

SEVENTY-FOURTH DAY

FRIDAY, MAY 20, 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 Robert Carter, Colonial Hills Baptist Church, Tyler, offered the invocation as follows:

Our Father, we bow in Your presence this morning to thank You for the beginning of this brand new day and for the opportunity it gives us to serve You and our fellow man. Lord, it's obvious that You have been good to the great State of Texas. You have blessed us beyond measure. We have more to celebrate and more for which to be grateful than almost any other people on the face of the Earth, and we thank You. But, Lord, with blessedness we understand there comes great responsibility. And that's why these men and women are gathered here this morning, to be responsible, to be responsible for that which has been entrusted into their care by You and the people of Texas. Father, we pray for Your wisdom, for Your divine guidance, that every decision made would be in accordance to Your will and that it would all be done for that which is truly good for Texas and to Your glory forever. We pray in Your wonderful name. 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-SPONSOR OF HOUSE BILL 1006

On motion of Senator Janek, Senator Williams will be shown as Co-sponsor of **HB 1006**.

MESSAGE FROM THE HOUSE**HOUSE CHAMBER**

Austin, Texas

May 20, 2005

The Honorable President of the Senate
Senate Chamber
Austin, Texas

Mr. President:

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

THE HOUSE HAS PASSED THE FOLLOWING MEASURES:

HCR 169, Honoring Hulda Kercheville on the occasion of her retirement from Hernandez Intermediate School in San Marcos.

HCR 174, Honoring Olympic gold medalist Carly Patterson.

HCR 175, In memory of Dave L. Rodgers of Paris.

HCR 176, In memory of Dr. Raymond Armstrong of Paris.

HCR 177, In memory of Dr. John Larry Walker of Paris.

HCR 178, In memory of Mary Lou Williams of Paris.

HCR 179, In memory of Patsy Brulte Kemp of Paris.

HCR 180, In memory of Frances Ellis of Paris.

HCR 181, In memory of Juanita Stamper of Paris.

HCR 182, In memory of Wynona Harper Harrison of Paris.

HCR 183, In memory of William Merritt Noel of Paris.

HCR 184, In memory of Richard J. Rast of Howland.

HCR 195, Honoring the life of Jeramie Espinoza.

HCR 197, Congratulating Bobby Dejoux of Direct on winning first place at the 2003 SkillsUSA state competition.

HCR 198, Congratulating Cory Morris of Powderly on winning first place at the 2005 SkillsUSA state competition.

HCR 199, Congratulating Jonathan Daniels of Paris on his success at the 2004 National SkillsUSA competition.

HCR 200, Honoring Bo Bolton on his retirement from North Lamar High School in Paris.

HCR 201, Honoring the employees of Southwest Airlines at the Lubbock International Airport.

HCR 202, Congratulating U.S. Ambassador Tony Garza and Mariasun Aramburuzabala on their marriage.

SCR 39, Designating July 2005 as Lawn Mower Safety Awareness Month.

THE HOUSE HAS CONCURRED IN SENATE AMENDMENTS TO THE FOLLOWING MEASURES:

HB 202 (non-record vote)

HB 214 (140 Yeas, 0 Nays, 2 Present, not voting)

HB 773 (non-record vote)

HB 976 (139 Yeas, 0 Nays, 2 Present, not voting)

HB 1544 (non-record vote)

THE HOUSE HAS REFUSED TO CONCUR IN SENATE AMENDMENTS TO THE FOLLOWING MEASURES AND REQUESTS THE APPOINTMENT OF A CONFERENCE COMMITTEE TO ADJUST THE DIFFERENCES BETWEEN THE TWO HOUSES:

HB 7 (non-record vote)

House Conferees: Solomons - Chair/Giddings/Rose/Taylor/Zedler

HB 261 (non-record vote)

House Conferees: Goodman - Chair/Castro/Dutton/Nixon/Strama

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

SB 5 (non-record vote)

House Conferees: Solomons - Chair/Giddings/Rose/Taylor/Zedler

SB 122 (non-record vote)

House Conferees: Giddings - Chair/Dutton/Keel/McCall/Turner

SB 1050 (non-record vote)

House Conferees: Bailey - Chair/Harper-Brown/Martinez/Menendez/Talton

SB 1273 (non-record vote)

House Conferees: Geren - Chair/Cook, Robby/Mowery/Orr/Puente

SB 1641 (non-record vote)

House Conferees: Oliveira - Chair/Flores/Griggs/Hill/Solis

Respectfully,

/s/Robert Haney, Chief Clerk
House of Representatives

PHYSICIAN OF THE DAY

Senator Wentworth was recognized and presented Dr. Miguel Vazquez of San Antonio as the Physician of the Day.

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

**INTRODUCTION OF
BILLS AND RESOLUTIONS POSTPONED**

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

There was no objection.

GUESTS PRESENTED

Senator West was recognized and introduced to the Senate elementary school students and their teachers from the Wilmer-Hutchins Independent School District.

The Senate welcomed its guests.

SENATE RESOLUTION 951

Senator Carona offered the following resolution:

WHEREAS, U.S. Marine Corps Captain Van Taylor of Dallas, who has served his country with distinction in Iraq, is a source of great pride to his country and his home state; and

WHEREAS, Commanding the largest platoon of the 2nd Force Reconnaissance Company, Captain Taylor and his unit foiled several Fedayeen ambushes, assisted in the rescue of U.S. prisoners of war, and rescued dozens of wounded comrades under fire; he successfully completed every mission assigned and, more importantly, brought all of his troops safely back to their families; and

WHEREAS, His unwavering courage and dedication earned Captain Taylor a host of prestigious accolades, including the Navy Commendation Medal, Combat Action Ribbon, Presidential Unit Citation, Navy Unit Citation, National Defense Service Medal, and Navy Achievement Medal; and

WHEREAS, A Dallas native and honors graduate of Harvard College and Business School, Captain Taylor has worked with McKinsey and Company, Trammell Crow, and Churchill Capital Co. as a real estate investment banker; he earned a commission as a second lieutenant at Marine Corps Officer School and in 2002 joined C Company, 4th Reconnaissance Battalion; and

WHEREAS, This accomplished Texan also has written and published several articles and is currently working on a book, *Brothers by Fire*, on his experiences during the Iraq War; and

WHEREAS, Americans owe a profound debt of gratitude to Captain Taylor and to all of the country's military personnel, for they are called on to bear great, often unimaginable, burdens, and they render service and sacrifice that is truly beyond measure; and

WHEREAS, Through his unfaltering devotion to duty, honor, and this nation, Van Taylor embodies the highest ideals of the United States armed forces, and it is indeed a privilege to join in welcoming him home; now, therefore, be it

RESOLVED, That the Senate of the 79th Texas Legislature hereby commend Van Taylor for his exemplary commitment to his family, his community, and his nation and that he be extended heartfelt best wishes for success and happiness in the coming years; and, be it further

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

SR 951 was read and was adopted without objection.

GUESTS PRESENTED

Senator Carona was recognized and introduced to the Senate United States Marine Corps Captain Van Taylor of Dallas, accompanied by his father, Nicholas Taylor.

The Senate welcomed its guests.

BILLS SIGNED

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

SB 56, SB 121, SB 149, SB 164, SB 363, SB 415, SB 509, SB 517, SB 637, SB 651, SB 910, SB 1186, SB 1311, SB 1331, SB 1447, SB 1791.

SENATE RULE 11.13 SUSPENDED (Consideration of Bills in Committees)

On motion of Senator Shapiro and by unanimous consent, Senate Rule 11.13 was suspended to grant the conference committee on **HB 2** permission to meet while the Senate is meeting today.

SENATE RESOLUTION 819

Senator Ellis offered the following resolution:

WHEREAS, The Senate of the State of Texas is pleased to recognize Nettie Murry for her role in educating the public about the dangers of random violence; and

WHEREAS, Nettie Murry created the Marsai Alert Crime Prevention and Education Organization after her daughter, Marsai Murry, was killed in an act of random violence; Marsai was hit by a stray bullet intended for someone else after a high school football game; and

WHEREAS, This dedicated organization teaches young people and community members to focus on educating and preventing random violence before it occurs; and

WHEREAS, Random violence affects men and women of all races, religions, ages, and incomes; it has far-reaching and long-standing consequences; and

WHEREAS, Composed of people from all walks of life, this admirable organization seeks to personalize the issue for the public by using Marsai's name and face to represent all victims of random violence and its tragic consequences; and

WHEREAS, Putting aside her pain and grief, Nettie Murry has lent her time, her energy, and her daughter's name to this vital cause as a lasting tribute to her only child; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 79th Legislature, hereby commend Nettie Murry for her selfless work in educating the public about the threat of random violence and her compassionate desire to spare others such pain; 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 819 was again read.

The resolution was previously adopted on Monday, May 9, 2005.

GUESTS PRESENTED

Senator Ellis was recognized and introduced to the Senate Nettie Murry, Melanie Long, Charlotte Martin, Randall Dobbins, and John Perry, accompanied by a delegation of representatives of the Marsai Alert Crime Prevention and Education Organization.

The Senate welcomed its guests.

CONFERENCE COMMITTEE ON HOUSE BILL 1820

Senator Eltife called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 1820** and moved that the request be granted.

The motion prevailed without objection.

The President asked if there were any motions to instruct the conference committee on **HB 1820** before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate: Senators Eltife, Chair; Ellis, Nelson, Jackson, and Whitmire.

SENATE BILL 310 WITH HOUSE AMENDMENT

Senator Deuell called **SB 310** from the President's table for consideration of the House amendment to the bill.

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

Amendment

Amend **SB 310** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED AN ACT

relating to certain diseases or illnesses suffered by firefighters and emergency medical technicians.

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

SECTION 1. The heading to Chapter 607, Government Code, is amended to read as follows:

CHAPTER 607. BENEFITS RELATING TO CERTAIN [~~CONTAGIOUS~~]
DISEASES AND ILLNESSES

SECTION 2. Sections 607.001 through 607.004, Government Code, are designated as Subchapter A, Chapter 607, and a heading for that subchapter is added to read as follows:

SUBCHAPTER A. CONTAGIOUS DISEASES

SECTION 3. Chapter 607, Government Code, is amended by adding Subchapter B to read as follows:

SUBCHAPTER B. DISEASES OR ILLNESSES SUFFERED BY
FIREFIGHTERS AND EMERGENCY MEDICAL TECHNICIANS

Sec. 607.051. DEFINITIONS. In this subchapter:

(1) "Disability" means partial or total disability.

(2) "Emergency medical technician" means an individual who is certified as an emergency medical technician by the Department of State Health Services as provided by Chapter 773, Health and Safety Code, and who is employed by a political subdivision.

(3) "Firefighter" means:

(A) an individual who is defined as fire protection personnel under Section 419.021; or

(B) an individual who is a volunteer firefighter certified by the Texas Commission on Fire Protection or the State Firemen's and Fire Marshals' Association of Texas.

Sec. 607.052. APPLICABILITY. (a) Notwithstanding any other law, this subchapter applies only to a firefighter or emergency medical technician who:

(1) on becoming employed or during employment as a firefighter or emergency medical technician, received a physical examination that failed to reveal evidence of the illness or disease for which benefits or compensation are sought using a presumption established by this subchapter;

(2) is employed for five or more years as a firefighter or emergency medical technician; and

(3) seeks benefits or compensation for a disease or illness covered by this subchapter that is discovered during employment as a firefighter or emergency medical technician.

(b) A presumption under this subchapter does not apply:

(1) to a determination of a survivor's eligibility for benefits under Chapter 615;

(2) in a cause of action brought in a state or federal court except for judicial review of a proceeding in which there has been a grant or denial of employment-related benefits or compensation;

(3) to a determination regarding benefits or compensation under a life or disability insurance policy purchased by or on behalf of the firefighter or emergency medical technician that provides coverage in addition to any benefits or compensation required by law; or

(4) if the disease or illness for which benefits or compensation is sought is known to be caused by the use of tobacco and:

(A) the firefighter or emergency medical technician is or has been a user of tobacco; or

(B) the firefighter's or emergency medical technician's spouse has, during the marriage, been a user of tobacco that is consumed through smoking.

(c) This subchapter does not create a cause of action.

(d) This subchapter does not enlarge or establish a right to any benefit or compensation or eligibility for any benefit or compensation.

(e) A firefighter or emergency medical technician who uses a presumption established under this subchapter is entitled only to the benefits or compensation to which the firefighter or emergency medical technician would otherwise be entitled to receive at the time the claim for benefits or compensation is filed.

(f) For purposes of this subchapter, an individual described by Section 607.051(3)(B) is considered to have been employed or compensated while the individual actively served as a volunteer firefighter. An individual who actively serves as a volunteer firefighter is one who participates in a minimum of 40 percent of the drills conducted by the individual's department and 25 percent of the fire or other emergency calls received by the department during the time that the volunteer firefighter is on call.

(g) This subchapter applies to a firefighter or emergency medical technician who provides services as an employee of an entity created by an interlocal agreement.

(h) Subsection (b)(4) only prevents the application of the presumption authorized by this subchapter and does not affect the right of a firefighter or emergency medical technician to provide proof, without the use of that presumption, that an injury or illness occurred during the course and scope of employment.

Sec. 607.053. IMMUNIZATION; SMALLPOX. (a) A firefighter or emergency medical technician is presumed to have suffered a disability or death during the course and scope of employment if the firefighter or emergency medical technician:

(1) received preventative immunization against smallpox, or another disease to which the firefighter or emergency medical technician may be exposed during the course and scope of employment and for which immunization is possible; and

(2) suffered death or total or partial disability as a result of the immunization.

(b) An immunization described by this section is considered preventative whether the immunization occurs before or after exposure to the disease for which the immunization is prescribed.

(c) A presumption established under Subsection (a) may not be rebutted by evidence that the immunization was:

(1) not required by the employer;

(2) not required by law; or

(3) received voluntarily or with the consent of the firefighter or emergency medical technician.

(d) A firefighter or emergency medical technician who suffers from smallpox that results in death or total or partial disability is presumed to have contracted the disease during the course and scope of employment as a firefighter or emergency medical technician.

Sec. 607.054. TUBERCULOSIS OR OTHER RESPIRATORY ILLNESS. A firefighter or emergency medical technician who suffers from tuberculosis, or any other disease or illness of the lungs or respiratory tract that has a statistically positive correlation with service as a firefighter or emergency medical technician, that results

in death or total or partial disability is presumed to have contracted the disease or illness during the course and scope of employment as a firefighter or emergency medical technician.

Sec. 607.055. CANCER. (a) A firefighter or emergency medical technician who suffers from cancer resulting in death or total or partial disability is presumed to have developed the cancer during the course and scope of employment as a firefighter or emergency medical technician if:

(1) the firefighter or emergency medical technician:

(A) regularly responded on the scene to calls involving fires or fire fighting; or

(B) regularly responded to an event involving the documented release of radiation or a known or suspected carcinogen while the person was employed as a firefighter or emergency medical technician; and

(2) the cancer is known to be associated with fire fighting or exposure to heat, smoke, radiation, or a known or suspected carcinogen, as described by Subsection (b).

(b) This section applies only to a type of cancer that may be caused by exposure to heat, smoke, radiation, or a known or suspected carcinogen as determined by the International Agency for Research on Cancer.

Sec. 607.056. ACUTE MYOCARDIAL INFARCTION OR STROKE. (a) A firefighter or emergency medical technician who suffers an acute myocardial infarction or stroke resulting in disability or death is presumed to have suffered the disability or death during the course and scope of employment as a firefighter or emergency medical technician if:

(1) while on duty, the firefighter or emergency medical technician:

(A) was engaged in a situation that involved nonroutine stressful or strenuous physical activity involving fire suppression, rescue, hazardous material response, emergency medical services, or other emergency response activity; or

(B) participated in a training exercise that involved nonroutine stressful or strenuous physical activity; and

(2) the acute myocardial infarction or stroke occurred while the firefighter or emergency medical technician was engaging in the activity described under Subdivision (1).

(b) For purposes of this section, "nonroutine stressful or strenuous physical activity" does not include clerical, administrative, or nonmanual activities.

Sec. 607.057. EFFECT OF PRESUMPTION. Except as provided by Section 607.052(b), a presumption established under this subchapter applies to a determination of whether a firefighter's or emergency medical technician's disability or death resulted from a disease or illness contracted in the course and scope of employment for purposes of benefits or compensation provided under another employee benefit, law, or plan, including a pension plan.

Sec. 607.058. PRESUMPTION REBUTTABLE. A presumption under Section 607.053, 607.054, 607.055, or 607.056 may be rebutted through a showing by a preponderance of the evidence that a risk factor, accident, hazard, or other cause not associated with the individual's service as a firefighter or emergency medical technician caused the individual's disease or illness.

Sec. 607.059. PROHIBITED PAYMENT. No payment shall be made to the subsequent injury fund under Section 403.007, Labor Code, for any death resulting from a disease or illness presumed to have been contracted in the course and scope of employment under this subchapter.

SECTION 4. The changes in law made by this Act apply to a claim for benefits or compensation brought on or after the effective date of this Act. A claim for benefits or compensation brought before that date is covered by the law in effect on the date the claim was made, and that law is continued in effect for that purpose.

SECTION 5. This Act takes effect September 1, 2005.

The amendment was read.

Senator Deuell moved to concur in the House amendment to **SB 310**.

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

STATEMENT OF LEGISLATIVE INTENT

Senator Deuell submitted the following statement of legislative intent for **SB 310**:

This legislation is not intended to override or qualify any on-duty presumptions that exist in statutory government employee pension plans.

DEUELL

SENATE BILL 396 WITH HOUSE AMENDMENT

Senator Seliger called **SB 396** from the President's table for consideration of the House amendment to the bill.

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

Amendment

Amend **SB 396** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED AN ACT

relating to the interagency exchange of information regarding certain offenders with special needs.

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

SECTION 1. Section 614.017(c)(1), Health and Safety Code, is amended to read as follows:

(1) "Agency" includes any of the following entities and individuals, a person with an agency relationship with one of the following entities or individuals, and a person who contracts with one or more of the following entities or individuals:

(A) the Texas Department of Criminal Justice and the Correctional Managed Health Care Committee;

(B) the Board of Pardons and Paroles;

(C) the ~~[Texas]~~ Department of State ~~[Mental]~~ Health Services ~~[and Mental Retardation]~~;

(D) the Texas Juvenile Probation Commission;

(E) the Texas Youth Commission;

(F) the Department of Assistive and Rehabilitative Services [~~Texas Rehabilitation Commission~~];

(G) the Texas Education Agency;

(H) the [~~Criminal Justice Policy Council~~];

[~~(I) the Texas Commission on Alcohol and Drug Abuse~~;

[~~(J) the~~] Commission on Jail Standards;

(I) [~~(K)~~] the [~~Texas~~] Department of Aging and Disability [~~Human~~]
Services;

(J) [~~(L) the Texas Department on Aging~~;

[~~(M) the Texas School for the Blind and Visually Impaired~~;

(K) [~~(N) the Texas Department of Health~~;

[~~(O) the Texas Commission for the Deaf and Hard of Hearing~~;

[~~(P)~~] community supervision and corrections departments;

(L) [~~(Q)~~] personal bond pretrial release offices established under Article
17.42, Code of Criminal Procedure;

(M) [~~(R)~~] local jails regulated by the Commission on Jail Standards;

(N) [~~(S)~~] a municipal or county health department;

(O) [~~(T)~~] a hospital district;

(P) [~~(U)~~] a judge of this state with jurisdiction over criminal cases; and

(Q) [~~(V)~~] an attorney who is appointed or retained to represent a special
needs offender.

SECTION 2. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2005.

The amendment was read.

Senator Seliger moved to concur in the House amendment to **SB 396**.

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

CONFERENCE COMMITTEE ON HOUSE BILL 1077

Senator Wentworth called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 1077** and moved that the request be granted.

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

The President asked if there were any motions to instruct the conference committee on **HB 1077** before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate: Senators Wentworth, Chair; Ogden, Duncan, Averitt, and Harris.

SESSION TO CONSIDER EXECUTIVE APPOINTMENTS

The President announced the time had arrived to consider executive appointments to agencies, boards, and commissions. Notice of submission of these names for consideration was given Wednesday, May 18, 2005, by Senator Lindsay.

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

The President asked if there were requests to sever nominees.

There were no requests offered.

NOMINEES CONFIRMED

The following nominees, as reported by the Committee on Nominations, were confirmed by the following vote: Yeas 31, Nays 0.

Members, Texas Department of Housing and Community Affairs Board: C. Kent Conine, Collin County; Patrick R. Gordon, El Paso County.

Members, Correctional Managed Health Care Committee: Jean M. Frazier, Bexar County; Desmar Walkes, M.D., Bastrop County.

