

SIXTY-EIGHTH DAY

THURSDAY, MAY 12, 2005

PROCEEDINGS

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

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

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

The Reverend Kathleen Kershaw, Klein United Methodist Church, Spring, offered the invocation as follows:

Almighty God, we gather in these moments, as yet another session begins. There is much work to be done and the pressures and concerns of the day crowd our thoughts. God, we look to You for guidance, strength, and perseverance. We acknowledge our ultimate need for Your wisdom, for we know we are not self-sufficient. We pray, God, that Your will for the needs of the people of this state be channeled and directed through the work of the Senate today. We pray that right be placed before interest, principle above reputation, and mutuality above dissension. Help us, God, to take the opportunities You have placed before us, to resolve contentious issues and bring resolution to the matters before us. Help us to be good stewards of the resources and power entrusted to us. Guide our discussion, our intent, and our purpose to align with Your purpose for creation. Keep us mindful of the needs of the weak and oppressed that we might represent them faithfully. God, we ask Your blessings of comfort and peace for the family, friends, staff, and colleagues of Representative Moreno, as his loss grieves so many. God, Your very presence causes us to choose whom we will serve. Help us to joyfully choose always for You, separating the precious from the worthless. Grant that we all, made one in faith in Your community, may find the wholeness that, enriching us, shall reach the whole of humankind. 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.

CO-AUTHOR OF SENATE BILL 12

On motion of Senator Zaffirini, Senator Nelson will be shown as Co-author of **SB 12**.

CO-AUTHOR OF SENATE BILL 109

On motion of Senator Estes, Senator Gallegos will be shown as Co-author of **SB 109**.

CO-AUTHOR OF SENATE BILL 1140

On motion of Senator Carona, Senator Wentworth will be shown as Co-author of **SB 1140**.

CO-AUTHOR OF SENATE BILL 1632

On motion of Senator Hinojosa, Senator Lucio will be shown as Co-author of **SB 1632**.

CO-AUTHOR OF SENATE BILL 1767

On motion of Senator Harris, Senator Van de Putte will be shown as Co-author of **SB 1767**.

CO-SPONSOR OF HOUSE BILL 1611

On motion of Senator Armbrister, Senator Lindsay will be shown as Co-sponsor of **HB 1611**.

MESSAGE FROM THE HOUSE

HOUSE CHAMBER

Austin, Texas

May 12, 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 49, Relating to the punishment prescribed for certain repeat intoxication offenders.

HB 209, Relating to challenging an acknowledgment of paternity executed by a minor.

HB 401, Relating to the use of volunteer income tax assistance programs by persons who owe delinquent child support.

HB 661, Relating to allowing designated public school libraries to participate in group purchasing agreements with the TexShare Library Consortium.

HB 726, Relating to the exemption from ad valorem taxation of property owned by certain law enforcement officer associations.

HB 843, Relating to the authority of certain counties to regulate the construction of certain communication facilities in certain circumstances; providing a penalty.

HB 1047, Relating to the offense of failing to certify compliance of an underground storage tank before accepting delivery of the regulated substance to be stored in the tank.

HB 1132, Relating to the regulation of and rights of private security personnel.

HB 1238, Relating to distribution of certain child support payments by the state disbursement unit.

HB 1268, Relating to the information included on a voter registration application.

HB 1484, Relating to the penalty for failing to perform certain duties following a vehicle accident.

HB 1584, Relating to requiring the operator of a vehicle storage facility to accept certain forms of payment for the delivery or storage of a vehicle.

HB 1921, Relating to the civil commitment of sexually violent predators.

HB 2218, Relating to the regulation of money services businesses; providing a penalty.

HB 2470, Relating to the operations of and the funding mechanisms for emergency medical services and trauma facility care in this state.

HB 2894, Relating to the marketing and sale of certain license plates by a private vendor.

HB 3057, Relating to the number of hours worked by a part-time fire protection employee.

HB 3253, Relating to the use of certain electronically readable information on a driver's license or identification certificate to comply with certain alcohol and tobacco related laws; providing a penalty.

HB 3335, Relating to the report, delivery, and claims process concerning certain unclaimed property.

HCR 191, In memory of Star Nuckolls of Como.

HJR 79, Proposing a constitutional amendment authorizing the legislature to provide for a six-year term for a board member of a regional mobility authority.

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.

PHYSICIAN OF THE DAY

Senator Madla was recognized and presented Dr. Mary S. Nguyen Poole of Castroville as the Physician of the Day.

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

BILLS AND RESOLUTIONS SIGNED

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

SB 220, SB 879, SB 1593, SB 1621, HB 1025, HCR 156, HCR 170.

SENATE RESOLUTION 704

Senator Barrientos offered the following resolution:

WHEREAS, The Senate of the State of Texas is pleased to recognize the Mainspring Schools of Austin for the outstanding early education the agency provides young children from low-income families; and

WHEREAS, A private, nonprofit human services agency, Mainspring Schools was founded in 1941 as a Works Progress Administration project; the agency's philosophy of inclusion while addressing each child's individual needs has been proven to make a difference in the future academic achievement of at-risk students; and

WHEREAS, The Mainspring educational model offers a curriculum designed to foster social and emotional development, encourage language and cognitive learning, and support physical growth and the development of motor skills; and

WHEREAS, Services provided by Mainspring Schools include an on-site social worker who offers counseling and children's play therapy and a health and nutrition program that provides free, on-site, semiannual hearing, vision, and dental screenings and well-balanced meals each day; and

WHEREAS, By creating a curriculum that addresses all areas of a child's development and then adapting the program to each individual child, Mainspring Schools provides top-quality early childhood education; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 79th Legislature, hereby commend Mainspring Schools for its excellent service to low-income, working families; and, be it further

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

SR 704 was again read.

The resolution was previously adopted on Thursday, April 28, 2005.

GUESTS PRESENTED

Senator Barrientos was recognized and introduced to the Senate Eileen Hegar, Executive Director, Mainspring Schools, and Juan Garcia, Board President, representing Mainspring Schools of Austin.

The Senate welcomed its guests.

MESSAGES FROM THE GOVERNOR

The following Messages from the Governor were read and were referred to the Committee on Nominations:

Austin, Texas
May 11, 2005

TO THE SENATE OF THE SEVENTY-NINTH LEGISLATURE, REGULAR SESSION:

I ask the advice, consent and confirmation of the Senate with respect to the following appointments:

To be a member of the Texas Juvenile Probation Commission for a term to expire February 1, 2011:

Jean Boyd
Fort Worth, Texas

(Judge Boyd is replacing Judge Robert Brotherton who resigned)

To be members of the Task Force on Indigent Defense for terms to expire as indicated:

To Expire February 1, 2006:

Jon H. Burrows
Temple, Texas

(Reappointment)

Knox Fitzpatrick
Dallas, Texas

(Reappointment)

To Expire February 1, 2007:

Anthony C. Odiorne
Wichita Falls, Texas

(replacing Eduardo Arrendondo whose term expired)

To be members of the Texas Guaranteed Student Loan Corporation for terms to expire January 31, 2011:

Dora Ann Verde
San Antonio, Texas

(replacing Jane Phipps whose term expired)

Sade Johnson
Houston, Texas

(replacing Morgan Howard whose term expired)

Phil Diebel
Denton, Texas

(replacing Jorja Kimball whose term expired)

To be members of the Private Sector Prison Industry Oversight Authority for terms to expire as indicated:

To Expire February 1, 2011:

William B. Brod
Pasadena, Texas

(Mr. Brod is being reappointed)

Suzanne Carlton Hart
LaGrange, Texas

(replacing Charles Harr whose term expired)

Pleasure of the Governor:

Ray G. Henderson
Austin, Texas

(Pursuant to SB 365, 76th Legislature)

To be a member of the State Committee of Examiners in the Fitting and Dispensing of Hearing Instruments for terms to expire February 1, 2009:

Sara Ann Garza
Mission, Texas

(Ms. Garza will replace Gail Thomason who resigned)

To be members of the State Board of Examiners of Marriage and Family Therapists for terms to expire as indicated:

To Expire February 1, 2009:

Beverly Walker Womack
Jacksonville, Texas

(replacing Marvarene Oliver whose term expired)

To Expire February 1, 2011:

Asa Wesley Sampson, Sr.
League City, Texas

(replacing William Watson whose term expired)

To be members of the Texas Department of Criminal Justice Advisory Committee on Offenders with Medical or Mental Impairments for terms to expire February 1, 2011:

Christopher Kirk
Bryan, Texas

(Sheriff Kirk is being reappointed)

Kevin E. Haynes
Ovilla, Texas

(replacing Frank Webb whose term expired)

To be members of the Texas State Board of Physical Therapy Examiners for terms to expire as indicated:

To Expire January 31, 2009:

Melinda A. Rodriguez
San Antonio, Texas

(replacing Patrice Dyson Jones who resigned)

To Expire January 31, 2011:

Mary Thompson, Ph.D.
Celina, Texas

(Dr. Thompson is being reappointed)

To be members of the Texas Department of Transportation Motor Vehicle Board for terms to expire as indicated:

To Expire January 31, 2009:

Victor Thomas Vandergriff
Arlington, Texas 76012

(replacing Roger Williams who resigned)

To Expire January 31, 2011:

Cynthia Tyson Jenkins
Irving, Texas 75061

(Ms. Jenkins is being reappointed)

To be a member of the Texas State Board of Veterinary Medical Examiners for a term to expire August 26, 2009:

Patrick Mike Allen, D.V.M.
Lubbock, Texas 79424

(replacing Jerry Lawhon of Abilene whose term expired)

Respectfully submitted,

/s/Rick Perry
Governor

Austin, Texas
May 12, 2005

TO THE SENATE OF THE SEVENTY-NINTH LEGISLATURE, REGULAR SESSION:

I ask the advice, consent and confirmation of the Senate with respect to the following appointments:

To be members of the Product Development and Small Business Incubator Board, pursuant to HB 2307, 79th Legislature, Regular Session, for terms to expire as indicated:

To Expire February 1, 2007:

David Russell Margrave
8122 Datapoint Drive
Suite 1250
San Antonio, Texas 78229

Neil A. Iscoe
University of Texas at Austin
Payroll Services, Box 7849
Austin, Texas 78713

Michael Arlen Davis, Jr.
600 Congress Avenue
Suite 1300
Austin, Texas 78701

To Expire February 1, 2009:

Daniel Andrew Hanson
7739 Bryn Mawr
Dallas, Texas 75225

Paul C. Maxwell
University of Texas at El Paso
Research & Sponsored Projects
El Paso, Texas 79968-0587

Harvey Rosenblum
2200 North Pearl Street
Dallas, Texas 75201

To Expire February 1, 2011:

Richard Edward Ewing
1112 TAMU
College Station, Texas 77843

Jose M. Amador
TAMUS-AREC
2415 East Highway 83
Weslaco, Texas 78596

Mae C. Jemison, M.D.
700 Gemini, Suite 210
Houston, Texas 77058

Respectfully submitted,

/s/Rick Perry
Governor

SENATE RESOLUTION 802

Senator West offered the following resolution:

WHEREAS, The Senate of the State of Texas takes pride in joining the citizens of Texas in recognizing May 12, 2005, as Omega Psi Phi Day at the Capitol; and

WHEREAS, The Omega Psi Phi Fraternity, Incorporated, was organized November 17, 1911, at Howard University in Washington, D.C., by Professor Ernest E. Just and three undergraduate students, Edgar A. Love, Frank Coleman, and Oscar J. Cooper; the fraternity's name was derived from the initials of a Greek phrase meaning "friendship is essential to the soul"; and

WHEREAS, The fraternity's cardinal principles are manhood, scholarship, perseverance, and uplift; notable Omega men and upholders of these principles include Bill Cosby, Michael Jordan, Carter G. Woodson, and Vernon Jordan; and

WHEREAS, For decades, members of this fraternity have been involved in the fight for social justice, from participating in sit-ins and other demonstrations to taking part in the activities of the National Association for the Advancement of Colored People; and

WHEREAS, Omega Psi Phi has instituted numerous programs within its chapters to further its principles, including voter registration, education, and mobilization; among its many social action beneficiaries are Assault on Illiteracy, Habitat for Humanity, and the American Diabetes Association; and

WHEREAS, The members of this respected organization volunteer and participate in bettering their communities, and their activities have earned them the respect and admiration of those who know them; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 79th Legislature, hereby commend Omega Psi Phi Fraternity, Incorporated, for its many contributions to the state and nation and welcome its members as they visit the State Capitol; and, be it further

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

SR 802 was read and was adopted without objection.

GUESTS PRESENTED

Senator West was recognized and introduced to the Senate representatives of Omega Psi Phi Fraternity, Incorporated: Warren Lee, First Vice Grand Basileus; Todd Clemons, 9th District Representative; Willie Hinchon, First Vice 9th District Representative; Shawn Brewer, 9th District Keeper of Finance; and Roger Watkins, 9th District Political Action Committee Chair; accompanied by members of Omega Psi Phi Fraternity.

The Senate welcomed its guests.

(Senator Armbrister in Chair)

SENATE RESOLUTION 861

Senator Lucio offered the following resolution:

WHEREAS, The Texas Senate is pleased to congratulate The University of Texas at Brownsville and Texas Southmost College chess team for winning the Southwestern Collegiate Chess Championship competition held in Dallas February 26 and 27, 2005; and

WHEREAS, Founder and team captain Erick Vallarino and players Ricardo Acevedo, Victor Flores, Vincent Flores, Antonio "Tony" Espino, and Luis Gomez represented the university at the event; they triumphed over teams from 13 other colleges and universities to capture the championship; and

WHEREAS, Five of the six players won in the first round though they were ranked lower than players from other schools, which included teams from The University of Texas at Austin and Dallas, Texas A&M University, and Louisiana Tech University; and

WHEREAS, Erick and Victor tied for first place, and Tony played to a draw with the Dallas grand master, which proved to be a major factor in determining the team championship; and

WHEREAS, Most of the team members have been playing chess since elementary or middle school in Brownsville; under the guidance of Coach Roman Dzindzichashvili, the team was well prepared and focused and ultimately dominated the competition; and

WHEREAS, The members of this highly respected chess team demonstrated great talent and perseverance, and they deserve to be recognized for their outstanding achievement; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 79th Legislature, hereby commend the members of The University of Texas at Brownsville and Texas Southmost College chess team for their exceptional skills and congratulate them on winning the Southwestern Collegiate Chess Championship; and, be it further

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

SR 861 was read and was adopted without objection.

GUESTS PRESENTED

Senator Lucio was recognized and introduced to the Senate members of The University of Texas at Brownsville and Texas Southmost College chess team: Erick Vallarino, team captain; Vincent Flores, Antonio Espino, and Luis Gomez.

The Senate welcomed its guests.

SENATE RESOLUTION 847

Senator Lindsay offered the following resolution:

WHEREAS, The Senate of the State of Texas is pleased to recognize the Harris County students in the Empowering Teen Leaders and Community Teen Leaders programs who have come to the Capitol today to meet state leaders and gain firsthand knowledge of the legislative process; and

WHEREAS, The Texas Cooperative Extension, which is a part of The Texas A&M University System, sponsors the teen leadership training curriculum through its Urban Youth Development Program; and

WHEREAS, The goal of the leadership training program is to create a learning experience for young urban Texans that is both stimulating and satisfying and that will help them to develop life skills and assume leadership roles in the future; and

WHEREAS, The Empowering Teen Leaders program helps juniors in high school expand their knowledge and become self-directed and productive members of society; and

WHEREAS, The high school juniors and seniors who are taking part in the Government in Action trip to the Capitol have demonstrated exceptional initiative and maturity by their involvement in the teen leadership programs, and they are excellent role models for their peers; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 79th Legislature, hereby commend students in the Empowering Teen Leaders and Community Teen Leaders programs and their sponsors for their worthy endeavors and extend to them best wishes for future success; and, be it further

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

SR 847 was read and was adopted without objection.

GUESTS PRESENTED

Senator Lindsay was recognized and introduced to the Senate students representing the Empowering Teen Leaders and Community Teen Leaders programs.

The Senate welcomed its guests.

SENATE RESOLUTION 875

Senator Wentworth offered the following resolution:

WHEREAS, The Senate of the State of Texas is pleased to pay tribute to Viola White House who is a treasured citizen of our state and who reached the age of 104 on October 5, 2004; and

WHEREAS, This gracious lady is well known for her charm and generosity of spirit, and she is a revered resident of Austin; and

WHEREAS, Born October 5, 1900, to John Hamilton White and Josephine Dyer White in Cedar Creek, Viola White grew up on a farm; she rode a horse to school, and her family raised most of their food right on their farm; and

WHEREAS, She married Eugene Preston House of Elgin on May 29, 1920; over the course of their marriage, they farmed cotton in Agua Dulce and worked at Camp Swift during World War II; Mrs. House also worked at the fashion stores Goodfriends and Marie Antoinette's until her retirement; and

WHEREAS, Mrs. House is a longtime member of the First Baptist Church of Elgin; she resides in Austin with her daughter, Rosa Jo Kent, and has been blessed with 11 grandchildren, 14 great-grandchildren, and five great-great-grandchildren; and

WHEREAS, A beloved and respected member of her community, Mrs. House is noted for her courage, her compassion for others, and her enthusiasm for living each day to the fullest; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 79th Legislature, hereby commend Viola White House on her accomplishments and extend best wishes to her; and, be it further

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

SR 875 was read and was adopted without objection.

GUESTS PRESENTED

Senator Wentworth was recognized and introduced to the Senate Viola White House; her daughter, Rosa Jo Kent; and granddaughters, Linda Boozer and Brenda Boucher.

The Senate welcomed its guests.

GUESTS PRESENTED

Senator Deuell was recognized and introduced to the Senate a group of students, teachers, and parents from J. W. Williams High School in Rockwall.

The Senate welcomed its guests.

SENATE RESOLUTION 881

Senator Harris offered the following resolution:

WHEREAS, The 2005 Marcus High School girls' soccer team has completed an impressive season that featured outstanding coaching, remarkable teamwork, and many superlative individual efforts; and

WHEREAS, The Lady Marauders, who compiled a 25-5-4 season record, charged through tough district and regional contests before dealing a notable 4-0 defeat to North Mesquite High School in the Class 5A state finals to claim the coveted crown; Kelli Lunsford was named the championship game's most valuable player; and

WHEREAS, In addition to the team accomplishments, the Marcus squad also produced a number of individual stars; the following students are members of the all-district first team: Kelli Lunsford, who was named district defensive MVP, Alisha Ortiz, Kyra McDonough, Kayla Chambers, Katie Corbitt, and Jamie Laughlin; second team all-district honors went to Brittany Cleveland, Lauren Huffman, Lauren Talbot, Kalie Atkinson, Loren Marshall, Erin Dawson, Kat Bernick, and Lauren Straka; and earning honorable mention recognition were Debra Cummings and Ellie Lyon; and

WHEREAS, Ably coached by Kevin Albury, team members developed an overwhelming offense and a smothering defense while also exhibiting good sportsmanship and superior athletic skill, and they achieved the pinnacle of success in Texas high school soccer; now, therefore, be it

RESOLVED, That the Senate of the 79th Texas Legislature hereby congratulate the Marcus High School girls' soccer team on winning the Class 5A state championship and extend to the players and coaches sincere best wishes for continued success; and, be it further

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

HARRIS
NELSON

SR 881 was read and was adopted without objection.

