would also have allowed our professional staff an opportunity overnight to make sure any amendments passed on second reading are technically correct.

/s/Jeff Wentworth
Senator, District 25

The bill was read third time and was passed by the following vote: Yeas 29, Nays 0.

Absent-excused: Carona, Shapleigh.

**COMMITTEE SUBSTITUTE
SENATE BILL 728 ON THIRD READING**

On motion of Senator Wentworth and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 728** at this time on its third reading and final passage:

CSSB 728, Relating to the liability of certain entities that enter agreements with a metropolitan rapid transit authority.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 0.

Absent-excused: Carona, Shapleigh.

SENATE BILL 1302 ON SECOND READING

On motion of Senator Seliger and by unanimous consent, the regular order of business was suspended to take up for consideration **SB 1302** at this time on its second reading:

SB 1302, Relating to the Ector County Hospital District.

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

All Members are deemed to have voted "Yea" on the passage to engrossment except as follows:

Absent-excused: Carona, Shapleigh.

SENATE BILL 1302 ON THIRD READING

Senator Seliger moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 1302** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 1.

Nays: Wentworth.

Absent-excused: Carona, Shapleigh.

Reason for Vote

Senator Wentworth submitted the following reason for vote on suspension of the Constitutional Three-day Rule:

I cast a "No" vote on the procedural motion to suspend the Constitutional Rule requiring that bills be read on three several days in order to take up and consider **SB 1302**, because in my judgment no circumstance exists in this case to justify the extraordinary act of suspending a requirement of the Texas Constitution. The suspension of this Constitutional Rule has the direct and immediate effect of denying the people of Texas knowledge and notice of the passage of this measure until it has already been finally passed on third reading. Were we to have followed the requirement of the Texas Constitution, third reading and a vote on **SB 1302** would have occurred on the next legislative day, allowing for Texans to have learned through news reports of our second reading vote exactly what we had tentatively passed.

Third reading and a vote on the next legislative day would also have allowed our professional staff an opportunity overnight to make sure any amendments passed on second reading are technically correct.

/s/Jeff Wentworth
Senator, District 25

The bill was read third time and was passed by the following vote: Yeas 29, Nays 0.

Absent-excused: Carona, Shapleigh.

**COMMITTEE SUBSTITUTE
SENATE BILL 990 ON SECOND READING**

Senator Janek moved to suspend the regular order of business to take up for consideration **CSSB 990** at this time on its second reading:

CSSB 990, Relating to a training and examination program on sexual abuse and child molestation for certain persons who work at youth camps.

The motion prevailed.

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

The bill was read second time.

Senator Janek offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSSB 990** by striking all below the enacting clause and substituting the following:

SECTION 1. Chapter 141, Health and Safety Code, is amended by adding Sections 141.0095 and 141.0096 to read as follows:

Sec. 141.0095. TRAINING AND EXAMINATION PROGRAM. (a) A person holding a license issued under this chapter may not employ or accept the volunteer service of an individual for a position involving contact with campers at a youth camp unless:

(1) the individual submits to the person or the youth camp has on file documentation that verifies the individual within the preceding two years successfully completed the training and examination program required by this section; or

(2) the individual successfully completes the youth camp's training and examination program, which must be approved by the department as required by this section, during the individual's first workweek and the youth camp issues and files documentation verifying that fact.

(b) A person holding a license issued under this chapter must retain in the person's records a copy of the documentation required or issued under Subsection (a) for each employee or volunteer until the second anniversary of the examination date.

(c) A person applying for or holding an employee or volunteer position involving contact with campers at a youth camp must successfully complete the training and examination program on sexual abuse and child molestation required by this section during the applicable period described by Subsection (a).

(d) In accordance with this section and the criteria and guidelines developed by the training advisory committee established under Section 141.0096, the executive commissioner of the Health and Human Services Commission by rule shall establish criteria and guidelines for training and examination programs on sexual abuse and child molestation. The department may approve training and examination programs offered by trainers under contract with youth camps or by online training organizations or may approve programs offered in another format authorized by the department.

(e) A training and examination program on sexual abuse and child molestation approved by the department must include training and an examination on:

(1) the definitions and effects of sexual abuse and child molestation;

(2) the typical patterns of behavior and methods of operation of child molesters and sex offenders that put children at risk;

(3) the warning signs and symptoms associated with sexual abuse or child molestation, recognition of the signs and symptoms, and the recommended methods of reporting suspected abuse; and

(4) the recommended rules and procedures for youth camps to implement to address, reduce, prevent, and report suspected sexual abuse or child molestation.

(f) The department may assess a fee in the amount necessary to cover the costs of administering this section to each person that applies for the department's approval of a training and examination program on sexual abuse and child molestation under this section.

(g) The department at least every five years shall review each training and examination program on sexual abuse and child molestation approved by the department to ensure the program continues to meet the criteria and guidelines established by rule under this section.

Sec. 141.0096. TRAINING ADVISORY COMMITTEE. (a) The department shall appoint a training advisory committee to advise the department and the executive commissioner in the development of criteria and guidelines for the training and examination program on sexual abuse and child molestation required under Section 141.0095 and to perform any other functions requested by the department.

(b) The training advisory committee consists of not more than nine members selected by the commissioner of state health services as follows:

(1) at least two members who represent the general public; and

(2) other members, who include experienced camping professionals representing the camping communities of this state, representatives of youth camps selected by the department, and representatives of the Council on Sex Offender Treatment established under Chapter 110, Occupations Code.

(c) The training advisory committee shall meet at the call of the commissioner of state health services.

(d) The training advisory committee may elect a chair, vice chair, and secretary from among its members and may adopt rules for the conduct of its own activities.

(e) An advisory committee member may not receive compensation or reimbursement of expenses for serving on the advisory committee.

SECTION 2. (a) The commissioner of state health services shall appoint the members of the training advisory committee created under Section 141.0096, Health and Safety Code, as added by this Act, as soon as practicable after the effective date of this Act.

(b) Notwithstanding Section 141.0095, Health and Safety Code, as added by this Act, a youth camp or an individual employed by or volunteering at a youth camp is not required to comply with Section 141.0095, Health and Safety Code, before June 1, 2006.

SECTION 3. This Act takes effect September 1, 2005.

The amendment to **CSSB 990** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1 except as follows:

Absent-excused: Carona, Shapleigh.

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

CSSB 990 as amended was passed to engrossment by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to engrossment except as follows:

Nays: Ogden.

Absent-excused: Carona, Shapleigh.

COMMITTEE SUBSTITUTE SENATE BILL 990 ON THIRD READING

Senator Janek moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 990** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 27, Nays 2.

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

Nays: Ogden, Wentworth.

Absent-excused: Carona, Shapleigh.

Reason for Vote

Senator Wentworth submitted the following reason for vote on suspension of the Constitutional Three-day Rule:

I cast a "No" vote on the procedural motion to suspend the Constitutional Rule requiring that bills be read on three several days in order to take up and consider **CSSB 990**, because in my judgment no circumstance exists in this case to justify the extraordinary act of suspending a requirement of the Texas Constitution. The suspension of this Constitutional Rule has the direct and immediate effect of denying the people of Texas knowledge and notice of the passage of this measure until it has

already been finally passed on third reading. Were we to have followed the requirement of the Texas Constitution, third reading and a vote on **CSSB 990** would have occurred on the next legislative day, allowing for Texans to have learned through news reports of our second reading vote exactly what we had tentatively passed. Third reading and a vote on the next legislative day would also have allowed our professional staff an opportunity overnight to make sure any amendments passed on second reading are technically correct.

/s/Jeff Wentworth
Senator, District 25

The bill was read third time and was passed by the following vote: Yeas 28, Nays 1.

Nays: Ogden.

Absent-excused: Carona, Shapleigh.

HOUSE BILL 762 ON SECOND READING

On motion of Senator Ellis and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 762** at this time on its second reading:

HB 762, Relating to the solicitation by state officers and employees of and recommendations regarding contributions to charitable organizations and governmental entities.

The bill was read second time.

Senator Ellis offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 762** (Senate committee printing) as follows:

(1) On page one line 16 strike "A" and replace with "a".

(2) On page one line 16 between "(a)" and "a" add the following language: "Unless otherwise prohibited by the Code of Judicial Conduct,"

The amendment to **HB 762** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1 except as follows:

Absent-excused: Carona, Shapleigh.

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

HB 762 as amended was passed to third reading by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to third reading except as follows:

Absent-excused: Carona, Shapleigh.

HOUSE BILL 762 ON THIRD READING

Senator Ellis moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 762** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 1.

Nays: Wentworth.

Absent-excused: Carona, Shapleigh.

Reason for Vote

Senator Wentworth submitted the following reason for vote on suspension of the Constitutional Three-day Rule:

I cast a "No" vote on the procedural motion to suspend the Constitutional Rule requiring that bills be read on three several days in order to take up and consider **HB 762**, because in my judgment no circumstance exists in this case to justify the extraordinary act of suspending a requirement of the Texas Constitution. The suspension of this Constitutional Rule has the direct and immediate effect of denying the people of Texas knowledge and notice of the passage of this measure until it has already been finally passed on third reading. Were we to have followed the requirement of the Texas Constitution, third reading and a vote on **HB 762** would have occurred on the next legislative day, allowing for Texans to have learned through news reports of our second reading vote exactly what we had tentatively passed. Third reading and a vote on the next legislative day would also have allowed our professional staff an opportunity overnight to make sure any amendments passed on second reading are technically correct.