Members, Texas Guaranteed Student Loan Corporation Board of Directors: Phil Diebel, Denton County; Sade Johnson, Harris County; Jane B. Phipps, Bexar County; Dora Ann Verde, Bexar County.

Members, Texas Historical Commission: Earl Broussard, Jr., Travis County; Diane Bumpas, Dallas County; Donna D. Carter, Travis County; Sara Armstrong "Sarita" Hixon, Harris County; Thomas R. Phillips, Bastrop County; Marcus Warren Watson, Dallas County.

Members, State Commission on Judicial Conduct: Michael R. Fields, Harris County; Monica A. Gonzalez, Bexar County; William A. "Buck" Prewitt III, Llano County.

Member, Texas Juvenile Probation Commission: Jean Boyd, Tarrant County.

Members, Motor Vehicle Board of the Texas Department of Transportation: Mike Arismendez, Jr., Lubbock County; Jana Howden, Travis County; Cynthia Tyson Jenkins, Dallas County; Victor Thomas Vandergriff, Tarrant County.

Member, State Preservation Board: Jocelyn Levi Straus, Bexar County.

Members, Private Sector Prison Industries Oversight Authority: William B. Brod, Harris County; Suzanne Carlton Hart, Fayette County; Raymond G. Henderson, Travis County.

Presiding Officer, Product Development and Small Business Incubator Board: Mae C. Jemison, M.D., Harris County.

Members, Product Development and Small Business Incubator Board: Jose M. Amador, Hidalgo County; Michael Arlen Davis, Jr., Travis County; Richard Edward Ewing, Brazos County; Daniel Andrew Hanson, Dallas County; Neil A. Iscoe, Travis County; David Russell Margrave, Bexar County; Paul C. Maxwell, El Paso County; Harvey Rosenblum, Dallas County.

Member, State Committee of Examiners in the Fitting and Dispensing of Hearing Instruments: Sara Ann Garza, Hidalgo County.

Members, Texas State Board of Examiners of Marriage and Family Therapists: Asa Wesley Sampson, Sr., Galveston County; Beverly Walker Womack, Cherokee County.

Members, Advisory Committee to the Texas Board of Criminal Justice on Offenders with Medical or Mental Impairments: Kevin E. Haynes, Ellis County; Christopher C. Kirk, Brazos County.

Members, Task Force on Indigent Defense: Jon H. Burrows, Bell County; Knox Fitzpatrick, Dallas County; Anthony C. "Tony" Odiorne, Wichita County.

Members, Texas Board of Physical Therapy Examiners: Melinda A. Rodriguez, Bexar County; Mary Thompson, Ph.D., Collin County.

Members, Texas Southern University Board of Regents: Robert Earl Childress, Fort Bend County; Earnest Gibson III, Harris County; Belinda M. Griffin, Collin County; Harry E. Johnson, Sr., Fort Bend County.

Member, State Board of Veterinary Medical Examiners: Patrick Mike Allen, Lubbock County.

GUESTS PRESENTED

Senator West was recognized and introduced to the Senate Mike Segura, President, Munger Place Historic District Association, and Virginia McAllister, founder of Preservation Dallas.

The Senate welcomed its guests.

CONFERENCE COMMITTEE ON HOUSE BILL 747

Senator Staples called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 747** and moved that the request be granted.

The motion prevailed without objection.

The President asked if there were any motions to instruct the conference committee on **HB 747** before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate: Senators Staples, Chair; Brimer, Lindsay, Wentworth, and Shapleigh.

COMMITTEE SUBSTITUTE
SENATE BILL 774 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 774** at this time on its second reading:

CSSB 774, Relating to permitting certain military personnel entitled to receive a tuition and fee exemption to transfer the exemption to a child.

The bill was read second time.

Senator Williams offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSSB 774** (committee printing) as follows:

(1) Add a new SECTION to the bill to read as follows and renumber subsequent SECTIONS of the bill accordingly:

SECTION ____. Subchapter F, Chapter 51, Education Code, is amended by adding Section 51.3041 to read as follows:

Sec. 51.3041. AWARD OF COURSE CREDIT FOR MILITARY TRAINING.

(a) In this section, "institution of higher education" has the meaning assigned by Section 61.003.

(b) An institution of higher education shall consider, in determining whether to award to a student course credit toward a degree offered by the institution for the student's completion of certain military training:

(1) any official military record presented to the institution by the student that:

(A) describes the substance of the training completed by the student;

and

(B) verifies the student's successful completion of that training; and

(2) whether the substance of that training satisfies the purpose of the course for which the student seeks credit as described in the institution's course catalog.

(c) This section applies to a student who has completed certain military training regardless of whether the student is exempt from the payment of any dues, fee or charges under Section 54.203(a).

(2) Amend SECTION 3 of the bill to read as follows and renumber the SECTION appropriately:

SECTION ____. (a) The change in law made by this Act to Chapter 51, Education Code, 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) The change in law made by this Act to Section 54.203, Education Code, takes effect September 1, 2005.

The amendment to **CSSB 774** 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 Van de Putte and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

CSSB 774 as amended 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 774 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 774** be placed on its third reading and final passage.

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

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

HOUSE BILL 380 ON SECOND READING

Senator Armbrister moved to suspend the regular order of business to take up for consideration **HB 380** at this time on its second reading:

HB 380, Relating to oil and gas well plugging insurance policies.

The motion prevailed.

Senator Ogden asked to be recorded as "Present-not voting" 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:

Present-not voting: Ogden.

HOUSE BILL 380 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 380** be placed on its third reading and final passage.

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

Present-not voting: Ogden.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0, Present-not voting 1. (Same as previous roll call)

**COMMITTEE SUBSTITUTE
HOUSE JOINT RESOLUTION 87 ON SECOND READING**

On motion of Senator Lindsay and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHJR 87** at this time on its second reading:

CSHJR 87, Proposing a constitutional amendment relating to the membership of the State Commission on Judicial Conduct.

The resolution 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 JOINT RESOLUTION 87 ON THIRD READING**

Senator Lindsay moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHJR 87** be placed on its third reading and final passage.

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

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

**COMMITTEE SUBSTITUTE
HOUSE BILL 2438 ON SECOND READING**

Senator Armbrister moved to suspend the regular order of business to take up for consideration **CSHB 2438** at this time on its second reading:

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

The motion prevailed.

Senators Averitt, Eltife, Nelson, Shapiro, and Shapleigh asked to be recorded as voting "Nay" on suspension of the regular order of business.

The bill was read second time.

Senator Wentworth offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSHB 2438** as follows:

(1) SECTION 11 of the bill (Senate committee report), Section 1201.2055, Occupations Code, on page 3 line 31, between "department" and "that", insert "and the tax assessor collector".

(2) SECTION 11 of the bill (Senate committee report), page 3, line 35, after "department", strike "has" and insert "and the tax assessor collector have".

(3) SECTION 11 of the bill (Senate committee report), page 3, lines 37-43, strike Subsection (f) and substitute the following:

(f) If notice is provided under Subsection (d), the department in a timely manner shall note in its records that a real property election has been perfected. If notice is not provided as described by Subsection (d), the department and the tax assessor collector

shall note in their records that a real property election has not been perfected and that the home remains personal property [in the real property records of the county in which the home is located].

(4) SECTION 11 of the bill (Senate committee report), page 3, line 44, after "department", strike "notes in its" and insert "and the tax assessor collector note in their".

(5) Strike SECTION 14 of the bill (Senate committee report), and substitute the following:

SECTION 14. Subchapter E, Chapter 1201, Occupations Code, is amended by adding Section 1201.2076 to read as follows:

Sec. 1201.2076. CONVERSION FROM REAL PROPERTY TO PERSONAL PROPERTY. The department may not issue a statement of ownership and location for a manufactured home that is being converted from real property to personal property until:

(1) each lien, including a tax lien, on the home is released by the lienholder;

(2) each lienholder, including a taxing unit, gives written consent, to be placed on file with the department; or

(3) the department has inspected the home and determined that it is habitable and has notified the appropriate tax assessor collector of the conversion.

(6) Strike SECTION 15 of the bill (Senate committee report), page 4, and substitute the following:

SECTION 15. Section 1201.208(a), Occupations Code, is amended as follows:

(a) The department may not issue a statement of ownership and location for a new manufactured home installed for occupancy in this state unless the state sales and use tax and applicable ad valorem taxes have ~~has~~ been paid.

(7) SECTION 17 of the bill (Senate committee report), page 5, line 12, between "home" and "and", insert ", the tax assessor collector of the county in which the home is located,".

(8) SECTION 17 of the bill (Senate committee report), page 5, line 20, strike "freely".

(9) SECTION 17 of the bill (Senate committee report), page 5, line 21, after "home", insert "The home may not be moved without a tax receipt from the tax assessor collector of the county in which the home is located."

(10) SECTION 17 of the bill (Senate committee report), page 5, line 24, between "liens" and "on", insert ", except the tax lien,".

(11) SECTION 17 of the bill (Senate committee report), page 5, line 30, after "liens," insert "except the tax lien,".

(12) Strike SECTION 18 of the bill (Senate committee report), page 5, and substitute the following:

SECTION 18. Section 1201.219 is amended by amending Subsection (d) as follows:

(d) The department shall print on each statement of ownership and location issued under this subchapter a notice that:

(1) the statement of ownership and location does ~~may~~ not reflect the existence of a tax lien notice ~~[filed for the manufactured home after the date the statement of ownership and location was issued]~~; and

(2) information about a tax lien for which notice has been filed may be obtained from the tax assessor collector of the county in which the manufactured home is located [~~department on written request~~]."

(13) Strike SECTION 31 and SECTION 32 of the bill (Senate committee report), pages 7-8, and renumber the remaining sections accordingly.

(14) Strike SECTION 33 of the bill (Senate committee report), page 8, lines 50-55, and substitute the following:

SECTION 33. The following laws are repealed:

(1) Sections 1201.164(b), 1201.165, 1201.206(a), 1201.215, 1201.216(c) and (d), 1201.219(d), and 1201.222(b), Occupations Code; and

(2) Section 623.093(f), Transportation Code.

(15) Add the following appropriately numbered Section:

SECTION __. Section 32.03(j)(1), Tax Code, is amended as follows:

(j) For purposes of this section, unpaid taxes due a taxing unit include:

(1) all unpaid taxes and any penalty and interest due that taxing entity for: [~~a tax year preceding the current tax year;~~

(A) four years preceding the current tax year for personal property; and

(B) ten years preceding the current tax year for real property.

(16) Add the following appropriately numbered Section:

SECTION __. Section 1201.212(a), Occupations Code, is amended as follows:

(a) If the ownership of a manufactured home in this state is transferred by inheritance, devise, or bequest, by bankruptcy, receivership, judicial sale, or other involuntary divestiture of ownership, or by any other operation of law, the department shall issue a new statement of ownership and location after receiving a certified copy of:

(1) the order or bill of sale from an officer making a judicial sale;

(2) the order appointing a temporary administrator;

(3) the probate proceedings;

(4) the letters testamentary or the letters of administration; [~~or~~]

(5) if the administration of an estate is not necessary, an affidavit by all of the heirs at law showing:

(A) that administration is not necessary; and

(B) the name in which the statement of ownership and location should be issued; and [~~]~~

(6) a tax certificate showing no ad valorem taxes remain due.

The amendment to **CSHB 2438** was read and was adopted by the following vote: Yeas 15, Nays 14.

Yeas: Averitt, Eltife, Fraser, Lindsay, Nelson, Ogden, Seliger, Shapiro, Shapleigh, Staples, Van de Putte, Wentworth, West, Williams, Zaffirini.

Nays: Armbrister, Barrientos, Brimer, Carona, Deuell, Ellis, Estes, Gallegos, Harris, Hinojosa, Jackson, Lucio, Madla, Whitmire.

Absent: Duncan, Janek.

Senator Hinojosa offered the following amendment to the bill:

Floor Amendment No. 2

Amend **CSHB 2438** (Senate committee printing) as follows:

(1) Between Sections 24 and 25 of the bill (page 6, between lines 50 and 51), insert the following appropriately numbered section and renumber subsequent sections accordingly:

SECTION __. Section 1201.452(b), Occupations Code, is amended to read as follows:

(b) If the home does not have the appropriate seal or label, the person must:

(1) apply to the department for a seal; [~~and~~]

(2) pay the fee; and

(3) submit to the department a copy of any written disclosure required under

Section 1201.455(a).

(2) In Section 25 of the bill, in the heading to amended Section 1201.455, Occupations Code (page 6, line 53), between "Sec. 1204.455." and "WARRANTY", insert "WRITTEN DISCLOSURE AND".

(3) In Section 25 of the bill, in amended Section 1201.455, Occupations Code (page 6, lines 53-59), strike Subsection (a) and substitute the following:

(a) Except as otherwise provided by this subchapter, a person may not sell, exchange, or lease-purchase a used manufactured home to a consumer for use as a dwelling without providing:

(1) a written disclosure, on a form prescribed by the department, describing in detail the condition of the home and of any appliances that are included in the home; and

(2) a written warranty that the home is and will remain habitable until the 60th day after the later of the installation date or the date of the purchase agreement.

(4) Between Sections 33 and 34 of the bill (page 8, between lines 55 and 56), insert the following appropriately numbered section and renumber subsequent sections accordingly:

SECTION __. Not later than November 1, 2005, the Texas Department of Housing and Community Affairs shall prepare and make available to the public the disclosure form required by Section 1201.455(a), Occupations Code, as amended by this Act.

The amendment to **CSHB 2438** 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 Armbrister and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

CSHB 2438 as amended was passed to third reading by a viva voce vote.

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

Nays: Averitt, Shapleigh.

**COMMITTEE SUBSTITUTE
HOUSE BILL 2438 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 **CSHB 2438** be placed on its third reading and final passage.

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

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

Nays: Averitt, Shapleigh.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 2. (Same as previous roll call)

SENATE RESOLUTION 952

Senator Jackson offered the following resolution:

WHEREAS, The Faithful Fathering Initiative in Texas works to encourage, equip, and support men in becoming caring and involved fathers and to challenge fathers, stepfathers, grandfathers, and all father figures to grow in their roles as responsible parents; the organization also directs its efforts toward sensitizing families across Texas to the impact a father has on his children; and

WHEREAS, To that end, this admirable organization is partnering with Flooring America to sponsor a contest for Houston students in 1st through 12th grades to compose an essay entitled, "What My Father Means to Me"; the 2005 Flooring America Dads Becoming Heroes Essay Contest is designed to improve writing skills, stimulate a child's thinking about his or her father and the role he plays in the child's life, and to raise awareness in our communities of the importance of fathers; and

WHEREAS, The winners of this noteworthy contest were judged within each school grade level and evaluated according to how well they described the nature of their relationships with their fathers, their use of specific details and stories that demonstrated their fathers' character, the honesty, clarity, and simplicity with which they expressed their thoughts, and their overall writing skill; and

WHEREAS, Children thrive when they have a supportive and fully engaged father, and as these remarkable essays show, the importance of loving, committed relationships between fathers and their sons and daughters cannot be overestimated; now, therefore, be it

RESOLVED, That the Senate of the 79th Texas Legislature hereby congratulate the winners of the 2005 Flooring America Dads Becoming Heroes Essay Contest and commend the Faithful Fathering Initiative in Texas for its efforts in encouraging fathers in the Lone Star State to become their children's nurturers, advocates, and heroes; and, be it further

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

SR 952 was read and was adopted without objection.

GUESTS PRESENTED

Senator Jackson was recognized and introduced to the Senate winners of the 2005 Flooring America Dads Becoming Heroes Essay Contest.

The Senate welcomed its guests.

**COMMITTEE SUBSTITUTE
HOUSE BILL 167 ON SECOND READING**

On motion of Senator Jackson and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 167** at this time on its second reading:

CSHB 167, Relating to the creation and authority of municipal development districts.

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 on the passage to third reading.

**COMMITTEE SUBSTITUTE
HOUSE BILL 167 ON THIRD READING**

Senator Jackson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 167** be placed on its third reading and final passage.

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

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

HOUSE BILL 905 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 905** at this time on its second reading:

HB 905, Relating to the powers and duties of the state auditor in connection with state contracts.

The bill was read second time.

Senator Williams offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 905** (Senate committee printing) as follows:

- (1) Strike Section 2 of the bill (page 1, lines 26-33).
- (2) In Section 3 of the bill, strike the recital (page 1, lines 34-36) and substitute: "Section 2262.003(a), Government Code, is amended to read as follows:"
- (3) In Section 3 of the bill, in amended Subsection (a), Section 2262.003, Government Code (page 1, lines 45-46), strike ", under the direction of the legislative audit committee," and substitute "[~~under the direction of the legislative audit committee,~~]".

(4) In Section 3 of the bill, strike added Subdivision (3), Subsection (a), Section 2262.003, Government Code (page 1, lines 48-57), and substitute:

(3) under the direction of the legislative audit committee, an entity that is the subject of an audit or investigation by the state auditor must provide the state auditor with access to any information the state auditor considers relevant to the investigation or audit.

(5) In Section 3 of the bill, strike added Subsection (c), Section 2262.003, Government Code (page 1, lines 58-63).

(6) Renumber the Sections of the bill as appropriate.

The amendment to **HB 905** 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.

HB 905 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 905 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 905** be placed on its third reading and final passage.

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

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

HOUSE BILL 550 ON SECOND READING

On motion of Senator Seliger and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 550** at this time on its second reading:

HB 550, Relating to the preparation of and procedures related to a presentence report in a felony case.

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 550 ON THIRD READING

Senator Seliger moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 550** be placed on its third reading and final passage.

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

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

HOUSE BILL 57 ON SECOND READING

On motion of Senator Jackson and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 57** at this time on its second reading:

HB 57, Relating to the dates on which elections may be held and certain procedures involving the uniform election held in May.

The bill was read second time.

Senator Jackson offered the following committee amendment to the bill:

Committee Amendment No. 1

Amend **HB 57** as follows:

On page 4, line 24, insert new SECTION 11 as follows, and renumber subsequent sections:

"SECTION 11. When used in Section 49.103(e), Water Code, the phrase "prior statutory enactments" refers to statutory enactments occurring prior to May 25, 1995."

The amendment to **HB 57** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Committee Amendment No. 1.

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

HB 57 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 57 ON THIRD READING

Senator Jackson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 57** be placed on its third reading and final passage.

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

The bill was read third time and was passed by the following vote: Yeas 30, Nays 1.

Nays: Barrientos.

HOUSE BILL 877 ON SECOND READING

On motion of Senator Madla and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 877** at this time on its second reading:

HB 877, Relating to certain complaints and information with respect to certain child-care facilities and family homes and to procedures for certain disciplinary actions against certain child-care facilities; providing a criminal 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.

HOUSE BILL 877 ON THIRD READING

Senator Madla moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 877** be placed on its third reading and final passage.

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

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

HOUSE BILL 492 ON SECOND READING

On motion of Senator Shapleigh and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 492** at this time on its second reading:

HB 492, Relating to personal finance education as a requirement for graduation from public high school.

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 492 ON THIRD READING

Senator Shapleigh moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 492** be placed on its third reading and final passage.

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

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

**COMMITTEE SUBSTITUTE
SENATE BILL 1512 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 1512** at this time on its second reading:

CSSB 1512, Relating to the use and management of surface water resources.

The bill was read second time.

Senator Averitt offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSSB 1512** (Senate committee printing) as follows:

- (1) In the recital to SECTION 4 of the bill (page 1, line 50), strike "(7)".
- (2) In SECTION 4 of the bill, amended Section 11.002, Water Code (page 1, line 54, through page 2, line 3), strike proposed Subdivision (7).
- (3) Strike SECTION 11 of the bill (page 8, line 57, through page 9, line 4) and renumber the subsequent sections of the bill accordingly.

The amendment to **CSSB 1512** 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 1512** as follows:

On page 3, line 9, after "variety of" insert "market";

On page 7, line 7, between "users" and ";" insert ", including representatives of both manufacturing and refining sectors";

On page 7, line 58, after "science available." insert "For the Rio Grande below Fort Quitman, any uses attributable to Mexican water flows must be excluded from environmental flow regime recommendations.";

On page 8, on line 5, between "bay system." and "The basin", insert "For the Rio Grande, the basin and bay area stakeholders committee shall also consider the water accounting requirements for any international water sharing treaty, minutes, and agreements applicable to the Rio Grande and the effects on allocation of water by the Rio Grande watermaster in the middle and lower Rio Grande. The Rio Grande basin and bay expert science team may not recommend any environmental flow regime that would result in a violation of a treaty or court decision.";

On page 10, line 23, replace "1), and (e-2)" with "1), (e-2) and (e-3)";

On page 11, line 16, between "standards." and "Any", insert "(e-2)";

On page 11, line 20, strike "(e-2)" and insert "(e-3)";

On page 11, line 43, between "(e-1)" and ".", insert "and (e-2)";

On page 12, line 16, between "(a)(2)" and "must", insert "for a river basin and bay system other than the middle and lower Rio Grande";

The amendment to **CSSB 1512** 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 Senate committee printing for **CSSB 1512** as follows:

On page 15, after line 34 insert the following new Section 30 and renumber the subsequent Sections accordingly:

"SECTION 30. Section 16.053, Water Code, is amended by adding Subdivisions 10, 11 and 12 to Subsection (h).