GUESTS PRESENTED

Senator Harris, joined by Senator Nelson, was recognized and introduced to the Senate members of the 2005 state champion girls' soccer team from Marcus High School in Flower Mound: Katie Corbitt, Kelli Lunsford, Brittany Cleveland, Jessica Jarrell, and coach, Kent Rivas.

The Senate welcomed its guests.

GUEST PRESENTED

Senator Janek, joined by Senator Zaffirini, was recognized and introduced to the Senate Lupe Fraga of Sugar Land, member of The Texas A&M University System Board of Regents.

The Senate welcomed its guest.

SENATE RESOLUTION 878

Senator Estes, on behalf of Senator Duncan, offered the following resolution:

WHEREAS, The Senate of the State of Texas is pleased to join the Texas Retired Teachers Association in recognizing May 12, 2005, as Texas Retired School Personnel Day; and

WHEREAS, Founded in 1953, the Texas Retired Teachers Association is a nonprofit organization of more than 55,000 retired public school and higher education personnel; members of this respected group contributed over 4.4 million hours of volunteer work in 2004 to their communities; if translated into professional wages, these hours would equal \$77.2 million; and

WHEREAS, The Texas Retired Teachers Association strives to promote the professional, economic, intellectual, and social well-being of retired school personnel and encourages its members to give voluntarily of their time, talents, training, and experience to a host of civic endeavors across the state and nation; schools, hospitals, churches, and numerous other community entities have benefited immeasurably from the contributions of these dedicated volunteers; and

WHEREAS, The association also promotes the Children's Book Project, which was established in 1998; in 2004, association members donated and placed over 50,534 books in the hands of individual Texas children; these books were given to children who otherwise might never have had a book to call their very own; in addition, in the association's Walk-A-Million, members walked over 17 billion steps for health issues and to help lower the cost of health insurance; and

WHEREAS, Boasting 260 units statewide, the Texas Retired Teachers Association has shown an impressive commitment to supporting and encouraging the thousands of retired public school and higher education personnel in the Lone Star State, and it is indeed a privilege to commend this organization and its civic-minded volunteers for their outstanding work; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 79th Legislature, hereby declare May 12, 2005, Texas Retired School Personnel Day at the State Capitol and extend to all those associated with the Texas Retired Teachers Association sincere best wishes for continued success; and, be it further

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

SR 878 was read and was adopted without objection.

GUESTS PRESENTED

Senator Estes, on behalf of Senator Duncan, was recognized and introduced to the Senate a delegation from the Texas Retired Teachers Association.

The Senate welcomed its guests.

MESSAGE FROM THE HOUSE

HOUSE CHAMBER

Austin, Texas

May 12, 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 272, Relating to the creation of an oyster license moratorium program.

SB 350, Relating to the establishment and use of a columbarium by a church in certain municipalities.

SB 454, Relating to commercial shrimp boat licenses and to the creation of a gulf shrimp license moratorium program.

SB 1000, Relating to the regulation of the practice of nursing.

SB 1273, Relating to the establishment of the Texas farm and ranch lands conservation program.

(Committee Substitute/Amended)

SB 1309, Relating to member restrictions for commissioners of the Texas Workforce Commission.

SB 1464, Relating to funds to be used for nuclear decommissioning purposes by electric utilities.

SB 1670, Relating to a motor vehicle financial responsibility verification program; providing a penalty.

(Committee Substitute/Amended)

SB 1708, Relating to assessments levied on certain owners of cattle and used for marketing, education, research, and promotion of Texas beef.

Respectfully,

/s/Robert Haney, Chief Clerk
House of Representatives

SENATE RESOLUTION 876

Senator Wentworth offered the following resolution:

WHEREAS, The members of the James Bowie High School Outdoor Performing Ensemble of Austin achieved great renown by winning the Blue Cross Blue Shield of Arizona Fiesta Bowl National Band Championship held in Phoenix on December 30, 2004; and

WHEREAS, With a program entitled "Mysteries of the Fifth Sun," featuring the music of Alberto Ginestera, the band bested schools from around the country to earn the Grand Master Award; moreover, the impressive showing earned the band recognition for "Best Visual Performance," "Best Music Performance," and "Best General Effect," as well as top honors in the Fiesta Bowl Parade the following day; and

WHEREAS, The victory in Phoenix was especially poignant as the students were mourning the sudden loss of band member Robert Plumlee, who died only two days before the contest; deciding to proceed with the competition in memory of Robert, the ensemble showed great poise and maturity in the face of tragedy; and

WHEREAS, In addition to their latest accomplishment, these talented musicians have well represented their school at a host of competitions, placing in state and national contests, consistently achieving first division ratings, and earning spots in the Texas All-State and All-Region bands; the band also won first place at the 2004 Bands of America Contest held in Huntsville; and

WHEREAS, Under the able leadership of director Bruce Dinkins and his assistants, Cathy Bennett, Mike Elam, and Andrew Polk, the James Bowie High School Outdoor Performing Ensemble exemplifies the qualities of commitment and perseverance necessary for excellence, and it is a genuine pleasure to recognize the band members and their leaders for this recent achievement; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 79th Legislature, hereby congratulate all those associated with the James Bowie High School Outdoor Performing Ensemble for winning the 2004 Fiesta Bowl National Band Championship and extend to them sincere best wishes for continued success; and, be it further

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

SR 876 was read and was adopted without objection.

GUESTS PRESENTED

Senator Wentworth was recognized and introduced to the Senate representatives of the Outdoor Performing Ensemble from James Bowie High School in Austin, winners of the 2004 Fiesta Bowl National Band Championship.

The Senate welcomed its guests.

SENATE BILL 552 WITH HOUSE AMENDMENT

Senator Duncan called **SB 552** from the President's table for consideration of the House amendment to the bill.

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

Amendment

Amend **SB 552** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED AN ACT

relating to the creation of magistrates in Nolan County.

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

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

SUBCHAPTER BB. MAGISTRATES IN NOLAN COUNTY

Sec. 54.1701. AUTHORIZATION; APPOINTMENT; ELIMINATION.

(a) The Commissioners Court of Nolan County may authorize the judge of the district court to appoint one or more part-time or full-time magistrates to perform the duties authorized by this subchapter in Nolan County.

(b) The judge may appoint magistrates as authorized by the Commissioners Court of Nolan County.

(c) A magistrate serves at the will of the judge.

(d) An authorized magistrate's position may be eliminated on a majority vote of the Commissioners Court of Nolan County.

Sec. 54.1702. QUALIFICATIONS. To be eligible for appointment as a magistrate, a person must:

(1) be a citizen of the United States;

(2) have resided in Nolan County for at least the two years preceding the person's appointment; and

(3) have been licensed to practice law in this state for at least four years preceding the date of appointment.

Sec. 54.1703. COMPENSATION. A magistrate is entitled to the salary determined by the Commissioners Court of Nolan County. The magistrate's salary is paid from the county fund available for payment of officers' salaries.

Sec. 54.1704. JUDICIAL IMMUNITY. A magistrate has the same judicial immunity as a district judge.

Sec. 54.1705. JURISDICTION; RESPONSIBILITY; POWERS. (a) To the extent authorized by this subchapter, a magistrate has jurisdiction to exercise the authority granted by the judge of the district court.

(b) A magistrate has all of the powers of a magistrate under the laws of this state and may administer an oath for any purpose.

(c) A magistrate shall give preference to performing the duties of a magistrate under Article 15.17, Code of Criminal Procedure.

(d) A magistrate is authorized to:

(1) set, adjust, and revoke bonds before the filing of an information or the return of an indictment;

(2) conduct examining trials;

(3) determine whether a defendant is indigent and appoint counsel for an indigent defendant;

(4) issue search and arrest warrants; and

(5) conduct initial juvenile detention hearings if approved by the juvenile board in Fisher, Mitchell, and Nolan Counties.

(e) A magistrate may:

(1) issue notices of the setting of a case for a hearing;

(2) conduct hearings;

(3) compel production of evidence;

(4) hear evidence;
(5) issue summons for the appearance of witnesses;
(6) swear witnesses for hearings;
(7) regulate proceedings in a hearing; and
(8) perform any act and take any measure necessary and proper for the efficient performance of the duties required by the magistrate's jurisdiction and authority.

SECTION 2. Article 2.09, Code of Criminal Procedure, is amended to read as follows:

Art. 2.09. WHO ARE MAGISTRATES. Each of the following officers is a magistrate within the meaning of this Code: The justices of the Supreme Court, the judges of the Court of Criminal Appeals, the justices of the Courts of Appeals, the judges of the District Court, the magistrates appointed by the judges of the district courts of Bexar County, Dallas County, or Tarrant County that give preference to criminal cases, the criminal law hearing officers for Harris County appointed under Subchapter L, Chapter 54, Government Code, the magistrates appointed by the judges of the district courts of Lubbock County, Nolan County, or Webb County, the magistrates appointed by the judges of the criminal district courts of Dallas County or Tarrant County, the masters appointed by the judges of the district courts and the county courts at law that give preference to criminal cases in Jefferson County, the magistrates appointed by the judges of the district courts and the statutory county courts of Williamson County, the magistrates appointed by the judges of the district courts and statutory county courts that give preference to criminal cases in Travis County, the county judges, the judges of the county courts at law, judges of the county criminal courts, the judges of statutory probate courts, the associate judges appointed by the judges of the statutory probate courts under Subchapter G, Chapter 54, Government Code, the justices of the peace, and the mayors and recorders and the judges of the municipal courts of incorporated cities or towns.

SECTION 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2005.

The amendment was read.

Senator Duncan moved to concur in the House amendment to **SB 552**.

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

SENATE BILL 99 WITH HOUSE AMENDMENTS

Senator Ellis called **SB 99** from the President's table for consideration of the House amendments to the bill.

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

Floor Amendment No. 1

Amend **SB 99** as follows:

(1) In SECTION 1 of the bill, in the second sentence of proposed Section 35.585(a), Business & Commerce Code (House committee printing, page 1, lines 11-12), strike "may not deny to" and substitute "who has been notified that".

(2) In SECTION 1 of the bill, in the second sentence of proposed Section 35.585(a), Business & Commerce Code (House committee printing, page 1, line 12), between "contract" and "an extension", insert "has been the victim of identity theft may not deny the individual".

Floor Amendment No. 2

Amend **SB 99** (House committee printing) by inserting the following appropriately numbered SECTIONS of the bill and renumbering subsequent SECTIONS accordingly:

SECTION _____. The heading to Subtitle F, Title 5, Insurance Code, is amended to read as follows:

SUBTITLE F. INSURANCE FRAUD AND IDENTITY THEFT

SECTION _____. Subtitle F, Title 5, Insurance Code, is amended by adding Chapter 706 to read as follows:

CHAPTER 706. IDENTITY THEFT INSURANCE

Sec. 706.001. DEFINITIONS. (a) The definitions adopted under Article 5.13-2 apply to this chapter.

(b) In this chapter, "identity theft" means a criminal offense described by Section 32.51, Penal Code, or a substantially similar federal law or law in another state.

Sec. 706.002. COVERAGE AUTHORIZED. (a) An insurer authorized to write property and casualty insurance in this state may offer and issue insurance coverage for a loss suffered by a policyholder as a result of the policyholders' being a victim of identity theft or attempted identity theft.

(b) Coverage authorized by Subsection (a) may be:

(1) offered as a separate insurance policy or as a rider or endorsement to:

(A) a residential and commercial property insurance policy; or

(B) a personal or commercial casualty insurance policy; and

(2) underwritten and issued as an individual or group insurance policy.

Sec. 706.003. ELIGIBLE POLICYHOLDERS. (a) An insurer may issue coverage authorized under Section 706.002 to:

(1) an individual; or

(2) a group, business, employer, association, trustee, or other entity for the benefit of its members, customers, employees, members, or beneficiaries.

(b) An entity described by Subsection (a)(2) may be a group that:

(1) is formed solely for the purpose of obtaining insurance coverage under this chapter; or

(2) has already been formed for a purpose other than for obtaining insurance coverage under this chapter and that is described by Subsection (a)(2).

Sec. 706.004. RATES AND FORMS. Notwithstanding any other law, rates and forms for insurance coverage issued under this chapter are governed by Article 5.13-2.

Sec. 706.005. RULES. The commissioner may adopt rules as necessary to implement this article.

SECTION _____. Section 2(a), Article 5.13-2, Insurance Code, is amended to read as follows:

(a) This article applies to all lines of the following insurance written under policies or contracts of insurance issued by an insurer authorized to engage in the business of insurance in this state:

- (1) general liability insurance;
- (2) commercial property insurance, including farm and ranch insurance and farm and ranch owners insurance;
- (3) personal and commercial casualty insurance, except as provided by Subsection (b) of this section;
- (4) medical professional liability insurance;
- (5) fidelity and surety bonds other than criminal court appearance bonds;
- (6) personal umbrella insurance;
- (7) personal liability insurance;
- (8) guaranteed auto protection (GAP) insurance;
- (9) involuntary unemployment insurance;
- (10) financial guaranty insurance;
- (11) inland marine insurance;
- (12) rain insurance;
- (13) hail insurance on farm crops; [and]
- (14) commercial automobile insurance; and
- (15) identity theft insurance coverage issued under Chapter 706.

The amendments were read.

Senator Ellis moved to concur in the House amendments to **SB 99**.

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

CONCLUSION OF MORNING CALL

The Presiding Officer at 12:08 p.m. announced the conclusion of morning call.

HOUSE BILL 350 ON SECOND READING

On motion of Senator Duncan and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 350** at this time on its second reading:

HB 350, Relating to the filing of certain reports of political contributions and expenditures.

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

All Members are deemed to have voted "Yea" on the passage to third reading.

HOUSE BILL 350 ON THIRD READING

Senator Duncan moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 350** be placed on its third reading and final passage.

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

Nays: Wentworth.

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 350**, 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 350** 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 31, Nays 0.

**COMMITTEE SUBSTITUTE
HOUSE BILL 1130 ON SECOND READING**

On motion of Senator Ellis and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 1130** at this time on its second reading:

CSHB 1130, Relating to the adoption of a privacy policy by a person who requires the disclosure of an individual's social security number; providing a civil penalty.

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

All Members are deemed to have voted "Yea" on the passage to third reading.

**COMMITTEE SUBSTITUTE
HOUSE BILL 1130 ON THIRD READING**

Senator Ellis moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 1130** be placed on its third reading and final passage.

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

Nays: Wentworth.

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 **CSHB 1130**, 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 **CSHB 1130** 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 31, Nays 0.

HOUSE BILL 225 ON SECOND READING

On motion of Senator Deuell and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 225** at this time on its second reading:

HB 225, Relating to the expiration of a renewed license to carry a concealed handgun.

The bill was read second time.

Senator Deuell offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 225** (Senate committee printing) as follows:

(1) Add the following appropriately numbered SECTION and renumber subsequent SECTIONS of the bill accordingly:

SECTION __. Section 411.192, Government Code, is amended to read as follows:

Sec. 411.192. CONFIDENTIALITY OF RECORDS. (a) The department shall disclose to a criminal justice agency information contained in its files and records regarding whether a named individual or any individual named in a specified list is licensed under this subchapter. The department shall, on written request and payment of a reasonable fee to cover costs of copying, disclose to any other individual whether a named individual or any individual whose full name is listed on a specified written list is licensed under this subchapter only if criminal history record information maintained by the department indicates that the individual about whom the inquiry is made has been the subject of an arrest, an indictment, or a conviction for an offense. Information on an individual subject to disclosure under this section includes the individual's name, date of birth, gender, race, and zip code. Except as otherwise

provided by this section and by Section 411.193, all other records maintained under this subchapter are confidential and are not subject to mandatory disclosure under the open records law, Chapter 552.

(b) An ~~[, except that the]~~ applicant or license holder may be furnished a copy of disclosable records regarding the applicant or license holder on request and the payment of a reasonable fee.

(c) The department shall notify a license holder of any request that is made for information relating to the license holder under this section and provide the name of the person or agency making the request.

(d) This section does not prohibit the department from making public and distributing to the public at no cost lists of individuals who are certified as qualified handgun instructors by the department.

(2) In SECTION 2 of the bill, on page 1, line 16, strike "This Act" and substitute "The change in law made by this Act to Section 411.183(b), Government Code,".

The amendment to **HB 225** 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.

Senator Staples offered the following amendment to the bill:

Floor Amendment No. 2

Amend **HB 225** (Senate committee printing) by adding the following appropriately numbered sections:

SECTION _____. Section 411.173(a), Government Code, as amended by Chapters 255 and 752, Acts of the 78th Legislature, Regular Session, 2003, is reenacted and amended to read as follows:

(a) The department by rule shall establish a procedure for a person who meets the eligibility requirements of this subchapter other than the residency requirement established by Section 411.172(a)(1) to obtain a license under this subchapter if the person is a legal resident of another ~~[a]~~ state ~~[that does not provide for the issuance of a license to carry a concealed handgun]~~ or if the person relocates to this state with the intent to establish residency in this state. The procedure must include payment of a fee in an amount sufficient to recover the average cost to the department of obtaining a criminal history record check and investigation on a nonresident applicant. A license issued in accordance with the procedure established under this subsection ~~[If a state whose residents may obtain a license under this subsection enacts a law providing for the issuance of a license to carry a concealed handgun, a license issued to a resident of that state]:~~

(1) remains in effect until the license expires under Section 411.183; and

(2) may be renewed under Section 411.185 ~~[until the time a license issued by the other state is recognized by this state under Subsection (b)].~~

SECTION _____. Section 411.173(b), Government Code, is amended to read as follows:

(b) The governor shall negotiate an agreement with any other state that provides for the issuance of a license to carry a concealed handgun under which a license issued by the other state is recognized in this state or shall issue a proclamation that a

license issued by the other state is recognized in this state if the attorney general of the State of Texas determines that a background check of each applicant for a license issued by that state is initiated [~~conducted~~] by state or local authorities or an agent of the state or local authorities before the license is issued [~~to determine the applicants' eligibility to possess a firearm under federal law~~]. For purposes of this subsection, "background check" means a search of the National Crime Information Center database and the Interstate Identification Index maintained by the Federal Bureau of Investigation.

SECTION _____. Section 411.173(a-1), Government Code, is repealed.

The amendment to **HB 225** 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.

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

HB 225 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.

HOUSE BILL 225 ON THIRD READING

Senator Deuell moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 225** be placed on its third reading and final passage.

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

Nays: Wentworth.

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 225**, 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 225** 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 31, Nays 0.

**COMMITTEE SUBSTITUTE
HOUSE BILL 2892 ON SECOND READING**

Senator Gallegos moved to suspend the regular order of business to take up for consideration **CSHB 2892** at this time on its second reading:

CSHB 2892, Relating to conditions of employment for firefighters employed by certain municipalities.

The motion prevailed.

Senators Carona, Harris, and Nelson 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 third reading by a viva voce vote.

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

Nays: Carona, Harris, Nelson.

**COMMITTEE SUBSTITUTE
HOUSE BILL 2892 ON THIRD READING**

Senator Gallegos moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 2892** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 27, Nays 4.

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

Nays: Carona, Harris, Nelson, Wentworth.