/s/Jeff Wentworth
Senator, District 25

The bill was read third time and was passed by the following vote: Yeas 29, Nays 0.

Absent-excused: Carona, Shapleigh.

**COMMITTEE SUBSTITUTE
SENATE BILL 1410 ON SECOND READING**

On motion of Senator Lucio and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 1410** at this time on its second reading:

CSSB 1410, Relating to the appointment of attorneys ad litem.

The bill was read second time.

Senator Lindsay offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSSB 1410** (Senate committee printing) as follows:

(1) In SECTION 1 of the bill, immediately following added Subsection (b), Section 74.092, Government Code (page 1, between lines 52 and 53), insert the following:

(c) Subsection (a)(11) does not apply to a local administrative judge in a county with a population of 3.4 million or more.

(2) In SECTION 2 of the bill, immediately following added Subsection (c), Section 74.097, Government Code (page 2, between lines 10 and 11), insert the following:

(d) This section does not apply to a court in a county with a population of 3.4 million or more.

The amendment to **CSSB 1410** was read and failed of adoption by the following vote: Yeas 9, Nays 18.

Yeas: Armbrister, Deuell, Eltife, Gallegos, Jackson, Janek, Lindsay, Whitmire, Williams.

Nays: Averitt, Barrientos, Brimer, Duncan, Ellis, Estes, Fraser, Harris, Lucio, Madla, Nelson, Seliger, Shapiro, Staples, Van de Putte, Wentworth, West, Zaffirini.

Absent: Hinojosa, Ogden.

Absent-excused: Carona, Shapleigh.

Senator Duncan offered the following amendment to the bill:

Floor Amendment No. 2

Amend **CSSB 1410** (Senate committee printing) in SECTION 2 of the bill, in added Section 74.097, Government Code, by striking Subsection (b) (page 1, line 61, through page 2, line 7) and substituting the following:

(b) The court may appoint an attorney included on the list whose name does not appear first on the list or an attorney not included on the list if the appointment of that attorney as attorney ad litem is:

(1) required on a complex matter because the attorney possesses relevant specialized education, training, certification, or skill;

(2) made pursuant to the Family Code, Health and Safety Code, or Human Resources Code; or

(3) agreed on by the parties and approved by the court.

The amendment was read.

Senator Lucio offered the following amendment to Floor Amendment No. 2:

Floor Amendment No. 3

Amend Floor Amendment No. 2 to **CSSB 1410** by striking Subsection (b)(2) (page 1, lines 12 and 13) and substituting the following:

(2) made pursuant to the Family Code, Health and Safety Code, Human Resources Code, or Probate Code; or

The amendment to Floor Amendment No. 2 to **CSSB 1410** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 3 except as follows:

Absent-excused: Carona, Shapleigh.

Question recurring on the adoption of Floor Amendment No. 2 to **CSSB 1410**, the amendment as amended was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 2 as amended except as follows:

Absent-excused: Carona, Shapleigh.

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

CSSB 1410 as amended was passed to engrossment by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to engrossment except as follows:

Absent-excused: Carona, Shapleigh.

COMMITTEE SUBSTITUTE SENATE BILL 1410 ON THIRD READING

Senator Lucio moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1410** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 1.

Nays: Wentworth.

Absent-excused: Carona, Shapleigh.

Reason for Vote

Senator Wentworth submitted the following reason for vote on suspension of the Constitutional Three-day Rule:

I cast a "No" vote on the procedural motion to suspend the Constitutional Rule requiring that bills be read on three several days in order to take up and consider **CSSB 1410**, because in my judgment no circumstance exists in this case to justify the extraordinary act of suspending a requirement of the Texas Constitution. The suspension of this Constitutional Rule has the direct and immediate effect of denying the people of Texas knowledge and notice of the passage of this measure until it has already been finally passed on third reading. Were we to have followed the requirement of the Texas Constitution, third reading and a vote on **CSSB 1410** would have occurred on the next legislative day, allowing for Texans to have learned through news reports of our second reading vote exactly what we had tentatively passed. Third reading and a vote on the next legislative day would also have allowed our professional staff an opportunity overnight to make sure any amendments passed on second reading are technically correct.

/s/Jeff Wentworth
Senator, District 25

The bill was read third time and was passed by the following vote: Yeas 29, Nays 0.

Absent-excused: Carona, Shapleigh.

**COMMITTEE SUBSTITUTE
SENATE BILL 1850 ON SECOND READING**

Senator Gallegos moved to suspend the regular order of business to take up for consideration **CSSB 1850** at this time on its second reading:

CSSB 1850, Relating to the regulation of certain businesses that sell beer or beer and wine in certain counties; providing an administrative penalty.

The motion prevailed.

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

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

All Members are deemed to have voted "Yea" on the passage to engrossment except as follows:

Nays: Wentworth.

Absent-excused: Carona, Shapleigh.

**COMMITTEE SUBSTITUTE
SENATE BILL 1850 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 1850** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 1.

Nays: Wentworth.

Absent-excused: Carona, Shapleigh.

Reason for Vote

Senator Wentworth submitted the following reason for vote on suspension of the Constitutional Three-day Rule:

I cast a "No" vote on the procedural motion to suspend the Constitutional Rule requiring that bills be read on three several days in order to take up and consider **CSSB 1850**, because in my judgment no circumstance exists in this case to justify the extraordinary act of suspending a requirement of the Texas Constitution. The suspension of this Constitutional Rule has the direct and immediate effect of denying the people of Texas knowledge and notice of the passage of this measure until it has already been finally passed on third reading. Were we to have followed the requirement of the Texas Constitution, third reading and a vote on **CSSB 1850** would have occurred on the next legislative day, allowing for Texans to have learned through news reports of our second reading vote exactly what we had tentatively passed.

Third reading and a vote on the next legislative day would also have allowed our professional staff an opportunity overnight to make sure any amendments passed on second reading are technically correct.

/s/Jeff Wentworth
Senator, District 25

The bill was read third time and was passed by the following vote: Yeas 28, Nays 1. (Same as previous roll call)

MESSAGE FROM THE HOUSE

HOUSE CHAMBER
Austin, Texas
April 29, 2005

The Honorable President of the Senate
Senate Chamber
Austin, Texas

Mr. President:

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

THE HOUSE HAS PASSED THE FOLLOWING MEASURES:

HCR 3, Honoring officers of the Smith County Sheriff's Department, the Tyler Police Department, and the Smith County District Attorney's Office for their bravery in the line of duty on February 24, 2005.

HCR 145, Honoring Sally Ann Reynolds, former director of the Legislative Reference Library for her remarkable career in state government.

HCR 147, Honoring Kathryn Patricia Beal, the 2005 Bluebonnet Queen.

HCR 148, Designating the Texas Round-Up 10K as the Official 10K of Texas.

SB 129, Relating to certain exceptions to the requirement that the operator of a motor vehicle operated on a turnpike project pay the proper toll or the full amount of the toll.

SB 177, Relating to the composition of a board of adjustment in certain municipalities.

SB 541, Relating to posting on the Internet information regarding certain residential property held by an appraisal district.

SB 692, Relating to the fee a county tax assessor-collector may charge for assessing and collecting ad valorem taxes for certain river authorities.

SB 766, Relating to allowing a lodge or other local organization affiliated with a grand lodge or similar charitable or benevolent institution or order incorporated under state law to hold a charitable raffle.

SB 1342, Relating to unemployment compensation eligibility and chargebacks regarding certain spouses of military personnel.

SCR 20, Recognizing the professionals of the Texas Juvenile Justice System on Texas Juvenile Justice Day 2005.

SCR 26, Commending Troy Lowell Luce for his service to his country.

SCR 28, Recognizing Texas Motor Speedway in Fort Worth for its selection to host a second NASCAR Nextel Cup race.

Respectfully,

/s/Robert Haney, Chief Clerk
House of Representatives

COMMITTEE SUBSTITUTE
SENATE BILL 674 ON SECOND READING

On motion of Senator West and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 674** at this time on its second reading:

CSSB 674, Relating to limiting the use of customers' social security numbers by persons; providing a civil penalty.

The bill was read second time.

Senator West offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSSB 674** as follows:

(1) In SECTION 1 of the bill, in proposed Section 35.62, Business & Commerce Code (committee printing, page 1, lines 30-33), strike proposed Subsection (c) and substitute the following:

(c) A person that requests a customer's number to complete a credit check, as provided in Subsection (b), shall:

(1) destroy each record of the number by shredding, erasing, or other means after the credit check is completed; or

(2) maintain the number:

(A) for the sole purpose of allowing authorized employees to use the number to collect a debt or to protect against fraud or unauthorized transactions; and

(B) in a database or other location that ensures the security and confidentiality of the number and protects against unauthorized access to, or use of, the number.

(d) When a customer's number is no longer maintained by the person as required by Subsection (c)(2), the person shall destroy each record of the number by shredding, erasing, or other means.