(h)(10) The regional water planning group may amend the regional water plan after the plan has been approved by the board. Subdivisions (1)-(9) apply to an amendment to the plan in the same manner as those subdivisions apply to the plan.

(11) This subdivision applies only to an amendment to a regional water plan approved by the board. This subdivision does not apply to the adoption of a subsequent regional water plan for submission to the board as required by Subsection (i). Notwithstanding Subdivision (10), the regional water planning group may amend the plan in the manner provided by this subdivision if the executive administrator

issues a written determination that the amendment qualifies for adoption in the manner provided by this subdivision before the regional water planning group votes on adoption of the amendment. An amendment qualifies for adoption in the manner provided by this subdivision only if the amendment will not result in the overallocation of any existing or planned source of water, does not relate to a new reservoir, and will not have a significant effect on instream flows or freshwater inflows to bays and estuaries. If the executive administrator determines that an amendment qualifies for adoption in the manner provided by this subdivision, the regional water planning group may adopt the amendment at a public meeting held in accordance with Chapter 551, Government Code. The amendment must be placed on the agenda for the meeting, and notice of the meeting must be given in the manner provided by Chapter 551, Government Code, at least two weeks before the date the meeting is held. The public must be provided an opportunity to comment on the amendment at the meeting.

(12) Notwithstanding Subdivisions (10) and (11), a regional water planning group may revise a regional water plan approved by the board without complying with Subdivisions (1)-(9) or obtaining a determination from the executive administrator that the revision qualifies for adoption in the manner provided by Subdivision (11) if the revision consists only of substituting an alternative water management strategy previously evaluated in the planning process and already contained in the current regional water plan for a water management strategy recommended in the plan. The regional water planning group may adopt the revision to the regional water plan at a public meeting held in accordance with Chapter 551, Government Code."

The amendment to **CSSB 1512** 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.

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

CSSB 1512 as amended 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 1512 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 1512** be placed on its third reading and final passage.

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

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

HOUSE BILL 479 ON SECOND READING

On motion of Senator Barrientos and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 479** at this time on its second reading:

HB 479, Relating to the concurrent jurisdiction of campus peace officers commissioned by The University of Texas at Austin and law enforcement agencies of the state and political subdivisions of the state.

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 479 ON THIRD READING

Senator Barrientos moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 479** be placed on its third reading and final passage.

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

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

HOUSE BILL 26 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 26** at this time on its second reading:

HB 26, Relating to an electronic database of major state contracts and related documents.

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 26 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 26** be placed on its third reading and final passage.

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

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

**COMMITTEE SUBSTITUTE
HOUSE BILL 1095 ON SECOND READING**

On motion of Senator Deuell and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 1095** at this time on its second reading:

CSHB 1095, Relating to the offense of harassment by persons in certain correctional facilities and to creating the offense of harassment of public servant.

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 1095 ON THIRD READING**

Senator Deuell moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 1095** be placed on its third reading and final passage.

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

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

HOUSE BILL 1036 ON SECOND READING

On motion of Senator Barrientos and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 1036** at this time on its second reading:

HB 1036, Relating to conflicts of interest of policy board members of metropolitan planning organizations; providing a criminal 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.

HOUSE BILL 1036 ON THIRD READING

Senator Barrientos moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1036** be placed on its third reading and final passage.

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

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

**COMMITTEE SUBSTITUTE
SENATE BILL 1511 ON SECOND READING**

Senator Averitt moved to suspend the regular order of business to take up for consideration **CSSB 1511** at this time on its second reading:

CSSB 1511, Relating to liability for damages caused by a leak from or a malfunction or the improper operation or modification of a liquefied petroleum gas system or related equipment.

The motion prevailed.

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

The bill was read second time.

Senator Averitt offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSSB 1511** as follows:

(1) In Sec. 113.302 in SECTION 2 of the bill strike "caused, in whole or in part." and substitute "proximately caused".

(2) In Sec. 113.303 in SECTION 2 of the bill insert "including, but not limited to." after "by the fact finder for purposes".

(3) In Sec. 113.303 in SECTION 2 of the bill strike "of" before "determining whether the person knew".

The amendment to **CSSB 1511** was read and was adopted by a viva voce vote.

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

Nays: Harris.

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

CSSB 1511 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: Harris.

**COMMITTEE SUBSTITUTE
SENATE BILL 1511 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 1511** be placed on its third reading and final passage.

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

Nays: Harris.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 1. (Same as previous roll call)

**COMMITTEE SUBSTITUTE
HOUSE BILL 1170 ON SECOND READING**

On motion of Senator Shapleigh and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 1170** at this time on its second reading:

CSHB 1170, Relating to readmission to a public institution of higher education of students who withdraw to perform active military service.

The bill was read second time.

Senator Shapleigh offered the following amendment to the bill:

Floor Amendment No. 1

CSHB 1170 (committee printing) is amended by adding new SECTION 1 to the bill to read as follows and renumbering subsequent SECTIONS of the bill accordingly:

SECTION 1. Subchapter F, Chapter 51, Education Code, is amended by adding Section 51.3041 to read as follows:

Sec. 51.3041. AWARD OF COURSE CREDIT FOR MILITARY TRAINING.

(a) In this section, "institution of higher education" has the meaning assigned by Section 61.003.

(b) An institution of higher education shall consider, in determining whether to award to a student course credit toward a degree offered by the institution for the student's completion of certain military training:

(1) any official military record presented to the institution by the student that:

(A) describes the substance of the training completed by the student;
and

(B) verifies the student's successful completion of that training; and
(2) whether the substance of that training satisfies the purpose of the course for which the student seeks credit as described in the institution's course catalog.

(c) This section applies to a student who has completed certain military training and is admitted to the institution, including a student who is readmitted under Section 51.9242.

The amendment to **CSHB 1170** 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 Shapleigh and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

CSHB 1170 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.

**COMMITTEE SUBSTITUTE
HOUSE BILL 1170 ON THIRD READING**

Senator Shapleigh moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 1170** be placed on its third reading and final passage.

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

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

HOUSE BILL 1048 ON SECOND READING

On motion of Senator Seliger and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 1048** at this time on its second reading:

HB 1048, Relating to the forfeiture of contraband used or intended to be used in the commission of certain criminal offenses.

The bill was read second time.

Senator Van de Putte offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 1048** (Senate committee printing) by adding the following appropriately numbered sections to the bill and renumbering subsequent sections of the bill accordingly:

SECTION __. Subsections (b) and (c), Article 2.21, Code of Criminal Procedure, are amended to read as follows:

(b) At any time during or after a criminal proceeding, the court reporter shall release for safekeeping any firearm or contraband received as an exhibit in that proceeding to:

(1) the sheriff; or

(2) in a county with a population of 500,000 or more, the law enforcement agency that collected, seized, or took possession of the firearm or contraband or produced the firearm or contraband at the proceeding [for safekeeping any firearm or contraband received by the court as an exhibit in that proceeding].

(c) The sheriff or the law enforcement agency, as applicable, shall receive and hold the exhibits consisting of firearms or contraband and release them only to the person or persons authorized by the court in which such exhibits have been received or dispose of them as provided by Chapter 18 [of this code].

SECTION __. Article 18.09, Code of Criminal Procedure, is amended to read as follows:

Art. 18.09. SHALL SEIZE ACCUSED AND PROPERTY. When the property which the officer is directed to search for and seize is found he shall take possession of the same and carry it before the magistrate. He shall also arrest any person whom he is directed to arrest by the warrant and immediately take such person before the magistrate. For purposes of this chapter, "seizure," in the context of property, means the restraint of property, whether by physical force or by a display of an officer's authority, and includes the collection of property or the act of finding or taking possession of property.

SECTION __. Subdivision (8), Article 59.01, Code of Criminal Procedure, is amended to read as follows:

(8) "Seizure" means the restraint of property by a peace officer under Article 59.03(a) or (b) of this code, whether the officer restrains the property by physical force or by a display of the officer's authority, and includes the collection of property or the act of finding or taking possession of property.

The amendment to **HB 1048** 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 Seliger and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

HB 1048 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 1048 ON THIRD READING

Senator Seliger moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1048** be placed on its third reading and final passage.

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

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

HOUSE BILL 1165 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 1165** at this time on its second reading:

HB 1165, Relating to the employment of county traffic officers by certain counties.

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 1165 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 1165** be placed on its third reading and final passage.

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

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

HOUSE BILL 3265 ON SECOND READING

On motion of Senator Wentworth and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 3265** at this time on its second reading:

HB 3265, Relating to the declaration of a mistrial in the punishment phase of a criminal proceeding.

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 3265 ON THIRD READING

Senator Wentworth moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 3265** be placed on its third reading and final passage.

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

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

HOUSE BILL 705 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 705** at this time on its second reading:

HB 705, Relating to the disposition of seized weapons.

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 705 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 705** be placed on its third reading and final passage.

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

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

HOUSE BILL 1331 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 1331** at this time on its second reading:

HB 1331, Relating to the authority of a junior college district to contract for the provision of certain services and resources under the Interagency Cooperation Act.

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 1331 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 1331** be placed on its third reading and final passage.

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

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

HOUSE BILL 93 ON SECOND READING

On motion of Senator Janek and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 93** at this time on its second reading:

HB 93, Relating to showing the manner of death on the death certificate of an inmate of the Texas Department of Criminal Justice who is lawfully executed.

The bill was read second time.

Senator Ellis offered the following committee amendment to the bill:

Committee Amendment No. 1

Amend **HB 93** on page 1, line 11, strike "legally authorized execution" and substitute "judicially ordered execution".

The amendment to **HB 93** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Committee Amendment No. 1.

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

HB 93 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 93 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 **HB 93** be placed on its third reading and final passage.

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

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

COMMITTEE SUBSTITUTE HOUSE BILL 182 ON SECOND READING

On motion of Senator Janek and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 182** at this time on its second reading:

CSHB 182, Relating to the appeal of certain ad valorem tax determinations through binding arbitration.

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 182 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 **CSHB 182** be placed on its third reading and final passage.

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

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

AT EASE

The President at 1:48 p.m. announced the Senate would stand At Ease subject to the call of the Chair.

IN LEGISLATIVE SESSION

Senator Armbrister at 2:03 p.m. called the Senate to order as In Legislative Session.

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

On motion of Senator Ogden and by unanimous consent, Senate Rule 11.13 was suspended to grant the conference committee on **SB 1** permission to meet while the Senate is meeting today.

MESSAGE FROM THE HOUSE

HOUSE CHAMBER
Austin, Texas
May 20, 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 50, Relating to contracts between health care providers and certain health benefit plan issuers.

SB 53, Relating to the use of genetic testing information by insurers.

SB 114, Relating to the removal of a member of a junior college district board of trustees for failure to attend board meetings.

SB 143, Relating to the extension of certain deadlines for certain professionals serving on active duty in the military.

SB 144, Relating to trustees of military reservation school districts.

SB 150, Relating to authorizing measures to support efforts to attract major motor sports racing events to this state.

(Amended)

SB 171, Relating to the emergency service fee rate in certain 9-1-1 emergency communication districts.

SB 200, Relating to county authority to regulate vehicular or pedestrian gates to gated communities.

SB 212, Relating to the provision of employment services by the Texas Workforce Commission to the families of military personnel stationed in this state.

SB 241, Relating to the creation of an appellate judicial system for the Third Court of Appeals District.

SB 255, Relating to the removal of data from data processing equipment disposed of or transferred by state agencies.

SB 261, Relating to the creation of a program to educate the public on the value of health coverage and to increase public awareness of health coverage options.

(Committee Substitute)

SB 264, Relating to the authority of the Montgomery County Hospital District to issue certain bonds or incur or assume other debt.

SB 276, Relating to authorizing The University of Texas Health Science Center at Tyler to offer courses and degree programs in allied health and related fields.

SB 293, Relating to meetings between representatives of the Department of Public Safety of the State of Texas and Mexican states on transportation and truck inspection issues.

(Committee Substitute)

SB 318, Relating to creating a recognition day in remembrance of the Texian Navy.

SB 347, Relating to the appointment of an appraiser to appraise the property of a decedent's or ward's estate.

SB 381, Relating to the regulation of real estate appraisers.

SB 382, Relating to disciplinary proceedings and contested cases involving real estate appraisers and appraiser trainees.

SB 399, Relating to liability of certain individuals for certain governmental fines or penalties.

SB 433, Relating to the authorization of airport districts and the issuance of bonds and the exercise of eminent domain by the districts.

SB 436, Relating to the records of a justice of the peace.

SB 439, Relating to eviction suits in justice courts.

SB 443, Relating to the regulation of industrialized buildings.

SB 468, Relating to the depository designated by the Hunt Memorial Hospital District.

- SB 480**, Relating to the authority of a city to take certain actions with regard to certain pipelines.
- SB 500**, Relating to prices charged for the provision of health care services.
- SB 555**, Relating to requirements for certain medical treatment consent forms.
- SB 569**, Relating to meetings between representatives of the Texas Department of Transportation and Mexican states on transportation and truck inspection issues.
(Committee Substitute)
- SB 619**, Relating to the enforcement of certain standards for commercial motor vehicles.
- SB 665**, Relating to work-related exposure to a reportable disease.
- SB 668**, Relating to the authority of the board of directors of the South Randall County Hospital District to invest district funds.
- SB 672**, Relating to the Randall County Juvenile Board.
- SB 678**, Relating to the designation of part of Interstate Highway 35 as the Purple Heart Trail.
- SB 690**, Relating to the requirement to post meetings of a governmental body under the open meetings law in certain circumstances.
- SB 781**, Relating to the prosecution of certain acts that constitute the unauthorized business of insurance.
(Committee Substitute)
- SB 792**, Relating to the duties of the county attorney in Montgomery County.
- SB 804**, Relating to the liability of license deputies for sales money held in trust for the Parks and Wildlife Department.
- SB 828**, Relating to the eligibility of certain property owners to file a late notice of protest with an appraisal review board.
- SB 833**, Relating to the required use of tax increment financing to provide affordable housing in certain reinvestment zones.
(Amended)
- SB 839**, Relating to the authority of the Cow Creek Groundwater Conservation District to impose fees on certain wells.
- SB 863**, Relating to the administration of promotional examinations to certain firefighters and police officers who are members of the armed forces on active duty.
(Committee Substitute)
- SB 883**, Relating to the creation of the East Montgomery County Municipal Utility District No. 8; providing authority to impose a tax and issue bonds; granting the power of eminent domain.
- SB 884**, Relating to the creation of the East Montgomery County Municipal Utility District No. 9; providing authority to impose a tax and issue bonds; granting the power of eminent domain.

SB 885, Relating to the creation of the East Montgomery County Municipal Utility District No. 10; providing authority to impose a tax and issue bonds; granting the power of eminent domain.

SB 886, Relating to the creation of the East Montgomery County Municipal Utility District No. 11; providing authority to impose a tax and issue bonds; granting the power of eminent domain.

SB 887, Relating to the creation of the East Montgomery County Municipal Utility District No. 12; providing authority to impose a tax and issue bonds; granting the power of eminent domain.

SB 889, Relating to the creation of the East Montgomery County Municipal Utility District No. 13; providing authority to impose a tax and issue bonds; granting the power of eminent domain.

SB 891, Relating to the creation of the East Montgomery County Municipal Utility District No. 14; providing authority to impose a tax and issue bonds; granting the power of eminent domain.

SB 1017, Relating to the creation of the Lower Trinity Groundwater Conservation District; providing authority to issue bonds.

SB 1018, Relating to the extension or modification of residential restrictive covenants in certain counties.

SB 1026, Relating to hospital and medical care required to be provided by the Maverick County Hospital District.

SB 1032, Relating to the elimination of certain alternative fuels programs of this state.

SB 1193, Relating to the service areas of the Alamo Community College District and the Austin Community College District.

SB 1205, Relating to allowing the creation of multi-jurisdictional library districts; authorizing taxes and bonds.
(Committee Substitute)

SB 1214, Relating to the selection and retention of an insurance broker by certain counties; imposing an administrative penalty.
(Committee Substitute)

SB 1258, Relating to the issuance or renewal of a commercial driver's license and the expiration of a commercial driver's license or commercial driver learner's permit.

SB 1424, Relating to filing fees in a civil matter in a justice court or small claims court.

SB 1425, Relating to the filing of an affidavit of inability to pay in appealing a small claims court judgement.

SB 1434, Relating to use of money of an advanced transportation district to finance advanced transportation or mobility enhancement by a county, municipality, or local government corporation.

SB 1435, Relating to the numbering of emergency services districts converted from rural fire prevention districts.

SB 1437, Relating to emergency services district boards in districts located in more than one county.

SB 1480, Relating to the powers and duties of the Texas Veterans Commission.

SB 1485, Relating to providing that the social security number of a living person is excepted from required disclosure under the public information law and may be redacted without the necessity of requesting a decision from the attorney general.

SB 1518, Relating to validation of the creation of and certain acts taken by the Rockwall County Public Safety and Fire Assistance District.

SB 1555, Relating to taxes, assessments, and impact fees imposed on residential property by the Greater East End Management District.

SB 1587, Relating to certain foreclosure notice requirements.

SB 1713, Relating to the creation of a study commission on transportation financing.

SB 1786, Relating to the powers and duties of a navigation district or port authority.

SB 1792, Relating to the South Buda Water Control and Improvement District No. 1. (Amended)

SB 1799, Relating to the powers and duties of the Bee Groundwater Conservation District.

SB 1800, Relating to the creation of the Galveston County Municipal Utility District No. 60; providing authority to impose taxes and issue bonds; granting the power of eminent domain.

(Committee Substitute)

SB 1801, Relating to the creation of the Galveston County Municipal Utility District No. 61; providing authority to impose taxes and issue bonds; granting the power of eminent domain.

(Committee Substitute)

SB 1802, Relating to the creation of the Galveston County Municipal Utility District No. 62; providing authority to impose taxes and issue bonds; granting the power of eminent domain.

(Committee Substitute)

SB 1803, Relating to the creation of the Galveston County Municipal Utility District No. 63; providing authority to impose taxes and issue bonds; granting the power of eminent domain.

(Committee Substitute)

SB 1804, Relating to the creation of the Galveston County Municipal Utility District No. 64; providing authority to impose taxes and issue bonds; granting the power of eminent domain.

(Committee Substitute)

SB 1805, Relating to the creation of the Galveston County Management District No. 1; providing authority to levy an assessment, impose a tax, and issue bonds.
(Committee Substitute)

SB 1806, Relating to the creation of the West Ranch Management District; providing authority to impose a tax and issue a bond or similar obligation.

SB 1808, Relating to the creation of the Galveston County Municipal Utility District No. 54; providing authority to impose taxes and issue bonds; granting the power of eminent domain.
(Committee Substitute)

SB 1810, Relating to the dissolution of the Homestead Municipal Utility District, the provision of water supply services to the residents of the district's service area after dissolution, and the rates charged for water service by the City of El Paso.
(Committee Substitute)

SB 1813, Relating to the creation of the Pearland Municipal Management District No. 1; providing authority to impose an assessment, impose a tax, and issue bonds.

SB 1828, Relating to the creation of the Smiley Road Water Control and Improvement District; providing authority to impose a tax and issue bonds.
(Committee Substitute)

SB 1836, Relating to the creation of the Pflugerville Municipal Management District No. 1; providing authority to impose a tax and issue bonds.
(Committee Substitute)

SB 1847, Relating to the creation, administration, powers, duties, operation, and financing of the Duval County Groundwater Conservation District.

SB 1848, Relating to the creation, administration, powers, duties, operation, and financing of the Starr County Groundwater Conservation District.

SB 1851, Relating to the expansion of the East Medina County Special Utility District and the composition of the district's board of directors.