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 **CSHB 2892**, 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 **CSHB 2892** 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 3.

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

Nays: Carona, Harris, Nelson.

HOUSE BILL 2208 ON SECOND READING

On motion of Senator Zaffirini and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 2208** at this time on its second reading:

HB 2208, Relating to the creation of a cultural and fine arts district program by the Texas Commission on the Arts.

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

All Members are deemed to have voted "Yea" on the passage to third reading.

HOUSE BILL 2208 ON THIRD READING

Senator Zaffirini moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2208** be placed on its third reading and final passage.

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

Nays: Wentworth.

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 2208**, 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 2208** 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 31, Nays 0.

HOUSE BILL 2565 ON SECOND READING

On motion of Senator Lucio and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 2565** at this time on its second reading:

HB 2565, Relating to prohibiting rebates regarding certain insurance coverage.

The bill was read second time.

Senator Lucio offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 2565** (Senate committee printing) by striking SECTION 2 of the bill (page 1, lines 33-42) and substituting the following:

SECTION 2. Article 5.20, Insurance Code, is amended by amending Subsections (a) and (d) to read as follows:

(a) Except as provided by this article, no insurer or employee thereof, and no broker or agent shall knowingly issue any policy of insurance nor charge, demand or receive a premium thereon except in accordance with the applicable filing [~~which has been approved by the commissioner~~]. No insurer or employee thereof, and no broker or agent shall pay, allow or give, or offer to pay, allow, or give, directly or indirectly, as an inducement to insurance, or after insurance has been effected, any rebate, discount, abatement, credit or reduction of the premium named in a policy of insurance, or any special favor or advantage in the dividends or other benefits to accrue thereon, or any valuable consideration or inducement whatever, not specified in the policy of insurance, except to the extent provided for in such applicable filing. No insured named in a policy of insurance, nor any employee of such insured shall knowingly receive or accept, directly or indirectly, any such rebate, discount, abatements, or reduction of premium, or any special favor or advantage or valuable consideration or inducement.

(d) As used in this article:

(1) "Insurance" [the word "insurance"] includes suretyship.

(2) "Insurer" means an insurance company or other legal entity described by

Subsection (a), Article 5.13, of this code.

(3) "Policy" [and the word "policy"] includes a bond.

The amendment to **HB 2565** 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.

Senator Staples offered the following amendment to the bill:

Floor Amendment No. 2

Amend **HB 2565** (Senate committee printing) by adding an appropriately numbered SECTION of the bill to read as follows and renumbering the existing SECTIONS of the bill accordingly:

SECTION _____. Section 2502.055, Insurance Code, is amended as follows:

Sec. 2502.055. ~~CERTAIN PROMOTIONAL AND EDUCATIONAL ACTIVITIES NOT REBATES NOT PROHIBITED.~~ (a) The activities described in this section are not rebates. Nothing in this subchapter prohibits a title insurance company or a title insurance agent from: This subchapter does not prohibit

(1) engaging in legal promotional and educational activities that are not conditioned on the referral of title insurance business;

(2) purchasing advertising promoting the title insurance company or the title insurance agent at market rates from any person in any publication, event, or media;

(3) delivering to a party in the transaction or the party's representative legal documents or funds which are directly or indirectly related to a transaction closed by the title insurance company or title insurance agent; or

(4) participating in an association of attorneys, builders, developers, realtors, or other real estate practitioners provided that the level of such participation does not exceed normal participation of a volunteer member of the association and is not activity that would ordinarily be performed by paid staff of an association.

(b) "Market rate" means the price at which a seller, under no obligation or duress to sell, is willing to accept and a buyer, under no obligation or duress to buy, is willing to pay in an arms-length transaction. The market rate is determined by comparing the rights or items purchased or sold to similar rights or items that have been recently purchased by others or sold to others including others not in title insurance business.

The amendment to **HB 2565** 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.

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

HB 2565 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.

HOUSE BILL 2565 ON THIRD READING

Senator Lucio moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2565** be placed on its third reading and final passage.

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

Nays: Wentworth.

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 2565**, 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 2565** 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 31, Nays 0.

COMMITTEE SUBSTITUTE SENATE BILL 18 ON SECOND READING

Senator Williams moved to suspend the regular order of business to take up for consideration **CSSB 18** at this time on its second reading:

CSSB 18, Relating to the adoption of an ad valorem tax rate by a taxing unit other than a school district.

The motion prevailed by the following vote: Yeas 21, Nays 8.

Yeas: Armbrister, Averitt, Brimer, Carona, Deuell, Duncan, Eltife, Fraser, Gallegos, Jackson, Janek, Lindsay, Madla, Nelson, Ogden, Shapiro, Staples, Van de Putte, Wentworth, Whitmire, Williams.

Nays: Barrientos, Estes, Harris, Hinojosa, Seliger, Shapleigh, West, Zaffirini.

Absent: Ellis, Lucio.

The bill was read second time.

Senator Williams offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSSB 18** by striking all below the enacting clause and substituting the following:

SECTION 1. Sections 26.05(b) and (d), Tax Code, are amended to read as follows:

(b) A taxing unit may not impose property taxes in any year until the governing body has adopted a tax rate for that year, and the annual tax rate must be set by ordinance, resolution, or order, depending on the method prescribed by law for adoption of a law by the governing body. The vote on the ordinance, resolution, or order setting the tax rate must be separate from the vote adopting the budget. The vote on the ordinance, resolution, or order setting a tax rate that exceeds the effective tax rate must be a record vote. A motion to adopt an ordinance, resolution, or order setting a tax rate that exceeds the effective tax rate must be made in the following form: "I move that property taxes be increased by the adoption of a tax rate of (specify tax rate)." If the ordinance, resolution, or order sets a tax rate that, if applied to the total taxable value, will impose an amount of taxes to fund maintenance and operation expenditures of the taxing unit that exceeds the amount of taxes imposed for that purpose in the preceding year, the taxing unit must:

(1) include in the ordinance, resolution, or order in type larger than the type used in any other portion of the document:

(A) the following statement: "THIS TAX RATE WILL RAISE MORE TAXES FOR MAINTENANCE AND OPERATIONS THAN LAST YEAR'S TAX RATE."; and

(B) if the tax rate exceeds the effective maintenance and operations rate, the following statement: "THE TAX RATE WILL RAISE TAXES FOR MAINTENANCE AND OPERATIONS ON A \$100,000 HOME BY APPROXIMATELY \$(Insert amount)."; and

(2) include on the home page of any Internet website operated by the unit:

(A) the following statement: "(Insert name of unit) ADOPTED A TAX RATE THAT WILL RAISE MORE TAXES FOR MAINTENANCE AND OPERATIONS THAN LAST YEAR'S TAX RATE"; and

(B) if the tax rate exceeds the effective maintenance and operations rate, the following statement: "THE TAX RATE WILL RAISE TAXES FOR MAINTENANCE AND OPERATIONS ON A \$100,000 HOME BY APPROXIMATELY \$(Insert amount)."

(d) The governing body of a taxing unit other than a school district may not adopt a tax rate that exceeds the lower of the rollback tax rate or [~~103 percent of~~] the effective tax rate calculated as provided by this chapter until the governing body has held two [~~a~~] public hearings [~~hearing~~] on the proposed tax rate and has otherwise complied with Section 26.06 and Section 26.065. The governing body of a taxing unit shall reduce a tax rate set by law or by vote of the electorate to the lower of the rollback tax rate or [~~103 percent of~~] the effective tax rate and may not adopt a higher rate unless it first complies with Section 26.06.

SECTION 2. Sections 26.06(a)-(e), Tax Code, are amended to read as follows:

(a) A public hearing required by Section 26.05 may not be held before the seventh day after the date the notice of the public hearing [~~on the proposed tax increase~~] is given. The second hearing may not be held earlier than the third day after the date of the first hearing. Each [~~The~~] hearing must be on a weekday that is not a public holiday. Each [~~The~~] hearing must be held inside the boundaries of the unit in a publicly owned building or, if a suitable publicly owned building is not available, in a

suitable building to which the public normally has access. At the hearings ~~[hearing]~~, the governing body must afford adequate opportunity for proponents and opponents of the tax increase to present their views.

(b) The notice of each of the ~~[a]~~ public hearings ~~[hearing]~~ may not be smaller than one-quarter page of a standard-size or a tabloid-size newspaper, and the headline on the notice must be in 18-point or larger type. The notice must~~[-~~

~~[(+)]~~ contain a statement in the following form:

"NOTICE OF PUBLIC HEARING ON TAX INCREASE

"Last year, the (name of taxing unit) property tax rate was \$(insert tax rate adopted in preceding tax year). That rate raised \$(insert total amount of taxes imposed in the preceding tax year), a portion of which was used to fund operations such as (insert sample descriptions of unit's operations).

"This year, (name of taxing unit) is proposing a property tax rate of \$(insert proposed tax rate). That rate would raise \$(insert total amount of taxes that would be imposed), which is \$(insert appropriate amount) more than the taxes imposed last year.

"There will be two public hearings to consider that increase. The first public hearing will be held on (date and time) at (meeting place). The second hearing will be held on (date and time) at (meeting place).

"You have a right to attend the hearings and make comments. You are encouraged to attend and make comments if you wish."

~~["The (name of the taxing unit) will hold a public hearing on a proposal to increase total tax revenues from properties on the tax roll in the preceding year by (percentage by which proposed tax rate exceeds lower of rollback tax rate or effective tax rate calculated under this chapter) percent. Your individual taxes may increase at a greater or lesser rate, or even decrease, depending on the change in the taxable value of your property in relation to the change in taxable value of all other property and the tax rate that is adopted.~~

~~["The public hearing will be held on (date and time) at (meeting place).~~

~~["(Names of all members of the governing body, showing how each voted on the proposal to consider the tax increase or, if one or more were absent, indicating the absences.)"; and~~

~~[(2) contain the following information:~~

~~[(A) the unit's adopted tax rate for the preceding year and the proposed tax rate, expressed as an amount per \$100;~~

~~[(B) the difference, expressed as an amount per \$100 and as a percent increase or decrease, as applicable, in the proposed tax rate compared to the adopted tax rate for the preceding year;~~

~~[(C) the average appraised value of a residence homestead in the taxing unit in the preceding year and in the current year; the unit's homestead exemption, other than an exemption available only to disabled persons or persons 65 years of age or older, applicable to that appraised value in each of those years; and the average taxable value of a residence homestead in the unit in each of those years, disregarding any homestead exemption available only to disabled persons or persons 65 years of age or older;~~

~~[(D) the amount of tax that would have been imposed by the unit in the preceding year on a residence homestead appraised at the average appraised value of a residence homestead in that year, disregarding any homestead exemption available only to disabled persons or persons 65 years of age or older;~~

~~[(E) the amount of tax that would be imposed by the unit in the current year on a residence homestead appraised at the average appraised value of a residence homestead in the current year, disregarding any homestead exemption available only to disabled persons or persons 65 years of age or older, if the proposed tax rate is adopted; and~~

~~[(F) the difference between the amounts of tax calculated under Paragraphs (D) and (E), expressed in dollars and cents and described as the annual increase or decrease, as applicable, in the tax to be imposed by the unit on the average residence homestead in the unit in the current year if the proposed tax rate is adopted.]~~

(c) The notice of a public hearing under this section may be delivered by mail to each property owner in the unit, or ~~it~~ may be published in a newspaper. If the notice is published in a newspaper, it may not be in the part of the paper in which legal notices and classified advertisements appear. If the taxing unit operates an Internet website, the notice must be posted on the website from the date the notice is first published until the second public hearing is concluded.

(d) At the public hearings ~~hearing~~ the governing body shall announce the date, time, and place of the meeting at which it will vote on the proposed tax rate. After each ~~the~~ hearing the governing body shall give notice of the meeting at which it will vote on the proposed tax rate and the notice shall be in the same form as prescribed by Subsections (b) and (c), except that it must state the following:

"NOTICE OF VOTE ON TAX RATE

"The (name of the taxing unit) conducted ~~a~~ public hearings ~~hearing~~ on a proposal to increase the total tax revenues of the (name of the taxing unit) from properties on the tax roll in the preceding year by (percentage by which proposed tax rate exceeds lower of rollback tax rate or effective tax rate calculated under this chapter) percent on (dates ~~date~~ and times ~~time~~) public hearings were ~~hearing was~~ conducted).

"The (governing body of the taxing unit) is scheduled to vote on the tax rate that will result in that tax increase at a public meeting to be held on (date and time) at (meeting place)."

(e) The meeting to vote on the tax increase may not be earlier than the third day or later than the 14th day after the date of the second public hearing. The meeting must be held inside the boundaries of the taxing unit in a publicly owned building or, if a suitable publicly owned building is not available, in a suitable building to which the public normally has access. If the governing body does not adopt a tax rate that exceeds the lower of the rollback tax rate or ~~[103 percent of]~~ the effective tax rate by the 14th day, it must give a new notice under Subsection (d) before it may adopt a rate that exceeds the lower of the rollback tax rate or ~~[103 percent of]~~ the effective tax rate.

SECTION 3. Section 26.065(d), Tax Code, is amended to read as follows:

(d) The notice of the public hearing required by Subsection (b) must contain a statement that is substantially the same as the statement required by Section 26.06(b) [~~26.06(b)(1) and must contain information that is substantially the same as the information required by Section 26.06(b)(2)~~].

SECTION 4. Section 26.07(b), Tax Code, is amended to read as follows:

(b) A petition is valid only if:

(1) it states that it is intended to require an election in the taxing unit on the question of reducing the tax rate for the current year;

(2) it is signed by a number of registered voters of the taxing unit equal to at least:

(A) seven percent of the number of registered voters of the taxing unit according to the most recent list of registered voters if the tax rate adopted for the current tax year would impose taxes for maintenance and operations in an amount of at least \$5 million; or

(B) 10 percent of the number of registered voters of the taxing unit according to the most recent official list of registered voters if the tax rate adopted for the current tax year would impose taxes for maintenance and operations in an amount of less than \$5 million; and

(3) it is submitted to the governing body on or before the 90th day after the date on which the governing body adopted the tax rate for the current year.

SECTION 5. Section 31.01, Tax Code, is amended by amending Subsection (c) and adding Subsection (c-1) to read as follows:

(c) The tax bill or a separate statement accompanying the tax bill shall:

(1) identify the property subject to the tax;

(2) state the appraised value, assessed value, and taxable value of the property;

(3) if the property is land appraised as provided by Subchapter C, D, E, or H, Chapter 23, state the market value and the taxable value for purposes of deferred or additional taxation as provided by Section 23.46, 23.55, 23.76, or 23.9807, as applicable;

(4) state the assessment ratio for the unit;

(5) state the type and amount of any partial exemption applicable to the property, indicating whether it applies to appraised or assessed value;

(6) state the total tax rate for the unit;

(7) state the amount of tax due, the due date, and the delinquency date;

(8) explain the payment option and discounts provided by Sections 31.03 and 31.05, if available to the unit's taxpayers, and state the date on which each of the discount periods provided by Section 31.05 concludes, if the discounts are available;

(9) state the rates of penalty and interest imposed for delinquent payment of the tax;

(10) include the name and telephone number of the assessor for the unit and, if different, of the collector for the unit; ~~and~~

(11) for real property, state for the current tax year and each of the preceding five tax years:

(A) the appraised value and taxable value of the property;

(B) the total tax rate for the unit;

(C) the amount of taxes imposed on the property by the unit; and
(D) the difference, expressed as a percent increase or decrease, as applicable, in the amount of taxes imposed on the property by the unit compared to the amount imposed for the preceding tax year;

(12) for real property, state the differences, expressed as a percent increase or decrease, as applicable, in the following for the current tax year as compared to the fifth tax year before that tax year:

(A) the appraised value and taxable value of the property;

(B) the total tax rate for the unit; and

(C) the amount of taxes imposed on the property by the unit; and

(13) include any other information required by the comptroller.

(c-1) If for any of the preceding six tax years any information required by Subsection (c)(11) or (12) to be included in a tax bill or separate statement is unavailable, the tax bill or statement must state that the information is not available for that year.

SECTION 6. Section 26.06(f), Tax Code, is repealed.

SECTION 7. (a) The change in law made by this Act applies to the ad valorem tax rate of a taxing unit beginning with the 2005 tax year, except as provided by Subsection (b) of this section.

(b) If the governing body of a taxing unit has adopted an ad valorem tax rate for the taxing unit for the 2005 tax year before the effective date of this Act, the change in law made by this Act applies to the ad valorem tax rate of that taxing unit beginning with the 2006 tax year, and the law in effect when the tax rate was adopted applies to the 2005 tax year with respect to that taxing unit.

SECTION 8. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2005.

The amendment to **CSSB 18** 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.

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

CSSB 18 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: Barrientos, Harris, Seliger, West, Zaffirini.

COMMITTEE SUBSTITUTE SENATE BILL 18 ON THIRD READING

Senator Williams moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 18** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 26, Nays 5.

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

Nays: Barrientos, Seliger, Wentworth, West, Zaffirini.

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 18**, 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 18** 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 27, Nays 4.

Yeas: Armbrister, Averitt, Brimer, Carona, Deuell, Duncan, Ellis, Eltife, Estes, Fraser, Gallegos, Harris, Hinojosa, Jackson, Janek, Lindsay, Lucio, Madla, Nelson, Ogden, Shapiro, Shapleigh, Staples, Van de Putte, Wentworth, Whitmire, Williams.

Nays: Barrientos, Seliger, West, Zaffirini.

COMMITTEE SUBSTITUTE HOUSE BILL 1018 ON SECOND READING

On motion of Senator Ellis and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 1018** at this time on its second reading:

CSHB 1018, Relating to the amount of liability insurance required to be maintained on certain school buses owned by a motor carrier.

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

All Members are deemed to have voted "Yea" on the passage to third reading.

**COMMITTEE SUBSTITUTE
HOUSE BILL 1018 ON THIRD READING**

Senator Ellis moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 1018** be placed on its third reading and final passage.

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

Nays: Wentworth.

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 **CSHB 1018**, 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 **CSHB 1018** 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 31, Nays 0.

PERMISSION TO INTRODUCE BILLS

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 bills:

SB 20, SB 1899.

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

SENATE BILL 1140 ON SECOND READING

On motion of Senator Carona and by unanimous consent, the regular order of business was suspended to take up for consideration **SB 1140** at this time on its second reading:

SB 1140, Relating to requiring a record vote by each house or committee of the legislature on bills, proposed constitutional amendments, amendments to bills and proposed constitutional amendments, and certain other actions and to public notice of the record vote.

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.

SENATE BILL 1140 ON THIRD READING

Senator Carona moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 1140** be placed on its third reading and final passage.

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

Nays: Wentworth.

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 1140**, 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 1140** 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 31, Nays 0.

COMMITTEE SUBSTITUTE SENATE BILL 1780 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 1780** at this time on its second reading:

CSSB 1780, Relating to the issuance of bonds or other obligations by certain junior college districts.

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.

COMMITTEE SUBSTITUTE
SENATE BILL 1780 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 1780** be placed on its third reading and final passage.

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

Nays: Wentworth.

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 1780**, 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 1780** 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 31, Nays 0.