(e) A person may not request an existing customer's social security number, or another number that includes four or more consecutive digits of an existing customer's social security number, to verify the customer's relationship with the person.

(2) In SECTION 1 of the bill, proposed Section 35.62, Business & Commerce Code (committee printing, page 1, line 34), strike "(d)" and substitute "(f)".

(3) In SECTION 1 of the bill, in proposed Section 35.62(d)(1), Business & Commerce Code (committee printing, page 1, line 35), between "financial institution" and the semicolon, insert ", mortgage lender, or mortgage broker".

(4) In SECTION 1 of the bill, proposed Section 35.62, Business & Commerce Code (committee printing, page 1, line 42), strike "(e)" and substitute "(g)".

(5) Add the following SECTION, appropriately numbered, and renumber the subsequent SECTIONS of the bill appropriately:

SECTION _____. (a) The Office of Consumer Credit Commissioner, with the assistance of the attorney general, shall conduct a study to develop and evaluate proposals to limit the use of social security numbers by businesses in this state.

(b) In conducting the study, the consumer credit commissioner shall receive input from credit reporting agencies, businesses, and consumer groups.

(c) The consumer credit commissioner shall evaluate whether, when a business contacts a credit reporting agency for a credit check of a customer, the business and credit reporting agency should create a unique code that:

(1) would allow the business to retrieve the social security number of the customer for collection purposes; and

(2) permit the business to delete the social security number of the customer from the records of the business.

(d) The consumer credit commissioner shall determine the date on which the system described by Subsection (c) could be implemented and the feasibility of monitoring compliance with the system.

(e) Not later than July 1, 2006, the consumer credit commissioner shall submit a report to the legislature regarding the results of the study conducted under this section.

(f) This section expires September 1, 2006.

The amendment to **CSSB 674** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1 except as follows:

Absent-excused: Carona, Shapleigh.

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

CSSB 674 as amended was passed to engrossment by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to engrossment except as follows:

Absent-excused: Carona, Shapleigh.

COMMITTEE SUBSTITUTE SENATE BILL 674 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 674** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 1.

Nays: Wentworth.

Absent-excused: Carona, Shapleigh.

Reason for Vote

Senator Wentworth submitted the following reason for vote on suspension of the Constitutional Three-day Rule:

I cast a "No" vote on the procedural motion to suspend the Constitutional Rule requiring that bills be read on three several days in order to take up and consider **CSSB 674**, because in my judgment no circumstance exists in this case to justify the extraordinary act of suspending a requirement of the Texas Constitution. The suspension of this Constitutional Rule has the direct and immediate effect of denying the people of Texas knowledge and notice of the passage of this measure until it has already been finally passed on third reading. Were we to have followed the requirement of the Texas Constitution, third reading and a vote on **CSSB 674** would have occurred on the next legislative day, allowing for Texans to have learned through news reports of our second reading vote exactly what we had tentatively passed. Third reading and a vote on the next legislative day would also have allowed our professional staff an opportunity overnight to make sure any amendments passed on second reading are technically correct.

/s/Jeff Wentworth
Senator, District 25

The bill was read third time and was passed by the following vote: Yeas 29, Nays 0.

Absent-excused: Carona, Shapleigh.

COMMITTEE SUBSTITUTE SENATE BILL 31 ON SECOND READING

On motion of Senator Zaffirini and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 31** at this time on its second reading:

CSSB 31, Relating to the creation of a work-study student mentorship program at certain institutions of higher education and to certain student financial aid program requirements.

The bill was read second time.

Senator Zaffirini offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSSB 31** (Senate committee printing) as follows:

In Section 7, subsection (b) of the bill (page 4, line 35) strike "undergraduate".

The amendment to **CSSB 31** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1 except as follows:

Absent-excused: Carona, Shapleigh.

Senator Ellis offered the following amendment to the bill:

Floor Amendment No. 2

Amend **CSSB 31** (Senate committee printing) as follows:

(1) Add the following appropriately numbered SECTIONS to the bill:

SECTION ____. Section 56.303, Education Code, is amended by adding Subsection (e) to read as follows:

(e) Notwithstanding Subsection (d), a TEXAS grant may not be awarded to a student enrolled in a private or independent institution of higher education until each eligible student enrolled in a public institution of higher education has received a TEXAS grant.

SECTION ____. Subchapter M, Chapter 56, Education Code, is amended by adding Section 56.3071 to read as follows:

Sec. 56.3071. EFFECT OF ELIGIBILITY FOR TUITION EQUALIZATION GRANT. (a) Notwithstanding Section 56.307, the total amount of financial aid that a student enrolled in a private or independent institution of higher education is eligible to receive in a state fiscal year from TEXAS grants awarded under this subchapter may not exceed the maximum amount the student may receive in tuition equalization grants in that fiscal year as determined under Subchapter F, Chapter 61.

(b) Notwithstanding any other law, a student enrolled in a private or independent institution of higher education may not receive a TEXAS grant under this subchapter and a tuition equalization grant under Subchapter F, Chapter 61, for the same semester or other term, regardless of whether the student is otherwise eligible for both grants during that semester or term. A student who but for this subsection would be awarded both a TEXAS grant and a tuition equalization grant for the same semester or other term is entitled to receive only the grant of the greater amount.

SECTION ____. Subsection (h), Section 56.307, Education Code, is repealed.

(2) In SECTION 8 of the bill (page 5, lines 13-14), strike the recital and substitute the following:

Section 61.227, Education Code, is amended by amending Subsection (c) and adding Subsection (d) to read as follows:

(3) At the end of SECTION 8 of the bill (page 5, between lines 22 and 23), insert the following:

(d) Notwithstanding any other law, a student enrolled in a private or independent institution of higher education may not receive a tuition equalization grant under this subchapter and a TEXAS grant under Subchapter M, Chapter 56, for the same semester or other term, regardless of whether the student is otherwise eligible for both grants during that semester or term. A student who but for this subsection would be awarded both a tuition equalization grant and a TEXAS grant for the same semester or other term is entitled to receive only the grant of the greater amount.

(4) In SECTION 9 of the bill (page 5, lines 23-29), strike proposed Subsection (a) and substitute the following:

(a) The change in law made by this Act to Subchapter M, Chapter 56, Education Code, applies beginning with the 2005-2006 academic year, but does not affect the amount of or entitlement to any grant awarded before the effective date of this Act.

(5) In SECTION 9 of the bill, in proposed Subsection (d) (page 5, line 40), strike "Subsection (c)".

(6) Renumber the other SECTIONS of the bill accordingly.

The amendment was read.

Senator Ellis offered the following amendment to Floor Amendment No. 2:

Floor Amendment No. 3

Amend Floor Amendment No. 2 to **CSSB 31** as follows:

On page 1, strike subsection (e), lines 6 through 10.

The amendment to Floor Amendment No. 2 to **CSSB 31** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 3 except as follows:

Absent-excused: Carona, Shapleigh.

Question recurring on the adoption of Floor Amendment No. 2 to **CSSB 31**, the amendment as amended was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 2 as amended except as follows:

Absent-excused: Carona, Shapleigh.

Senator Ellis offered the following amendment to the bill:

Floor Amendment No. 4

Amend **CSSB 31** (Senate committee printing) as follows:

(1) Add the following appropriately numbered SECTIONS to the bill:

SECTION ____ . Section 56.301, Education Code, is amended to read as follows:

Sec. 56.301. DEFINITIONS. In this subchapter:

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

(2) "Eligible institution" means ~~[-~~ ~~(A)~~ an institution of higher education that offers one or more undergraduate degree or certificate programs; ~~or~~ ~~(B) a private or independent institution of higher education~~.

(3) ~~"Public junior college" ["Private or independent institution of higher education," "public junior college,"]~~ and "public technical institute" have the meanings assigned by Section 61.003.

SECTION ____ . Subsection (b), Section 56.302, Education Code, is amended to read as follows:

(b) The purpose of this subchapter is to provide a grant of money to enable eligible students to attend public ~~[and private]~~ institutions of higher education in this state.

(2) In the recital to SECTION 3 of the bill (page 2, line 19), strike "Subsection (e)" and substitute "Subsections (a) and (e)".

(3) In SECTION 3 of the bill, between the recital and amended Subsection (e), Section 56.304, Education Code (page 2, between lines 20 and 21), insert the following:

(a) To be eligible initially for a TEXAS grant, a person must:

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

(2) meet either of the following academic requirements:

(A) be a graduate of a public or accredited private high school in this state who graduated not earlier than the 1998-1999 school year and who completed the recommended or advanced high school curriculum established under Section 28.002 or 28.025 or its equivalent; or

(B) have received an associate degree from a public or private ~~an~~ eligible institution of higher education not earlier than May 1, 2001;

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

(4) be enrolled in an undergraduate degree or certificate program at an eligible institution;

(5) be enrolled as:

(A) an entering undergraduate student for at least three-fourths of a full course load for an entering undergraduate student, as determined by the coordinating board, not later than the 16th month after the date of the person's graduation from high school; or

(B) an entering student for at least three-fourths of a full course load for an undergraduate student as determined by the coordinating board, not later than the 12th month after the month the person receives an associate degree from a public or private ~~an~~ eligible institution of higher education;

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

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

(4) In SECTION 4 of the bill, in proposed Paragraph (B), Subdivision (2), Subsection (e), Section 56.305, Education Code (page 2, line 64), between "attempted at" and "institutions", insert "public or private".