SB 1855, Relating to the creation of the Rockwall County Municipal Utility Districts Nos. 6, 7, 8, and 9; providing authority to impose a tax and issue bonds; granting the power of eminent domain.
(Committee Substitute)

SB 1864, Relating to the powers of the Galveston County Municipal Utility District No. 51, including powers related to the construction, maintenance, operation, and financing of roads or turnpikes.
(Committee Substitute)

SB 1865, Relating to the creation of the Galveston County Municipal Utility District No. 53; providing authority to impose a tax and issue bonds; granting the power of eminent domain.
(Committee Substitute)

SB 1882, Relating to the creation of the Galveston County Municipal Utility District No. 67; providing authority to impose a tax and issue bonds; granting the power of eminent domain.

(Committee Substitute)

SB 1884, Relating to the creation of the Harris County Municipal Utility District No. 460; providing authority to impose a tax and issue bonds; granting the power of eminent domain.

(Committee Substitute)

SB 1887, Relating to the creation of the Williamson County Municipal Utility District No. 22; providing authority to impose a tax and issue bonds; granting the power of eminent domain.

(Committee Substitute)

SCR 2, Memorializing Congress to enact legislation to provide for federal deployment of the Strategic National Stockpile within Mexico to protect United States border states.

SCR 6, Memorializing Congress to establish a domestic energy policy to ensure an adequate supply of natural gas, the appropriate infrastructure, promote greater energy efficiency, and open new areas for environmentally responsible natural gas production.

SCR 8, Designating the chuck wagon as the official vehicle of Texas.

SCR 9, Designating the cast iron Dutch oven as the official State Cooking Implement.

SCR 22, Recognizing April as Jazz Appreciation Month and honoring Jim Cullum as one of the outstanding advocates of jazz in Texas.

Respectfully,

/s/Robert Haney, Chief Clerk
House of Representatives

HOUSE BILL 2025 ON SECOND READING

On motion of Senator Fraser and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 2025** at this time on its second reading:

HB 2025, Relating to the transfer of jurisdiction over the National Museum of the Pacific War and other historical sites from the Parks and Wildlife Department to the Texas Historical Commission.

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 2025 ON THIRD READING

Senator Fraser moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2025** be placed on its third reading and final passage.

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

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

HOUSE BILL 1262 ON SECOND READING

On motion of Senator Seliger and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 1262** at this time on its second reading:

HB 1262, Relating to the collection and dissemination by the Department of Public Safety of information relating to certain threats against detention officers.

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 1262 ON THIRD READING

Senator Seliger moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1262** be placed on its third reading and final passage.

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

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

HOUSE BILL 2037 ON SECOND READING

On motion of Senator Seliger and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 2037** at this time on its second reading:

HB 2037, Relating to the seizure and disposition of property for the offense of hunting or fishing without landowner consent.

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 2037 ON THIRD READING

Senator Seliger moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2037** be placed on its third reading and final passage.

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

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

HOUSE BILL 1587 ON SECOND READING

Senator Seliger moved to suspend the regular order of business to take up for consideration **HB 1587** at this time on its second reading:

HB 1587, Relating to liability and validation issues of the Downtown Midland Management District.

The motion prevailed.

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

The bill was read second time and was passed to 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: Wentworth.

HOUSE BILL 1587 ON THIRD READING

Senator Seliger moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1587** be placed on its third reading and final passage.

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

Nays: Wentworth.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 1. (Same as previous roll call)

(Senator Brimer in Chair)

COMMITTEE SUBSTITUTE

HOUSE BILL 2481 ON SECOND READING

On motion of Senator Harris and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 2481** at this time on its second reading:

CSHB 2481, Relating to air contaminant emissions reductions, including the continuation and provisions of the Texas emissions reduction plan and the use of money currently dedicated to the Texas emissions reduction plan fund.

The bill was read second time.

Senator Shapleigh offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSHB 2481** by inserting new SECTION 1 as follows (committee printing page 1, between lines 6 and 7) and renumbering the subsequent SECTIONS accordingly:

SECTION 1. Section 382.0172(c), Health and Safety Code, is amended to read as follows:

(c) The commission may authorize or allow substitution of emissions reductions under Subsection (b) only if:

(1) reductions in emissions of one air contaminant for which the area has been designated as nonattainment are substituted for reductions in emissions of another air contaminant for which the area has been designated as nonattainment; or [~~and~~]

(2) the commission finds that the substitution will clearly result in greater health benefits for the community as a whole than would reductions in emissions at the original facility.

The amendment to **CSHB 2481** 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 **CSHB 2481** as follows:

(1) Insert the following appropriately numbered sections:

SECTION ____. Subchapter B, Chapter 382, Health and Safety Code, is amended by adding Section 382.0173 to read as follows:

Sec. 382.0173. ADOPTION OF RULES REGARDING CERTAIN STATE IMPLEMENTATION PLAN REQUIREMENTS AND STANDARDS OF PERFORMANCE FOR CERTAIN SOURCES. (a) The commission shall adopt rules to comply with Sections 110(a)(2)(D) and 111(d) of the federal Clean Air Act (42 U.S.C. Sections 7410 and 7411). In adopting the rules, at a minimum the commission shall adopt and incorporate by reference 40 C.F.R. Subparts AA through II and Subparts AAA through III of Part 96 and 40 C.F.R. Subpart HHHH of Part 60. The commission shall adopt a state implementation plan in accordance with the rules and submit the plan to the United States Environmental Protection Agency for approval according to the schedules adopted by that agency.

(b) The commission may require emissions reductions in conjunction with implementation of the rules adopted under Subsection (a) only for electric generating units. The commission shall make permanent allocations that are reflective of the allocation requirements of 40 C.F.R. Subparts AA through HH and Subparts AAA through HHH of Part 96 and 40 C.F.R. Subpart HHHH of Part 60, as applicable, at no cost to units as defined in 40 C.F.R. Section 51.123 and 60.4102 using the United States Environmental Protection Agency's allocation method as specified by Section 60.4142(a)(1)(i), as issued by that agency on May 12, 2005, or 40 C.F.R. Section 96.142(a)(1)(i), as issued by that agency on May 18, 2005, as applicable with the exception of nitrogen oxides which shall be allocated according to the additional requirements of subsection (c). The commission shall maintain a special reserve of allocations for new units commencing operation on or after January 1, 2001, as defined by 40 C.F.R. Subparts AA through HH and Subparts AAA through HHH of Part 96 and 40 C.F.R. Subpart HHHH of Part 60, as applicable with the exception of nitrogen oxides which shall be allocated according to the additional requirements of subsection (c).

(c) Additional requirements regarding NOx allocations:

(1) the commission shall maintain a special reserve of allocations for nitrogen oxide of 9.5% for new units. Beginning with the 2015 control period, units shall be considered new for each control period in which they do not have 5 years of operating data reported to the commission prior to the date of allocation for a given control period. Prior to the 2015 control period, units that commenced operation on or after January 1, 2001, will receive NOx allocations from the special reserve only.

(2) Nitrogen oxide allowances shall be established for the 2009-2014 control periods for units commencing operation before January 1, 2001, using the average of the 3 highest amounts of the unit's adjusted control period heat input for 2000 through 2004, with the adjusted control period heat input for each year calculated as follows:

(A) If the unit is coal-fired during the year, the unit's control period heat input for such year is multiplied by 90 percent;

(B) If the unit is natural gas-fired during the year, the unit's control period heat input for such year is multiplied by 50 percent; and

(C) If the unit is not subject to subparagraph (A) or (B) of this paragraph, the unit's control period heat input for such year is multiplied by 30 percent.

(3) Before the allocation date specified by EPA for the control period beginning January 1, 2016, and every five years thereafter, the commission shall adjust the baseline for all affected units using the average of the 3 highest amounts of the unit's adjusted control period heat input for periods 1 through 5 of the preceding 7 control periods, with the adjusted control period heat input for each year calculated as follows:

(A) For units commencing operation before January 1, 2001:

(i) If the unit is coal-fired during the year, the unit's control period heat input for such year is multiplied by 90 percent;

(ii) If the unit is natural gas-fired during the year, the unit's control period heat input for such year is multiplied by 50 percent; and

(iii) If the fossil fuel fired unit is not subject to (3)(A)(i) or (3)(A)(ii) of this subparagraph, the unit's control period heat input for such year is multiplied by 30 percent.

(B) For units commencing operation on or after January 1, 2001, in accordance with the formulas set forth by USEPA in 40CFR 96.142 with any corrections to this section that may be issued by USEPA prior to the allocation date.

(d) This section applies only while the federal rules cited in this section are enforceable and does not limit the authority of the commission to implement more stringent emissions control requirements.

(e) In adopting rules under Subsection (a), the commission shall incorporate any modifications to the federal rules cited in this section that result from a request for rehearing regarding those rules that is filed with the United States Environmental Protection Agency or from a petition for review of those rules that is filed with a court.

(f) The commission shall take all reasonable and appropriate steps to exclude the West Texas Region and El Paso Region, as defined by Sec. 39.264(g), Utilities Code, from any requirement under, derived from, or associated with 40 Code of Federal

Sections 51.123, 51.124 and 51.125, including filing a petition for reconsideration with the United States Environmental Protection Agency requesting that it amend 40 Code of Federal Regulations Sections 51.123, 51.124 and 51.125 to exclude such regions. The commission shall promptly amend the rules it adopts under Subsection (a) of this section to incorporate any exclusions for such regions that result from the petition required under this subsection.

The amendment to **CSHB 2481** 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 **CSHB 2481** in section one as follows:

SECTION 1. Subchapter B, Chapter 382, Health and Safety Code, is amended by adding a new Section 382.0173(g) to read as follows:

(g) The Commission shall study the availability of mercury control technology. The Commission shall also examine the timeline for implementing the reductions required under the federal rules, the cost of additional controls both to the plant owners and consumers, the fiscal impact on the state of higher levels of mercury emissions between 2005 and 2018, and consider of the impact of trading on local communities. The commission shall report is finding by September 1, 2006.

The amendment to **CSHB 2481** 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.

Senator Jackson offered the following amendment to the bill:

Floor Amendment No. 4

Amend **CSHB 2481** by striking Section 4 (page 1, lines 50-60) and inserting the following new language in the appropriately numbered section.

Section __. Section 386.102 Health and Safety Code is amended by adding the a new Subsection (e) as follows:

(e) To improve the success of the program the Commission:

(1) Shall establish cost-effective limits for grants awarded under the program to an owner or operator of a locomotive or marine vessel that are lower than the cost-effectiveness limits applied to other emissions reductions grants;

(2) Shall determine the maximum amount of reductions available from the locomotive and marine sectors and develop strategies to facilitate the maximum amount of reductions in these sectors; and

(3) Shall include in the report required by Section 386.057(b) that is due not later than December 1, 2006 an analysis of the cost-effectiveness of the grants in these sectors.

The amendment to **CSHB 2481** 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.

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

CSHB 2481 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.

**COMMITTEE SUBSTITUTE
HOUSE BILL 2481 ON THIRD READING**

Senator Harris moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 2481** be placed on its third reading and final passage.

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

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

HOUSE BILL 1382 ON SECOND READING

On motion of Senator Ellis and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 1382** at this time on its second reading:

HB 1382, Relating to notice of cancellation of a voter's registration.

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 1382 ON THIRD READING

Senator Ellis moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1382** be placed on its third reading and final passage.

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

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

HOUSE BILL 1358 ON SECOND READING

On motion of Senator Armbrister and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 1358** at this time on its second reading:

HB 1358, Relating to the jurisdiction of the Texas Commission on Environmental Quality over certain water supply or sewer service corporations.

The bill was read second time.

Senator Hinojosa offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 1358** (Senate committee printing) as follows:

(1) Between the enacting clause and SECTION 1 of the bill (page 1, between lines 11 and 12) insert the following:

ARTICLE 1. AMENDMENT TO CHAPTER 13, WATER CODE

(2) Redesignate SECTION 1 of the bill as SECTION 1.01.

(3) Strike SECTION 2 of the bill (page 1, lines 30-34) and substitute the following:

ARTICLE 2. AMENDMENT TO SUBTITLE C, TITLE 6,
SPECIAL DISTRICT LOCAL LAWS CODE

SECTION 2.01. Subtitle C, Title 6, Special District Local Laws Code, is amended by adding Chapter 7201 to read as follows:

CHAPTER 7201. LA JOYA WATER SUPPLY CORPORATION AND
LA JOYA SPECIAL UTILITY DISTRICT
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 7201.001. DEFINITIONS. In this chapter:

(1) "Corporation" means the La Joya Water Supply Corporation.

(2) "District" means the La Joya Special Utility District.

Sec. 7201.002. NATURE OF CORPORATION AND DISTRICT. (a) The corporation is a water supply corporation in Hidalgo and Starr Counties created under and operating in accordance with Chapter 67, Water Code.

(b) If confirmed at an election required by Section 7201.021, the district is a special water authority and special utility district in Hidalgo and Starr Counties created under and essential to accomplish the purposes of Section 59, Article XVI, Texas Constitution, and operating in accordance with Chapters 49 and 65, Water Code.

Sec. 7201.003. CONFIRMATION ELECTION REQUIRED. If the creation of the district is not confirmed at a confirmation and initial directors' election held before September 1, 2009, the district is not created and the corporation continues to function in accordance with this chapter.

Sec. 7201.004. APPLICABILITY OF OTHER LAW. (a) Except as otherwise provided by this chapter, Chapters 49 and 67, Water Code, apply to the corporation.

(b) On confirmation at the election under Section 7201.021, the district:

(1) is considered to be a district and a special water authority under Section 49.001(8), Water Code, created by special Act of the legislature, notwithstanding inapplicable provisions of that section; and

(2) except as otherwise provided by this chapter, has the general powers and duties provided by Chapters 49 and 65, Water Code, including those provided by Sections 49.211(a) and 65.201(a), Water Code.

Sec. 7201.005. REGULATORY CONFLICTS. (a) If a municipality asserts regulatory authority over any geographic area in the district and a municipal regulation applicable to that geographic area conflicts with a rule of the district, the regulation of the municipality prevails.

(b) This section does not apply to:

(1) rules or regulations concerning potable water quality standards; or

(2) conflicts relating to service areas or certificates issued to the corporation or district by the Texas Commission on Environmental Quality.

Sec. 7201.006. INITIAL DISTRICT TERRITORY. The boundaries of the corporation and initial boundaries of the district are coextensive with the service areas covered by Certificates of Convenience and Necessity Nos. 10559 and 20785, as recorded on the Texas Commission on Environmental Quality maps associated with those certificates.

[Sections 7201.007-7201.020 reserved for expansion]

SUBCHAPTER A1. TEMPORARY PROVISIONS

Sec. 7201.021. CONFIRMATION AND INITIAL DIRECTORS' ELECTION.

(a) On a uniform election date before September 1, 2009, the directors of the corporation shall hold an election to confirm the creation of the district and to elect nine initial directors in accordance with Section 49.103(b), Water Code.

(b) Not later than the 90th day before the confirmation election conducted in accordance with this section, the board of directors of the corporation shall adopt an election order that prescribes the qualifications for district board candidates.

(c) The ballots for a confirmation election shall be printed to permit voting for or against the proposition: "Creation of a special utility district to replace the La Joya Water Supply Corporation."

(d) The initial directors shall draw lots to determine which five of the initial directors shall serve a term of four years and which four shall serve a term of two years.

(e) The directors of the corporation, duly qualified and holding office at the time of the confirmation election, shall continue to serve until the district directors elected at the confirmation election qualify for office.

Sec. 7201.022. TRANSFER OF ASSETS; DISSOLUTION. (a) If the creation of the district is confirmed under Section 7201.021, the corporation shall transfer the assets, debts, and contractual rights and obligations of the corporation to the district and provide notices and make recordings of the transfer required by the Water Code and general law.

(b) Not later than the 30th day after the date of the transfer under Subsection (a), the board of directors of the corporation shall commence dissolution proceedings of the corporation.

(c) On dissolution of the corporation, Certificates of Convenience and Necessity Nos. 10559 and 20785 are considered to be held by the district.

(d) The board of directors of the corporation shall notify the Texas Commission on Environmental Quality of the dissolution of the corporation and the creation of the district to replace it to effect the transfer of Certificates of Convenience and Necessity Nos. 10559 and 20785 to the district.

(e) On receipt of notice under Subsection (d), the Texas Commission on Environmental Quality shall note in its records that Certificates of Convenience and Necessity Nos. 10559 and 20785 are held by the district. The Texas Commission on Environmental Quality shall, as a ministerial act, transfer the certificates to the district without further application, notice, or hearing. A person, party, or entity does not have any right of protest, objection, or administrative review of the transfer prescribed by this section.

Sec. 7201.023. EXPIRATION OF SUBCHAPTER. This subchapter expires September 1, 2010.

[Sections 7201.024-7201.050 reserved for expansion]

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 7201.051. DIRECTORS. (a) The district shall be governed by a board of not fewer than nine and not more than 11 directors, elected in accordance with Section 49.103, Water Code, notwithstanding Subsection (f)(2) of that section.

(b) The district's board of directors may add directors' positions to the ballot for a regularly scheduled election as part of the board's election order.

(c) Notwithstanding Section 65.103(b), Water Code, the directors of the district shall serve staggered, four-year terms. The term length must be clearly stated on the ballot for an election of directors.

(d) An election of directors of the corporation or the district must be held on a uniform election date as provided by Section 49.103(b), Water Code.

[Sections 7201.052-7201.100 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

Sec. 7201.101. GENERAL POWERS AND DUTIES. The district has all of the rights, powers, privileges, authority, functions, and duties provided by the general law of this state, including Chapters 49 and 65, Water Code, applicable to districts created under Section 59, Article XVI, Texas Constitution.

Sec. 7201.102. PROVISION OF SERVICE. The corporation or the district shall at all times operate and construct necessary improvements within the certificated areas established by the commission to provide uninterrupted, continuous, and adequate service to existing and future customers for water, sewer, and contract services.

Sec. 7201.103. INTERLOCAL CONTRACTS. The corporation or district and the Rio Grande Regional Water Authority may enter into a contract under which the Rio Grande Regional Water Authority may, in accordance with Chapter 791, Government Code, provide administrative or any other contract activities for or with the corporation or district. The corporation or district may enter into interlocal cooperation contracts with any public or private entity, request any necessary regulatory approval required, and charge fees and rates adequate to generate revenue sufficient to cover all expenses of the corporation or district based on cost-of-service principles.

Sec. 7201.104. ANNUAL OR SPECIAL MEETING. (a) The board of the corporation shall adopt a date for and provide reasonable notice of the annual membership meeting not later than six months before the meeting. The annual meeting shall be conducted for the purposes of:

(1) considering bylaw amendments not inconsistent with this chapter;

(2) consideration of information regarding the creation of the district to replace the corporation as prescribed in this chapter; and

(3) any other purposes authorized by law.

(b) For the purpose of an annual or special meeting that considers a bylaw amendment, the proposed amendment must be furnished to each customer in writing as a numbered, written ballot that includes the customer name and account number for the purpose of ballot counting and verification. For the purposes of corporation bylaw amendment, an amendment is adopted if:

(1) at least 30 percent of the member account holders participate in the vote;
and

(2) a majority of those participating vote in favor of the amendment.

(c) For purposes of an information meeting of members regarding membership, customers, or any other issue, there is no quorum requirement.

Sec. 7201.105. PROHIBITION ON TAX. Notwithstanding any law to the contrary, the district may not impose an ad valorem tax.

[Sections 7201.106-7201.200 reserved for expansion]

SUBCHAPTER D. OPERATING PROVISIONS

Sec. 7201.201. AUDIT OF CORPORATION OR DISTRICT. (a) Subchapter G, Chapter 49, Water Code, applies to the corporation and district.

(b) An individual licensed by the state as a certified public accountant with not less than five years of government accounting experience shall perform the audit required by Section 49.191, Water Code.

Sec. 7201.202. RECORDS OF CORPORATION OR DISTRICT. The corporation or district shall comply with all rules and regulations pertaining to records preservation, retention, and destruction promulgated by the Texas State Library and Archives Commission under Chapter 441, Government Code, as made applicable to water districts and utilities.

Sec. 7201.203. MAINTAINING NECESSARY RECORDS. The corporation or district shall maintain necessary records and follow cost-of-service principles with respect to provision of retail public water or sewer service or any other service authorized by Chapter 49 or 65, Water Code, or an interlocal contract entered into in accordance with Chapter 791, Government Code.

Sec. 7201.204. NEWSLETTER, WEBSITE, AND MEMBERSHIP INFORMATION. The corporation or district shall maintain an Internet website with current information concerning agendas, minutes, policies, monthly financial information concerning revenues and expenses, and quarterly summaries. Membership information shall be furnished to members at the annual meeting, to include summary financial information based on the preceding year's annual audit.

Sec. 7201.205. DISCONNECTION OF SERVICE AND CUSTOMER FEES. (a) The corporation or district may not disconnect service of a customer for late payment before the 31st day after the date the district notifies the customer of the overdue payment.