SENATE BILL 1762 ON SECOND READING

Senator Gallegos moved to suspend the regular order of business to take up for consideration **SB 1762** at this time on its second reading:

SB 1762, Relating to the establishment and operation of a public building mapping information system by the Texas Building and Procurement Commission.

The motion prevailed.

Senator Estes 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: Estes.

SENATE BILL 1762 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 **SB 1762** be placed on its third reading and final passage.

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

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

Nays: Estes, Wentworth.

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 1762**, 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 1762** 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 30, Nays 1.

Nays: Estes.

**COMMITTEE SUBSTITUTE
SENATE BILL 555 ON SECOND READING**

On motion of Senator Janek and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 555** at this time on its second reading:

CSSB 555, Relating to requirements for certain medical treatment consent forms.

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.

**COMMITTEE SUBSTITUTE
SENATE BILL 555 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 555** be placed on its third reading and final passage.

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

Nays: Wentworth.

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 555**, 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 555** 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 31, Nays 0.

HOUSE BILL 1097 ON SECOND READING

On motion of Senator Williams and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 1097** at this time on its second reading:

HB 1097, Relating to the validation of any act, governmental proceeding, official, bond, or obligation of a navigation district or port authority or a corporation of the district or authority.

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

All Members are deemed to have voted "Yea" on the passage to third reading.

HOUSE BILL 1097 ON THIRD READING

Senator Williams moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1097** be placed on its third reading and final passage.

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

Nays: Wentworth.

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 1097**, 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 1097** 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 31, Nays 0.

COMMITTEE SUBSTITUTE SENATE BILL 751 ON SECOND READING

Senator Van de Putte moved to suspend the regular order of business to take up for consideration **CSSB 751** at this time on its second reading:

CSSB 751, Relating to service and disability retirement benefits and death benefits for rescue specialists.

The motion prevailed.

Senators Brimer, Estes, Wentworth, and Williams 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: Brimer, Estes, Wentworth, Williams.

**COMMITTEE SUBSTITUTE
SENATE BILL 751 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 751** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 27, Nays 4.

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

Nays: Brimer, Estes, Wentworth, 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 751**, 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 751** 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 27, Nays 4. (Same as previous roll call)

**MOTION TO PLACE
COMMITTEE SUBSTITUTE
SENATE BILL 1194 ON SECOND READING**

Senator Van de Putte moved to suspend the regular order of business to take up for consideration **CSSB 1194** at this time on its second reading:

CSSB 1194, Relating to the provision of behavioral health services by school-based health centers.

The motion was lost by the following vote: Yeas 16, Nays 14. (Not receiving two-thirds vote of Members present)

Yeas: Armbrister, Barrientos, Deuell, Ellis, Gallegos, Hinojosa, Lucio, Madla, Seliger, Shapleigh, Van de Putte, Wentworth, West, Whitmire, Williams, Zaffirini.

Nays: Averitt, Brimer, Carona, Eltife, Estes, Fraser, Harris, Jackson, Janek, Lindsay, Nelson, Ogden, Shapiro, Staples.

Absent: Duncan.

SENATE BILL 1883 ON SECOND READING

On motion of Senator Ogden and by unanimous consent, the regular order of business was suspended to take up for consideration **SB 1883** at this time on its second reading:

SB 1883, Relating to the lands managed and controlled by the board of regents of The Texas A&M University System.

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.

SENATE BILL 1883 ON THIRD READING

Senator Ogden moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 1883** be placed on its third reading and final passage.

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

Nays: Wentworth.

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 1883**, 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 1883** 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 31, Nays 0.

(Senator Brimer in Chair)

HOUSE BILL 168 ON SECOND READING

Senator Armbrister moved to suspend the regular order of business to take up for consideration **HB 168** at this time on its second reading:

HB 168, Relating to the hours for selling alcoholic beverages at certain events.

The motion prevailed.

Senator Staples 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 third reading by a viva voce vote.

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

Nays: Staples.

HOUSE BILL 168 ON THIRD READING

Senator Armbrister moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 168** be placed on its third reading and final passage.

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

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

Nays: Staples, Wentworth.

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 168**, 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 168** 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 30, Nays 1.

Nays: Staples.

VOTE RECONSIDERED

On motion of Senator Armbrister and by unanimous consent, the vote by which **HB 168** was finally passed was reconsidered:

HB 168, Relating to the hours for selling alcoholic beverages at certain events.

Question — Shall **HB 168** be finally passed?

Senator Armbrister moved to postpone further consideration of the bill to a time certain of 2:00 p.m. today.

The motion prevailed.

MOTION TO PLACE HOUSE BILL 259 ON SECOND READING

Senator Jackson moved to suspend the regular order of business to take up for consideration **HB 259** at this time on its second reading:

HB 259, Relating to the powers of a county, municipality, or local entity with respect to the regulation of traffic on highways under its jurisdiction.

The motion was lost by the following vote: Yeas 16, Nays 14. (Not receiving two-thirds vote of Members present)

Yeas: Armbrister, Barrientos, Brimer, Carona, Estes, Fraser, Harris, Jackson, Lucio, Madla, Nelson, Shapleigh, Staples, Van de Putte, Wentworth, Williams.

Nays: Averitt, Deuell, Duncan, Ellis, Eltife, Gallegos, Janek, Lindsay, Ogden, Seliger, Shapiro, West, Whitmire, Zaffirini.

Absent: Hinojosa.

HOUSE BILL 168 ON THIRD READING

The Presiding Officer, Senator Brimer in Chair, laid before the Senate **HB 168** on its third reading. The bill had been read third time, passed, the vote on final passage reconsidered, and further consideration postponed to a time certain of 2:00 p.m. today:

HB 168, Relating to the hours for selling alcoholic beverages at certain events.

Question — Shall **HB 168** be finally passed?

Senator Lucio offered the following amendment to the bill:

Floor Amendment No. 1 on Third Reading

Amend **HB 168** on third reading by adding the following appropriately numbered section to the bill and renumbering the remaining sections of the bill as appropriate:

SECTION ____. Chapter 105, Alcoholic Beverage Code, is amended by adding Section 105.09 to read as follows:

Sec. 105.09. HOURS OF SALE: ELECTION DAY. Notwithstanding any other law, a person licensed or permitted to sell alcoholic beverages at retail for on-premises or off-premises consumption may not sell or offer for sale any alcoholic beverage during the hours the polls are open on the day of the general election for state and county officers.

The amendment was read.

POINT OF ORDER

Senator Fraser raised a point of order that Floor Amendment No. 1 on Third Reading was not germane to the body of the bill.

POINT OF ORDER WITHDRAWN

Senator Fraser withdrew the point of order.

Senator Lucio withdrew Floor Amendment No. 1 on Third Reading.

Question — Shall **HB 168** be finally passed?

HB 168 was finally passed by the following vote: Yeas 30, Nays 1.

Nays: Staples.

COMMITTEE SUBSTITUTE SENATE BILL 1451 ON SECOND READING

On motion of Senator Averitt and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 1451** at this time on its second reading:

CSSB 1451, Relating to the management of groundwater.

The bill was read second time.

Senator Madla offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSSB 1451** by inserting the following appropriately numbered sections and renumbering the subsequent sections of the bill accordingly:

SECTION __. Subchapter D, Chapter 11, Natural Resources Code, is amended by adding Section 11.087 to read as follows:

Sec. 11.087. PROHIBITION ON EXPORTATION OF GROUNDWATER PRODUCED FROM STATE-OWNED LAND. A person may not export from this state to a foreign country groundwater produced from state-owned land.

SECTION __. Section 32.012, Natural Resources Code, is amended by amending Subsection (a) and adding Subsection (d) to read as follows:

- (a) The board is composed of:
- (1) the commissioner;
 - (2) a citizen of the state appointed by the governor with the advice and consent of the senate; ~~and~~
 - (3) a citizen of the state appointed by the attorney general with the advice and consent of the senate;
 - (4) a citizen of the state appointed by the lieutenant governor; and

(5) a citizen of the state appointed by the governor with the advice and consent of the senate from a list of nominees submitted by the speaker of the house of representatives.

(d) In making an appointment under Subsection (a)(5), the governor may reject one or more of the nominees on a list submitted by the speaker of the house of representatives and request a new list of different nominees.

SECTION __. Section 51.121, Natural Resources Code, is amended by adding Subsections (f) and (g) to read as follows:

(f) Notwithstanding Subsection (a), the commissioner may not lease unsold public school land under this subchapter for a term of more than 10 years or for an indefinite term unless the board approves the lease.

(g) Notwithstanding Subsection (a), the commissioner may not lease the right to produce groundwater from unsold public school land. A lease of the right to produce groundwater from unsold public school land is governed by Section 51.132.

SECTION __. Subchapter D, Chapter 51, Natural Resources Code, is amended by adding Section 51.132 to read as follows:

Sec. 51.132. LEASE OF RIGHT TO PRODUCE GROUNDWATER. (a) The board may lease the right to produce groundwater from unsold public school land only as provided by this section. The other provisions of this subchapter apply to leases entered into under this section to the extent those provisions do not conflict with this section or Section 51.121(g).

(b) The board shall adopt clear and detailed rules governing the lease of the right to produce groundwater from unsold public school land. The rules must require:

(1) each regional water planning group and groundwater conservation district in whose jurisdiction the land is located to be notified when the board receives a proposal to lease the right to produce groundwater from the land;

(2) the lease contract to be negotiated by the board;

(3) the lessee to comply with:

(A) the rules and permitting requirements of any groundwater conservation district in which the land is located; and

(B) all state and local laws and rules;

(4) the right to produce groundwater from land to be leased separately from oil and gas rights; and

(5) a lease proposal submitted by a political subdivision of this state to include a letter of interest, approved by the governing body of the political subdivision, that includes:

(A) an estimated total daily and annual amount of water to be produced under the lease;

(B) any requirements of the political subdivision regarding water quality;

(C) a time frame for delivery of the water;

(D) an estimated delivered price for the water; and

(E) a statement that the political subdivision commits to act in compliance with all state and local laws and rules.

(c) Before filing notice of the proposed rules with the secretary of state for publication in the Texas Register, the board must notify the attorney general, Parks and Wildlife Department, Texas Commission on Environmental Quality, Texas Water Development Board, and Department of Agriculture and each member of the legislature that notice of the proposed rules will be published.

(d) A lease of the right to produce groundwater from unsold public school land must be awarded through competitive bidding unless:

(1) the lessee is a political subdivision of this state or an end user of the water; or

(2) the lease entitles the lessee to produce less than 125,000 gallons of water per day.

SECTION __. Subchapter C, Chapter 66, Education Code, is amended by adding Section 66.46 to read as follows:

Sec. 66.46. LEASE OF RIGHT TO PRODUCE GROUNDWATER. A lease of the right to produce groundwater from lands set aside and appropriated to, or acquired by, the permanent university fund must be awarded through competitive bidding unless:

(1) the lessee is a political subdivision of this state or an end user of the water; or

(2) the lease entitles the lessee to produce less than 125,000 gallons of water per day.

SECTION __. Subsections (c) and (e), Section 16.053, Water Code, are amended to read as follows:

(c) No later than 60 days after the designation of the regions under Subsection (b), the board shall designate representatives within each regional water planning area to serve as the initial coordinating body for planning. The initial coordinating body may then designate additional representatives to serve on the regional water planning group. The initial coordinating body shall designate additional representatives if necessary to ensure adequate representation from the interests comprising that region, including the public, counties, municipalities, industries, agricultural interests, environmental interests, small businesses, electric generating utilities, river authorities, water districts, and water utilities. The regional water planning group shall maintain adequate representation from those interests. In addition, representatives of the board, the Parks and Wildlife Department, and the Department of Agriculture shall serve as ex officio members of each regional water planning group. If a regional water planning area includes land dedicated to the permanent university fund, the executive director of University Lands–West Texas Operations serves as a nonvoting member of the regional water planning group for that area.

(e) Each regional water planning group shall submit to the board a regional water plan that:

(1) is consistent with the guidance principles for the state water plan adopted by the board under Section 16.051(d);

(2) provides information based on data provided or approved by the board in a format consistent with the guidelines provided by the board under Subsection (d);

(3) identifies:

(A) each source of water supply in the regional water planning area in accordance with the guidelines provided by the board under Subsections (d) and (f);

(B) factors specific to each source of water supply to be considered in determining whether to initiate a drought response; and

(C) actions to be taken as part of the response;

(4) has specific provisions for water management strategies to be used during a drought of record;

(5) includes but is not limited to consideration of the following:

(A) any existing water or drought planning efforts addressing all or a portion of the region;

(B) certified groundwater conservation district management plans and other plans submitted under Section 16.054;

(C) all potentially feasible water management strategies, including but not limited to improved conservation, reuse, and management of existing water supplies, acquisition of available existing water supplies, and development of new water supplies, including, if appropriate, groundwater produced from land dedicated to the permanent school fund or permanent university fund;

(D) protection of existing water rights in the region;

(E) opportunities for and the benefits of developing regional water supply facilities or providing regional management of water supply facilities;

(F) appropriate provision for environmental water needs and for the effect of upstream development on the bays, estuaries, and arms of the Gulf of Mexico and the effect of plans on navigation;

(G) provisions in Section 11.085(k)(1) if interbasin transfers are contemplated;

(H) voluntary transfer of water within the region using, but not limited to, regional water banks, sales, leases, options, subordination agreements, and financing agreements; and

(I) emergency transfer of water under Section 11.139, including information on the part of each permit, certified filing, or certificate of adjudication for nonmunicipal use in the region that may be transferred without causing unreasonable damage to the property of the nonmunicipal water rights holder;

(6) identifies river and stream segments of unique ecological value and sites of unique value for the construction of reservoirs that the regional water planning group recommends for protection under Section 16.051;

(7) assesses the impact of the plan on unique river and stream segments identified in Subdivision (6) if the regional water planning group or the legislature determines that a site of unique ecological value exists; and

(8) describes the impact of proposed water projects on water quality.

SECTION _____. The lieutenant governor and the governor shall make appointments to the School Land Board under Section 32.012, Natural Resources Code, as amended by this Act, as soon as possible after the effective date of this Act. Each member's term expires August 31, 2007.

The amendment to **CSSB 1451** 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.

Senator Armbrister offered the following amendment to the bill:

Floor Amendment No. 2

Amend **CSSB 1451** (committee printing) by inserting the following appropriately numbered SECTIONS and renumbering subsequent SECTIONS accordingly:

SECTION _____. Subchapter F, Chapter 15, Water Code, is amended by adding Section 15.4062 to read as follows:

Sec. 15.4062. FUNDING FOR GROUNDWATER MANAGEMENT COORDINATION. (a) The board may enter into a contract with a political subdivision designated as a representative of a groundwater management area council established under Section 36.108 to pay from the research and planning fund all or part of the cost of performing the groundwater management area planning functions required of the groundwater management area council under Section 36.108.

(b) A political subdivision may submit, either individually or jointly with other political subdivisions, a written application to the board to request assistance paying for the planning functions required under Section 36.108.

(c) The application must be in the manner and form prescribed by board rules and include:

(1) the name of each political subdivision participating in the application;
(2) a citation to each law under which each political subdivision was created and is operating, including specific citation of any law providing authority to perform the functions under Section 36.108;

(3) the amount of money being requested; and
(4) any other relevant information required by board rules or specifically requested by the board.

(d) After providing notice of and conducting a hearing on the application, the board may award the applicant the amount of money the board considers necessary to perform the functions under Section 36.108.

(e) If the board grants an application under this section and awards money, the board shall enter into a contract with each participating political subdivision that includes:

(1) a detailed statement of the purpose for which the money is to be used;
(2) the total amount of the award to be paid by the board from the research and planning fund; and
(3) any other terms and conditions required by board rules or agreed to by the contracting parties.

(f) The board shall adopt rules establishing criteria for making grants of money under this section that include:

(1) the relative need of the political subdivision for the money;
(2) the legal authority of the political subdivision to perform the duties required under the contract; and

(3) the degree to which groundwater management area planning by each political subdivision for the groundwater management area council will address the issues of groundwater management in the groundwater management area.

(g) The board may not award money under this section if existing information is sufficient for the performance of functions under Section 36.108.

(h) The board shall require that information developed or revised under a contract entered into under this section be made available to the commission, the Department of Agriculture, and the Parks and Wildlife Department.

SECTION _____. Subchapter B, Chapter 16, Water Code, is amended by adding Section 16.0122 to read as follows:

Sec. 16.0122. TECHNICAL ASSISTANCE FOR GROUNDWATER MANAGEMENT AREAS. For each groundwater management area established under Section 35.007, the executive administrator shall provide one or more employees of the board to assist the groundwater management area council and the districts in the council's groundwater management area. The employees shall provide assistance:

(1) training district employees or the district board on basic data collection protocols;

(2) collecting and interpreting information;

(3) providing technical services or expertise;

(4) conducting hydrogeologic investigations;

(5) providing groundwater availability modeling;

(6) developing a district's groundwater management plan;

(7) preparing for or conducting a joint planning effort for districts in a groundwater management area or for a district and a regional water planning group established under Section 16.053, including assistance in avoiding and resolving conflicts; and

(8) providing education.

SECTION _____. Section 16.053, Water Code, is amended by adding Subsection (d-1) and amending Subsection (e) to read as follows:

(d-1) The applicable groundwater management area councils shall provide to each regional water planning group and the board their adopted estimates of the amount of managed available groundwater in each applicable groundwater management area.

(e) Each regional water planning group shall submit to the board a regional water plan that:

(1) is consistent with the guidance principles for the state water plan adopted by the board under Section 16.051(d);

(2) provides information based on data provided or approved by the board in a format consistent with the guidelines provided by the board under Subsection (d);

(3) identifies:

(A) each source of water supply in the regional water planning area, including information supplied by the applicable groundwater management area councils under Subsection (d-1) on the amount of managed available groundwater in the applicable groundwater management areas, in accordance with the guidelines provided by the board under Subsections (d) and (f);

(B) factors specific to each source of water supply to be considered in determining whether to initiate a drought response; and

(C) actions to be taken as part of the response;

(4) has specific provisions for water management strategies to be used during a drought of record;

(5) includes but is not limited to consideration of the following:

(A) any existing water or drought planning efforts addressing all or a portion of the region;

(B) approved [~~certified~~] groundwater conservation district management plans and other plans submitted under Section 16.054;

(C) all potentially feasible water management strategies, including but not limited to improved conservation, reuse, and management of existing water supplies, acquisition of available existing water supplies, and development of new water supplies;

(D) protection of existing water rights in the region;

(E) opportunities for and the benefits of developing regional water supply facilities or providing regional management of water supply facilities;

(F) appropriate provision for environmental water needs and for the effect of upstream development on the bays, estuaries, and arms of the Gulf of Mexico and the effect of plans on navigation;

(G) provisions in Section 11.085(k)(1) if interbasin transfers are contemplated;

(H) voluntary transfer of water within the region using, but not limited to, regional water banks, sales, leases, options, subordination agreements, and financing agreements; and

(I) emergency transfer of water under Section 11.139, including information on the part of each permit, certified filing, or certificate of adjudication for nonmunicipal use in the region that may be transferred without causing unreasonable damage to the property of the nonmunicipal water rights holder;

(6) identifies river and stream segments of unique ecological value and sites of unique value for the construction of reservoirs that the regional water planning group recommends for protection under Section 16.051;

(7) assesses the impact of the plan on unique river and stream segments identified in Subdivision (6) if the regional water planning group or the legislature determines that a site of unique ecological value exists; and

(8) describes the impact of proposed water projects on water quality.