(5) Add the following appropriately numbered SECTIONS to the bill:

SECTION ____ . Subsection (a), Section 56.307, Education Code, is amended to read as follows:

(a) The amount of a TEXAS grant for a semester or term for a person enrolled full-time at an eligible institution other than an institution covered by Subsection ~~(b)~~ (c) or (d) is the amount determined by the coordinating board as the average statewide amount of tuition and required fees that a resident student enrolled full-time in a baccalaureate degree program would be charged for that semester or term at general academic teaching institutions.

SECTION ____ . Subsections (b) and (h), Section 56.307, Education Code, are repealed.

(6) In SECTION 9 of the bill (page 5, lines 23-29), strike proposed Subsection (a) and substitute the following:

(a) The change in law made by this Act to Subchapter M, Chapter 56, Education Code, applies beginning with the 2005-2006 academic year, but does not affect the amount of or entitlement to any grant awarded before the effective date of this Act.

(7) Renumber other SECTIONS of the bill accordingly.

Senator Ellis withdrew Floor Amendment No. 4.

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

CSSB 31 as amended was passed to engrossment by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to engrossment except as follows:

Absent-excused: Carona, Shapleigh.

**COMMITTEE SUBSTITUTE
SENATE BILL 31 ON THIRD READING**

Senator Zaffirini moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 31** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 1.

Nays: Wentworth.

Absent-excused: Carona, Shapleigh.

Reason for Vote

Senator Wentworth submitted the following reason for vote on suspension of the Constitutional Three-day Rule:

I cast a "No" vote on the procedural motion to suspend the Constitutional Rule requiring that bills be read on three several days in order to take up and consider **CSSB 31**, because in my judgment no circumstance exists in this case to justify the extraordinary act of suspending a requirement of the Texas Constitution. The suspension of this Constitutional Rule has the direct and immediate effect of denying the people of Texas knowledge and notice of the passage of this measure until it has already been finally passed on third reading. Were we to have followed the requirement of the Texas Constitution, third reading and a vote on **CSSB 31** would have occurred on the next legislative day, allowing for Texans to have learned through news reports of our second reading vote exactly what we had tentatively passed. Third reading and a vote on the next legislative day would also have allowed our professional staff an opportunity overnight to make sure any amendments passed on second reading are technically correct.

/s/Jeff Wentworth
Senator, District 25

The bill was read third time and was passed by the following vote: Yeas 28, Nays 1.

Nays: Brimer.

Absent-excused: Carona, Shapleigh.

**COMMITTEE SUBSTITUTE
SENATE BILL 1102 ON SECOND READING**

Senator Jackson moved to suspend the regular order of business to take up for consideration **CSSB 1102** at this time on its second reading:

CSSB 1102, Relating to the establishment of a program by the Department of Agriculture to make grants to farmers and diverters who provide agricultural biomass to facilities that convert biomass to electrical energy.

The motion prevailed.

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

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

All Members are deemed to have voted "Yea" on the passage to engrossment except as follows:

Nays: Ogden.

Absent-excused: Carona, Shapleigh.

**COMMITTEE SUBSTITUTE
SENATE BILL 1102 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 1102** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 27, Nays 2.

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

Nays: Ogden, Wentworth.

Absent-excused: Carona, Shapleigh.

Reason for Vote

Senator Wentworth submitted the following reason for vote on suspension of the Constitutional Three-day Rule:

I cast a "No" vote on the procedural motion to suspend the Constitutional Rule requiring that bills be read on three several days in order to take up and consider **CSSB 1102**, because in my judgment no circumstance exists in this case to justify the extraordinary act of suspending a requirement of the Texas Constitution. The suspension of this Constitutional Rule has the direct and immediate effect of denying the people of Texas knowledge and notice of the passage of this measure until it has already been finally passed on third reading. Were we to have followed the requirement of the Texas Constitution, third reading and a vote on **CSSB 1102** would have occurred on the next legislative day, allowing for Texans to have learned through news reports of our second reading vote exactly what we had tentatively passed. Third reading and a vote on the next legislative day would also have allowed our professional staff an opportunity overnight to make sure any amendments passed on second reading are technically correct.

/s/Jeff Wentworth
Senator, District 25

The bill was read third time and was passed by the following vote: Yeas 28, Nays 1.

Nays: Ogden.

Absent-excused: Carona, Shapleigh.

**COMMITTEE SUBSTITUTE
SENATE BILL 1748 ON SECOND READING**

On motion of Senator Fraser and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 1748** at this time on its second reading:

CSSB 1748, Relating to the development and provision of broadband over electric delivery systems and the development of enhanced electric delivery systems.

The bill was read second time.

Senator Averitt offered the following amendment to the bill:

Floor Amendment No. 1

Amend the committee printing of **CSSB 1748** as follows:

(1) On page 2, line 45, to insert a new subsection (c) to read as follows:

"(c) Nothing in this chapter shall prohibit an entity defined in Sec. 11.003(9) of the Public Utility Regulatory Act from providing BPL service or owning and operating a BPL system."

(2) On page 3, line 6, following the word "system," to add "or an entity defined in Section 11.003(9) of the Public Utility Regulatory Act".

The amendment to **CSSB 1748** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1 except as follows:

Absent-excused: Carona, Shapleigh.

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

CSSB 1748 as amended was passed to engrossment by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to engrossment except as follows:

Absent-excused: Carona, Shapleigh.

**COMMITTEE SUBSTITUTE
SENATE BILL 1748 ON THIRD READING**

Senator Fraser moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1748** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 1.

Nays: Wentworth.

Absent-excused: Carona, Shapleigh.

Reason for Vote

Senator Wentworth submitted the following reason for vote on suspension of the Constitutional Three-day Rule:

I cast a "No" vote on the procedural motion to suspend the Constitutional Rule requiring that bills be read on three several days in order to take up and consider **CSSB 1748**, because in my judgment no circumstance exists in this case to justify the extraordinary act of suspending a requirement of the Texas Constitution. The suspension of this Constitutional Rule has the direct and immediate effect of denying the people of Texas knowledge and notice of the passage of this measure until it has already been finally passed on third reading. Were we to have followed the requirement of the Texas Constitution, third reading and a vote on **CSSB 1748** would have occurred on the next legislative day, allowing for Texans to have learned through news reports of our second reading vote exactly what we had tentatively passed. Third reading and a vote on the next legislative day would also have allowed our professional staff an opportunity overnight to make sure any amendments passed on second reading are technically correct.

/s/Jeff Wentworth
Senator, District 25

The bill was read third time and was passed by the following vote: Yeas 29, Nays 0.

Absent-excused: Carona, Shapleigh.

(Senator Brimer in Chair)

SENATE BILL 574 WITH HOUSE AMENDMENTS

Senator Armbrister called **SB 574** from the President's table for consideration of the House amendments to the bill.

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

Amendment

Amend **SB 574** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED
AN ACT

relating to requirements for the issuance of land development permits by political subdivisions.

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

SECTION 1. Sections 245.004, 245.005, and 245.006, Local Government Code, are amended to read as follows:

Sec. 245.004. EXEMPTIONS. This chapter does not apply to:

(1) a permit that is at least two years old, is issued for the construction of a building or structure intended for human occupancy or habitation, and is issued under laws, ordinances, procedures, rules, or regulations adopting only:

(A) uniform building, fire, electrical, plumbing, or mechanical codes adopted by a recognized national code organization; or

(B) local amendments to those codes enacted solely to address imminent threats of destruction of property or injury to persons;

(2) municipal zoning regulations that do not affect landscaping or tree preservation, open space or park dedication, lot size, lot dimensions, lot coverage, or building size or that do not change development permitted by a restrictive covenant required by a municipality;

(3) regulations that specifically control only the use of land in a municipality that does not have zoning and that do not affect landscaping or tree preservation, open space or park dedication, lot size, lot dimensions, lot coverage, or building size;

(4) regulations for sexually oriented businesses;

(5) municipal or county ordinances, rules, regulations, or other requirements affecting colonies;

(6) fees imposed in conjunction with development permits;

(7) regulations for annexation that do not affect landscaping or tree preservation or open space or park dedication;

(8) regulations for utility connections;

(9) regulations to prevent imminent destruction of property or injury to persons from flooding that are effective only within a flood plain established by a federal flood control program and enacted to prevent the flooding of buildings intended for public occupancy;

(10) construction standards for public works located on public lands or easements; or

(11) regulations to prevent the imminent destruction of property or injury to persons if the regulations do not:

(A) affect landscaping or tree preservation, open space or park dedication, lot size, lot dimensions, lot coverage, building size, residential or commercial density, or the timing of a project; or

(B) change development permitted by a restrictive covenant required by a municipality.

Sec. 245.005. DORMANT PROJECTS. (a) After ~~[Notwithstanding any other provision of this chapter, after]~~ the first anniversary of the effective date of this chapter, a regulatory agency may enact an ordinance, rule, or regulation that places an expiration date on a permit if as of the first anniversary of the effective date of this chapter: (i) the permit does not have an expiration date; and (ii) no progress has been made towards completion of the project. Any ordinance, rule, or regulation enacted pursuant to this subsection ~~[section]~~ shall place an expiration date of no earlier than the fifth anniversary of the effective date of this chapter.