(b) After a disconnection caused by the customer's late payment, a district may not charge a customer a fee for restoring or reinstalling service that exceeds \$25 or twice the amount of the late payment owed, whichever is less.

Sec. 7201.206. RATES FOR SERVICES. The corporation or district, in connection with water or sewer retail public utility services, shall establish lifeline, senior citizen, or minimum consumption level rates for services. The rate impact of such services shall be allocated on the basis of costs of services to achieve conservation principles, while securing necessary reserves for the payment of operating expenses, sinking funds, principal, interest, and debt coverage factors, and any other objective established by the corporation's or district's annual budget.

Sec. 7201.207. SERVICE CONTRACT ALLOCATION OF COST AND IMMUNITY FROM CLAIMS. (a) In connection with intergovernmental, interlocal, or wholesale service contracts, including cooperative billing for any contract-based service, the corporation or district shall allocate costs of service ratably for the service, and the corporation or district shall secure indemnity from the contracting party to the extent allowed by law.

(b) The district is a governmental unit, as that term is defined by Section 101.001(3), Civil Practice and Remedies Code, and, to the fullest extent provided by law, enjoys immunity from suit and liability, consistent with general law, the Texas Tort Claims Act, Chapter 101, Civil Practice and Remedies Code, and Chapter 49, Water Code, including Section 49.066.

SECTION 2.02. (a) The legal notice of the intention to introduce this article, setting forth the general substance of this article, has been published as provided by law, and the notice and a copy of this article have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished under Section 59, Article XVI, Texas Constitution, and Chapter 313, Government Code.

(b) The governor has submitted the notice and article to the Texas Commission on Environmental Quality.

(c) The Texas Commission on Environmental Quality has filed its recommendations relating to this article with the governor, lieutenant governor, and speaker of the house of representatives within the required time.

(d) The general law relating to consent by political subdivisions to the creation of a conservation and reclamation district and the inclusion of land in the district has been complied with.

(e) All requirements of the constitution and laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this article are fulfilled and accomplished.

ARTICLE 3. EFFECTIVE DATE

SECTION 3.01. 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 **HB 1358** 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 Armbrister and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

HB 1358 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 1358 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 1358** be placed on its third reading and final passage.

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

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

**COMMITTEE SUBSTITUTE
HOUSE BILL 1835 ON SECOND READING**

Senator Armbrister moved to suspend the regular order of business to take up for consideration **CSHB 1835** at this time on its second reading:

CSHB 1835, Relating to the apportionment of municipal infrastructure costs in regard to certain property development projects.

The motion prevailed.

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

The bill was read second time.

Senator Armbrister offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSHB 1835** (Senate committee report) as follows:

(1) Amend Sec. 212.904(a) by deleting the following between "infrastructure improvements" and "by the making of dedications,":
"beyond the municipality's minimum adopted standards for on-site development"

(2) Amend Sec. 212.904(e) by inserting the following between "prevailing party" and "in an appeal": ", other than a municipality,"

(3) On page 2, lines 22, 23, and 24, strike "applies only to municipal approval of a development project that occurs on or after the effective date of this Act" and replace with "does not apply to any matter or case adjudicated under previous law"

The amendment was read.

On motion of Senator Armbrister, further consideration of **CSHB 1835** was postponed to a time certain of 3:15 p.m. today.

Question — Shall Floor Amendment No. 1 to **CSHB 1835** be adopted?

HOUSE BILL 1644 ON SECOND READING

On motion of Senator Lindsay and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 1644** at this time on its second reading:

HB 1644, Relating to the authority of a water control and improvement district or a municipal utility district to enter into a contract to convey property to another water district or water supply corporation and the authority of a conservation and reclamation district to acquire a certificate of convenience and necessity or to acquire a facility or a right to use a facility.

The bill was read second time.

Senator Armbrister offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 1644** by adding the following appropriately numbered sections to read as follows and by renumbering the subsequent sections of the bill accordingly:

SECTION _____. Subchapter L, Chapter 51, Water Code, is amended by adding Section 51.537 to read as follows:

Sec. 51.537. MUNICIPALITY'S AUTHORITY REGARDING DEFINED AREA. (a) A municipality may not annex a part of a defined area in a district that has adopted a plan for the defined area under this subchapter unless:

(1) 90 percent or more of all facilities and infrastructure described by the plan has been installed and completed; and

(2) the municipality:

(A) annexes all of the defined area that is within the municipality's extraterritorial jurisdiction; and

(B) assumes the pro rata share of the bonded indebtedness of the annexed area.

(b) After the annexation occurs:

(1) the annexed area is not eligible to be a defined area under this subchapter; and

(2) the district may not impose in the annexed area a tax authorized for a defined area under this subchapter.

SECTION _____. Subchapter J, Chapter 54, Water Code, is amended by adding Section 54.813 to read as follows:

Sec. 54.813. MUNICIPALITY'S AUTHORITY REGARDING DEFINED AREA. (a) A municipality may not annex a part of a defined area in a district that has adopted a plan for the defined area under this subchapter unless:

(1) 90 percent or more of all facilities and infrastructure described by the plan has been installed and completed; and

(2) the municipality:

(A) annexes all of the defined area that is within the municipality's extraterritorial jurisdiction; and

(B) assumes the pro rata share of the bonded indebtedness of the annexed area.

(b) After the annexation occurs:

(1) the annexed area is not eligible to be a defined area under this subchapter; and

(2) the district may not impose in the annexed area a tax authorized for a defined area under this subchapter.

SECTION _____. Sections 51.537 and 54.813, Water Code, as added by this Act, apply only to the annexation of an area:

(1) that is not included in a municipal annexation plan under Section 43.052, Local Government Code, before the effective date of this Act; and

(2) for which the first statutorily required hearing on the annexation is held on or after the effective date of this Act.

SECTION _____. Sections 51.537(b) and 54.813(b), Water Code, as added by this Act, apply only to taxes imposed for a tax year beginning on or after January 1, 2006.

The amendment to **HB 1644** 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 Lindsay and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

HB 1644 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 1644 ON THIRD READING

Senator Lindsay moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1644** be placed on its third reading and final passage.

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

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

COMMITTEE SUBSTITUTE HOUSE BILL 2048 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 2048** at this time on its second reading:

CSHB 2048, Relating to certain online services and transactions involving state agencies.

The bill was read second time.

Senator Ellis offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSHB 2048** as follows:

1. In SECTION 5 of the bill, amend Subdivision (2), Section 2054.251, Government Code, by striking committee printing page 1, lines 58-59 and substituting the following therefor:

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

2. In SECTION 15 of the bill, amend new Subsection (c), Section 531.03131, Government Code (committee printing page 4, line 68), strike "The" and substitute "To the extent resources are available, the" therefor.

The amendment to **CSHB 2048** 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 Deuell offered the following amendment to the bill:

Floor Amendment No. 2

Amend **CSHB 2048** by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION ____. (a) The commission shall not implement the redesigned integrated eligibility and benefits determination system for health and human services under Section 531.063, Government Code, as added by Chapter 198, Acts of the 78th Legislature, Regular Session, 2003, until the Texas Integrated Eligibility and Redesign System is operational for all programs with respect to which it will be used.

(b) In determining whether the Texas Integrated Eligibility and Redesign System is operational, the Health and Human Services Commission shall consider whether the system:

(1) has been fully tested and determined to be operational with respect to all programs the system is designed to serve;

(2) meets or exceeds the levels of timeliness and accuracy provided by the current automation systems that the system is designed to replace; and

(3) is capable of producing caseload and administrative data and reports in a manner as accurate and as timely as provided by the current automations systems that the system is designed to replace.

SECTION ____. If the Health and Human Services Commission determines that the Texas Integrated Eligibility and Redesign System is operational for all programs with respect to which it will be used, the executive commissioner of the commission shall submit to the governor and the presiding officers of the standing committees of the senate and house of representatives having primary jurisdiction over health and human services a report stating that the criteria specified by Section ____(b) of this Act have been met and providing evidence of that fact. If, at the time the report is submitted, the legislature is not convened in a regular or special session, the executive commissioner shall also submit the report to the Legislative Budget Board.

The amendment to **CSHB 2048** 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 Ellis and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

CSHB 2048 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.

**COMMITTEE SUBSTITUTE
HOUSE BILL 2048 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 2048** be placed on its third reading and final passage.

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

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

MESSAGE FROM THE HOUSE

HOUSE CHAMBER

Austin, Texas

May 20, 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 91, Relating to the punishment imposed on certain defendants charged with the offense of assault.

(Committee Substitute/Amended)

SB 224, Relating to the eminent domain power of certain municipal management districts.

SB 427, Relating to providing notification to a county voter registrar of the change in boundaries of a political subdivision located in the county.

(Committee Substitute/Amended)

SB 554, Relating to the liability of an ERISA-regulated employee benefit plan under certain state law.

SB 579, Relating to the eligibility of children of certain military personnel to receive Texas B-On-time loans.

SB 611, Relating to the electronic creation, transmission, and use of certain documents related to the prosecution of a criminal offense.

SB 709, Relating to the amount of a late charge or reinstatement fee under a rental-purchase agreement.

SB 812, Relating to the powers of a community center.

SB 898, Relating to tax liability for property omitted from an appraisal roll.
(Amended)

SB 945, Relating to the filing of a disclosure statement by a vendor or member of a governing body of a port authority or navigation district; imposing a penalty.
(Amended)

SB 1052, Relating to the disclosure of certain information from an early voting roster; providing a penalty.
(Amended)

SB 1131, Relating to the conveyance of a ferry by the Texas Department of Transportation to certain counties and local government corporations.
(Amended)

SB 1203, Relating to the payment of certain ad valorem tax refunds.

SB 1421, Relating to eligibility for beginning positions in certain police and fire departments.
(Amended)

SB 1469, Relating to reporting the deaths of certain individuals.

THE HOUSE HAS CONCURRED IN SENATE AMENDMENTS TO THE FOLLOWING MEASURES:

HB 1528 (non-record vote)

THE HOUSE HAS REFUSED TO CONCUR IN SENATE AMENDMENTS TO THE FOLLOWING MEASURES AND REQUESTS THE APPOINTMENT OF A CONFERENCE COMMITTEE TO ADJUST THE DIFFERENCES BETWEEN THE TWO HOUSES:

HB 55 (non-record vote)

House Conferees: Grusendorf - Chair/Allen, Ray/Brown, Betty/Hughes/King, Phil

Respectfully,

/s/Robert Haney, Chief Clerk
House of Representatives

HOUSE BILL 2374 ON SECOND READING

Senator Madla moved to suspend the regular order of business to take up for consideration **HB 2374** at this time on its second reading:

HB 2374, Relating to the retirement system for firefighters and police officers in certain municipalities.

The motion prevailed.

Senator Deuell 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: Deuell.

HOUSE BILL 2374 ON THIRD READING

Senator Madla moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2374** be placed on its third reading and final passage.

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

Nays: Deuell.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 1. (Same as previous roll call)

**COMMITTEE SUBSTITUTE
HOUSE BILL 1630 ON SECOND READING**

On motion of Senator West and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 1630** at this time on its second reading:

CSHB 1630, Relating to an excused absence from a public institution of higher education for a person called to active military service.

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 1630 ON THIRD READING**

Senator West moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 1630** be placed on its third reading and final passage.

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

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

HOUSE BILL 2322 ON SECOND READING

On motion of Senator Ellis and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 2322** at this time on its second reading:

HB 2322, Relating to the electronic administration of state funds used for voter registration.

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 2322 ON THIRD READING

Senator Ellis moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2322** be placed on its third reading and final passage.

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

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

**COMMITTEE SUBSTITUTE
HOUSE BILL 1835 ON SECOND READING**

The Presiding Officer, Senator Brimer in Chair, laid before the Senate **CSHB 1835** on its second reading. The bill had been read second time, an amendment offered, and further consideration postponed to a time certain of 3:15 p.m. today:

CSHB 1835, Relating to the apportionment of municipal infrastructure costs in regard to certain property development projects.

Question — Shall Floor Amendment No. 1 to **CSHB 1835** be adopted?

Senator Armbrister withdrew Floor Amendment No. 1.

Senator Armbrister offered the following amendment to the bill:

Floor Amendment No. 2

Amend **CSHB 1835** as follows:

On page 1, strike lines 42 through 44 (Senate committee printing), and renumber subsequent subsections appropriately.

The amendment to **CSHB 1835** 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 Armbrister and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

CSHB 1835 as amended was passed to third reading by a viva voce vote.

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

Nays: Barrientos.

**COMMITTEE SUBSTITUTE
HOUSE BILL 1835 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 **CSHB 1835** be placed on its third reading and final passage.

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

Nays: Barrientos.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 1. (Same as previous roll call)

**COMMITTEE SUBSTITUTE
SENATE BILL 1404 ON SECOND READING**

Senator Wentworth moved to suspend the regular order of business to take up for consideration **CSSB 1404** at this time on its second reading:

CSSB 1404, Relating to the reapportionment of congressional districts and the creation, function, and duties of the Texas Congressional Redistricting Commission.

The motion prevailed by the following vote: Yeas 15, Nays 7.

Yeas: Armbrister, Brimer, Ellis, Eltife, Gallegos, Harris, Hinojosa, Lindsay, Lucio, Madla, Nelson, Seliger, Shapleigh, Wentworth, Zaffirini.

Nays: Barrientos, Deuell, Estes, Fraser, Jackson, Staples, Williams.

Absent: Averitt, Carona, Duncan, Janek, Ogden, Shapiro, Van de Putte, West, Whitmire.

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: Barrientos, Deuell, Estes, Fraser, Harris, Jackson, Staples, Williams.

HOUSE BILL 2685 ON SECOND READING

On motion of Senator Madla and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 2685** at this time on its second reading:

HB 2685, Relating to the acceptance of gratuities by certain employees of the Parks and Wildlife Department.

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 2685 ON THIRD READING

Senator Madla moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2685** be placed on its third reading and final passage.

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

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

HOUSE BILL 2410 ON SECOND READING

On motion of Senator Jackson and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 2410** at this time on its second reading:

HB 2410, Relating to the membership and terms of the board of directors of the Texas Environmental Education Partnership Fund.

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 2410 ON THIRD READING

Senator Jackson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2410** be placed on its third reading and final passage.

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

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

COMMITTEE SUBSTITUTE HOUSE BILL 2614 ON SECOND READING

Senator Lucio moved to suspend the regular order of business to take up for consideration **CSHB 2614** at this time on its second reading:

CSHB 2614, Relating to the applicability of certain insurance laws to Lloyd's plans and reciprocal and interinsurance exchanges.

The motion prevailed.

Senator Deuell 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: Deuell.

COMMITTEE SUBSTITUTE HOUSE BILL 2614 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 **CSHB 2614** be placed on its third reading and final passage.

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

Nays: Deuell.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 1. (Same as previous roll call)

COMMITTEE SUBSTITUTE HOUSE BILL 1599 ON SECOND READING

On motion of Senator Lindsay and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 1599** at this time on its second reading:

CSHB 1599, Relating to certain conservation and reclamation districts' use of money received under a contract with a municipality.

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 1599 ON THIRD READING**

Senator Lindsay moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 1599** be placed on its third reading and final passage.

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

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

HOUSE BILL 1901 ON SECOND READING

Senator Williams moved to suspend the regular order of business to take up for consideration **HB 1901** at this time on its second reading:

HB 1901, Relating to the maximum reservation for certain individual projects of a portion of the state ceiling for private activity bonds.

The motion prevailed.

Senator Deuell 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: Deuell.

HOUSE BILL 1901 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 1901** be placed on its third reading and final passage.

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

Nays: Deuell.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 1. (Same as previous roll call)

**COMMITTEE SUBSTITUTE
HOUSE BILL 2902 ON SECOND READING**

On motion of Senator Fraser and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 2902** at this time on its second reading:

CSHB 2902, Relating to the maintenance and preservation of historic courthouses and records.

The bill was read second time.

Senator Fraser offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSHB 2902** (Senate committee printing) by striking SECTION 4 (page 1, line 40) and re-number existing SECTIONS accordingly.

The amendment to **CSHB 2902** 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 Fraser offered the following amendment to the bill:

Floor Amendment No. 2

Amend **CSHB 2902** (Senate committee printing) as follows:

(1) Strike the recital to SECTION 3 of the bill (page 1, lines 31 and 32) and substitute "SECTION 3. Subsections (e) and (f), Section 442.0083, Government Code, are amended to read as follows:

(2) Between the recital to SECTION 3 and amended Subsection (f), Section 442.0083, Government Code (page 1, between lines 32 and 33, insert the following:

(e) A grant for a historic courthouse project may not exceed the greater of \$6 [~~\$4~~] million or two percent of the amount appropriated for implementing the historic courthouse preservation program during the state fiscal biennium.

The amendment to **CSHB 2902** 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 Fraser and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

CSHB 2902 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.

**COMMITTEE SUBSTITUTE
HOUSE BILL 2902 ON THIRD READING**

Senator Fraser moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 2902** be placed on its third reading and final passage.

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

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

**COMMITTEE SUBSTITUTE
HOUSE BILL 2039 ON SECOND READING**

On motion of Senator Wentworth and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 2039** at this time on its second reading:

CSHB 2039, Relating to the adjudication of claims arising under written contracts with local governmental entities.

The bill was read second time.

Senator Wentworth offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSHB 2039** (Senate committee report) as follows:

(1) In SECTION 1 of the bill, Section 271.151, Local Government Code, page 1, line 20, between "bringing of an" and "arbitration proceeding", insert "authorized".

(2) In SECTION 1 of the bill, Section 271.152, Local Government Code, page 1, lines 47-48, strike "an express or implied provision of".

(3) In SECTION 1 of the bill, Section 271.152, Local Government Code, page 1, line 52, strike "an express or implied provision of".

(4) In SECTION 1 of the bill, Section 271.153, Local Government Code, page 1, line 60, strike "required to carry out" and substitute "the contractor is directed to perform by a local governmental entity in connection with".

(5) In SECTION 1 of the bill, Section 271.153, Local Government Code, page 2, line 2, between "except as" and "allowed", insert "expressly".

(6) In SECTION 1 of the bill, Section 271.154, Local Government Code, page 2, line 12, between "into the contract" and "are enforceable", insert "or incorporated by reference".

(7) In SECTION 1 of the bill, strike Section 271.157, and substitute a new Section 217.157 as follows:

Section 271.157. NO WAIVER OF IMMUNITY TO SUIT FOR TORT LIABILITY. This subchapter does not waive sovereign immunity to suit for a cause of action for a negligent or intentional tort.

(8) In SECTION 1 of the bill, Section 271.159, Local Government Code, page 2, line 33, after "fees", insert "by specific reference to this section".

(9) In SECTION 1 of the bill, add a Section 217.160 as follows:

Sec. 271.160. JOINT ENTERPRISE. A contract entered into by a local government entity is not a joint enterprise for liability purposes.

The amendment to **CSHB 2039** 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 Hinojosa offered the following amendment to the bill:

Floor Amendment No. 2

Amend **CSHB 2039** (Senate committee report) by striking SECTION 2 of the bill (page 2, lines 34-43), and substituting the following:

SECTION 2. Sections 271.152, 251.153, and 251.154, as added by this Act, apply to a claim that arises under a contract executed before the effective date of this Act only if sovereign immunity has not been waived with respect to the claim before the effective date of this Act. A claim that arises under a contract executed before the effective date of this Act and with respect to which sovereign immunity has been waived is governed by the law in effect on the date the contract was executed, and the former law is continued in effect for that purpose.

The amendment to **CSHB 2039** 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 Wentworth and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

CSHB 2039 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.

COMMITTEE SUBSTITUTE HOUSE BILL 2039 ON THIRD READING

Senator Wentworth moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 2039** be placed on its third reading and final passage.

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

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

COMMITTEE SUBSTITUTE HOUSE BILL 1747 ON SECOND READING

On motion of Senator Staples and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 1747** at this time on its second reading:

CSHB 1747, Relating to the creation of and funding for the Texas Entrepreneurship Network.

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 1747 ON THIRD READING

Senator Staples moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 1747** be placed on its third reading and final passage.

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

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

HOUSE BILL 2336 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 **HB 2336** at this time on its second reading:

HB 2336, Relating to reimbursement of certain expenses for members of the Texas Military Facilities Commission.

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 2336 ON THIRD READING

Senator Van de Putte moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2336** be placed on its third reading and final passage.