SECTION ____ . Subsection (c), Section 35.004, Water Code, is amended to read as follows:

(c) The Texas Water Development Board may not alter the boundaries of designated management areas [~~as required by future conditions and as justified by factual data. An alteration of boundaries does not invalidate the previous creation of any district~~].

SECTION ____ . Subsection (a), Section 35.007, Water Code, is amended to read as follows:

(a) The executive director and the executive administrator shall meet periodically to identify, based on information gathered by the commission and the Texas Water Development Board, those areas of the state that are experiencing or that are expected to experience, within the immediately following 50-year [~~25-year~~] period, critical groundwater problems, including shortages of surface water or groundwater, land subsidence resulting from groundwater withdrawal, and contamination of groundwater supplies. Not later than September 1, 2005, the

commission, with assistance and cooperation from the Texas Water Development Board, shall complete the initial designation of priority groundwater management areas across all major and minor aquifers of the state for all areas that meet the criteria for that designation. The studies may be prioritized considering information from the regional planning process, information from the Texas Water Development Board groundwater management areas and from groundwater conservation districts, and any other information available. After the initial designation of priority groundwater management areas, the commission and the Texas Water Development Board shall annually review the need for additional designations as provided by this subsection.

SECTION ____ . Subsection (b), Section 35.018, Water Code, is amended to read as follows:

(b) The report must include:

(1) the names and locations of all priority groundwater management areas and districts created or attempted to be created on or after November 5, 1985, the effective date of Chapter 133 (H.B. No. 2), Acts of the 69th Legislature, Regular Session, 1985;

(2) the authority under which each priority groundwater management area and district was proposed for creation;

(3) a detailed analysis of each election held to confirm the creation of a district, including analysis of election results, possible reasons for the success or failure to confirm the creation of a district, and the possibility for future voter approval of districts in areas in which attempts to create districts failed;

(4) a detailed analysis of the activities of each district created, including those districts which are implementing management plans approved [~~certified~~] under Section 36.1072;

(5) a report on [~~audits performed on districts under Section 36.302 and~~] remedial actions taken under Section 36.303;

(6) recommendations for changes in this chapter and Chapter 36 that will facilitate the creation of priority groundwater management areas and the creation and operation of districts;

(7) a report on educational efforts in newly designated priority groundwater management areas; and

(8) any other information and recommendations that the commission considers relevant.

SECTION ____ . Section 36.001, Water Code, is amended by adding Subdivision (24) to read as follows:

(24) "Managed available groundwater" means the amount of water that may be permitted by a district for beneficial use in accordance with the desired future condition of the aquifer as determined by the groundwater management area council.

SECTION ____ . Section 36.0015, Water Code, is amended to read as follows:

Sec. 36.0015. PURPOSE. In order to provide for the conservation, preservation, protection, recharging, and prevention of waste of groundwater, and of groundwater reservoirs or their subdivisions, and to control subsidence caused by withdrawal of water from those groundwater reservoirs or their subdivisions, consistent with the objectives of Section 59, Article XVI, Texas Constitution, groundwater conservation districts may be created as provided by this chapter. [~~Groundwater conservation~~]

~~districts created as provided by this chapter are the state's preferred method of groundwater management through rules developed, adopted, and promulgated by a district in accordance with the provisions of this chapter.]~~

SECTION ____ . Subchapter A, Chapter 36, Water Code, is amended by adding Section 36.0016 to read as follows:

Sec. 36.0016. POLICY GOAL. It is the policy goal of this chapter to ensure the consistent management of groundwater in a shared management area by the groundwater conservation districts located in that area.

SECTION ____ . Subsections (a), (b), and (d) through (g), Section 36.1071, Water Code, are amended to read as follows:

(a) Following notice and hearing, the district shall, in coordination with surface water management entities on a regional basis, develop a comprehensive management plan which addresses the following management goals, as applicable:

- (1) providing the most efficient use of groundwater;
- (2) controlling and preventing waste of groundwater;
- (3) controlling and preventing subsidence;
- (4) addressing conjunctive surface water management issues;
- (5) addressing natural resource issues;
- (6) addressing drought conditions; ~~and~~

(7) addressing conservation, recharge enhancement, rainwater harvesting, precipitation enhancement, or brush control, where appropriate and cost-effective;

(8) addressing a data collection program that meets standards established by Texas Water Development Board rules; and

(9) addressing in a quantitative manner the desired future conditions for the groundwater resources within the district established by the groundwater management area council under Section 36.108.

(b) Δ [After January 5, 2002, a] district management plan, or any amendments to a district management plan, shall be developed by the district using the district's best available data and forwarded to the regional water planning group for use [consideration] in their planning process.

(d) The commission shall provide technical assistance to a district during its initial operational phase. If requested by a district, the Texas Water Development Board shall train the district on basic information collection methodology and provide technical assistance to districts as provided by Section 16.0122.

(e) In the management plan described under Subsection (a), the district shall:

(1) identify the performance standards and management objectives under which the district will operate to achieve the management goals identified under Subsection (a);

(2) specify, in as much detail as possible, the actions, procedures, performance, and avoidance that are or may be necessary to effect the plan, including specifications and proposed rules;

(3) include estimates of the following:

(A) managed available [the existing total usable amount of] groundwater in the district as provided by the executive administrator and based on the desired future condition of the aquifers established by the groundwater management area council under Section 36.108;

(B) the amount of groundwater [~~being~~] used within the district on an annual basis for each of the preceding 10 years;

(C) the annual amount of recharge, if any, to the groundwater resources within the district and how natural or artificial recharge may be increased; and

(D) the projected water supply and projected demand for water within the district; and

(4) address water supply needs in a manner that is not in conflict with the adopted state [~~appropriate approved regional~~] water plan [~~if a regional water plan has been approved under Section 16.053~~].

(f) The district shall adopt rules necessary to implement the management plan. Before the development of the management plan and its approval under Section 36.1072, the district may not adopt rules other than rules pertaining to the registration and continued operation of existing wells and rules governing procedure before the district's board. The district may accept applications for permits under Section 36.113, except that the district may not act on any such application until the district's management plan is approved as provided by Section 36.1072, unless special circumstances are demonstrated that necessitate granting one or more interim authorizations to drill and operate new wells before the management plan's approval.

(g) The district [~~board~~] shall adopt amendments to the management plan as necessary. Amendments to the management plan shall be adopted after notice and hearing and shall otherwise comply with the requirements of this section.

SECTION ____ . Section 36.1072, Water Code, is amended to read as follows:

Sec. 36.1072. COUNCIL [~~TEXAS WATER DEVELOPMENT BOARD~~] REVIEW AND APPROVAL [~~CERTIFICATION~~] OF MANAGEMENT PLAN. (a) A district shall, not later than three [~~two~~] years after the creation of the district or, if the district required confirmation, after the election confirming the district's creation, submit the management plan required under Section 36.1071 to the executive administrator for review and comment and to the groundwater management area council for review and approval [~~certification~~]. The executive administrator shall provide comments to the groundwater management area council and groundwater district on the plan, including whether the plan contains goals and objectives consistent with achieving the desired future condition of the relevant aquifers as adopted by the groundwater management area council under Section 36.108.

(b) Within 60 days of receipt of a management plan adopted under Section 36.1071, readopted under Subsection (e) of this section, or amended under Section 36.1073, the council [~~executive administrator~~] shall approve [~~certify~~] a management plan that contains goals and objectives consistent with achieving the desired future condition of the relevant aquifers as adopted by the groundwater management area council under Section 36.108 and that contains [~~if the plan is administratively complete. A management plan is administratively complete when it contains~~] the information required to be submitted under Section 36.1071. The groundwater management area council [~~executive administrator~~] may determine whether [~~that~~] conditions justify waiver of the requirements under Section 36.1071(e)(4).

(c) Once the groundwater management area council has approved a [~~determination that a~~] management plan [~~is administratively complete has been made~~]:

(1) the council [~~executive administrator~~] may not revoke but may suspend the approval as provided by Subsection (g) [~~determination that a management plan is administratively complete~~]; and

(2) the council [~~executive administrator~~] may request additional information from the district if the information is necessary to clarify, modify, or supplement previously submitted material, but ~~and~~

~~(3)~~ a request for additional information does not render the management plan unapproved [~~incomplete~~].

(d) A management plan takes effect on approval [~~certification~~] by the groundwater management area council [~~executive administrator~~] or, if appealed, on approval [~~certification~~] by the Texas Water Development Board.

(e) The district [~~board~~] may review the plan annually and must review and readopt the plan with or without revisions at least once every five years. The district shall provide the readopted plan to the executive administrator and groundwater management area council not later than the 60th day after the date on which the plan was readopted. Approval of the preceding management plan remains in effect until:

(1) the district fails to timely readopt a management plan;

(2) the district fails to timely submit the district's readopted management plan to the executive administrator or the council; or

(3) the council determines that the readopted management plan does not meet the requirements for approval, and the district has exhausted all appeals to the Texas Water Development Board.

(f) If the groundwater management area council [~~executive administrator~~] does not approve [~~certify~~] the management plan, the council [~~executive administrator~~] shall provide to the district, in writing, the reasons for the action. Not later than the 180th day after the date a district receives notice that its management plan has not been approved [~~certified~~], the district may submit a revised management plan for review and approval [~~certification~~]. The council's [~~executive administrator's~~] decision may be appealed to the Texas Water Development Board. The decision of the Texas Water Development Board on whether to approve [~~certify~~] the management plan may ~~not~~ be appealed to a district court in the county where the district is headquartered. The commission shall not take enforcement action against a district under Subchapter I until the later of the expiration of the 180-day period or the date the Texas Water Development Board has taken final action withholding approval [~~certification~~] of a revised management plan.

(g) In this subsection, "development board" means the Texas Water Development Board, and "council" means the groundwater management area council. A person with a legally defined interest in groundwater in a district or the regional water planning group may file a petition with the council [~~board~~] stating that a conflict requiring resolution may exist between the district's approved [~~certified groundwater conservation district~~] management plan developed under Section 36.1071 and the state water plan. If a conflict exists, the council [~~board~~] shall facilitate coordination between the involved person or regional water planning group and the district to resolve the conflict. If conflict remains, the council shall petition the development board to [~~shall~~] resolve the conflict. The development board action under this provision may be consolidated, at the option of the development board, with related

action under Section 16.053(p). If the development board determines that resolution of the conflict requires a revision of the approved [~~certified groundwater conservation district]~~ management plan, the council [~~board]~~ shall suspend the approval [~~certification]~~ of the plan and provide information to the district. The district shall prepare any revisions to the plan specified by the council [~~board]~~ and shall hold, after notice, at least one public hearing at some central location within the district. The district shall consider all public and development board comments, prepare, revise, and adopt its plan, and submit the revised plan to the council [~~board]~~ for approval [~~certification]~~. On the request of the district or the regional water planning group, the development board shall include discussion of the conflict and its resolution in the state water plan that the development board provides to the governor, the lieutenant governor, and the speaker of the house of representatives under Section 16.051(e).

SECTION ____ . Section 36.1073, Water Code, is amended to read as follows:

Sec. 36.1073. AMENDMENT TO MANAGEMENT PLAN. Any amendment to the management plan shall be submitted to the groundwater management area council and the executive administrator for review and comment within 60 days following adoption of the amendment by the district's board. The council [~~executive administrator]~~ shall review and approve and the executive administrator shall review and comment on [~~certify]~~ any amendment which substantially affects the management plan in accordance with the procedures established under Section 36.1072.

SECTION ____ . Subchapter D, Chapter 36, Water Code, is amended by amending Section 36.108 and adding Sections 36.1081 and 36.1082 to read as follows:

Sec. 36.108. GROUNDWATER MANAGEMENT AREA COUNCIL; [~~JOINT]~~ PLANNING IN MANAGEMENT AREA. (a) In this section, "development board" means the Texas Water Development Board.

(b) The development board shall establish a groundwater management area council for each management area designated under Section 35.004 and shall appoint the members of the council, except as provided by this section. The groundwater management area council shall ensure the coordination of groundwater management in each management area.

(c) Each groundwater management area council is composed of the following representatives:

(1) the presiding officer of each groundwater conservation district in the groundwater management area or the presiding officer's designee;

(2) one additional representative of each multicounty groundwater conservation district, if the district chooses to appoint one; and

(3) residents of a district in the groundwater management area appointed by the development board as follows:

(A) one representative of retail water utility or municipal interests located wholly or partly in the groundwater management area;

(B) one representative of a regional water planning group, as designated under Section 16.053, to represent all the regional water planning groups located wholly or partly in the groundwater management area;

(C) one representative of agricultural interests who is an individual actively engaged in production agriculture;

(D) one representative of industrial or manufacturing interests located wholly or partly in the groundwater management area; and

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

(d) If the number of representatives on the groundwater management area council that results from the application of Subsection (c) is an even number, the representatives shall appoint an additional representative by a two-thirds vote of those representatives. The additional member must be a resident of a district in the groundwater management area with a reasonable knowledge of groundwater issues and hydrology in the area.

(e) The groundwater management area council shall elect one of the representatives as presiding officer of the council.

(f) A person appointed under Subsection (c)(3) or (d) may not be an employee or officer of a district or a state or federal agency.

(g) A member of the council appointed under Subsection (c)(3) or (d) serves a two-year term expiring August 31 of each odd-numbered year. If a vacancy occurs, the council shall appoint a successor not later than the 60th day after the date the council receives notice of the vacancy.

(h) After funding is made available and not later than the fifth anniversary of the appointment of a groundwater management area council, and at least every fifth year after that anniversary, each groundwater management area council shall adopt a statement that in a quantified manner provides an estimate of the managed available groundwater in the groundwater management area and describes the desired future conditions of each aquifer in the groundwater management area, which may include protection of springflow in the area.

(i) A groundwater management area council may:

(1) in coordination with the executive administrator, perform areawide hydrogeologic studies and modeling as supplements to the groundwater availability models obtained or developed by the executive administrator under Section 16.012;

(2) coordinate with a district, regional water planning group, political subdivision, the commission, the development board, or any other person or entity regarding groundwater management;

(3) establish groundwater monitoring networks in the groundwater management area; and

(4) designate a political subdivision to perform a duty required by this section, including by executing a necessary contract.

(j) In adopting the desired future conditions of each aquifer under Subsection (h), each groundwater management area council shall:

(1) use groundwater availability models developed by the executive administrator or other information approved by the executive administrator; and

(2) consider recommendations that districts or other interested persons in the groundwater management area propose.

(k) The commission and the development board shall provide technical assistance to a groundwater management area council in the development of the statement adopted under Subsection (h).

(l) Each groundwater management area council shall submit the council's final statement adopted under Subsection (h) to the executive administrator for review and comment. If the development board finds that the submitted statement and estimate are in conflict with the state water plan or the groundwater availability adopted by the development board for the council's groundwater management area, the development board shall provide comment and recommendations to the council to resolve the conflict. The council shall amend the adopted statement and estimate accordingly. The executive administrator shall provide an estimate of managed available groundwater to the groundwater management area council based on the council's statement adopted under Subsection (h).

(m) Each groundwater management area council shall:

(1) conduct all meetings in accordance with Chapter 551, Government Code;

(2) provide notice for each meeting in the manner prescribed by Chapter 551, Government Code, for a district board of directors meeting; and

(3) comply with the provisions of Chapter 552, Government Code.

(n) A cause of action does not accrue against a groundwater management area council, a representative serving on a groundwater management area council, or an employee of a political subdivision designated under Subsection (i)(4) for an act or omission if the council, representative, or employee committed the act or omission while acting in good faith and in the course and scope of the council's, representative's, or employee's work related to the groundwater management area council.

(o) A groundwater management area council, a representative serving on a groundwater management area council, or an employee of a political subdivision designated under Subsection (i)(4) is not liable for damages arising from an act or omission if the council, representative, or employee committed the act or omission while acting in good faith and in the course and scope of the council's, representative's, or employee's work related to the groundwater management area council.

(p) On request, the attorney general shall represent a groundwater management area council, a representative serving on a groundwater management area council, or an employee of a political subdivision designated under Subsection (i)(4) in a suit arising from an act or omission relating to the groundwater management area council.

(q) A person with a legally defined interest in the groundwater in the groundwater management area, a district in or adjacent to the groundwater management area, or a regional water planning group for a region in the groundwater management area may file a petition with the development board appealing the approval of the groundwater management area plan. The petition must provide evidence that:

(1) the groundwater management area plan does not establish a reasonable desired future condition of the groundwater resources in the groundwater management area;

(2) the management area plan does not establish reasonable groundwater availability for the district; or

(3) the groundwater in the groundwater management area will not be adequately protected.

(r) The development board shall review the petition and any evidence relevant to the petition. The development board shall hold at least one hearing at a central location in the management area to take testimony on the petition. The development board may delegate responsibility for a hearing to the executive administrator or to a person designated by the executive administrator. If the development board finds that the groundwater management area plan requires revision, the development board shall submit a report to the groundwater management area council that includes a list of findings and recommended revisions to the groundwater management area plan.

(s) The groundwater management area council shall prepare a revised plan in accordance with development board recommendations and hold, after notice, at least one public hearing at a central location in the groundwater management area. After consideration of all public and development board comments, the council shall revise the plan and submit the plan to the development board for review [If two or more districts are located within the boundaries of the same management area, each district shall prepare a comprehensive management plan as required by Section 36.1071 covering that district's respective territory. On completion and certification of the plan as required by Section 36.1072, each district shall forward a copy of the new or revised management plan to the other districts in the management area. The boards of the districts shall consider the plans individually and shall compare them to other management plans then in force in the management area.

[(b) The board of directors of each district in the management area may, by resolution, call for joint planning with the other districts in the management area to review the management plans and accomplishments for the management area. In reviewing the management plans, the boards shall consider:

[(1) the goals of each management plan and its impact on planning throughout the management area;

[(2) the effectiveness of the measures established by each management plan for conserving and protecting groundwater and preventing waste, and the effectiveness of these measures in the management area generally; and

[(3) any other matters that the boards consider relevant to the protection and conservation of groundwater and the prevention of waste in the management area.

[(c) If a joint meeting of the boards of directors is called, the meeting must be held in accordance with Chapter 551, Government Code. Notice of the meeting shall be given in accordance with the requirements for notice of district board of directors meetings under that Act].

Sec. 36.1081. PETITION AGAINST DISTRICT. (a) At least every five years a groundwater [(d) A district in the] management area council shall review the management plan and the performance of each district in the groundwater management area. A district or a groundwater management area council for good cause may file [with good cause] a petition with the commission requesting an inquiry if [the petitioner district adopted a resolution calling for joint planning and the other district or districts refused to join in the planning process or the process failed to result in adequate planning, and the petition provides evidence that]:

(1) a ~~another~~ district in the groundwater management area has failed to submit its management plan to the executive administrator and the groundwater management area council ~~[adopt rules]~~;

(2) a district in the groundwater management area has failed to adopt or make reasonable progress toward adopting rules;

(3) the rules adopted by a district are not designed to achieve the desired future condition of the groundwater resources in the groundwater management area established by the groundwater management area plan ~~[the groundwater in the management area is not adequately protected by the rules adopted by another district]~~;
or

(4) ~~(3)~~ the groundwater in the groundwater management area is not adequately protected due to the failure of a another district to enforce substantial compliance with its rules.