(b) A regulatory agency may enact an ordinance, rule, or regulation that places an expiration date of not less than two years on an individual permit if no progress has been made towards completion of the project. Notwithstanding any other provision of this chapter, any ordinance, rule, or regulation enacted pursuant to this section shall place an expiration date on a project of no earlier than the fifth anniversary of the date the first permit application was filed for the project if no progress has been made towards completion of the project. Nothing in this subsection shall be deemed to

affect the timing of a permit issued solely under the authority of Chapter 366, Health and Safety Code, by the Texas Commission on Environmental Quality or its authorized agent.

(c) Progress towards completion of the project shall include any one ~~(or more)~~ of the following:

(1) an application for a final plat or plan is submitted to a regulatory agency;

(2) a good-faith attempt is made to file with a regulatory agency an application for a permit necessary to begin or continue towards completion of the project;

(3) costs have been incurred for developing the project including, without limitation, costs associated with roadway, utility, and other infrastructure facilities designed to serve, in whole or in part, the project (but exclusive of land acquisition) in the aggregate amount of five percent of the most recent appraised market value of the real property on which the project is located;

(4) fiscal security is posted with a regulatory agency to ensure performance of an obligation required by the regulatory agency; or

(5) utility connection fees or impact fees for the project have been paid to a regulatory agency.

Sec. 245.006. ENFORCEMENT OF CHAPTER. (a) This chapter may be enforced only through mandamus or declaratory or injunctive relief.

(b) A political subdivision's immunity from suit is waived in regard to an action under this chapter.

SECTION 2. (a) Section 245.004, Local Government Code, as amended by this Act, applies to a permit where a person files a permit application and demonstrates progress towards completion of a project before, on, or after September 1, 2005.

(b) Section 245.005(b), Local Government Code, as amended by this Act, applies to a permit where a person files a permit application on or after September 1, 2005.

(c) Section 245.006, Local Government Code, as amended by this Act, applies to a suit pending before a trial court on, or filed on or after, September 1, 2005.

SECTION 3. This Act takes effect September 1, 2005.

Floor Amendment No. 1 on Third Reading

Amend **CSSB 574** on third reading, in SECTION 1 of the bill, in amended Section 245.004(2), Local Government Code, immediately after "park dedication", by inserting "property classification".

The amendments were read.

Senator Armbrister moved to concur in the House amendments to **SB 574**.

The motion prevailed by the following vote: Yeas 28, Nays 1.

Nays: Barrientos.

Absent-excused: Carona, Shapleigh.

**COMMITTEE SUBSTITUTE
SENATE BILL 305 ON SECOND READING**

Senator Armbrister moved to suspend the regular order of business to take up for consideration **CSSB 305** at this time on its second reading:

CSSB 305, Relating to the licensing and regulation of glass technicians; providing administrative penalties.

The motion prevailed.

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

The bill was read second time.

Senator Armbrister offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSSB 305** as follows:

(1) Amend SECTION 1. Sec. 1306.002 of the bill by striking subparagraph (4).

(2) Amend SECTION 1. Sec. 1306.002 subparagraph (6) of the bill to read as follows:

(6) "Licensed glazier" means a person who holds a license under this chapter to perform glazing, including, where appropriate, an ironworker.

(3) Amend SECTION 1. Sec. 1306.002 subparagraph (7) of the bill to read as follows:

(7) "Trainee" means a person not licensed under this chapter who performs automotive glass work or glazing under the supervision of a licensed automotive glass replacement technician, licensed glazier, or a person registered as an apprentice with an apprenticeship program involving glazing which is approved by the U.S. Department of Labor Bureau of Apprenticeship and Training.

(4) Amend SECTION 1. Sec. 1306.003 of the bill by striking subparagraph (4) and renumber subsequent subparagraphs accordingly.

(5) Amend SECTION 1. Sec. 1306.003 subparagraph (10) of the bill to read as follows:

(10) a person who:

(A) installs safety-backed mirror products; or

(B) repairs or replaces flat glass in residential buildings that does not exceed 30 square feet.

(C) is engaged exclusively in the business of automotive glass repair.

(6) Amend SECTION 1. Section 1306.051 of the bill to read as follows:

Sec. 1306.051. BOARD; MEMBERSHIP. (a) The Glass Technicians Board of Examiners consists of nine members appointed by the governor with the advice and consent of the senate as follows:

(1) two licensed automotive glass replacement technicians;

(2) two members who are owners or principals of a company engaged in the business of replacing automotive glass;

(3) one member who is a licensed glazier who shall be affiliated with a labor organization whose members are involved in glazing;

(4) one member who is a licensed glazier who is not affiliated with a labor organization whose members are involved in glazing;

(5) one member who is an owner or principal of a company engaged in the business of glazing which is a signatory to a collective bargaining agreement with a labor organization whose members are involved in glazing;

(6) one member who is an owner or principal of a company engaged in the business of glazing which is not a signatory to a collective bargaining agreement with a labor organization whose members are involved in glazing; and

(7) one member who is a representative of the consuming public.

(b) Appointments to the board shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointee.

(7) Amend SECTION 1. Sec. 1306.252 subparagraph (d) of the bill as follows:

(d) In addition to the requirements under Subsection (a), an applicant applying for a glazier license must have:

(1) successfully completed a training program approved by the board that is at least as stringent as the Glass Installer Technical Institute training program developed by the National Glass Association or a similar training program selected by the board; and worked as a trainee in glazing for not less than one year; or

(2) successfully completed Apprenticeship Training and/or Journeymen Upgrading in the practice of glazing as part of a program recognized or approved by the U.S. Department of Labor Bureau of Apprenticeship and Training.

(8) Amend SECTION 1. Sec. 1306.301(a) of the bill by deleting subparagraph (4) and renumber subsequent sections accordingly.

(9) Amend SECTION 1. Sec. 1306.401(b) of the bill as follows:

(b) The attorney general shall represent the board in an action under this section unless the appropriate county or district attorney, upon request, agrees to represent the board.

(20) Amend SECTION 4 of the bill to read as follows:

SECTION 4. (a) The Glass Technicians Board of Examiners shall issue a license to a qualified applicant under this section who:

(1) applies for a license under this section not later than June 1, 2006;

(2) submits to the board the information required by board rule;

(3) holds a current auto glass repair, auto glass replacement, or glass installer certificate issued by the National Glass Association or other certification approved by the board; and

(4) is a participant or has successfully completed a United States Department of Labor Bureau of Apprenticeship Training recognized or approved program related to the practice of glazing; and

(5) pays the application fee.

(b) An applicant for a license under this section must be a certified automotive glass replacement technician, automotive glass repair technician, or glazier on the effective date of this Act.

The amendment to **CSSB 305** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1 except as follows:

Absent-excused: Carona, Shapleigh.

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

CSSB 305 as amended was passed to engrossment by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to engrossment except as follows:

Nays: Ogden.

Absent-excused: Carona, Shapleigh.

**COMMITTEE SUBSTITUTE
SENATE BILL 305 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 305** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 27, Nays 2.

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

Nays: Ogden, Wentworth.

Absent-excused: Carona, Shapleigh.

Reason for Vote

Senator Wentworth submitted the following reason for vote on suspension of the Constitutional Three-day Rule:

I cast a "No" vote on the procedural motion to suspend the Constitutional Rule requiring that bills be read on three several days in order to take up and consider **CSSB 305**, because in my judgment no circumstance exists in this case to justify the extraordinary act of suspending a requirement of the Texas Constitution. The suspension of this Constitutional Rule has the direct and immediate effect of denying the people of Texas knowledge and notice of the passage of this measure until it has already been finally passed on third reading. Were we to have followed the requirement of the Texas Constitution, third reading and a vote on **CSSB 305** would have occurred on the next legislative day, allowing for Texans to have learned through news reports of our second reading vote exactly what we had tentatively passed. Third reading and a vote on the next legislative day would also have allowed our professional staff an opportunity overnight to make sure any amendments passed on second reading are technically correct.

/s/Jeff Wentworth
Senator, District 25

The bill was read third time and was passed by the following vote: Yeas 28, Nays 1.

Nays: Ogden.

Absent-excused: Carona, Shapleigh.

SENATE BILLS ON FIRST READING

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

SB 1886 by Lindsay

Relating to foreclosure of certain property owners' association's liens.

To Committee on Intergovernmental Relations.

SB 1887 by Ogden

Relating to the creation of the Williamson County Municipal Utility District No. 22; providing authority to impose a tax and issue bonds; granting the power of eminent domain. (Local Bill)

To Committee on Intergovernmental Relations.

SB 1888 by Lindsay

Relating to the creation of the Harris County Municipal Utility District No. 465; providing authority to impose a tax and issue bonds; granting the power of eminent domain. (Local Bill)

To Committee on Intergovernmental Relations.

SB 1889 by Lindsay

Relating to the creation of the Harris County Municipal Utility District No. 464; providing authority to impose a tax and issue bonds; granting the power of eminent domain. (Local Bill)

To Committee on Intergovernmental Relations.