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

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

BILLS SIGNED

The Presiding Officer, Senator Brimer in Chair, announced the signing of the following enrolled bills in the presence of the Senate after the captions had been read:

HB 132, HB 150, HB 233, HB 525, HB 526, HB 571, HB 633, HB 639, HB 758, HB 769, HB 805, HB 808, HB 941, HB 950, HB 952, HB 961, HB 962, HB 1058, HB 1136, HB 1163, HB 1304, HB 1350, HB 1455, HB 1471, HB 1540, HB 1573, HB 1646, HB 1735, HB 1745, HB 1814, HB 1893, HB 1924, HB 1937, HB 2179, HB 2196, HB 2340, HB 2457, HB 2511, HB 2584, HB 2645, HB 2659, HB 2930, HB 3475.

HOUSE BILL 2465 ON SECOND READING

On motion of Senator Fraser and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 2465** at this time on its second reading:

HB 2465, Relating to a public hearing conducted by the secretary of state in regard to the question of approval of a voting system or voting system equipment for use in elections.

The bill was read second time.

Senator Shapleigh offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 2465** (Senate committee printing) as follows:

(1) Add the following appropriately numbered sections:

SECTION __. Sections 129.001(a) and (e), Election Code, are amended to read as follows:

(a) As part of the testing of the direct recording electronic voting machine equipment before its use in a particular election, the general custodian of election records shall include a specific test of each machine's logic and accuracy functions to ensure that the machine properly records, counts, and tabulates the votes. The secretary of state shall prescribe specific requirements and deadlines for testing under this subsection, including the use of a format that tests each ballot position for each precinct and ballot style.

(e) The secretary of state shall:

(1) prescribe procedures requiring the following testing methods for a voting system that uses direct recording electronic voting machines:

(A) an electronic hash code test before and after the date of an election;

(B) parallel testing of programming and equipment during the period for early voting by personal appearance and on election day; and

(C) postelection verification counts from each redundant electronic source provided by the voting system;

(2) develop guidelines for the physical and virtual security of the ballot programming and tabulation software and equipment, including the use of secured facilities and appropriate password protection protocols; and

(3) prescribe any other procedures necessary to implement this section and to ensure the orderly and proper administration of elections using direct recording electronic voting machines.

SECTION __. (a) The secretary of state shall conduct a study to evaluate the feasibility and advisability of requiring a voter verified paper audit trail for a direct recording electronic voting system. Following the study, the secretary of state shall file a written report containing findings with the speaker of the house of representatives and the lieutenant governor not later than December 1, 2006.

(b) An advisory committee shall assist and advise the secretary of state on the study and provide guidance to the secretary of state on the written report. The advisory committee consists of:

(1) three persons appointed by the speaker of the house of representatives;

(2) three persons appointed by the lieutenant governor;

(3) three persons who have broad technical competence and experience with voting systems, appointed jointly by the speaker and the lieutenant governor; and

(4) three local election officials appointed by the secretary of state.

(c) This section expires January 1, 2007.

(2) Strike SECTION 9 of the bill, on page 2, line 21, and substitute the following:

SECTION 9. (a) Except as provided by Subsection (b) of this section, this Act takes effect September 1, 2005.

(b) Section __ of this Act, amending Subsections (a) and (e), Section 129.001, Election Code, takes effect January 1, 2006.

(3) Renumber the SECTIONS of the bill as appropriate.

The amendment to **HB 2465** 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 Fraser and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

HB 2465 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 2465 ON THIRD READING

Senator Fraser moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2465** be placed on its third reading and final passage.

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

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

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 the conference committee on **HCR 98** permission to meet while the Senate is meeting today.

AT EASE

The Presiding Officer, Senator Brimer in Chair, at 4:37 p.m. announced the Senate would stand At Ease subject to the call of the Chair.

IN LEGISLATIVE SESSION

The President at 5:30 p.m. called the Senate to order as In Legislative Session.

COMMITTEE SUBSTITUTE HOUSE BILL 2702 ON SECOND READING

On motion of Senator Staples and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 2702** at this time on its second reading:

CSHB 2702, Relating to the construction, acquisition, financing, maintenance, management, operation, ownership, and control of transportation facilities and the progress, improvement, policing, and safety of transportation in this state; providing a penalty.

The bill was read second time.

Senator Staples offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSHB 2702** by striking SECTION 2.02 of the bill (committee printing, page 6, lines 23-32) and substitute the following:

SECTION 2.02. Section 201.115, Transportation Code, is amended by amending Subsections (a), (b), and (c) to read as follows:

(a) The commission may authorize the department to borrow money from any source to carry out the functions of the department.

(b) A loan under this section may be in the form of an agreement, note, contract, or other form as determined by the commission and may contain any provisions the commission considers appropriate, except:

- (1) the term of the loan may not exceed two years;
- (2) the amount of the loan, combined with any amounts outstanding on other loans under this section, may not exceed an amount that is two times the average monthly revenue deposited to the state highway fund for the 12 months preceding the month of the loan; and
- (3) the loan may not create general obligation of the state and is payable only as authorized by legislative appropriation.

(c) If the department [~~commission~~] borrows money by the issuance of notes, the notes shall be considered a state security for purposes of Chapter 1231, Government Code [~~issued in accordance with the requirements of Subchapter N, except that the maturity limitations in Subsection (b) supersede the maturity limitations in Section 201.963~~].

The amendment to **CSHB 2702** 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 **CSHB 2702**, in SECTION 2.08, amended Section 203.0521, as follows:

(1) In amended Subsection (a) (committee printing, page 8, line 15), strike "the severed" and substitute "a severed".

(2) In amended Subsection (b) (committee printing, page 8, line 23), strike "Subsection (a)" and substitute "Section 203.051, if the acquisition severs an owner's real property".

The amendment to **CSHB 2702** 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 Staples offered the following amendment to the bill:

Floor Amendment No. 3

Amend **CSHB 2702** by adding the following appropriately numbered SECTION to ARTICLE 2 of the bill and renumbering subsequent SECTIONS as appropriate:

SECTION __. Subchapter B, Chapter 222, Transportation Code, is amended by adding Section 222.035 to read as follows:

Sec. 222.035. PRIVATE ACTIVITY BONDS. (a) In this section, "private activity bond" has the meaning assigned by Section 141(a), Internal Revenue Code (26 U.S.C. Section 141(a)).

(b) If the attorney general makes a determination that the United States Congress has enacted legislation amending the Internal Revenue Code to include highway facilities or surface freight transfer facilities among the types of facilities for which private activity bonds may be used:

- (1) the determination shall be published in the Texas Register; and

(2) Subsections (d), (e), (f), and (g) take effect on the 30th day after the date on which the attorney general's determination is published in the Texas Register.

(c) The attorney general shall monitor federal legislation for purposes of this section.

(d) The department shall administer a program for private activity bonds issued for highway facilities or surface freight transfer facilities in this state.

(e) The program, at a minimum, must include a process by which the department and the Bond Review Board receive and evaluate applications for issuance of private activity bonds for highway facilities or surface freight transfer facilities.

(f) The department shall adopt rules to administer the program established under this section.

(g) To the extent that private activity bonds for highway facilities or surface freight transfer facilities are subject to the state ceiling under 26 U.S.C. Section 146, the issuance of bonds for those facilities is governed by Chapter 1372, Government Code.

The amendment to **CSHB 2702** 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.

Senator Staples offered the following amendment to the bill:

Floor Amendment No. 4

Amend **CSHB 2702** as follows:

(1) In SECTION 2.13 of the bill, amended Section 222.104, Transportation Code (committee printing page 11, between lines 48 and 49), insert the following:

(i) To the maximum extent permitted by law, the department may delegate the full responsibility for design, bidding, and construction, including oversight and inspection, to a municipality, county, regional mobility authority, or regional tollway authority with whom the department enters into an agreement under this section.

(j) An agreement under this section must provide that a municipality, county, regional mobility authority, or regional tollway authority is required to meet state design criteria, construction specifications, and contract administration procedures unless the department grants an exception.

(k) An agreement under this section should prescribe the roles and responsibilities of the parties and establish time frames for any department reviews or approvals in a manner that will, to the maximum extent possible, expedite the development of the project.

(2) Add the following appropriately numbered SECTIONS to Article 2 of the bill and renumber subsequent SECTIONS as appropriate:

SECTION 2. __. Subchapter C, Chapter 791, Government Code, is amended by adding Section 791.033 to read as follows:

Sec. 791.033. CONTRACTS TO CONSTRUCT, MAINTAIN, OR OPERATE FACILITIES ON STATE HIGHWAY SYSTEM. (a) In this section, "state highway system" means the highways in this state included in the plan providing for a system of state highways prepared under Section 201.103, Transportation Code.

(b) A local government may enter into and make payments under an agreement with another local government for the design, development, financing, construction, maintenance, operation, extension, expansion, or improvement of a toll or nontoll project or facility on the state highway system located within the boundaries of the local government or, as a continuation of the project or facility, within the boundaries of an adjacent local government.

(c) An agreement under this section must be approved by the Texas Department of Transportation.

(d) Notwithstanding Section 791.011(d), to make payments under an agreement under this section, a local government may:

(1) pledge revenue from any available source, including payments received under an agreement with the Texas Department of Transportation under Section 222.104, Transportation Code;

(2) pledge, levy, and collect taxes to the extent permitted by law; or

(3) provide for a combination of Subdivisions (1) and (2).

(e) The term of an agreement under this section may not exceed 40 years.

(f) Any election required to permit action under this section must be held in conformance with the Election Code or other law applicable to the local government.

(g) In connection with an agreement under this section, a county or municipality may exercise any of the rights and powers granted to the governing body of an issuer under Chapter 1371.

(h) This section is wholly sufficient authority for the execution of agreements, the pledge of revenues, taxes, or any combination of revenues and taxes, and the performance of other acts and procedures authorized by this section by a local government without reference to any other provision of law or any restriction or limitation contained in those provisions, except as specifically provided by this section. To the extent of any conflict or inconsistency between this section and any other law, this section shall prevail and control. A local government may use any law not in conflict with this section to the extent convenient or necessary to carry out any power or authority, expressed or implied, granted by this section.

SECTION 2. __. Subtitle I, Title 9, Government Code, is amended by adding Chapter 1479 to read as follows:

CHAPTER 1479. COUNTY BONDS FOR FACILITIES ON
STATE HIGHWAY SYSTEM

Sec. 1479.001. DEFINITION. In this chapter, "state highway system" means the highways in this state included in the plan providing for a system of state highways prepared under Section 201.103, Transportation Code.

Sec. 1479.002. AUTHORITY TO ISSUE BONDS. (a) A county may issue bonds to provide funds for the design, development, financing, construction, maintenance, operation, extension, expansion, or improvement of a toll or nontoll project or facility on the state highway system located in the county or, as a continuation of the project or facility, in an adjacent county.

(b) To provide for the payment of bonds issued under this section, a county may:

(1) pledge revenue from any available source, including payments received under an agreement with the Texas Department of Transportation under Section 222.104, Transportation Code;

(2) pledge, levy, and collect taxes subject to any constitutional limitation; or

(3) provide for a combination of Subdivisions (1) and (2).

(c) Any election required to permit action under Subsection (b) must be held in conformance with the Election Code or other law applicable to the county.

(d) A county that issues bonds under this section may exercise any of the rights and powers granted to the governing body of an issuer under Chapter 1371.

(e) A bond issued under this section must mature not later than 40 years after its date of issuance.

(f) This section is wholly sufficient authority for the issuance of bonds, the pledge of revenues, taxes, or any combination of revenues and taxes, and the performance of other acts and procedures authorized by this section by a county without reference to any other provision of law or any restriction or limitation contained in those provisions, except as specifically provided by this section. To the extent of any conflict or inconsistency between this section and any other law, this section shall prevail and control. A county may use any law not in conflict with this section to the extent convenient or necessary to carry out any power or authority, expressed or implied, granted by this section.

SECTION 2. Subchapter E, Chapter 222, Transportation Code, is amended by adding Section 222.1045 to read as follows:

Sec. 222.1045. CONTRACTS OF CERTAIN PUBLIC ENTITIES. (a) In this section, "public entity" means a municipality, county, regional mobility authority, or regional tollway authority.

(b) A public entity may contract with a private entity to act as the public entity's agent in:

(1) the design, financing, maintenance, operation, or construction, including oversight and inspection, of a toll or nontoll facility under Section 222.104(b); or

(2) the maintenance of a state highway or a portion of a state highway subject to an agreement under Section 222.104(c).

(c) A public entity shall:

(1) select a private entity under Subsection (b) on the basis of the private entity's qualifications and experience; and

(2) enter into a project development agreement with the private entity.

(d) A private entity selected shall comply with Chapter 1001, Occupations Code, and all laws related to procuring engineering services and construction bidding that are applicable to the public entity that selected the private entity.

(e) A public entity may assign the public entity's right to payment of pass-through tolls under Section 222.104(b) or (c) to the private entity.

The amendment to **CSHB 2702** 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 Staples offered the following amendment to the bill:

Floor Amendment No. 5

Amend **CSHB 2702** as follows:

(1) In SECTION 2.14, in added Section 223.208(e), Transportation Code (committee printing, page 16, line 3), strike "Notwithstanding" and substitute "In addition to such legal and equitable remedies as may be available to a party to a comprehensive development agreement, and notwithstanding".

(2) In SECTION 2.14, in added Section 223.208(e), Transportation Code (committee printing, page 16, line 8), between "make" and "payments", insert "or secure".

(3) In SECTION 2.14, in added Section 223.208(e), Transportation Code (committee printing, page 16, lines 11 to 13), strike "or to not terminate the private participant's right to operate and collect revenue from the project unless and until any applicable termination payments have been made".

(4) In SECTION 2.33, in transferred, redesignated, and amended Section 361.177, Transportation Code (committee printing, page 30, line 13), between "commission" and the semicolon, insert ", including the right of the trustee to bring actions against the commission or the department in any state court to enforce the covenants in the agreement, and the sovereign immunity of the state is waived for that purpose".

The amendment to **CSHB 2702** 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 Brimer in Chair)

Senator Staples offered the following amendment to the bill:

Floor Amendment No. 6

Amend **CSHB 2702** as follows:

(1) Strike SECTION 2.26 of the bill (committee printing, page 21, lines 40-50) and substitute the following:

SECTION 2.26. Subchapter A, Chapter 228, Transportation Code, is amended by adding Sections 228.005 and 228.0055 to read as follows:

Sec. 228.005. REVENUE OF TOLL PROJECT OR SYSTEM. Except as provided by Subchapter C, toll revenue or other revenue derived from a toll project or system that is collected or received by the department under this chapter, and a payment received by the department under a comprehensive development agreement for a toll project or system:

(1) shall be deposited in the state highway fund; and

(2) is exempt from the application of Section 403.095, Government Code.

Sec. 228.0055. USE OF CONTRACT PAYMENTS. Payments received by the department under a comprehensive development agreement may be used by the department to finance the construction, maintenance, or operation of a transportation project or air quality project in the region.

(2) In SECTION 2.32 of the bill, strike transferred, redesignated, and amended Section 228.053(f), Transportation Code (committee printing, page 24, lines 9-12), and substitute the following:

(f) The revenue and disbursements for each toll ~~[turnpike]~~ project or system shall be kept separately. The revenue from one ~~[turnpike]~~ project may not be used to pay the cost of another project except as authorized by Sections 228.0055 and 228.006 [Section 361.189].

The amendment to **CSHB 2702** 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 Staples offered the following amendment to the bill:

Floor Amendment No. 7

Amend **CSHB 2702** (committee printing) as follows:

(1) In SECTION 2.52 of the bill, in Paragraph (F) of amended Section 370.003(14), Transportation Code (page 39, line 31), between "airport" and the semicolon insert ", other than an airport that on September 1, 2005, was served by one or more air carriers engaged in scheduled interstate air transportation, as those terms were defined by 14 C.F.R. Section 1.1 on that date".

(2) Add the following appropriately numbered SECTIONS to Article 2 of the bill and renumber subsequent SECTIONS of Article 2 accordingly:

SECTION 2. __. Section 370.177(i), Transportation Code, is amended to read as follows:

(i) In the prosecution of an offense under this section, proof that the vehicle passed through a toll collection facility without payment of the proper toll together with proof that the defendant was the registered owner or the driver of the vehicle when the failure to pay occurred, establishes the nonpayment of the registered owner. The proof may be by testimony of a peace officer or authority employee, video surveillance, or any other reasonable evidence, including evidence obtained by automated enforcement technology that the authority determines is necessary, including automated enforcement technology described by Sections 228.058(a) and (b).

SECTION 2. __. Section 370.178, Transportation Code, is amended by adding Subsection (d) to read as follows:

(d) Transponder customer account information, including contact and payment information and trip data, is confidential and not subject to disclosure under Chapter 552, Government Code.

SECTION 2. __. Sections 370.251(c) and (d), Transportation Code, are amended to read as follows:

(c) If permitted under the constitution of this state, directors [Directors] serve staggered six-year terms, with the terms of no more than one-third of the directors expiring on February 1 of each odd-numbered year. If six-year terms are not permitted under the constitution, directors serve two-year terms, with the terms of not more than one-half of the directors expiring on February 1 of each year.

(d) If six-year terms are permitted under the constitution of this state, one [One] director appointed to the initial board of an authority by the commissioners court of a county shall be designated by the court to serve a term of two years and one director designated to serve a term of four years. If six-year terms are not permitted under the constitution, one director appointed to the initial board of an authority by the commissioners court of a county shall be designated by the court to serve a term of one year and one director designated to serve a term of two years. If one or more directors are subsequently appointed to the board, the directors other than the subsequent appointees shall determine the length of the appointees' terms, to comply with Subsection (c).

SECTION 2. __. Section 370.252, Transportation Code, is amended by adding Subsection (f) to read as follows:

(f) In addition to the prohibitions and restrictions of this section, directors are subject to Chapter 171, Local Government Code.

SECTION 2. __. Section 370.262(a), Transportation Code, is amended to read as follows:

(a) Chapter 551, Government Code, does not prohibit any open or closed meeting of the board, a committee of the board, or the staff, or any combination of the board or staff, from being held by telephone conference call. The board may hold an open or closed meeting by telephone conference call subject to the requirements of Sections 551.125(c)-(f), Government Code, but is not subject to the requirements of Subsection (b) of that section.

The amendment to **CSHB 2702** 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. 7.

Senator Staples offered the following amendment to the bill:

Floor Amendment No. 8

Amend **CSHB 2702** by adding the following SECTIONS and renumber subsequent SECTIONS accordingly:

SECTION __. Section 455.0015(c) and (d), Transportation Code, as added by Section 2.127, Chapter 198, Acts of the 78th Legislature, Regular Session, 2003, is amended to read as follows:

(c) The [~~Texas Department of Health and the~~] Health and Human Services Commission shall contract with the department for the department to deliver public [assume all responsibilities of the Texas Department of Health and the Health and Human Services Commission relating to the provision of] transportation services to [for] clients of eligible programs, except that the department shall not assume responsibility for client case review, case management, or coordination or authorization of benefits. [The department shall hold at least one public hearing to solicit the views of the public concerning the transition of transportation services to the department under this subsection and shall meet with and consider the views of interested persons, including persons representing transportation clients.]

(d) Each health and human service agency and the Texas Workforce Commission shall maximize the availability of federal funding for transportation. If federal funding or supplemental rebate revenue is received by a health and human service agency or by the Texas Workforce Commission, that agency shall reimburse the department from those federal funds or supplemental rebate revenue in an amount equal to the ratio between total state funding on associated transportation expenditures and total state funding on all functions with which the federal funds or supplemental rebate revenue is associated.

(e) ~~[(d)]~~ The department may contract with any public or private transportation provider or with any regional transportation broker for the provision of public transportation services.

SECTION __. Section 461.012(g), Health and Safety Code, is amended to read as follows:

(g) The commission shall contract with the Texas Department of Transportation for the Texas Department of Transportation to deliver public transportation services to ~~[assume all responsibilities of the commission relating to the provision of transportation services for]~~ clients of eligible programs, except that the Texas Department of Transportation shall not assume responsibility for client case review, case management, or coordination or authorization of benefits.

SECTION __. Section 533.012(b), Health and Safety Code, are amended to read as follows:

(b) The department shall contract with the Texas Department of Transportation for the Texas Department of Transportation to deliver public transportation services to ~~[assume all responsibilities of the department relating to the provision of transportation services for]~~ clients of eligible programs, except that the Texas Department of Transportation shall not assume responsibility for client case review, case management, or coordination or authorization of benefits.

SECTION __. Amend Section 22.001, Human Resources Code, as added by Section 2.129, Chapter 198, Acts of the 78th Legislature, Regular Session, 2003, by amending subsection (e) to read as follows:

(e) The department shall contract with the Texas Department of Transportation for the Texas Department of Transportation to deliver public transportation services to ~~[assume all responsibilities of the department relating to the provision of transportation services for]~~ clients of eligible programs, except that the Texas Department of Transportation shall not assume responsibility for client case review, case management, or coordination or authorization of benefits.