(b) ~~(a)~~ Not later than the 90th day after the date the petition is filed, the commission shall review the petition and either:

(1) dismiss the petition if the commission ~~[it if it]~~ finds that the evidence is not adequate to show that any of the conditions alleged in the petition exist; or

(2) select a review panel as provided in Subsection (c) ~~(b)~~.

(c) ~~(b)~~ If the petition is not dismissed under Subsection (b) ~~(a)~~, the commission shall appoint a review panel consisting of a chairman and four other members. A director or general manager of a district located outside the groundwater management area that is the subject of the petition may be appointed to the review panel. The commission may not appoint more than two members of the review panel from any one district. The commission also shall appoint a disinterested person to serve as a nonvoting recording secretary for the review panel. The recording secretary may be an employee of the commission. The recording secretary shall record and document the proceedings of the panel.

(d) ~~(c)~~ Not later than the 120th day after appointment, the review panel shall review the petition and any evidence relevant to the petition and, in a public meeting, consider and adopt a report to be submitted to the commission. The commission may direct the review panel to conduct public hearings at a location in the groundwater management area to take evidence on the petition. The review panel may attempt to negotiate a settlement or resolve the dispute by any lawful means.

(e) ~~(d)~~ In its report, the review panel shall include:

(1) a summary of all evidence taken in any hearing on the petition;

(2) a list of findings and recommended actions appropriate for the commission to take and the reasons it finds those actions appropriate; and

(3) any other information the panel considers appropriate.

(f) ~~(e)~~ The review panel shall submit its report to the commission. The commission may take action under Section 36.3011.

Sec. 36.1082. DISTRICT COOPERATION. ~~(f)~~ Districts located within the same groundwater management areas or in adjacent management areas may contract to jointly conduct studies or research, or to construct projects, under terms and conditions that the districts consider beneficial. These joint efforts may include studies of groundwater availability and quality, aquifer modeling, and the interaction of groundwater and surface water; educational programs; the purchase and sharing of

equipment; and the implementation of projects to make groundwater available, including aquifer recharge, brush control, weather modification, desalination, regionalization, and treatment or conveyance facilities. The districts may contract under their existing authorizations including those of Chapter 791, Government Code, if their contracting authority is not limited by Sections 791.011(c)(2) and (d)(3) and Section 791.014, Government Code.

SECTION ____. Subchapter D, Chapter 36, Water Code, is amended by adding Section 36.1152 to read as follows:

Sec. 36.1152. PERMITS BASED ON MANAGED AVAILABLE GROUNDWATER. (a) Except as provided by Subsection (b), a district, to the extent possible, shall issue permits up to the point that the total volume of groundwater permitted equals the managed available groundwater, if administratively complete permit applications are submitted to the district.

(b) If a district proposes, based on sound science, to limit the volume of groundwater permitted to less than the managed available groundwater, the district must obtain the approval of the groundwater management area council. Before acting on the request, the groundwater management area council shall obtain and consider the executive administrator's technical review and analysis of the science on which the request is based.

(c) The groundwater management area council:

(1) shall approve a district's proposed limit under Subsection (b) if the total reduction from the managed available groundwater does not exceed 12.5 percent; and

(2) may approve a limit resulting in a reduction greater than 12.5 percent.

SECTION ____. Subsections (a) and (b), Section 36.116, Water Code, are amended to read as follows:

(a) In order to minimize as far as practicable the drawdown of the water table or the reduction of artesian pressure, to control subsidence, to prevent interference between wells, to prevent degradation of water quality, or to prevent waste, a district by rule may regulate:

(1) the spacing of water wells by:

(A) requiring all water wells to be spaced a certain distance from property lines or adjoining wells;

(B) requiring wells with a certain production capacity, pump size, or other characteristic related to the construction or operation of and production from a well to be spaced a certain distance from property lines or adjoining wells; or

(C) imposing spacing requirements adopted by the board; and

(2) the production of groundwater by:

(A) setting production limits on wells;

(B) limiting the amount of water produced based on acreage or tract size;

(C) limiting the amount of water that may be produced from a defined number of acres assigned to an authorized well site;

(D) limiting the maximum amount of water that may be produced on the basis of acre-feet per acre or gallons per minute per well site per acre; [✗]

(E) managed depletion; or

(F) any combination of the methods listed above in Paragraphs (A) through (E) [~~(D)~~].

(b) In promulgating any rules limiting groundwater production, the district may preserve historic or existing use before the effective date of the rules to the maximum extent practicable consistent with the district's comprehensive management plan under Section 36.1071 and as provided by Section 36.113.

SECTION _____. Subchapter D, Chapter 36, Water Code, is amended by adding Section 36.125 to read as follows:

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 a resolution of the dispute. Not later than the 10th day after the date the petition is filed, any party may 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, is frivolous, or fails to present an issue that is appropriate for panel review or finds 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 in or affected by the matter in dispute and whose expertise and knowledge may be useful in resolving the dispute. The presiding officer of the panel must also be an impartial third party, have expertise and classroom training 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.

(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.

SECTION _____. Section 36.301, Water Code, is amended to read as follows:

Sec. 36.301. FAILURE TO SUBMIT A MANAGEMENT PLAN. If a board fails to submit a management plan or readopted management plan to receive approval [~~certification~~] of its management plan under Section 36.1072 or fails to submit or receive approval [~~certification~~] of an amendment to the management plan under Section 36.1073, the commission shall take appropriate action under Section 36.303.

SECTION _____. Section 36.3011, Water Code, is amended to read as follows:

Sec. 36.3011. FAILURE OF [~~A~~] DISTRICT TO COMPLY WITH GROUNDWATER MANAGEMENT AREA PLAN [~~CONDUCT JOINT PLANNING~~]. [~~(a) If the board of a district within a common management area fails to forward a copy of its new or revised certified management plan under Section 36.108, the commission shall take appropriate action under Section 36.303.~~

[(b)] Not later than the 45th day after receiving the review panel's report under Section 36.1081 [36.108], the executive director or the commission shall take action to implement any or all of the panel's recommendations. The commission may take any action against a district it considers necessary in accordance with Section 36.303 if [H] the commission finds that:

(1) a district [in the joint planning area] has failed to submit its plan to the executive administrator and the groundwater management area council;

(2) a district has failed to adopt rules;

(3) the rules adopted by the district are not designed to achieve the desired future condition of the groundwater resources in the groundwater management area established under the groundwater management area plan; or

(4) the district fails[, the groundwater in the management area is not adequately protected by the rules adopted by the district, or the groundwater in the management area is not adequately protected because of the district's failure] to enforce substantial compliance with its rules[, the commission may take any action it considers necessary in accordance with Section 36.303].

SECTION _____. Section 36.302, Water Code, is amended by amending Subsection (d) and adding Subsection (d-1) 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.

(d-1) The state auditor shall review any district that has an accounts payable balance of \$25,000 or more that is more than 12 months past due for consulting fees, including fees for accountants, attorneys, financial advisors, engineers, and geologists.

SECTION _____. Subsection (f), Section 1.11, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, is amended to read as follows:

(f) The authority may own, finance, design, ~~[contract with a person who uses water from the aquifer for the authority or that person to]~~ construct, operate, or own, finance, and maintain recharge [water supply] facilities or contract with a person who uses water from the aquifer for the authority or that person to own, finance, design, ~~construct, operate, or maintain recharge facilities. [Management fees or special fees may not be used for purchasing or operating these facilities.]~~ For the purpose of this subsection, "recharge [water supply] facility" means [includes] a dam, reservoir, [treatment facility, transmission facility,] or other method of recharge project and associated facilities, structures, or works.

SECTION _____. Subsections (a), (c), (f), and (h), Section 1.14, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, are amended to read as follows:

(a) Authorizations to withdraw water from the aquifer and all authorizations and rights to make a withdrawal under this Act shall be limited in accordance with this section to:

- (1) protect the water quality of the aquifer;
- (2) protect the water quality of the surface streams to which the aquifer provides springflow;
- (3) achieve water conservation;
- (4) maximize the beneficial use of water available for withdrawal from the aquifer;
- (5) recognize the hydro-geologic connection and interaction between surface and groundwater;
- (6) protect aquatic and wildlife habitat;
- (7) ~~(6)~~ protect species that are designated as threatened or endangered under applicable federal or state law; and
- (8) ~~(7)~~ provide for instream uses, bays, and estuaries.

(c) Except as provided by Subsections ~~[(d),]~~ (f)~~],~~ and (h) of this section ~~[and Section 1.26 of this article,]~~ for the period beginning January 1, 2005 [2008], the amount of permitted 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 [400,000 acre feet of water for each calendar year].

(f) If the level of the aquifer is equal to or greater than 665 [650] feet above mean sea level as measured at Well J-17, the authority may authorize withdrawal from the San Antonio pool, on an uninterrupted basis, of permitted amounts. If the level of the aquifer is equal to or greater than 845 feet at Well J-27, the authority may

authorize withdrawal from the Uvalde pool, on an uninterruptible basis, of permitted amounts. In accordance with Section 1.26 of this article, the [The] authority shall limit the additional withdrawals to ensure that springflows are not affected during critical drought conditions.

(h) To accomplish the purposes of this article, ~~[by June 1, 1994,]~~ the authority, through a program, shall implement and enforce water management practices, procedures, and methods to ensure that, not later than December 31, 2012, the continuous minimum springflows of the Comal Springs and the San Marcos Springs are maintained to protect endangered and threatened species to the extent required by federal law and to achieve other purposes provided by Subsection (a) of this section and Section 1.26 of this article. The authority from time to time as appropriate may revise the practices, procedures, and methods. To meet this requirement, the authority shall require:

(1) phased reductions in the amount of water that may be used or withdrawn by existing users or categories of other users, including the authority's critical period management plan established under Section 1.26 of this article; or

(2) implementation of alternative management practices, procedures, and methods.

SECTION __. Subsection (c), Section 1.15, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, is amended to read as follows:

(c) The authority may issue regular permits, term permits, and emergency permits. Except as provided in Section 1.14(f) and Section 1.26 of this article, regular permits may not be issued on an interruptible basis, and the total withdrawals authorized by all regular permits issued by the authority may not exceed the limitations provided by Section 1.14 of this article.

SECTION __. Subsection (b), Section 1.19, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, is amended to read as follows:

(b) Withdrawal of water under a term permit must be consistent with the authority's critical period management plan established under Section 1.26 of this article. A holder of a term permit may not withdraw water from the San Antonio pool of the aquifer unless the level of the aquifer is higher than 675 [665] feet above sea level, as measured at Well J-17, and the flow at Comal Springs as determined by Section 1.26(c) is greater than 350 cfs.

SECTION __. Article 1, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, is amended by amending Section 1.26 and adding Section 1.26A to read as follows:

Sec. 1.26. CRITICAL PERIOD MANAGEMENT PLAN. (a) After review of the recommendations received, as prescribed in Section 1.26A of this article, the [The] authority shall prepare and coordinate implementation of a [plan for] critical period management plan in a manner consistent with Section 1.14(a) [on or before September 1, 1995]. The mechanisms must:

- (1) distinguish between discretionary use and nondiscretionary use;
- (2) require reductions of all discretionary use to the maximum extent feasible;
- (3) require utility pricing, to the maximum extent feasible, to limit discretionary use by the customers of water utilities; and

(4) require reduction of nondiscretionary use by permitted or contractual users, to the extent further reductions are necessary, in the reverse order of the following water use preferences:

- (A) municipal, domestic, and livestock;
- (B) industrial and crop irrigation;
- (C) residential landscape irrigation;
- (D) recreational and pleasure; and
- (E) other uses that are authorized by law.

(b) In this subsection, "MSL" means the elevation, measured in feet, of the surface of the water in a well above mean sea level, and "CFS" means cubic feet per second. 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:

TABLE 1 - CUMULATIVE CRITICAL PERIOD WITHDRAWAL REDUCTION STAGES FOR THE SAN ANTONIO POOL

<u>INDEX WELL J-17 LEVEL</u>	<u>COMAL SPRINGS FLOW CFS</u>	<u>CRITICAL PERIOD STAGE</u>	<u>WITHDRAWAL REDUCTION PERCENTAGE</u>
<u>MSL</u>	<u>N/A</u>	<u>I</u>	<u>10%</u>
<u><665</u>	<u>N/A</u>	<u>II</u>	<u>10%</u>
<u><650</u>	<u>N/A</u>	<u>III</u>	<u>10%</u>
<u><640</u>	<u><150</u>	<u>IV</u>	<u>10%</u>
<u><630</u>	<u><100</u>		<u>10%</u>

TABLE 2 - CUMULATIVE CRITICAL PERIOD WITHDRAWAL REDUCTION STAGES FOR THE UVALDE POOL

<u>INDEX WELL J-27 MSL FOR UVALDE POOL</u>	<u>CRITICAL PERIOD STAGE</u>	<u>WITHDRAWAL REDUCTION PERCENTAGE</u>
<u>N/A</u>	<u>N/A</u>	<u>N/A</u>
<u>N/A</u>	<u>II</u>	<u>N/A</u>
<u><845</u>	<u>III</u>	<u>15%</u>
<u><842</u>	<u>IV</u>	<u>15%</u>

(c) The authority shall continuously track the average daily discharge rate measured over each period of five consecutive days at Comal Springs to determine whether a reduction in withdrawals to the Stage III reduction level is required. The authority shall track the average daily discharge rate measured for any five days in a period of 10 consecutive days to determine whether a reduction in withdrawals to the Stage IV reduction level is required.

(d) Beginning September 1, 2005, the authority shall not allow the volume of permitted withdrawals to exceed an annualized rate of 340,000 acre-feet, under critical period Stage IV. After January 1, 2012, the authority shall not allow the volume of permitted withdrawals to exceed an annualized rate of 320,000 acre-feet, under critical period Stage IV. After January 1, 2020, the authority shall not allow the volume of permitted withdrawals to exceed an annualized rate of 288,000 acre-feet, under critical period Stage IV.

(e) From time to time, the authority by rule may amend the withdrawal reduction criteria of the authority's critical period management plan as set forth in Subsections (b) and (c), after review and consideration of the recommendations from the Texas Water Development Board, the Edwards Aquifer area expert science team, and the Edwards Aquifer area stakeholders committee, as prescribed in Section 1.26A of this article. The amended plan must be consistent with Section 1.14(a) of this article.

Sec. 1.26A. DEVELOPMENT OF WITHDRAWAL REDUCTION LEVELS AND STAGES FOR CRITICAL PERIOD MANAGEMENT. (a) The Texas Water Development Board shall appoint a 15-member Edwards Aquifer area stakeholders committee not later than January 1, 2006. The composition of the committee will be as follows:

- (1) five holders of municipal permits issued by the authority;
- (2) two holders of irrigation permits issued by the authority;
- (3) three holders of industrial permits issued by the authority;
- (4) four downstream water rights holders in the Guadalupe River basin; and
- (5) one representative of a public interest group related to instream flows in

the Guadalupe River basin and bay and estuary inflows from the Guadalupe River.

(b) The Edwards Aquifer area stakeholders committee shall appoint a seven-member Edwards Aquifer area expert science team not later than April 30, 2006. The expert science team must be composed of technical experts with special expertise regarding the Edwards Aquifer system, springflows, or the development of withdrawal limitations. Chapter 2110, Government Code, does not apply to the size, composition, or duration of the expert science team.

(c) The expert science team shall develop an analysis of spring discharge rates and aquifer levels as a function of withdrawal levels. Based upon this analysis and the required elements to be considered by the authority in Section 1.14 of this article, the Edwards Aquifer area expert science team shall, through a collaborative process designed to achieve consensus, create recommendations for withdrawal reduction levels and stages for critical period management and submit them to the Edwards Aquifer area stakeholders committee, the Texas Water Development Board, and the authority. The initial recommendations must be completed and submitted no later than September 30, 2006.

(d) In developing its recommendations, the Edwards Aquifer area expert science team must consider all reasonably available science, including any Edwards Aquifer specific studies, and the recommendations must be based solely on the best science available. The Edwards Aquifer area stakeholders committee may not change the recommendations of the Edwards Aquifer area expert science team regarding the withdrawal limitations appropriate to achieve the purposes of Section 1.14 of this article.

(e) The Edwards Aquifer area stakeholders committee shall review the withdrawal limitation and critical period management recommendations submitted by the expert science team and shall consider them in conjunction with other factors, including the present and future needs for water for other uses related to water supply planning in the Edwards Aquifer area and the required elements to be considered by the authority in Section 1.14 of this article. The stakeholders committee shall develop

recommendations regarding a critical period management plan and submit its recommendations to the authority and to the Texas Water Development Board. In developing its recommendations, the stakeholders committee shall operate on a consensus basis to the maximum extent possible. The initial recommendations must be completed and submitted no later than October 31, 2006.

(f) The Texas Water Development Board shall submit to the authority its comments on and recommendations regarding the Edwards Aquifer area expert science team's recommended withdrawal reduction levels and stages for critical period management needed to maintain target spring discharge and aquifer levels. The withdrawal reduction recommendations shall be based upon a combination of spring discharge rates of the San Marcos and Comal Springs and levels at the J-17 and J-27 wells.

(g) The Edwards Aquifer area expert science team, Edwards Aquifer area stakeholders committee, and the Texas Water Development Board shall submit recommendations to the authority for use in developing its rules relative to establishing the critical period management plan.

(h) Where reasonably practicable, meetings of the Edwards Aquifer area expert science team and Edwards Aquifer area stakeholders committee must be open to the public.

(i) In recognition of the importance of critical period management to adapt to changed conditions or information, after submitting its recommendations regarding withdrawal limitations and strategies to meet the spring flow needs to the authority, the stakeholders committee, with the assistance of the expert science team, shall prepare and submit to the Texas Water Development Board a work plan. The work plan must:

(1) establish a periodic review of the critical period management plan, to occur at least once every five years;

(2) prescribe specific monitoring, studies, and activities; and

(3) establish a schedule for continuing the validation or refinement of the critical period management plan adopted by the authority, and the strategies to achieve the plan.

(j) To assist the Texas Water Development Board to assess the extent to which the recommendations of the Edwards Aquifer area expert science team are considered and implemented, the authority shall provide written reports to the development board, at intervals determined by the development board, that describe:

(1) the actions taken in response to each recommendation; and

(2) for each recommendation not implemented, the reason it was not implemented.

SECTION __. Subsections (b) and (i), Section 1.29, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, are amended to read as follows:

(b) The authority shall assess equitable aquifer management fees based on aquifer use under the water management plan to finance its administrative expenses and programs authorized under this article. Each water district governed by Chapter 36 [52], Water Code, that is within the authority's boundaries may contract with the authority to pay expenses of the authority through taxes in lieu of user fees to be paid by water users in the district. The contract must provide that the district will pay an

amount equal to the amount that the water users in the district would have paid through user fees. The authority may not collect a total amount of fees and taxes that is more than is reasonably necessary for the administration of the authority.