HOUSE BILLS ON FIRST READING

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

HB 316 to Committee on Education.

HB 371 to Committee on Jurisprudence.

HB 418 to Committee on State Affairs.

HB 440 to Committee on Jurisprudence.

HB 480 to Committee on Criminal Justice.

HB 481 to Committee on Business and Commerce.

HB 578 to Committee on Natural Resources.

HB 603 to Committee on Education.

HB 652 to Committee on Intergovernmental Relations.

HB 798 to Committee on Health and Human Services.

HB 818 to Committee on Finance.

HB 850 to Committee on Health and Human Services.

HB 904 to Committee on Criminal Justice.

HB 916 to Committee on Health and Human Services.

HB 1036 to Committee on Intergovernmental Relations.

HB 1038 to Committee on Criminal Justice.

HB 1059 to Committee on Jurisprudence.

HB 1189 to Committee on Jurisprudence.

HB 1213 to Committee on Intergovernmental Relations.
HB 1229 to Committee on Natural Resources.
HB 1316 to Committee on Health and Human Services.
HB 1357 to Committee on Criminal Justice.
HB 1418 to Committee on Jurisprudence.
HB 1430 to Committee on Criminal Justice.
HB 1483 to Committee on Criminal Justice.
HB 1546 to Committee on Transportation and Homeland Security.
HB 1588 to Committee on Criminal Justice.
HB 1599 to Committee on Intergovernmental Relations.
HB 1609 to Committee on Natural Resources.
HB 1688 to Committee on Education.
HB 1701 to Committee on Criminal Justice.
HB 1708 to Committee on Intergovernmental Relations.
HB 1737 to Subcommittee on Higher Education.
HB 1747 to Committee on Business and Commerce.
HB 1771 to Committee on Finance.
HB 1833 to Committee on Business and Commerce.
HB 1835 to Committee on Intergovernmental Relations.
HB 1965 to Committee on Jurisprudence.
HB 2051 to Committee on Intergovernmental Relations.
HB 2077 to Committee on Criminal Justice.
HB 2137 to Committee on Transportation and Homeland Security.
HB 2161 to Committee on Natural Resources.
HB 2208 to Committee on Government Organization.
HB 2236 to Committee on Business and Commerce.
HB 2275 to Committee on Criminal Justice.
HB 2294 to Committee on Criminal Justice.
HB 2296 to Committee on Criminal Justice.
HB 2333 to Subcommittee on Higher Education.
HB 2370 to Committee on Natural Resources.
HB 2423 to Committee on Natural Resources.
HB 2661 to Committee on Intergovernmental Relations.
HB 2679 to Committee on Natural Resources.
HB 2784 to Committee on Finance.
HB 2840 to Committee on Criminal Justice.
HB 2930 to Committee on Business and Commerce.
HB 3235 to Committee on Health and Human Services.

SENATE BILL 244 ON SECOND READING

On motion of Senator Wentworth and by unanimous consent, the regular order of business was suspended to take up for consideration **SB 244** at this time on its second reading:

SB 244, Relating to priority of payment relating to property owners' association assessments.

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

All Members are deemed to have voted "Yea" on the passage to engrossment except as follows:

Absent-excused: Carona, Shapleigh.

AT EASE

The Presiding Officer, Senator Brimer in Chair, at 12:27 p.m. announced the Senate would stand At Ease subject to the call of the Chair.

IN LEGISLATIVE SESSION

Senator Whitmire at 12:49 p.m. called the Senate to order as In Legislative Session.

LEAVE OF ABSENCE

On motion of Senator Armbrister, Senator Williams was granted leave of absence for the remainder of the day on account of an illness in the family.

(President in Chair)

COMMITTEE SUBSTITUTE SENATE BILL 3 ON SECOND READING

Senator Armbrister moved to suspend the regular order of business to take up for consideration **CSSB 3** at this time on its second reading:

CSSB 3, Relating to the development and management of the water resources of the state, including the creation of a groundwater conservation district; imposing fees and providing penalties.

The motion prevailed.

Senators Brimer, Harris, and Nelson asked to be recorded as voting "Nay" on suspension of the regular order of business.

The bill was read second time.

Senator Armbrister offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSSB 3** (committee printing) as follows:

(1) In SECTION 1.08 of the bill, proposed Subdivision (1), Subsection (j), Section 11.0236, Water Code, strike "administration, enforcement, and allocation process" (page 4, lines 30 and 31) and substitute "rights administration and enforcement and water allocation processes [~~process~~]".

(2) In SECTION 1.16 of the bill, proposed Subsection (e-1), Section 11.147, Water Code, between "inflows." and "The commission" (page 10, line 10) insert:

With respect to an amended water right, the provision may not allow the commission to adjust a condition of the amendment other than a condition that applies only to the increase in the amount of water to be stored, taken, or diverted authorized by the

amendment. This subsection does not affect an appropriation of or an authorization to store, take, or divert water under a permit or amendment to a water right issued before September 1, 2005.

(3) In SECTION 1.16 of the bill, proposed Subdivision (1), Subsection (e-1), Section 11.147, Water Code, strike "or the water right as amended" (page 10, line 20) and substitute "or of that requirement contained in the amended water right and applicable only to the increase in the amount of water authorized to be stored, taken, or diverted under the amended water right".

(4) Strike SECTION 1.33 of the bill (page 15, line 66, through page 16, line 3) and substitute the following:

SECTION 1.33. The changes in law made by this article relating to a permit for a new appropriation of water or to an amendment to an existing water right that increases the amount of water authorized to be stored, taken, or diverted apply only to:

(1) water appropriated under a permit for a new appropriation of water the application for which is pending with the Texas Commission on Environmental Quality on the effective date of this article or is filed with the commission on or after that date; or

(2) the increase in the amount of water authorized to be stored, taken, or diverted under an amendment to an existing water right that increases the amount of water authorized to be stored, taken, or diverted and the application for which is pending with the Texas Commission on Environmental Quality on the effective date of this article or is filed with the commission on or after that date.

(5) In Article 2 of the bill, in the introductory language to SECTION 2.32 (page 26, line 7), strike "(28)" and substitute "(29)".

(6) In Article 2 of the bill, in SECTION 2.32, after added Subdivision (28), Section 36.001, Water Code (page 26, between lines 27 and 28), insert the following:

(29) "Evidence of historic use" means evidence that is material and relevant to a determination of the amount of groundwater beneficially used without waste by a permit applicant during the relevant time period set by district rule that regulates groundwater based on historic use. Evidence in the form of oral or written testimony shall be subject to cross-examination. The Texas Rules of Evidence govern the admissibility and introduction of evidence, except that evidence not admissible under the Texas Rules of Evidence may be admitted if it is of the type commonly relied upon by reasonably prudent persons in the conduct of their affairs, or if agreed to by stipulation of the parties.

(7) In Article 2 of the bill, between SECTIONS 2.34 and 2.35 of the bill (page 26, between lines 45 and 46), insert a new SECTION, appropriately numbered, to read as follows:

SECTION 2. _____. Subchapter B, Chapter 36, Water Code, is amended by adding Section 36.022 to read as follows:

Sec. 36.022. GROUNDWATER CONSERVATION DISTRICT FOR STATE-OWNED LAND. (a) The commission may create a district composed of all state-owned land that is not inside the boundaries of a confirmed groundwater conservation district on the date the statewide district is created.

(b) The members of the commission shall serve as the board of directors of the district.

(c) The district has all powers and duties of a district provided by Subchapter D.

(d) The following laws do not apply to the district created under this section:

(1) Section 12.081;

(2) Sections 36.011-36.021;

(3) Subchapters C, E, F, G, H, I, J, and K; and

(4) Chapter 49.

(e) At least 30 days before the district is created under this section, the commission shall publish notice of the intention to create the district setting forth the general powers and duties of the district in a newspaper having general circulation in each county with land to be included in the territory of the district.

(8) In Article 2 of the bill, SECTION 2.35, amended Subsection (d), Section 36.1071, Water Code, strike "shall train districts" (page 27, line 6) and substitute "shall train the district".

(9) In Article 2 of the bill, SECTION 2.38, added Paragraph (C), Subdivision (3), Subsection (c), Section 36.108, Water Code (page 29, line 63), strike "and".

(10) In Article 2 of the bill, SECTION 2.38, added Paragraph (D), Subdivision (3), Subsection (c), Section 36.108, Water Code (page 29, line 66), between "management area" and the underscored period, insert the following:
;and

(E) if applicable, one representative who holds a permit from a district to use groundwater outside the boundaries of the district

(11) In Article 2 of the bill, SECTION 2.38, added Subsection (h), Section 36.108, Water Code (page 30, line 20), between "area" and the underscored period, insert ", which may include protection of spring flow in the area".

(12) In Article 2 of the bill, between SECTIONS 2.44 and 2.45 (page 36, between lines 28 and 29), insert a new SECTION, appropriately numbered, to read as follows:

SECTION 2.____. Section 36.302(d), Water Code, is amended to read as follows:

(d) The state auditor may perform the review under Subsection (a) following the first anniversary of the initial approval [~~certification~~] of the plan [~~by the Texas Water Development Board~~] under Section 36.1072 and at least as often as once every seven years after that date, subject to a risk assessment and to the legislative audit committee's approval of including the review in the audit plan under Section 321.013, Government Code.