SECTION __. Section 40.002(f), Human Resources Code, is amended to read as follows:

(f) The department may contract with the Texas Department of Transportation for the Texas Department of Transportation to deliver public transportation services to ~~[assume all responsibilities of the department relating to the provision of transportation services for]~~ clients of eligible programs, except that the Texas Department of Transportation shall not assume responsibility for client case review, case management, or coordination or authorization of benefits.

SECTION __. Section 91.021(g), Human Resources Code, is amended to read as follows:

(g) The commission shall contract with the Texas Department of Transportation for the Texas Department of Transportation to deliver public transportation services to ~~[assume all responsibilities of the department relating to the provision of transportation services for]~~ clients of eligible programs, except that the Texas Department of Transportation shall not assume responsibility for client case review, case management, or coordination or authorization of benefits.

SECTION __. Section 101.0256(b), Human Resources Code, is amended to read as follows:

(b) The department shall contract with the Texas Department of Transportation for the Texas Department of Transportation to deliver public transportation services to ~~[assume all responsibilities of the department relating to the provision of transportation services for]~~ clients of eligible programs, except that the Texas Department of Transportation shall not assume responsibility for client case review, case management, or coordination or authorization of benefits.

SECTION __. Section 111.0525(d), Human Resources Code, is amended to read as follows:

(d) The commission shall contract with the Texas Department of Transportation for the Texas Department of Transportation to deliver public transportation services to ~~[assume all responsibilities of the department relating to the provision of transportation services for]~~ clients of eligible programs, except that the Texas Department of Transportation shall not assume responsibility for client case review, case management, or coordination or authorization of benefits.

SECTION __. Section 301.063(f), Labor Code, is amended to read as follows:

(f) The commission shall contract with the Texas Department of Transportation for the Texas Department of Transportation to deliver public transportation services to ~~[assume all responsibilities of the commission relating to the provision of transportation services for]~~ clients of eligible programs, except that the Texas Department of Transportation shall not assume responsibility for client case review, case management, or coordination or authorization of benefits.

SECTION __. The following laws are repealed:

(1) Sections 13.02, Chapter 1325, Acts of the 78th Legislature, Regular Session, 2003; and

(2) Chapter 459, Transportation Code.

The amendment to **CSHB 2702** 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 Staples offered the following amendment to the bill:

Floor Amendment No. 9

Amend **CSHB 2702** by adding the following SECTION to the bill, and renumber subsequent SECTIONS accordingly:

SECTION __. Section 455.004, Transportation Code, is amended by amending Subsections (a) and (b) to read as follows:

(a) A public transportation advisory committee consisting of 11 ~~[nine]~~ members shall:

(1) advise the commission on the needs and problems of the state's public transportation providers, including the methods for allocating state public transportation money;

(2) comment on rules involving public transportation during development of the rules and before the commission finally adopts the rules unless an emergency requires immediate commission action;

(3) advise the commission on the implementation of Chapter 461; and

(4) perform any other duty determined by the commission.

(b) The commission shall appoint members of the advisory committee. The membership of the committee shall include:

(1) four members who represent a diverse cross-section of public transportation providers;

(2) three members who represent a diverse cross-section of transportation users; ~~and~~

(3) one member with experience in the administration of health and human services programs; and

(4) ~~(3)~~ three ~~two~~ members who represent the general public.

The amendment to **CSHB 2702** 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. 9.

Senator Staples offered the following amendment to the bill:

Floor Amendment No. 10

Amend **CSHB 2702** in SECTION 3.03 of the bill (page 48, lines 55-57) by striking proposed Subsection (d) of Section 2205.032, Government Code, and substituting the following:

(d) This section does not apply to aircraft owned or operated by:

(1) the Department of Public Safety or the Parks and Wildlife Department that are used for law enforcement purposes;

(2) the Texas Department of Criminal Justice that are used for criminal justice purposes; or

(3) The University of Texas System.

The amendment to **CSHB 2702** 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. 10.

Senator Barrientos offered the following amendment to the bill:

Floor Amendment No. 11

Amend **CSHB 2702** by adding the following appropriately numbered SECTION to ARTICLE 1 of the bill and renumbering subsequent SECTIONS accordingly:

SECTION __. Section 91.001, Transportation Code, is amended by amending Subdivision (6) and adding Subdivision (13) to read as follows:

(6) "Rail facility" means real or personal property, or any interest in that property, that is determined to be necessary or convenient for the provision of a freight or passenger rail facility or system, including commuter rail, intercity rail, ~~and~~

high-speed rail, and tri-track. The term includes all property or interests necessary or convenient for the acquiring, providing, using, or equipping of a rail facility or system, including rights-of-way, trackwork, train controls, stations, and maintenance facilities.

(13) "Tri-track" means a triangular monorail beam guideway:

(A) constructed at a grade above surface modes of transportation;

(B) for use by dual-mode vehicles capable of using the guideway or a highway; and

(C) with entrances accessible from and exits accessible to highways.

The amendment to **CSHB 2702** 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. 11.

Senator Barrientos offered the following amendment to the bill:

Floor Amendment No. 12

Amend **CSHB 2702** as follows:

(1) Strike SECTION 1.03 of the bill (committee printing, page 5, lines 1-17) and substitute the following:

SECTION 1.03. Section 91.071, Transportation Code, is amended by amending Subsection (b) and adding Subsection (c) to read as follows:

(b) Each fiscal year, the total amount disbursed by the department from the state highway fund to implement this chapter may not exceed \$50 [~~\$12.5~~] million. This subsection does not apply to:

(1) the acquisition of abandoned rail facilities described in Section 91.007;

(2) funding derived from the issuance of bonds, private investment, and donations;

(3) federal funds:

(A) from the Federal Railroad Administration; [;]

(B) from the Federal Transit Administration;

(C) apportioned under 23 U.S.C. Section 104(b)(2) for the congestion mitigation and air quality improvement program; [;] or

(D) authorized and designated [~~appropriated~~] by the United States Congress, or authorized and appropriated by the United States Congress for a specific project;

(4) state matching funds for a federal rail project;

(5) [~~(4)~~] grants awarded by the governor from the Texas Enterprise Fund;
and

(6) [~~(5)~~] grading and bed preparation.

(c) In this section, "private investment" includes concession fees paid to the department and payments to the department under lease agreements and comprehensive development agreements.

(2) Strike SECTION 2.23 of the bill (committee printing, page 19, lines 15-27) and substitute the following:

SECTION 2.23. Section 227.062, Transportation Code, is amended by amending Subsection (c) and adding Subsection (h) to read as follows:

(c) Each fiscal year, the total amount disbursed by the department out of state and federal funds shall not exceed \$50 [~~\$25~~] million for the construction or purchase of non-highway facilities on the Trans-Texas Corridor. This subsection does not apply to:

(1) funds derived from the issuance of bonds, private investment, and donations; [7]

(2) federal funds from the Federal Transit Administration[7] or the Federal Railroad Administration;

(3) funds apportioned under 23 U.S.C. 104(b)(2) for the congestion mitigation and air quality improvement program;

(4) funds authorized and designated by the United States Congress, or authorized and appropriated by the United States Congress for a specific project;

(5) state matching funds for a federal rail project; [~~This subsection also does not apply to:~~]

(6) [~~4~~] activities that are subject to the limitation in Subsection (a); and

(7) [~~2~~] activities described in Subsection (b)(1).

(h) In this section, "private investment" includes concession fees paid to the department and payments to the department under lease agreements and comprehensive development agreements.

The amendment to **CSHB 2702** 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. 12.

Senator Shapiro offered the following amendment to the bill:

Floor Amendment No. 13

Amend **CSHB 2702** (Senate committee printing) by adding the following appropriately numbered SECTIONS to Article 1 of the bill and renumbering subsequent SECTIONS of Article 1 as appropriate:

SECTION _____. Effective October 1, 2005, Article 6445, Revised Statutes, is amended to read as follows:

Art. 6445. POWER AND AUTHORITY. (a) Power and authority are hereby conferred upon the Texas Department of Transportation [~~Railroad Commission of Texas~~] over all railroads, and suburban, belt and terminal railroads, and over all public wharves, docks, piers, elevators, warehouses, sheds, tracks and other property used in connection therewith in this State, and over all persons, associations and corporations, private or municipal, owning or operating such railroad, wharf, dock, pier, elevator, warehouse, shed, track or other property to fix, and it is hereby made the duty of the said department [~~Commission~~] to adopt all necessary rates, charges and regulations, to govern and regulate such railroads, persons, associations and corporations, and to correct abuses and prevent unjust discrimination in the rates, charges and tolls of such railroads, persons, associations and corporations, and to fix division of rates, charges and regulations between railroads and other utilities and common carriers where a division is proper and correct, and to prevent any and all other abuses in the conduct of their business and to do and perform such other duties and details in connection therewith as may be provided by law.

(b) All powers and duties of the Railroad Commission of Texas that relate to railroads and the regulation of railroads are transferred to the Texas Department of Transportation.

(c) A reference in law to the Railroad Commission of Texas that relates to railroads and the regulation of railroads means the Texas Department of Transportation.

SECTION _____. Effective October 1, 2005, Subchapter A, Chapter 81, Natural Resources Code, is amended by adding Section 81.002 to read as follows:

Sec. 81.002. TEXAS ENERGY COMMISSION. (a) The Railroad Commission of Texas is renamed the Texas Energy Commission.

(b) Except as provided by Subsection (c), Article 6445, Revised Statutes, a reference in law to the Railroad Commission of Texas means the Texas Energy Commission.

(c) The Texas Energy Commission is the successor agency to the Railroad Commission of Texas under Section 30(b), Article XVI, Texas Constitution.

SECTION _____. (a) Effective October 1, 2005:

(1) the name of the Railroad Commission of Texas is changed to the Texas Energy Commission;

(2) all powers, duties, obligations, rights, contracts, leases, records, assets, property, funds, and appropriations of the Railroad Commission of Texas:

(A) that do not primarily relate to railroads and the regulation of railroads are the powers, duties, obligations, rights, contracts, leases, records, assets, property, funds, and appropriations of the Texas Energy Commission; and

(B) that primarily relate to railroads and the regulation of railroads are the powers, duties, obligations, rights, contracts, leases, records, assets, property, funds, and appropriations of the Texas Department of Transportation;

(3) all rules, policies, forms, procedures, and decisions of the Railroad Commission of Texas:

(A) that do not relate primarily to railroads and the regulation of railroads are continued in effect as rules, policies, forms, procedures, and decisions of the Texas Energy Commission until superseded by a rule or other appropriate action of the Texas Energy Commission; and

(B) that relate primarily to railroads and the regulation of railroads are continued in effect as rules, policies, forms, procedures, and decisions of the Texas Department of Transportation until superseded by a rule or other appropriate action of the Texas Department of Transportation;

(4) all full-time employees of the Railroad Commission of Texas:

(A) who do not primarily perform functions related to railroads and the regulation of railroads become employees of the Texas Energy Commission; and

(B) who primarily perform functions related to railroads and the regulation of railroads become employees of the Texas Department of Transportation;

(5) any investigation, complaint, action, contested case, or other proceeding involving the Railroad Commission of Texas that:

(A) does not relate primarily to railroads and the regulation of railroads is transferred without change in status to the Texas Energy Commission, and the Texas Energy Commission assumes, without a change in status, the position of the

Railroad Commission of Texas in any investigation, complaint, action, contested case, or other proceeding that does not relate primarily to railroads and the regulation of railroads involving the Railroad Commission of Texas; and

(B) relates primarily to railroads and the regulation of railroads is transferred without change in status to the Texas Department of Transportation, and the Texas Department of Transportation assumes, without a change in status, the position of the Railroad Commission of Texas in any investigation, complaint, action, contested case, or other proceeding that relates primarily to railroads and the regulation of railroads involving the Railroad Commission of Texas; and

(6) a member of the Railroad Commission of Texas is a member of the Texas Energy Commission.

(b) The Railroad Commission of Texas shall adopt a timetable for phasing in the change of the agency's name so as to minimize the fiscal impact of the name change. Until October 1, 2005, to allow for phasing in the change of the agency's name and in accordance with the timetable established as required by this section, the agency may perform any act authorized by law for the Railroad Commission of Texas as the Railroad Commission of Texas or as the Texas Energy Commission. Any act of the Railroad Commission of Texas acting as the Texas Energy Commission after the effective date of this Act and before October 1, 2005, is an act of the Railroad Commission of Texas.

(c) The transfer of the powers and duties of the Railroad Commission of Texas that relate primarily to railroads and the regulation of railroads to the Texas Department of Transportation does not affect the validity of a right, privilege, or obligation accrued, a contract or acquisition made, any liability incurred, a permit or license issued, a penalty, forfeiture, or punishment assessed, a rule adopted, a proceeding, investigation, or remedy begun, a decision made, or other action taken by or in connection with the Railroad Commission of Texas.

SECTION _____. As soon as possible after the effective date of this article but before October 1, 2005, the Railroad Commission of Texas shall determine and report to the Texas Department of Transportation on:

(1) which obligations, contracts, records, assets, and property of the Railroad Commission of Texas relate primarily to railroads and the regulation of railroads; and

(2) which employees of the Railroad Commission of Texas perform duties that relate primarily to railroads and the regulation of railroads.

The amendment to **CSHB 2702** 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. 13.

Senator Shapiro offered the following amendment to the bill:

Floor Amendment No. 14

Amend **CSHB 2702** by adding the following appropriately numbered sections of the bill and renumbering subsequent SECTIONS accordingly:

SECTION _____. Section 201.113, Transportation Code, is amended by adding Subsection (c) to read as follows:

(c) An agreement entered into under this section may provide that an improvement of a portion of the state highway system by a regional tollway authority is governed by the provisions of Chapter 366 applicable to the performance of the same function for a turnpike project under that chapter and the rules and procedures adopted by the regional tollway authority under that chapter, in lieu of the laws, rules, or procedures applicable to the department for the performance of the same function.

SECTION _____. Section 361.301, Transportation Code, is amended to read as follows:

Sec. 361.301. AGREEMENTS WITH PUBLIC ~~[OR PRIVATE]~~ ENTITIES ~~[TO CONSTRUCT, MAINTAIN, REPAIR, AND OPERATE TURNPIKE PROJECTS].~~

(a) ~~The [Notwithstanding Section 361.231 and Subchapter A, Chapter 2254, Government Code, the]~~ department may enter into an agreement with a public ~~[or private]~~ entity ~~[, including a toll road corporation,]~~ to permit the entity, independently or jointly with the department, to design, develop, finance, construct, maintain, repair, or [and] operate turnpike projects.

(b) An agreement entered into under this section with a regional tollway authority governed by Chapter 366 may provide that a function described in Subsection (a) that is performed by a regional tollway authority is governed by the provisions of Chapter 366 applicable to the performance of the same function for a turnpike project under that chapter and the rules and procedures adopted by the regional tollway authority under that chapter, in lieu of the laws, rules, or procedures applicable to the department for the performance of the same function. [The department may authorize the investment of public and private money, including debt and equity participation, to finance a function described by this section.]

SECTION _____. Section 366.033, Transportation Code, is amended by amending Subsection (b) and adding Subsection (k) to read as follows:

(b) Rules adopted by the authority must be published in a newspaper with general circulation in the area in which the authority is located once each week for two consecutive weeks after adoption of the rule. The notice must contain a condensed statement of the substance of the rule and must advise that a copy of the complete text of the rule is filed in the principal office of the authority where the text may be read by any person. A rule becomes effective 10 days after the date of the second publication of the notice under this subsection [comply with the procedures in Subchapter B, Chapter 2001, Government Code, and are subject to Section 2001.038, Government Code, except that the action may be brought only in a district court of a county located in the authority].

(k) If an authority enters into a contract or agreement to design, finance, construct, operate, maintain, or perform any other function for a turnpike project, system, or improvement authorized by law on behalf of a local governmental entity, the commission, the department, a regional mobility authority, or any other entity, the contract or agreement may provide that the authority, in performing the function, is governed by the applicable provisions of this chapter and the rules and procedures adopted by the authority under this chapter, in lieu of the laws, rules, or procedures applicable to the other party for the performance of the same function.

The amendment to **CSHB 2702** 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. 14.

Senator Lindsay offered the following amendment to the bill:

Floor Amendment No. 15

Amend **CSHB 2702** by adding the following appropriately numbered SECTION and renumber subsequent SECTIONS accordingly:

"SECTION _____. Section 2262.002(b), Government Code, is amended to read as follows:

(b) This chapter does not apply to contracts of the Texas Department of Transportation that relate to highway construction or highway engineering or are subject to Section 201.112, Transportation Code."

The amendment to **CSHB 2702** 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. 15.

Senator Madla offered the following amendment to the bill:

Floor Amendment No. 16

Amend **CSHB 2702** by adding the following appropriately numbered SECTION to ARTICLE 2 of the bill and renumbering subsequent SECTIONS of the article accordingly:

SECTION ___. Subchapter B, Chapter 202, Transportation Code, is amended by adding Section 202.034 to read as follows:

Sec. 202.034. SALE OR CONVEYANCE OF BRIDGE. (a) The department shall sell or convey the part of the Presidio International Bridge owned by this state to the City of Presidio and Presidio County.

(b) A sale or conveyance under this section must comply with all state and federal rules governing the transaction.

The amendment to **CSHB 2702** 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. 16.

Senator Wentworth offered the following amendment to the bill:

Floor Amendment No. 17

Amend **CSHB 2702** (Senate committee printing) as follows:

(1) In Article 2 of the bill, strike SECTION 2.11 (page 10, lines 42-58) and substitute the following:

SECTION 2.11. Section 203.092, Transportation Code, is amended by amending Subsection (a) and adding Subsection (e) to read as follows:

(a) A utility shall make a relocation of a utility facility at the expense of this state if[~~z~~:

[~~(+)~~] relocation of the utility facility is required by:

(1) improvement of a highway in this state established by appropriate authority as part of the National System of Interstate and Defense Highways and the relocation is eligible for federal participation; [~~or~~

(2) ~~[relocation of the utility facility is required by]~~ improvement of any segment of the state highway system and the utility has a compensable property interest in the land occupied by the facility to be relocated; or

(3) any improvement, extension, or expansion of the state highway system that has been designated as or is converted to a toll project, rail facility, turnpike project, or system, as those terms are defined in any title of this code, without regard to the timing of the conversion.

(e) To the extent a utility is not reimbursed before the relocation, removal, or adjustment of a utility facility on, across, or along a toll project, rail facility, turnpike project, or system as provided by Subsection (a)(3), any entity to which the project, facility, or system is to be transferred shall reimburse the utility.

(2) In SECTION 2.33 of the bill, in transferred and amended Subsection (a), Section 361.004, Transportation Code (page 26, line 53), between "interests" and the semicolon, insert ", including the cost for reimbursement to a utility for the relocation, removal, or adjustment of a utility facility to accommodate a toll project".

(3) In SECTION 2.35 of the bill, immediately following transferred and amended Subsection (b), Section 361.282, Transportation Code (page 31, between lines 59 and 60), insert the following:

(c) To the extent a utility is not reimbursed before the relocation, removal, or adjustment of a utility facility on, across, or along a toll project or system, the governmental entity to which the toll project or system is transferred shall reimburse the utility.

(4) In SECTION 2.37 of the bill, at the end of transferred and amended Section 362.0041, Transportation Code (page 33, line 11), add the following:

To the extent a utility is not reimbursed before the relocation, removal, or adjustment of a utility facility on, across, or along a nontolled state highway, the commission shall provide for reimbursement of those costs to the utility. Methods of reimbursement may include:

(1) a single fixed payment;

(2) an intangible legal right to receive a percentage of identified revenue attributable to the applicable segment of the toll project; or

(3) any other method identified by the commission.

The amendment was read.

Senator Staples moved to table Floor Amendment No. 17.

The motion to table was lost by the following vote: Yeas 8, Nays 22.

Yeas: Duncan, Fraser, Harris, Janek, Lindsay, Ogden, Staples, Williams.

Nays: Averitt, Barrientos, Brimer, Carona, Deuell, Ellis, Eltife, Estes, Gallegos, Hinojosa, Jackson, Lucio, Madla, Nelson, Seliger, Shapiro, Shapleigh, Van de Putte, Wentworth, West, Whitmire, Zaffirini.

Absent: Armbrister.

Question recurring on the adoption of Floor Amendment No. 17 to **CSHB 2702**, the amendment was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 17.