(i) The authority shall provide money as necessary, but not to exceed \$75,000, annually adjusted for changes in the consumer price index [~~five percent of the money collected under Subsection (d) of this section~~], to finance the South Central Texas Water Advisory Committee's administrative expenses and programs authorized under this article.

SECTION __. Subsection (a), Section 1.45, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, is amended to read as follows:

(a) The authority may own, finance, design, construct, [build or] operate, and maintain recharge dams and associated facilities, structures, or works in the contributing or recharge area of the aquifer if the recharge is made to increase the yield of the aquifer and the recharge project does not impair senior water rights or vested riparian rights.

SECTION __. The following sections of Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, are repealed:

- (1) Subsections (b) and (d), Section 1.14;
- (2) Section 1.21; and
- (3) Subsections (a), (c), (d), and (h), Section 1.29.

SECTION __. (a) The executive administrator of the Texas Water Development Board shall appoint the initial appointed representatives for each groundwater management area council as provided by Section 36.108, Water Code, as amended by this Act, as soon as practicable on or after the effective date of this Act. The terms of the initial representatives for each groundwater management area council expire August 31, 2007.

(b) The Texas Water Development Board shall convene the groundwater management area councils required under Section 36.108, Water Code, as amended by this Act, not later than September 1, 2006.

(c) The Texas Commission on Environmental Quality and the Texas Water Development Board shall adopt any rules, models, and forms necessary for the implementation of the groundwater management area planning functions required by this Act not later than September 1, 2006.

SECTION __. (a) A statewide groundwater management district consolidation stakeholders committee is established to study issues concerning the management of groundwater.

(b) The committee is composed of the following members:

- (1) five members appointed by the lieutenant governor;
- (2) five members appointed by the speaker of the house of representatives;
- (3) one member representing the Parks and Wildlife Department appointed by the Parks and Wildlife Commission;
- (4) one member representing administrators of state-owned land overlying producible groundwater resources;
- (5) one member representing the Texas Commission on Environmental Quality appointed by that commission; and

(6) one member representing the Texas Water Development Board appointed by that board.

(c) Of the members appointed under Subsection (b)(1):

- (1) one member must represent municipalities using groundwater;
- (2) one member must represent agricultural users of groundwater;
- (3) one member must represent industrial users of groundwater;
- (4) one member must represent groundwater conservation districts; and
- (5) one member must represent owners of land that overlies producible groundwater.

(d) Of the members appointed under Subsection (b)(2):

- (1) one member must represent municipalities using groundwater;
- (2) one member must represent agricultural users of groundwater;
- (3) one member must represent industrial users of groundwater;
- (4) one member must represent groundwater conservation districts; and
- (5) one member must represent owners of land that overlies producible groundwater.

(e) The groundwater management district consolidation stakeholders committee may appoint a technical advisory committee of up to nine members to assist the stakeholders committee in addressing the technical aspects of the issues to be studied.

(f) For each groundwater management area, the groundwater management district consolidation stakeholders committee shall address the following issues:

- (1) the appropriate management goals for groundwater in the groundwater management area;
- (2) the appropriate science to use to determine the availability of groundwater in the groundwater management area;
- (3) the well permitting strategy of each groundwater conservation district in the groundwater management area;
- (4) the effect of each well permitting strategy used in the groundwater management area on landowners in the groundwater management area;
- (5) the effect of each well permitting strategy used in the groundwater management area on users of water produced from land in the groundwater management area;
- (6) the effectiveness of each well permitting strategy used in the groundwater management area in meeting the management goals of the groundwater management area;
- (7) whether the differences in well permitting strategies used in the groundwater management area are justified by differences in groundwater resources in the groundwater management area; and
- (8) whether the public interest would be advanced by the consolidation of one or more groundwater conservation districts with other groundwater conservation districts in the groundwater management area.

(g) Not later than December 1, 2006, the groundwater management district consolidation stakeholders committee shall report the results of its study of the issues described by Subsection (f) to the governor, lieutenant governor, speaker of the house of representatives, and presiding officer of each standing committee of the senate and house of representatives having jurisdiction over groundwater issues.

The amendment to **CSSB 1451** 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.

Senator Armbrister offered the following amendment to the bill:

Floor Amendment No. 3

Amend **CSSB 1451** by inserting the following appropriately numbered SECTIONS and renumbering subsequent SECTIONS accordingly:

SECTION __. Chapter 325, Government Code, is amended by adding Sections 325.025 and 325.026 to read as follows:

Sec. 325.025. GROUNDWATER CONSERVATION DISTRICTS SUBJECT TO REVIEW. (a) A groundwater conservation district listed in Subsection (b) is subject to review under this chapter as if it were a state agency but is not abolished under this chapter.

(b) This section applies only to:

- (1) Anderson County Underground Water Conservation District;
- (2) Bandera County River Authority and Groundwater District;
- (3) Barton Springs-Edwards Aquifer Conservation District;
- (4) Bee Groundwater Conservation District;
- (5) Blanco Pedernales Groundwater Conservation District;
- (6) Bluebonnet Groundwater Conservation District;
- (7) Brazoria County Groundwater Conservation District;
- (8) Brazos Valley Groundwater Conservation District;
- (9) Brewster County Groundwater Conservation District;
- (10) Clear Fork Groundwater Conservation District;
- (11) Clearwater Underground Water Conservation District;
- (12) Coastal Bend Groundwater Conservation District;
- (13) Coastal Plains Groundwater Conservation District;
- (14) Coke County Underground Water Conservation District;
- (15) Collingsworth County Underground Water Conservation District;
- (16) Cow Creek Groundwater Conservation District;
- (17) Crossroads Groundwater Conservation District;
- (18) Culberson County Groundwater Conservation District;
- (19) Dallam County Underground Water Conservation District No. 1;
- (20) Edwards Aquifer Authority;
- (21) Emerald Underground Water Conservation District;
- (22) Evergreen Underground Water Conservation District;
- (23) Fayette County Groundwater Conservation District;
- (24) Fort Bend Subsidence District;
- (25) Fox Crossing Water District;
- (26) Garza County Underground and Fresh Water Conservation District;
- (27) Glasscock Groundwater Conservation District;
- (28) Goliad County Groundwater Conservation District;
- (29) Gonzales County Underground Water Conservation District;
- (30) Guadalupe County Groundwater Conservation District;
- (31) Harris-Galveston Coastal Subsidence District;

- (32) Hays Trinity Groundwater Conservation District;
- (33) Headwaters Groundwater Conservation District;
- (34) Hemphill County Underground Water Conservation District;
- (35) Hickory Underground Water Conservation District No. 1;
- (36) High Plains Underground Water Conservation District No. 1;
- (37) Hill Country Underground Water Conservation District;
- (38) Hudspeth County Underground Water Conservation District No. 1;
- (39) Irion County Water Conservation District;
- (40) Jeff Davis County Underground Water Conservation District;
- (41) Kenedy County Groundwater Conservation District;
- (42) Kimble County Groundwater Conservation District;
- (43) Kinney County Groundwater Conservation District;
- (44) Lavaca County Groundwater Conservation District;
- (45) Lipan-Kickapoo Water Conservation District;
- (46) Live Oak Underground Water Conservation District;
- (47) Llano Estacado Underground Water Conservation District;
- (48) Lone Star Groundwater Conservation District;
- (49) Lone Wolf Groundwater Conservation District;
- (50) Lost Pines Groundwater Conservation District;
- (51) Lower Seymour Groundwater Conservation District;
- (52) McMullen Groundwater Conservation District;
- (53) Medina County Underground Water Conservation District;
- (54) Menard County Underground Water Conservation District;
- (55) Mesa Underground Water Conservation District;
- (56) Mid-East Texas Groundwater Conservation District;
- (57) Middle Pecos Groundwater Conservation District;
- (58) Middle Trinity Groundwater Conservation District;
- (59) Neches and Trinity Valleys Groundwater Conservation District;
- (60) North Plains Groundwater Conservation District No. Two;
- (61) Panhandle Groundwater Conservation District;
- (62) Pecan Valley Groundwater Conservation District;
- (63) Permian Basin Underground Water Conservation District;
- (64) Pineywoods Groundwater Conservation District;
- (65) Plateau Underground Water Conservation and Supply District;
- (66) Plum Creek Conservation District;
- (67) Post Oak Savannah Groundwater Conservation District;
- (68) Presidio County Underground Water Conservation District;
- (69) Real-Edwards Conservation and Reclamation District;
- (70) Red Sands Groundwater Conservation District;
- (71) Refugio Groundwater Conservation District;
- (72) Rolling Plains Groundwater Conservation District;
- (73) Rusk County Groundwater Conservation District;
- (74) Salt Fork Underground Water Conservation District;
- (75) Sandy Land Underground Water Conservation District;
- (76) Santa Rita Underground Water Conservation District;
- (77) Saratoga Underground Water Conservation District;

- (78) South Plains Underground Water Conservation District;
- (79) Southeast Texas Groundwater Conservation District;
- (80) Sterling County Underground Water Conservation District;
- (81) Sutton County Underground Water Conservation District;
- (82) Texana Groundwater Conservation District;
- (83) Tri-County Groundwater Conservation District;
- (84) Trinity Glen Rose Groundwater Conservation District;
- (85) Uvalde County Underground Water Conservation District;
- (86) Wes-Tex Groundwater Conservation District; and
- (87) Wintergarden Groundwater Conservation District.

Sec. 325.026. SCHEDULE OF REVIEW FOR GROUNDWATER CONSERVATION DISTRICTS. (a) The groundwater conservation districts listed in Section 325.025 shall be reviewed according to the schedule provided by Subsections (b)-(g).

(b) During the periods in which state agencies abolished in 2007 and every 12th year after 2007 are reviewed, the following districts shall be reviewed:

- (1) Collingsworth County Underground Water Conservation District;
- (2) Dallam County Underground Water Conservation District No. 1;
- (3) Garza County Underground and Fresh Water Conservation District;
- (4) Hemphill County Underground Water Conservation District;
- (5) High Plains Underground Water Conservation District No. 1;
- (6) Llano Estacado Underground Water Conservation District;
- (7) Lower Seymour Groundwater Conservation District;
- (8) Mesa Underground Water Conservation District;
- (9) North Plains Groundwater Conservation District No. Two;
- (10) Panhandle Groundwater Conservation District;
- (11) Salt Fork Underground Water Conservation District;
- (12) Sandy Land Underground Water Conservation District;
- (13) South Plains Underground Water Conservation District;
- (14) Fort Bend Subsidence District; and
- (15) Harris-Galveston Coastal Subsidence District.

(c) During the periods in which state agencies abolished in 2009 and every 12th year after 2009 are reviewed, the following districts shall be reviewed:

- (1) Bandera County River Authority and Groundwater District;
- (2) Blanco Pedernales Groundwater Conservation District;
- (3) Brewster County Groundwater Conservation District;
- (4) Cow Creek Groundwater Conservation District;
- (5) Culberson County Groundwater Conservation District;
- (6) Emerald Underground Water Conservation District;
- (7) Headwaters Groundwater Conservation District;
- (8) Hickory Underground Water Conservation District No. 1;
- (9) Hill Country Underground Water Conservation District;
- (10) Hudspeth County Underground Water Conservation District No. 1;
- (11) Jeff Davis County Underground Water Conservation District;
- (12) Kimble County Groundwater Conservation District;
- (13) Kinney County Groundwater Conservation District;

- (14) Medina County Underground Water Conservation District;
- (15) Menard County Underground Water Conservation District;
- (16) Middle Pecos Groundwater Conservation District;
- (17) Plateau Underground Water Conservation and Supply District;
- (18) Presidio County Underground Water Conservation District;
- (19) Real-Edwards Conservation and Reclamation District;
- (20) Sutton County Underground Water Conservation District; and
- (21) Uvalde County Underground Water Conservation District.

(d) During the periods in which state agencies abolished in 2011 and every 12th year after 2011 are reviewed, the following districts shall be reviewed:

- (1) Brazoria County Groundwater Conservation District;
- (2) Clear Fork Groundwater Conservation District;
- (3) Coke County Underground Water Conservation District;
- (4) Crossroads Groundwater Conservation District;
- (5) Glasscock Groundwater Conservation District;
- (6) Irion County Water Conservation District;
- (7) Lipan-Kickapoo Water Conservation District;
- (8) Lone Wolf Groundwater Conservation District;
- (9) Permian Basin Underground Water Conservation District;
- (10) Rolling Plains Groundwater Conservation District;
- (11) Santa Rita Underground Water Conservation District;
- (12) Sterling County Underground Water Conservation District;
- (13) Tri-County Groundwater Conservation District; and
- (14) Wes-Tex Groundwater Conservation District.

(e) During the periods in which state agencies abolished in 2013 and every 12th year after 2013 are reviewed, the following districts shall be reviewed:

- (1) Bee Groundwater Conservation District;
- (2) Edwards Aquifer Authority;
- (3) Evergreen Underground Water Conservation District;
- (4) Goliad County Groundwater Conservation District;
- (5) Kenedy County Groundwater Conservation District;
- (6) Live Oak Underground Water Conservation District;
- (7) McMullen Groundwater Conservation District;
- (8) Red Sands Groundwater Conservation District;
- (9) Refugio Groundwater Conservation District;
- (10) Trinity Glen Rose Groundwater Conservation District; and
- (11) Wintergarden Groundwater Conservation District.

(f) During the periods in which state agencies abolished in 2015 and every 12th year after 2015 are reviewed, the following districts shall be reviewed:

- (1) Barton Springs-Edwards Aquifer Conservation District;
- (2) Coastal Bend Groundwater Conservation District;
- (3) Coastal Plains Groundwater Conservation District;
- (4) Fayette County Groundwater Conservation District;
- (5) Gonzales County Underground Water Conservation District;
- (6) Guadalupe County Groundwater Conservation District;
- (7) Hays Trinity Groundwater Conservation District;

- (8) Lavaca County Groundwater Conservation District;
- (9) Lost Pines Groundwater Conservation District;
- (10) Pecan Valley Groundwater Conservation District;
- (11) Plum Creek Conservation District; and
- (12) Texana Groundwater Conservation District.

(g) During the periods in which state agencies abolished in 2017 and every 12th year after 2017 are reviewed, the following districts shall be reviewed:

- (1) Anderson County Underground Water Conservation District;
- (2) Bluebonnet Groundwater Conservation District;
- (3) Brazos Valley Groundwater Conservation District;
- (4) Clearwater Underground Water Conservation District;
- (5) Fox Crossing Water District;
- (6) Lone Star Groundwater Conservation District;
- (7) Mid-East Texas Groundwater Conservation District;
- (8) Middle Trinity Groundwater Conservation District;
- (9) Neches and Trinity Valleys Groundwater Conservation District;
- (10) Pineywoods Groundwater Conservation District;
- (11) Post Oak Savannah Groundwater Conservation District;
- (12) Rusk County Groundwater Conservation District;
- (13) Saratoga Underground Water Conservation District; and
- (14) Southeast Texas Groundwater Conservation District.

The amendment to **CSSB 1451** 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:

Nays: Fraser, Seliger, Staples, Zaffirini.

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

CSSB 1451 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: Fraser, Seliger, Staples.

COMMITTEE SUBSTITUTE SENATE BILL 1451 ON THIRD READING

Senator Averitt moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1451** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 27, Nays 4.

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

Nays: Fraser, Seliger, Staples, Wentworth.

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 1451**, 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 1451** 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 3.

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

Nays: Fraser, Seliger, Staples.

(Senator Averitt in Chair)

COMMITTEE SUBSTITUTE SENATE BILL 430 ON SECOND READING

Senator Lindsay moved to suspend the regular order of business to take up for consideration **CSSB 430** at this time on its second reading:

CSSB 430, Relating to the regulation of fireworks and fireworks displays in certain populous counties.

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

Yeas: Armbrister, Averitt, Barrientos, Carona, Deuell, Ellis, Eltife, Estes, Gallegos, Hinojosa, Janek, Lindsay, Lucio, Nelson, Ogden, Shapiro, Shapleigh, Van de Putte, Wentworth, West, Whitmire, Zaffirini.

Nays: Fraser, Harris, Jackson, Madla, Seliger, Staples, Williams.

Absent: Brimer, Duncan.

The bill was read second time.

Senator Armbrister offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSSB 430** by striking SECTION 2 of the bill and inserting a new SECTION 2 to read as follows:

SECTION 2. Section 2154.054, Occupations Code, is amended by amending Subsection (b) and adding Subsections (g) and (h) to read as follows:

(b) The council is composed of five members including one (1) representative of a county fire marshal's office that has at least ten years of experience as a county fire marshal and who may serve no more than two years, and four (4) who are representatives from the fireworks industry;

(g) In reviewing rules under Subsection (e), the council shall recommend to the commissioner changes in the rules to promote public safety and property protection in counties with a population of 3.3 million or more, including changes that could lower insurance costs. The commissioner shall report the recommendations to the legislature.

(h) The council and state fire marshal shall promote cooperation between the fireworks industry and local governments in counties with a population of 3.3 million or more in the establishment of a public awareness and safety campaign regarding fireworks in those counties.

The amendment to **CSSB 430** 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.

Senator Armbrister offered the following amendment to the bill:

Floor Amendment No. 2

Amend **CSSB 430** by striking SECTION 3 and inserting a new SECTION 3 to read as follows:

SECTION 3. Section 2154.251 is amended by amending Subsection (a) and adding Subsection (c) to read as follows:

2154.251. PROHIBITED USE OF FIREWORKS.

(a) A person may not:

(8) sell, store, manufacture, distribute, or display fireworks except as provided by this chapter or rules adopted by the commissioner under this chapter; or

(9) if the person has previously engaged in conduct described by this subdivision, discharges fireworks in a manner reasonably likely to harm another person and with intent to harm:

(A) on property other than the property of the person discharging the fireworks; or

(B) by projecting the fireworks directly at or toward another person, a residential dwelling other than the residential dwelling of the person discharging the fireworks, or an automobile, motorcycle, bicycle, bus, or other conveyance other than the conveyance of the person discharging the fireworks.

(c) A person may not employ or allow a person younger than 16 years of age to manufacture, distribute, sell, or purchase fireworks in the course of the person's business. A person may employ a person of 16 years of age or older but younger than 18 years of age to sell fireworks at a retail sales location only if the person selling fireworks at that location is accompanied by a person at least 18 years of age.

The amendment to **CSSB 430** 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.

Senator Armbrister offered the following amendment to the bill:

Floor Amendment No. 3

Amend **CSSB 430** by striking SECTION 4 and inserting a new SECTION to read as follows and renumbering all subsequent SECTIONS:

SECTION 4. Section 2154.252 is amended by amending Subsection (b) and Subsection (c) to read as follows:

2154.252 Certain Sales of Fireworks Prohibited

(b) A person may offer for sale to the general public Fireworks 1.4G only at authorized retail locations. All mail order sales of Fireworks 1.4G are prohibited. Notwithstanding any law, ordinance, provision, or rule, a retail location once authorized shall not be restricted in the sale of fireworks, except under this subchapter; and, Chapter 2154 Occupations Code shall govern all regulation of fireworks in Texas. Provided however, that municipalities shall continue to regulate fireworks within their corporate boundaries and in the area specified under Subchapter 217.042, Local Government Code, if that area was regulated prior to January 1, 2005.