(13) In Article 2 of the bill (page 36, line 51, through page 37, line 6), strike SECTION 2.47.

(14) In Article 2 of the bill, strike SECTIONS 2.58 and 2.59 (page 38, lines 30-44).

(15) In SECTION 3.01 of the bill, proposed Subsection (e), Section 13.554, Water Code, strike "the effective date of this Act" (page 39, line 63) and substitute "September 1, 2005".

(16) In Article 4 of the bill, SECTION 4.01, added Section 8812.023, Special District Local Laws Code (page 48, lines 10-15), strike Subsection (c) and substitute the following:

(c) The ballot for the election must be printed to permit voting for or against the following proposition: "The creation of the Victoria County Groundwater Conservation District and the imposition of an ad valorem tax in the district at a rate not to exceed two cents for each \$100 of assessed valuation."

(17) In Article 5 of the bill, SECTION 5.02, amended Subsection (c), Section 1.14, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, strike "withdrawals from the aquifer may not exceed the sum of all issued and pending regular permits filed if annexation occurs" (page 50, lines 16–17) and substitute "withdrawals from the aquifer may not exceed the sum of all regular permits issued or for which an application has been filed and issuance is pending action by the authority as of January 1, 2005. If annexation occurs, the amount of permitted withdrawals may be adjusted to include permits issued for wells in the annexed area as of January 1, 2005".

(18) In Article 5 of the bill, SECTION 5.05, added Subsection (b), Section 1.26, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993 (page 51, lines 22-26), strike:

(b) Not later than January 1, 2006, the authority shall, by rule, adopt and enforce a critical period management plan with withdrawal reduction criteria at no less than the following amounts whether according to the index well levels or Comal Springs flow as may be applicable:

and substitute:

(b) Not later than January 1, 2006, the authority shall, by rule, adopt and enforce a critical period management plan with withdrawal reduction percentages at no less than the amounts indicated in Tables 1 and 2 whether according to the index well levels or Comal Springs flow as may be applicable, for a maximum total in critical period Stage IV of 40 percent of the permitted withdrawals under Table 1 and 30 percent under Table 2:

(19) In Article 5 of the bill, SECTION 5.05, added Subsection (b), Section 1.26, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993 (page 51, lines 36-37), strike "For a maximum total of 40 percent of the permitted withdrawals in critical period Stage IV."

(20) In Article 5 of the bill, SECTION 5.05, added Subsection (b), Section 1.26, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993 (page 51, lines 47-48), strike "For a total of 30 percent of the permitted withdrawals in critical period Stage IV."

(21) In Article 5 of the bill, SECTION 5.05, added Subsection (d), Section 1.26, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993 (page 51, line 57), strike "From the effective date of this subsection" and substitute "Beginning September 1, 2005".

(22) In Article 5 of the bill, SECTION 5.05, Subsection (e), added Section 1.26A, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, following "critical period management" (page 52, line 49), add "recommendations".

(23) In Article 5 of the bill, SECTION 5.05, Subsection (f), added Section 1.26A, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993 (page 52, line 69, through page 53, line 3), strike "The expert science team shall submit its withdrawal recommendations to the Edwards Aquifer Area Stakeholders Committee, the Environmental Flows Commission, and the authority.".

(24) Renumber the sections of the bill appropriately.

The amendment to **CSSB 3** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 1 except as follows:

Absent-excused: Carona, Shapleigh, Williams.

Senator Armbrister offered the following amendment to the bill:

Floor Amendment No. 2

Amend **CSSB 3** as follows:

On page 18, after line 2, add new Section 2.09 as follows and renumbering subsequent sections accordingly:

SECTION 2.09. Chapter 11, Water Code, is amended by adding Subchapter K to read as follows:

SUBCHAPTER K. REMEDIES FOR INTERFERENCE WITH DOMESTIC OR AGRICULTURAL WATER WELL

Sec. 11.551. APPLICABILITY. This subchapter applies only to a high-capacity water well that is not owned by a municipality and that:

- (1) is used for a purpose other than domestic or agricultural use; and
- (2) is located outside a groundwater conservation district.

Sec. 11.552. PETITION FOR REVIEW. (a) An owner of a domestic or agricultural well may petition the applicable groundwater management area council for the groundwater management area in which the petitioner's well is located to review the operation of a high-capacity well subject to this subchapter and that may be interfering with petitioner's well.

(b) The petition must demonstrate how the operation of the high-capacity well is interfering with the operation or production rate of the petitioner's well.

(c) Within 60 days of receipt of the petition, the groundwater management area council shall decide whether to accept the petition for review. If the council decides to accept the petition, it shall notify the petitioner and the owner of the high-capacity well of the date and time of a public hearing at which the council shall gather all relevant information to evaluate the petition and evaluate the need for modification of the operation of the high-capacity well. If the council decides not to accept the petition, it shall so inform the petitioner and shall provide an explanation of why it has decided not to accept the petition. The council may request technical assistance from the executive director in their review of a petition.

(d) A hearing under this section is not subject to the provisions of Section 2001, Subchapter C of the Government Code.

(e) Based on the information in the petition and any relevant information gathered at a the public hearing held under subsection (c) of this section, the council shall, within 60 days of the public hearing, make findings and recommendations regarding:

i. The extent to which the operation of the high-capacity well is interfering with the operation of petitioner's well;

ii. The extent to which the operation of the high-capacity well is inconsistent with the desired future condition of the aquifer as adopted by the council; and

iii. The modifications that are necessary in the operation of the high-capacity well to ensure that its operation does not interfere with petitioner's well and that its operation is consistent with the desired future condition of the aquifer.

(f) A finding by the council that the operation of the high capacity well is not interfering with petitioner's well must be based on scientific information that clearly overcomes the information provided by the petitioner.

(g) The council shall provide its findings and recommendations in writing and by certified mail to both the petitioner and the owner of the high-capacity well. If the owner of the high-capacity well declines to make the modifications recommended by the council, the petitioner may file a request for relief in the district court for the county in which the petitioner's well is located seeking an injunction that requires the owner of the high-capacity well to implement the council's recommendations.

(h) The action for injunctive relief shall be a trial de novo, but the district court shall receive into evidence and consider the findings recommendations of the council.

(i) In such an action, the burden of proof to show why the council's recommendations should not be implemented shall be on the owner of the high-capacity well.

The amendment to **CSSB 3** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 2 except as follows:

Absent-excused: Carona, Shapleigh, Williams.

Senator Seliger offered the following amendment to the bill:

Floor Amendment No. 3

Amend **CSSB 3** as follows:

On page 33, line 68, insert the following between "created" and "and": ", or before the rules of the district were adopted or notice of such proposed rules was published.".

The amendment to **CSSB 3** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 3 except as follows:

Absent-excused: Carona, Shapleigh, Williams.

Senator Staples offered the following amendment to the bill:

Floor Amendment No. 4

Amend **CSSB 3** by striking SECTION 2.42, Subchapter D, Chapter 36, Water Code (committee printing, page 35, lines 10-60) and substituting the following:

Sec. 36.125. APPEAL OF DISTRICT ACTION TO DISPUTE RESOLUTION PANEL. (a) If a dispute arises between a district and a person affected by an action taken by the district under this subchapter, either the district or the affected person may file a petition with the commission requesting the appointment of a dispute resolution panel to assist the parties in reaching resolution of the dispute. Any party may within 10 days of the filing of the petition submit to the commission a written objection to the appointment of a panel.

(b) A petition filed under this section must include:

(1) the name of and contact information for each party;

(2) a brief summary of the dispute along with a copy of any relevant document, including a permit, an application, a timeline, the district's enabling statute, a rule, a groundwater management plan, or the groundwater management area plan; and

(3) other information required by the commission.

(c) Not later than the 60th day after the date the petition is filed, the commission shall review the petition and:

(1) dismiss it if the commission finds that the petition is baseless, frivolous, fails to present an issue that is appropriate for panel review, or that there is reasonable basis for the objection filed under subsection (a); or

(2) select a panel as provided by Subsection (e).

(d) If the petition is dismissed, the commission shall provide the reasons for the dismissal in writing to the district and the affected person.

(e) If the petition is not dismissed, the commission shall, in accordance with an interagency contract, request the Center for Public Policy Dispute Resolution to select a three-member dispute resolution panel. The panel shall be selected within 30 days of the commission's request. All panel members must be individuals who are not involved or affected by the matter in dispute and whose expertise and knowledge may be useful in resolving the dispute. The chair of the panel must also be qualified as an impartial third party under Chapter 154 of the Texas Civil Practice and Remedies Code, have expertise in resolving public policy disputes, and have knowledge of groundwater law in Texas. The panel members' costs shall be shared equally among the parties, unless agreed to otherwise. The commission shall compensate the Center for its costs related to this subsection.

(f) Not later than the 45th day after the date the panel is selected, the panel shall review the petition and any information relevant to the petition and begin holding meetings with the parties to assist them in resolving the dispute. The panel may consolidate multiple parties, appoint a person to represent multiple parties, invite additional parties, or dismiss parties as the panel considers, appropriate. The Texas Water Development Board and the commission shall provide technical and legal assistance as requested by the panel.

(g) Not later than the 90th day after the panel's first meeting with the parties, the panel shall report to the commission whether the parties have reached a settlement. If

no settlement has been reached, the commission shall dissolve the panel, and the parties may proceed with any other available remedy, including those provided under Subchapter H of this chapter.

(h) A court of this state shall take judicial notice of a dispute resolution panel under this section and may stay an affected judicial proceeding pending a settlement of the dispute or the dissolution of the panel.

The amendment was read.

Senator Staples offered the following amendment to Floor Amendment No. 4:

Floor Amendment No. 5

Amend Floor Amendment No. 4 to **CSSB 3** as follows:

1. On page 1, line 39, strike "qualified as";
2. On page 1, lines 39-40 strike "under Chapter 154 of the Texas Civil Practice and Remedies Code"; and
3. On page 1, line 40 between "expertise" and "in" insert "and classroom training".

The amendment to Floor Amendment No. 4 to **CSSB 3** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 5 except as follows:

Absent-excused: Carona, Shapleigh, Williams.

Question recurring on the adoption of Floor Amendment No. 4 to **CSSB 3**, the amendment as amended was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 4 as amended except as follows:

Absent-excused: Carona, Shapleigh, Williams.

Senator Duncan offered the following amendment to the bill:

Floor Amendment No. 6

Amend **CSSB 3** as follows:

In SECTION 3.05 of the bill, on page 43, strike lines 3 through 6 and substitute the following:

(e) The board shall use money in the local contribution account pursuant to an application filed by a provider under Subsection (d) for the purposes listed in this subsection. The board shall not unduly withhold funding to providers and projects which meet eligibility requirements for such assistance, and shall create expedited application procedures and methods to disburse funds from the local contribution account. The local contribution account may be used for the following purposes:

The amendment to **CSSB 3** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 6 except as follows:

Absent-excused: Carona, Shapleigh, Williams.

Senator Estes offered the following amendment to the bill:

Floor Amendment No. 7

Amend **CSSB 3** on page 38 as follows:

- (1) At the end of Section 2.57(a)(3), delete "or".
- (2) At the end of Section 2.57(a)(4), delete "." and substitute "; or".
- (3) Add a new Subdivision (5) to Section 2.57(a) to read as follows:

"(5) rules of a groundwater conservation district relating to existing or historic use of groundwater in effect as of March 1, 2005, and such rules may be continued in effect or amended in accordance with the law as it existed prior to the effective date of this Act."

The amendment was read.

Senator Estes withdrew Floor Amendment No. 7.

Senator Duncan offered the following amendment to the bill:

Floor Amendment No. 8

Amend **CSSB 3** as follows:

On page 38, lines 9-11, strike "Except in any district expanded by Section 20, Chapter 200, Acts of the 78th Legislature, Regular Session, 2003, the" and substitute "The".

The amendment was read.

Senator Duncan withdrew Floor Amendment No. 8.

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

CSSB 3 as amended was passed to engrossment by a viva voce vote.

All Members are deemed to have voted "Yea" on the passage to engrossment except as follows:

Nays: Brimer, Harris, Nelson.

Absent-excused: Carona, Shapleigh, Williams.

**COMMITTEE SUBSTITUTE
SENATE BILL 3 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 3** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 24, Nays 4.

Yeas: Armbrister, Averitt, Barrientos, Deuell, Duncan, Ellis, Eltife, Estes, Fraser, Gallegos, Hinojosa, Jackson, Janek, Lindsay, Lucio, Madla, Ogden, Seliger, Shapiro, Staples, Van de Putte, West, Whitmire, Zaffirini.

Nays: Brimer, Harris, Nelson, Wentworth.

Absent-excused: Carona, Shapleigh, Williams.

Reason for Vote

Senator Wentworth submitted the following reason for vote on suspension of the Constitutional Three-day Rule:

I cast a "No" vote on the procedural motion to suspend the Constitutional Rule requiring that bills be read on three several days in order to take up and consider **CSSB 3**, because in my judgment no circumstance exists in this case to justify the extraordinary act of suspending a requirement of the Texas Constitution. The suspension of this Constitutional Rule has the direct and immediate effect of denying the people of Texas knowledge and notice of the passage of this measure until it has already been finally passed on third reading. Were we to have followed the requirement of the Texas Constitution, third reading and a vote on **CSSB 3** would have occurred on the next legislative day, allowing for Texans to have learned through news reports of our second reading vote exactly what we had tentatively passed. Third reading and a vote on the next legislative day would also have allowed our professional staff an opportunity overnight to make sure any amendments passed on second reading are technically correct.

/s/Jeff Wentworth
Senator, District 25

The bill was read third time and was passed by the following vote: Yeas 25, Nays 3.

Yeas: Armbrister, Averitt, Barrientos, Deuell, Duncan, Ellis, Eltife, Estes, Fraser, Gallegos, Hinojosa, Jackson, Janek, Lindsay, Lucio, Madla, Ogden, Seliger, Shapiro, Staples, Van de Putte, Wentworth, West, Whitmire, Zaffirini.

Nays: Brimer, Harris, Nelson.

Absent-excused: Carona, Shapleigh, Williams.

MESSAGE FROM THE HOUSE

HOUSE CHAMBER
Austin, Texas
April 29, 2005

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 374, Relating to the repeal of the statutory provision regarding the adoption and use by the Texas Water Development Board of a capital spending plan for certain state-funded water-related programs under the board's jurisdiction.
(Committee Substitute)

SB 693, Relating to vacancies on municipal utility district boards.

SB 796, Relating to the combative sports program.

Respectfully,

/s/Robert Haney, Chief Clerk
House of Representatives

BILLS SIGNED

The President announced the signing of the following enrolled bills in the presence of the Senate after the captions had been read:

HB 67, HB 423, HB 1657, HB 1815.

SENATE RULE 11.10(a) SUSPENDED (Public Notice of Committee Meetings)

On motion of Senator Shapiro and by unanimous consent, Senate Rule 11.10(a) was suspended in order that the Committee on Education might meet today.

RESOLUTIONS OF RECOGNITION

The following resolutions were adopted by the Senate:

Memorial Resolutions

SR 723 by Wentworth, In memory of Jesse Yell "Jess" Womack II of San Antonio.

SR 724 by Lindsay, Honoring the life of Robert S. Braden.

Congratulatory Resolutions

SR 705 by Barrientos, Recognizing Bobby R. Williams, Sr., for his service to his country during Operation Iraqi Freedom.

SR 715 by West, Recognizing Robert L. Nichols, Jr., on the occasion of his birthday.

SR 716 by Barrientos, Recognizing client representatives of legal aid service providers in the southwest states.

SR 717 by Barrientos, Recognizing the Cinco de Mayo celebration of the San Jose Catholic Church in Austin.

SR 718 by Barrientos, Commending all involved with the preservation of Cementerio Mexicano de Maria de la Luz in Austin.

SR 719 by West, Recognizing Curtis W. and Phyllis Wallace for their service to Pilgrim Rest Baptist Church in Dallas.

SR 722 by Ellis, Recognizing Decision Information Resources, Incorporated, on the occasion of its open house.

SR 725 by West, Recognizing Kent Gardner on the occasion of his retirement from The University of Texas at Arlington.

HCR 3 (Eltife), Honoring officers of the Smith County Sherriff's Department, the Tyler Police Department, and the Smith County District Attorney's Office for their bravery in the line of duty on February 24, 2005.

Official Designation Resolution

HCR 148 (Wentworth), Designating the Texas Round-Up 10K as the Official 10K of Texas.

Legislative Policy Resolution

SR 720 by Armbrister, Encouraging the President of the United States to enact a free trade agreement between the United States and Taiwan.

ADJOURNMENT

On motion of Senator Shapiro, the Senate at 2:49 p.m. adjourned, in memory of Wallace H. Scott, Jr., of Austin and Sherry Sheldon Von Dohlen, until 1:30 p.m. Monday, May 2, 2005.

APPENDIX

COMMITTEE REPORTS

The following committee reports were received by the Secretary of the Senate in the order listed:

April 29, 2005

HEALTH AND HUMAN SERVICES — **CSHB 1503**

CRIMINAL JUSTICE — **SJR 20, SB 395, SB 769, SB 992, SB 1549, SB 1874**

INTERNATIONAL RELATIONS AND TRADE — **SCR 30**

BUSINESS AND COMMERCE — **CSSB 1038, CSSB 1253, CSHB 1528**

NATURAL RESOURCES — **HB 957, HB 1139, CSSB 1504, CSSB 1698, CSSB 1726, CSSB 1765, CSSB 1797, SB 1799**

VETERAN AFFAIRS AND MILITARY INSTALLATIONS — **HB 503, HB 18**

BUSINESS AND COMMERCE — **CSSB 1829**

HEALTH AND HUMAN SERVICES — **CSHB 836**

JURISPRUDENCE — **CSSB 349, CSSB 534, CSSB 1003, CSSB 1597, CSHB 595**

INTERGOVERNMENTAL RELATIONS — **SB 1440, SB 1821, SB 1879**

SENT TO GOVERNOR

April 29, 2005

SB 492, SB 1299