(c) Fireworks may not be sold or offered for sale to children under 16 ~~42~~ years of age or to an intoxicated or incompetent person. A person selling fireworks at retail shall make a reasonable effort to determine that potential purchasers of fireworks are of the minimum age required by this subsection.

The amendment was read.

Senator Armbrister temporarily withdrew Floor Amendment No. 3.

Senator Armbrister offered the following amendment to the bill:

Floor Amendment No. 4

Amend **CSSB 430** by adding a new SECTION 5 to read as follows and renumbering all subsequent SECTIONS:

SECTION 5. Section 2154.303 is amended by amending Subsection (c) and adding to read as follows:

(c) A violation of Section 2154.251(a)(1), (2), (3), (4), or (5) that results in property damage in an amount of less than \$200 and does not result in bodily injury or death is a Class C misdemeanor. A violation of Section 2154.252(c) and 2154.251(c) is a Class C misdemeanor.

The amendment to **CSSB 430** 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. 4.

Senator Armbrister offered the following amendment to the bill:

Floor Amendment No. 5

Amend **CSSB 430** by amending SECTION 6 and 7 of the bill as follows:

SECTION 4 6. (a) The changes in law made by Sections 1, 3, 4(c) and 5 of this Act apply only to an offense committed on or after the effective date of the applicable section. For purposes of this section, an offense is committed before the effective date of a section of this Act if any element of the offense occurs before that date. The changes made in Section 4(b) apply to any location established by January 1, 2005.

(b) An offense committed before the effective date of a section of this Act is covered by the applicable law in effect when the offense was committed, and the former law is continued in effect for that purpose.

SECTION 5 7. (a) Except as provided by Subsection (b) of this section, this Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2005.

(b) Section 1 of this Act takes effect January 1, 2006.

The amendment to **CSSB 430** 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.

Senator Armbrister offered the following amendment to the bill:

Floor Amendment No. 6

Amend **CSSB 430** by amending SECTION 6 and 7 and adding a new SECTION 8 of the bill as follows:

SECTION 4 6. (a) The changes in law made by Sections 1, 3, 4(c) and 5 of this Act apply only to an offense committed on or after the effective date of the applicable section. For purposes of this section, an offense is committed before the effective date of a section of this Act if any element of the offense occurs before that date. The changes made in Section 4(b) apply to any location established by January 1, 2005.

(b) An offense committed before the effective date of a section of this Act is covered by the applicable law in effect when the offense was committed, and the former law is continued in effect for that purpose.

SECTION 5 7. Fees collected under Section 2154.055, Occupations Code, are appropriated to the Texas Department of Insurance for the state fiscal biennium beginning September 1, 2005, to establish the fireworks safety and education program, under Section 2154.055, Occupations Code.

SECTION 8. (a) Except as provided by Subsection (b) of this section, this Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2005.

(b) Section 1 of this Act takes effect January 1, 2006.

The amendment to **CSSB 430** 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.

Senator Barrientos offered the following amendment to the bill:

Floor Amendment No. 7

Amend **CSSB 430** (Senate committee printing) by adding the appropriately numbered SECTION and renumbering subsequent SECTIONS accordingly:

SECTION _____. Section 2154.202, Occupations Code, is amended by amending subsection (g), to read as follows:

(g) A retail fireworks permit holder may sell fireworks only to the public, and only during periods:

- (1) beginning June 24 and ending at midnight on July 4 ~~5~~; ~~and~~
- (2) beginning December 20 and ending at midnight on January 1 of the following year; ~~and~~
- (3) beginning April 30 and ending at midnight on May 6.

The amendment to **CSSB 430** was read and was adopted by the following vote: Yeas 21, Nays 8.

Yeas: Armbrister, Averitt, Barrientos, Brimer, Ellis, Eltife, Fraser, Gallegos, Harris, Hinojosa, Jackson, Janek, Lucio, Madla, Ogden, Shapleigh, Staples, Van de Putte, West, Williams, Zaffirini.

Nays: Carona, Estes, Lindsay, Nelson, Seliger, Shapiro, Wentworth, Whitmire.

Absent: Deuell, Duncan.

**VOTE RECONSIDERED ON
FLOOR AMENDMENT NO. 2**

On motion of Senator Armbrister and by unanimous consent, the vote by which Floor Amendment No. 2 was adopted was reconsidered.

Question — Shall Floor Amendment No. 2 to **CSSB 430** be adopted?

Senator Armbrister withdrew Floor Amendment No. 2.

Senator Armbrister offered the following amendment to the bill:

Floor Amendment No. 8

Amend **CSSB 430** by striking SECTION 3 and inserting a new SECTION 3 to read as follows:

SECTION 3. Section 2154.251 is amended by amending Subsection (a) and adding Subsection (c) to read as follows:
2154.251. PROHIBITED USE OF FIREWORKS.

(a) A person may not:

(8) sell, store, manufacture, distribute, or display fireworks except as provided by this chapter or rules adopted by the commissioner under this chapter; or

(9) discharge fireworks in a manner reasonably likely to harm another person and with intent to harm:

(A) on property other than the property of the person discharging the fireworks; or

(B) by projecting the fireworks directly at or toward another person, a residential dwelling other than the residential dwelling of the person discharging the fireworks, or an automobile, motorcycle, bicycle, bus, or other conveyance other than the conveyance of the person discharging the fireworks.

(c) A person may not employ or allow a person younger than 16 years of age to manufacture, distribute, sell, or purchase fireworks in the course of the person's business. A person may employ a person of 16 years of age or older but younger than 18 years of age to sell fireworks at a retail sales location only if the person selling fireworks at that location is accompanied by a person at least 18 years of age.

The amendment to **CSSB 430** 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. 8.

Senator Armbrister again offered the following amendment to the bill:

Floor Amendment No. 3

Amend **CSSB 430** by striking SECTION 4 and inserting a new SECTION to read as follows and renumbering all subsequent SECTIONS:

SECTION 3. Section 2154.252 is amended by amending Subsection (b) and Subsection (c) to read as follows:

2154.252 Certain Sales of Fireworks Prohibited

(b) A person may offer for sale to the general public Fireworks 1.4G only at authorized retail locations. All mail order sales of Fireworks 1.4G are prohibited. Notwithstanding any law, ordinance, provision, or rule, a retail location once authorized shall not be restricted in the sale of fireworks, except under this subchapter; and, Chapter 2154 Occupations Code shall govern all regulation of fireworks in Texas. Provided however, that municipalities shall continue to regulate fireworks within their corporate boundaries and in the area specified under Subchapter 217.042, Local Government Code, if that area was regulated prior to January 1, 2005.

(c) Fireworks may not be sold or offered for sale to children under 16 ~~12~~ years of age or to an intoxicated or incompetent person. A person selling fireworks at retail shall make a reasonable effort to determine that potential purchasers of fireworks are of the minimum age required by this subsection.

The amendment to **CSSB 430** was again read and was adopted by the following vote: Yeas 25, Nays 5.

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

Nays: Averitt, Eltife, Seliger, Shapiro, Staples.

Absent: Duncan.

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

CSSB 430 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: Eltife, Fraser, Harris, Jackson, Ogden, Seliger, Staples, Williams.

SENATE RULE 11.13 SUSPENDED
(Consideration of Bills in Committees)

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

GUESTS PRESENTED

Senator Fraser was recognized and introduced to the Senate students from Valley Ranch Elementary School in Irving, accompanied by their teachers and sponsors.

The Senate welcomed its guests.

SENATE RULE 11.18(a) SUSPENDED
(Public Hearings)

On motion of Senator Armbrister and by unanimous consent, Senate Rule 11.18(a) was suspended in order that the Committee on Natural Resources might consider **HB 2423** today.

SENATE RULES SUSPENDED
(Posting Rules)

On motion of Senator Shapiro and by unanimous consent, Senate Rule 11.10(a) and Senate Rule 11.18(a) were suspended in order that the Committee on Education might meet and consider **SB 1544** today.

MOTION TO ADJOURN

On motion of Senator Whitmire and by unanimous consent, the Senate at 3:59 p.m. agreed to adjourn, in memory of Aaron N. Cepeda, Sr., of San Antonio and Lance T. Graham of San Antonio, upon completion of the introduction of bills and resolutions on first reading, until 9:30 a.m. tomorrow.

(Senator Williams in Chair)

SENATE BILLS ON FIRST READING

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

SB 20 by Carona

Relating to certain elevated projects of the Texas Department of Transportation.
To Committee on Transportation and Homeland Security.

SB 1897 by Madla

Relating to the territory of the Culberson County Groundwater Conservation District. (Local Bill)
To Committee on Natural Resources.

SB 1898 by Deuell

Relating to the creation of the Dallas County Municipal Utility District No. 3; providing authority to impose a tax and issue bonds; granting the power of eminent domain. (Local Bill)

To Committee on Intergovernmental Relations.

SB 1899 by Zaffirini

Relating to the regulation of chemical dependency counselors.

To Committee on Health and Human Services.

SB 1900 by Zaffirini

Relating to the creation of the San Patricio County Groundwater Conservation District; providing authority to impose a tax. (Local Bill)

To Committee on Natural Resources.

HOUSE BILLS AND RESOLUTIONS ON FIRST READING

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

HB 26 to Committee on Finance.

HB 43 to Committee on Criminal Justice.

HB 62 to Committee on Business and Commerce.

HB 107 to Committee on State Affairs.

HB 192 to Committee on Intergovernmental Relations.

HB 281 to Committee on Intergovernmental Relations.

HB 506 to Committee on Natural Resources.

HB 541 to Committee on State Affairs.

HB 584 to Committee on State Affairs.

HB 608 to Committee on Education.

HB 647 to Committee on Intergovernmental Relations.

HB 659 to Committee on State Affairs.

HB 669 to Committee on Health and Human Services.

HB 681 to Committee on Criminal Justice.

HB 686 to Committee on State Affairs.

HB 692 to Committee on Criminal Justice.

HB 719 to Committee on State Affairs.

HB 790 to Committee on Health and Human Services.

HB 812 to Committee on Intergovernmental Relations.

HB 813 to Committee on Intergovernmental Relations.

HB 833 to Committee on Business and Commerce.

HB 863 to Committee on State Affairs.

HB 888 to Committee on State Affairs.

HB 934 to Committee on Jurisprudence.

HB 949 to Committee on State Affairs.

HB 967 to Committee on Criminal Justice.

HB 1012 to Committee on Criminal Justice.

HB 1023 to Committee on State Affairs.

HB 1054 to Committee on Intergovernmental Relations.

HB 1055 to Committee on Intergovernmental Relations.
HB 1079 to Committee on State Affairs.
HB 1137 to Committee on Transportation and Homeland Security.
HB 1140 to Committee on Intergovernmental Relations.
HB 1141 to Committee on Intergovernmental Relations.
HB 1165 to Committee on Intergovernmental Relations.
HB 1181 to Committee on Jurisprudence.
HB 1209 to Committee on State Affairs.
HB 1283 to Committee on Government Organization.
HB 1346 to Committee on Intergovernmental Relations.
HB 1353 to Committee on State Affairs.
HB 1382 to Committee on State Affairs.
HB 1413 to Committee on Government Organization.
HB 1467 to Committee on Criminal Justice.
HB 1571 to Committee on State Affairs.
HB 1572 to Committee on Business and Commerce.
HB 1575 to Committee on Criminal Justice.
HB 1610 to Committee on Intergovernmental Relations.
HB 1631 to Committee on Intergovernmental Relations.
HB 1634 to Committee on Criminal Justice.
HB 1682 to Committee on Business and Commerce.
HB 1687 to Committee on Education.
HB 1718 to Committee on Health and Human Services.
HB 1733 to Subcommittee on Agriculture and Coastal Resources.
HB 1741 to Committee on Transportation and Homeland Security.
HB 1773 to Committee on Intergovernmental Relations.
HB 1789 to Committee on Transportation and Homeland Security.
HB 1799 to Committee on Business and Commerce.
HB 1812 to Committee on Intergovernmental Relations.
HB 1842 to Committee on Health and Human Services.
HB 1863 to Committee on State Affairs.
HB 1870 to Committee on State Affairs.
HB 1884 to Committee on Criminal Justice.
HB 1900 to Committee on Natural Resources.
HB 1918 to Committee on Criminal Justice.
HB 1925 to Committee on Transportation and Homeland Security.
HB 1934 to Committee on Jurisprudence.
HB 1945 to Committee on State Affairs.
HB 1977 to Committee on Intergovernmental Relations.
HB 1984 to Committee on Intergovernmental Relations.
HB 1999 to Committee on Jurisprudence.
HB 2000 to Committee on Education.
HB 2011 to Committee on State Affairs.
HB 2017 to Committee on Administration.
HB 2036 to Committee on Criminal Justice.
HB 2041 to Subcommittee on Higher Education.

HB 2048 to Committee on Government Organization.
HB 2059 to Committee on State Affairs.
HB 2079 to Committee on Intergovernmental Relations.
HB 2080 to Committee on Finance.
HB 2100 to Committee on Health and Human Services.
HB 2120 to Committee on Jurisprudence.
HB 2154 to Committee on Intergovernmental Relations.
HB 2158 to Committee on Health and Human Services.
HB 2280 to Committee on State Affairs.
HB 2289 to Committee on State Affairs.
HB 2301 to Committee on Natural Resources.
HB 2304 to Committee on Intergovernmental Relations.
HB 2337 to Committee on Transportation and Homeland Security.
HB 2344 to Committee on Health and Human Services.
HB 2378 to Committee on Government Organization.
HB 2381 to Committee on State Affairs.
HB 2408 to Committee on Jurisprudence.
HB 2422 to Committee on Transportation and Homeland Security.
HB 2451 to Committee on Business and Commerce.
HB 2454 to Committee on State Affairs.
HB 2458 to Committee on Intergovernmental Relations.
HB 2465 to Committee on State Affairs.
HB 2473 to Committee on Government Organization.
HB 2476 to Committee on State Affairs.
HB 2495 to Committee on Transportation and Homeland Security.
HB 2507 to Committee on Health and Human Services.
HB 2509 to Committee on Intergovernmental Relations.
HB 2526 to Committee on Business and Commerce.
HB 2531 to Committee on Jurisprudence.
HB 2560 to Committee on Intergovernmental Relations.
HB 2569 to Committee on Jurisprudence.
HB 2589 to Committee on Intergovernmental Relations.
HB 2590 to Committee on Business and Commerce.
HB 2594 to Committee on Health and Human Services.
HB 2613 to Committee on Business and Commerce.
HB 2627 to Committee on Business and Commerce.
HB 2636 to Committee on Finance.
HB 2644 to Committee on Business and Commerce.
HB 2647 to Committee on Transportation and Homeland Security.
HB 2652 to Committee on Transportation and Homeland Security.
HB 2667 to Committee on Intergovernmental Relations.
HB 2678 to Committee on State Affairs.
HB 2694 to Committee on Intergovernmental Relations.
HB 2695 to Committee on Intergovernmental Relations.
HB 2704 to Committee on Transportation and Homeland Security.
HB 2753 to Committee on Finance.

HB 2755 to Subcommittee on Emerging Technologies and Economic Development.
HB 2759 to Committee on State Affairs.
HB 2772 to Committee on State Affairs.
HB 2783 to Committee on State Affairs.
HB 2796 to Committee on State Affairs.
HB 2823 to Committee on Criminal Justice.
HB 2826 to Committee on State Affairs.
HB 2856 to Committee on Government Organization.
HB 2864 to Committee on Intergovernmental Relations.
HB 2883 to Committee on State Affairs.
HB 2931 to Committee on Veteran Affairs and Military Installations.
HB 2955 to Committee on Transportation and Homeland Security.
HB 2977 to Committee on Jurisprudence.
HB 3001 to Committee on Finance.
HB 3015 to Committee on Jurisprudence.
HB 3041 to Committee on Transportation and Homeland Security.
HB 3114 to Committee on Finance.
HB 3116 to Committee on Transportation and Homeland Security.
HB 3118 to Committee on Criminal Justice.
HB 3129 to Committee on Transportation and Homeland Security.
HB 3144 to Committee on Natural Resources.
HB 3147 to Committee on Government Organization.
HB 3162 to Committee on State Affairs.
HB 3164 to Committee on Intergovernmental Relations.
HB 3195 to Committee on Intergovernmental Relations.
HB 3200 to Committee on State Affairs.
HB 3269 to Committee on Government Organization.
HB 3285 to Committee on Transportation and Homeland Security.
HB 3315 to Committee on State Affairs.
HB 3384 to Committee on Business and Commerce.
HB 3434 to Committee on Jurisprudence.
HB 3460 to Committee on Business and Commerce.
HB 3461 to Committee on Intergovernmental Relations.
HB 3473 to Committee on International Relations and Trade.
HB 3476 to Committee on Intergovernmental Relations.
HB 3490 to Committee on Intergovernmental Relations.
HB 3519 to Committee on Jurisprudence.
HB 3528 to Committee on Intergovernmental Relations.
HB 3540 to Committee on Finance.
HB 3541 to Committee on Jurisprudence.
HB 3547 to Committee on Jurisprudence.
HB 3570 to Committee on Jurisprudence.
HB 3573 to Committee on Intergovernmental Relations.
HCR 49 to Committee on State Affairs.
HCR 132 to Committee on Natural Resources.
HJR 65 to Committee on Finance.
HJR 89 to Committee on Finance.

RESOLUTIONS OF RECOGNITION

The following resolutions were adopted by the Senate:

Memorial Resolutions

SR 872 by Harris, In memory of Phillip William Ellis of Grand Prairie.

SR 874 by Van de Putte, In memory of William N. Sholl, Jr., of San Antonio.

HCR 191 (Deuell), In memory of Star Nuckolls of Como.

Congratulatory Resolutions

SR 873 by Whitmire, Recognizing Daughters of Women Are Ready Ministries for its efforts to improve the lives of women.

SR 877 by Gallegos, Recognizing Ella Hughes on the occasion of her retirement.

SR 879 by Ellis, Commending *Houston Style Magazine* for honoring Houston's young citizens.

SR 882 by Fraser, Recognizing Clarence and Mary Margaret Nixon of Fredericksburg on the occasion of their 65th wedding anniversary.

SR 883 by Ellis, Congratulating Willie Thomas of Booth for his induction into the Texas Rodeo Cowboy Hall of Fame.

ADJOURNMENT

Pursuant to a previously adopted motion, the Senate at 4:11 p.m. adjourned, in memory of Aaron N. Cepeda, Sr., of San Antonio and Lance T. Graham of San Antonio, until 9:30 a.m. tomorrow.

APPENDIX

COMMITTEE REPORTS

The following committee reports were received by the Secretary of the Senate in the order listed:

May 12, 2005

GOVERNMENT ORGANIZATION — **CSSB 1651**

INTERGOVERNMENTAL RELATIONS — **SB 1894, HB 132, HB 150, HB 233, HB 525, HB 571, HB 639, HB 950, HB 961, HB 1213, HB 1267, HB 1455, HB 1587, HB 1937, HB 2374, HB 2457, HB 2584, HCR 93**

BUSINESS AND COMMERCE — **CSSB 559, HB 941, HB 1745, HB 1893, HB 2930**

TRANSPORTATION AND HOMELAND SECURITY — **CSHB 468**

SENT TO GOVERNOR

May 12, 2005

SB 220, SB 879, SB 1593, SB 1621