Senator Staples offered the following amendment to the bill:

Floor Amendment No. 18

Amend **CSHB 2702** in SECTION 2.14 of the bill, in new Section 223.201(a)(3), (committee printing page 11 line 61) by striking "and" and replacing with "or".

The amendment to **CSHB 2702** 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. 18.

Senator Barrientos offered the following amendment to the bill:

Floor Amendment No. 19

Amend **CSHB 2702** as follows:

(1) In SECTION 2.14 of the bill, in added Section 223.201(a), Transportation Code (committee printing page 11, line 55), strike the semicolon and substitute "state highway".

(2) In SECTION 2.14 of the bill, in added Section 223.201(a), Transportation Code, on page 11, strike lines 56-63.

(3) In SECTION 2.14 of the bill, in added Section 223.206(a), Transportation Code (committee printing page 14, line 59) strike "or another facility described in Section 223.201(a)".

(4) In SECTION 2.14 of the bill, in added Section 223.206(b), Transportation Code (committee printing page 14, line 69), strike "or other facilities are" and substitute "is".

(5) In SECTION 2.14 of the bill, in added Section 223.206(c), Transportation Code (committee printing page 15, line 5), strike "or other facility".

(6) In SECTION 2.14 of the bill, in added Section 223.206(c), Transportation Code (committee printing page 15, line 7), strike "or other facility".

(7) In SECTION 2.14 of the bill, in added Section 223.207, Transportation Code (committee printing page 15, line 16), strike "or other facility".

The amendment to **CSHB 2702** was read and failed of adoption by the following vote: Yeas 11, Nays 20.

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

Nays: Armbrister, Averitt, Brimer, Carona, Deuell, Duncan, Eltife, Estes, Fraser, Harris, Jackson, Janek, Lindsay, Madla, Nelson, Seliger, Shapiro, Staples, Wentworth, Williams.

Senator Shapiro offered the following amendment to the bill:

Floor Amendment No. 20

Amend **CSHB 2702** (committee printing) by adding the following appropriately numbered SECTION to ARTICLE 2 of the bill and renumbering subsequent SECTIONS accordingly:

SECTION 2. __. Section 366.179, Transportation Code, is amended by adding Subsection (d) to read as follows:

(d) Transponder customer account information, including contact and payment information and trip data, is confidential and not subject to disclosure under Chapter 552, Government Code.

The amendment to **CSHB 2702** 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. 20.

Senator Lucio offered the following amendment to the bill:

Floor Amendment No. 21

Amend **CSHB 2702**, SECTION 2.54 (committee printing) as follows:

(1) On page 40, line 26 by striking the word "500,000" and inserting "105,000".

(2) On page 40, line 27 by inserting between the words "county" and "to" the following:

", within its municipal boundaries,"

The amendment to **CSHB 2702** 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. 21.

Senator Lucio offered the following amendment to the bill:

Floor Amendment No. 22

Amend **CSHB 2702** as follows:

(1) In SECTION 2.55 of the bill (committee printing page 40, lines 36 and 37), strike "(o) and (p)" and substitute "(o), (p), and (q)".

(2) In SECTION 2.55 of the bill (committee printing page 40, between lines 48 and 49), insert the following new Section 370.033(p), Transportation Code:

"(p) Prior to providing public transportation or mass transit services in the service area of any other existing transit provider, including a transit provider operating under Chapter 458, an authority must first consult with that transit provider. An authority shall ensure there is coordination of services provided by the authority and an existing transit provider, including a transit provider operating under Chapter 458. An authority is ineligible to participate in the formula or discretionary program provided by Chapter 456 unless there is no other transit provider, including a transit provider operating under Chapter 458, providing public transportation or mass transit services in the service area of the authority."

(3) In SECTION 2.55 of the bill (committee printing page 40, line 49), strike "(p)" and substitute "(q)".

The amendment to **CSHB 2702** 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. 22.

(Senator Armbrister in Chair)

Senator Barrientos offered the following amendment to the bill:

Floor Amendment No. 23

Amend **CSHB 2702** by adding the following SECTION and renumbering subsequent SECTIONS accordingly, to read as follows:

"SECTION __. Section 391.252(a), Transportation Code, is amended to read as follows:

(a) A [~~Subsequent to the effective date of this subchapter, a~~] person may not erect an off-premise sign that is adjacent to and visible from:

(1) U.S. Highway 290 between the western city limits of the city of Austin and the eastern city limits of the city of Fredericksburg;

(2) State Highway 317 between the northern city limits of the city of Belton to the southern city limits of the city of Valley Mills;

(3) State Highway 16 between the northern city limits of the city of Kerrville and Interstate Highway 20;

(4) U.S. Highway 77 between State Highway 186 and State Highway 44;

(5) U.S. Highway 281 between State Highway 186 and Interstate Highway 37;

(6) State Highway 17 between State Highway 118 and U.S. Highway 90;

(7) State Highway 67 between U.S. Highway 90 and Farm-to-Market Road 170;

(8) Farm-to-Market Road 170 between State Highway 67 and State Highway 118;

(9) State Highway 118 between Farm-to-Market Road 170 and State Highway 17;

(10) State Highway 105 between the western city limits of the city of Sour Lake to the eastern city limits of the city of Cleveland;

(11) State Highway 73 between the eastern city limits of the city of Winnie to the western city limits of the city of Port Arthur;

(12) State Highway 21 between the southern city limits of the city of College Station and U.S. Highway 290; ~~or~~

(13) a highway located in:

(A) the Sabine National Forest;

(B) the Davy Crockett National Forest; or

(C) the Sam Houston National Forest; or

(14) State Highway 130."

The amendment to **CSHB 2702** was read and failed of adoption by the following vote: Yeas 11, Nays 19.

Yeas: Barrientos, Gallegos, Hinojosa, Lindsay, Nelson, Seliger, Shapleigh, Van de Putte, Wentworth, West, Zaffirini.

Nays: Armbrister, Averitt, Brimer, Carona, Deuell, Duncan, Ellis, Eltife, Estes, Fraser, Harris, Jackson, Janek, Lucio, Madla, Ogden, Shapiro, Staples, Williams.

Absent: Whitmire.

Senator Barrientos offered the following amendment to the bill:

Floor Amendment No. 24

Amend **CSHB 2702** by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill as appropriate:

SECTION _____. (a) Chapter 391, Transportation Code, is amended by adding Subchapter J to read as follows:

SUBCHAPTER J. REGULATION OF OUTDOOR ADVERTISING ON
STATE HIGHWAY 130

Sec. 391.301. APPLICABILITY OF SUBCHAPTER. This subchapter does not limit any authority granted to the department under this chapter.

Sec. 391.302. OUTDOOR ADVERTISING PROHIBITED. (a) A person may not erect or maintain outdoor advertising that is located within 2,000 feet of the center line of the portion of State Highway 130 or the portion of any proposed route for State Highway 130 that is located in the part of the highway or route designated by the department as segment one of the construction.

(b) If a court makes a determination that Subsection (a) does not apply to certain outdoor advertising because the outdoor advertising was erected before the effective date of this section, the department by rule shall establish a procedure by which a license is required for the outdoor advertising. The procedure must include the payment of a license fee of \$100,000.

(c) A license issued under Subsection (b) is valid for one year.

(d) The department shall deposit the fee received under Subsection (b) to the credit of the Texas Mobility Fund.

(b) Subchapter J, Chapter 391, Transportation Code, as added by this Act, applies to outdoor advertising maintained on State Highway 130 or any proposed route for State Highway 130 on or after the date this Act takes effect.

The amendment was read.

Senator Barrientos withdrew Floor Amendment No. 24.

Senator Fraser offered the following amendment to the bill:

Floor Amendment No. 25

Amend **CSHB 2702** (committee printing) by adding the following appropriately numbered SECTION to ARTICLE 2 of the bill and renumbering subsequent SECTIONS accordingly:

SECTION ___. Subchapter D, Chapter 227, Transportation Code, is amended by adding Section 227.047 to read as follows:

Sec. 227.047. ALTERNATIVE ACCESS TO SEVERED PROPERTY. If the department acquires a tract for the Trans-Texas Corridor that severs an owner's real property, the department may allow the owner to build, in compliance with federal law, an alternative access between the severed tracts at a grade below the facilities constructed on the tract acquired by the department. An owner must obtain department approval of the design specifications of the alternative access.

The amendment to **CSHB 2702** 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. 25.

Senator Van de Putte offered the following amendment to the bill:

Floor Amendment No. 26

Amend **CSHB 2702** by adding the following appropriately numbered SECTIONS and renumbering subsequent SECTIONS accordingly:

SECTION __. Section 382.133, Health and Safety Code, is amended by adding Subsection (d) to read as follows:

(d) A mass transit hydrogen-fueled fleet vehicle may be used to satisfy the percentage requirement under this section.

SECTION __. Subchapter H, Chapter 201, Transportation Code, is amended by adding Section 201.617 to read as follows:

Sec. 201.617. HYDROGEN-FUELED VEHICLES AND REFUELING STATIONS. (a) The department may seek funding from public and private sources to acquire and operate hydrogen-fueled vehicles and to establish and operate hydrogen refueling stations as provided by this section.

(b) If the department secures funding under Subsection (a), the department shall establish and operate at least five hydrogen refueling stations. The refueling stations must be located in San Antonio, Austin, Dallas, El Paso, and Houston near Interstate Highway 10 or Interstate Highway 35 and must be accessible to the public.

(c) If the department secures funding under Subsection (a), the department may purchase to operate in each of the cities in Subsection (b) vehicles capable of operating using hydrogen, including, at a minimum:

(1) four vehicles with internal combustion engines that run on hydrogen;
and

(2) three fuel-cell vehicles, one internal combustion engine bus that runs on hydrogen, or one fuel-cell bus.

(d) A vehicle purchased to meet the requirements of Subsection (c) may be used to satisfy the alternative fuels percentage requirement under Subchapter A, Chapter 2158, Government Code.

(e) The department may establish hydrogen refueling stations on the Trans-Texas Corridor under Chapter 227.

(f) The department shall:

(1) ensure that data on emissions from the vehicles and refueling stations purchased under this section and from the production of hydrogen for the vehicles and refueling stations are monitored and analyzed and compared with data on emissions from control vehicles with internal combustion engines that operate on fuels other than hydrogen; and

(2) report the results of the monitoring, analysis, and comparison to the Texas Commission on Environmental Quality.

The amendment to **CSHB 2702** 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. 26.

Senator Staples offered the following amendment to the bill:

Floor Amendment No. 27

Amend **CSHB 2702** (Senate committee printing) by adding the following appropriately numbered SECTIONS to Article 2 of the bill and renumbering subsequent SECTIONS as appropriate:

SECTION __. Section 201.1055, Transportation Code, is amended to read as follows:

Sec. 201.1055. AGREEMENTS WITH PRIVATE ENTITIES. (a) Notwithstanding any other law, including Subchapter A, Chapter 2254, Government Code, Chapters 2165, 2166, and 2167, Government Code, and Sections 202.052, 202.053, 203.051, 203.052, and 223.001 of this code, the department and a private entity that offers the best value to the state may enter into an agreement for the [~~that includes~~]:

(1) acquisition, [both] design, [and] construction, or renovation, including site development, of a building or other facility required to support department operations [district office headquarters facility] located on real property owned or acquired by the department [in a county with a population of 3.3 million or more]; or

(2) acquisition from the private entity of real property, a building, or other facility required to support department operations that is constructed on the real property in exchange for department-owned real property, including any improvements [a lease of department owned real property in a district that includes a county with a population of 3.3 million or more to the private entity;

~~[(3) a provision authorizing the private entity to construct and retain ownership of a building on property leased to the entity under Subdivision (2); and~~

~~[(4) a provision under which the department agrees to enter into an agreement to lease with an option or options to purchase a building constructed on property leased to the entity under Subdivision (2)].~~

(b) A project described by this section that is not wholly paid for by an exchange of department-owned real property may be financed in accordance with Section 1232.111, Government Code.

(c) Notwithstanding Section 202.024, the commission may authorize the executive director to execute a deed exchanging department-owned real property under Subsection (a)(2).

(d) The commission shall notify the Bond Review Board and Texas Public Finance Authority of the proposed transaction not less than 45 days before the date the commission signs an agreement under this section providing for the exchange of department-owned real under Subsection (a)(2).

(e) An agreement under this section providing for the exchange of department-owned real property under Subsection (a)(2) that has an appraised value greater than the appraised value of real property and improvements acquired by the department under the agreement must require the private entity to compensate the department for the difference. Any compensation paid by a private entity must be deposited to the credit of the state highway fund and is exempt from the application of Section 403.095, Government Code.

SECTION __. Section 221.001(1), Transportation Code, is amended to read as follows:

(1) "Highway" includes a public road or part of a public road and a bridge, culvert, building, or other necessary structure related to a public road.

SECTION __. Section 2166.302, Government Code, is amended by amending Subsection (a) and adding Subsection (c) to read as follows:

(a) Except as provided by Subsections [Subsection] (b) and (c), the commission shall adopt uniform general conditions to be incorporated into all building construction contracts made by the state, including a contract for a project excluded from this chapter by Section 2166.003, but not including a contract for a project excluded from this chapter by Section 2166.004.

(c) Subsection (a) does not apply to a project constructed by and for the Texas Department of Transportation.

SECTION __. Subchapter C, Chapter 1232, Government Code, is amended by adding Section 1232.111 to read as follows:

Sec. 1232.111. CERTAIN PROJECTS BY TEXAS DEPARTMENT OF TRANSPORTATION. (a) The authority may issue and sell obligations to finance one or more projects described by Section 201.1055(a), Transportation Code. Notwithstanding Section 1232.108(2), the estimated cost of the project must be specified in the General Appropriations Act or other law.

(b) Any provision of this chapter that relates to the issuance or sale of obligations to finance the acquisition or construction of a building, including provisions relating to form, procedure, repayment, actions that may be taken to ensure that the payment of the principal of and interest on the obligations is continued without interruption, and other relevant matters, applies to the issuance or sale of obligations under this section to the extent that the provision may be appropriately made applicable.

(c) The legislature may appropriate money from any available source, including the state highway fund, to the Texas Department of Transportation to make lease payments to the authority for space occupied by the department in a building acquired or constructed under Section 201.1055(a), Transportation Code.

The amendment was read.

Senator Staples temporarily withdrew Floor Amendment No. 27.

Senator Ogden offered the following amendment to the bill:

Floor Amendment No. 28

Amend **CSHB 2702** by adding the following appropriately numbered ARTICLE and SECTIONS to the bill and renumbering subsequent ARTICLES and SECTIONS of the bill accordingly:

ARTICLE __. TEMPORARY VEHICLE TAGS

SECTION __.01. Section 501.022(d), Transportation Code, is amended to read as follows:

(d) Subsection (c) does not apply to a motor vehicle operated on a public highway in this state with a metal dealer's license plate or a dealer's or buyer's temporary [~~cardboard~~] tag attached to the vehicle as provided by Chapter 503.

SECTION __.02. Sections 503.038(a) and (c), Transportation Code, are amended to read as follows:

(a) The department may cancel a dealer's general distinguishing number if the dealer:

- (1) falsifies or forges a title document, including an affidavit making application for a certified copy of a title;
- (2) files a false or forged tax document, including a sales tax affidavit;
- (3) fails to take assignment of any basic evidence of ownership, including a certificate of title or manufacturer's certificate, for a vehicle the dealer acquires;
- (4) fails to assign any basic evidence of ownership, including a certificate of title or manufacturer's certificate, for a vehicle the dealer sells;
- (5) uses or permits the use of a metal dealer's license plate or a dealer's temporary [~~cardboard~~] tag on a vehicle that the dealer does not own or control or that is not in stock and offered for sale;
- (6) makes a material misrepresentation in an application or other information filed with the department;
- (7) fails to maintain the qualifications for a general distinguishing number;
- (8) fails to provide to the department within 30 days after the date of demand by the department satisfactory and reasonable evidence that the person is regularly and actively engaged in business as a wholesale or retail dealer;
- (9) has been licensed for at least 12 months and has not assigned at least five vehicles during the previous 12-month period;
- (10) has failed to demonstrate compliance with Sections 23.12, 23.121, and 23.122, Tax Code;
- (11) uses or allows the use of the dealer's general distinguishing number or the location for which the general distinguishing number is issued to avoid the requirements of this chapter;
- (12) misuses or allows the misuse of a temporary [~~cardboard~~] tag authorized under this chapter;
- (13) refuses to show on a buyer's temporary [~~cardboard~~] tag the date of sale or other reasonable information required by the department; or
- (14) otherwise violates this chapter or a rule adopted under this chapter.

(c) A person whose general distinguishing number is canceled under this chapter shall surrender to a representative of the department each license, license plate, temporary [~~cardboard~~] tag, sticker, and receipt issued under this chapter not later than the 10th day after the date the general distinguishing number is canceled. The department shall direct any peace officer to secure and return to the department any plate, tag, sticker, or receipt of a person who does not comply with this subsection.

SECTION __.03. Subchapter C, Chapter 503, Transportation Code, is amended by adding Section 503.0616 to read as follows:

Sec. 503.0616. TEMPORARY TAGS: TOLL ENFORCEMENT CAMERA READABILITY. A temporary tag issued under this subchapter must be designed to be readable by a toll enforcement camera system.

SECTION __.04. The heading to Section 503.062, Transportation Code, is amended to read as follows:

Sec. 503.062. DEALER'S TEMPORARY [~~CARDBOARD~~] TAGS.

SECTION __.05. Section 503.062, Transportation Code, is amended by amending Subsections (a) and (d) and adding Subsection (d-1) to read as follows:

(a) A dealer may issue a temporary [~~cardboard~~] tag, as authorized by the department, for use on a [an unregistered] vehicle by the dealer or the dealer's employees only to:

(1) demonstrate or cause to be demonstrated to a prospective buyer the vehicle for sale purposes only;

(2) convey or cause to be conveyed the vehicle:

(A) from one of the dealer's places of business in this state to another of the dealer's places of business in this state;

(B) from the dealer's place of business to a place the vehicle is to be repaired, reconditioned, or serviced;

(C) from the state line or a location in this state where the vehicle is unloaded to the dealer's place of business;

(D) from the dealer's place of business to a place of business of another dealer;

(E) from the point of purchase by the dealer to the dealer's place of business; or

(F) to road test the vehicle; or

(3) use the vehicle for or allow its use by a charitable organization.

(d) The department [~~may not issue a dealer temporary cardboard tag or contract for the issuance of a dealer temporary cardboard tag but~~] shall prescribe:

(1) the specifications, form, and color of a dealer temporary [~~cardboard~~] tag; and

(2) the period for which a tag may be used for or by a charitable organization.

(d-1) The department by rule may issue a dealer temporary tag or contract for the issuance of a dealer temporary tag. If the department issues or contracts for issuance of a dealer temporary tag, the department must do so under a plan that:

(1) provides for access to temporary tags by all dealers, without regard to whether a dealer has access to the Internet;

(2) establishes official fees for issuance of the dealer temporary tags in amounts that are reasonable and not more than necessary to allow the department to recover all costs to the department associated with the issuance or contract to issue dealer temporary tags;

(3) ensures availability of the dealer temporary tag during reasonable business hours of the dealer;

(4) provides for redundancy of processes and includes an alternate procedure when the system is not functioning, if the plan includes electronic components or the use of the Internet;

(5) provides for access to appropriate system information by any federal, state, or local agency, including the Department of Public Safety and peace officers through the established law enforcement communication network; and

(6) if a dealer has a current and valid general distinguishing number, does not restrict the dealer's ability to issue temporary tags except through the administrative contested case process.

SECTION __.06. The heading to Section 503.0625, Transportation Code, is amended to read as follows:

Sec. 503.0625. CONVERTER'S TEMPORARY [~~CARDBOARD~~] TAGS.

SECTION __.07. Section 503.0625, Transportation Code, is amended by amending Subsections (b), (e), and (f) and adding Subsection (e-1) to read as follows:

(b) A converter may issue a temporary [~~cardboard~~] tag, as authorized by the department, for use on an unregistered vehicle by the converter or the converter's employees only to:

(1) demonstrate or cause to be demonstrated to a prospective buyer who is an employee of a franchised motor vehicle dealer the vehicle; or

(2) convey or cause to be conveyed the vehicle:

(A) from one of the converter's places of business in this state to another of the converter's places of business in this state;

(B) from the converter's place of business to a place the vehicle is to be assembled, repaired, reconditioned, modified, or serviced;

(C) from the state line or a location in this state where the vehicle is unloaded to the converter's place of business;

(D) from the converter's place of business to a place of business of a franchised motor vehicle dealer; or

(E) to road test the vehicle.

(e) The department [~~may not issue a converter temporary cardboard tag or contract for the issuance of a converter temporary cardboard tag but~~] shall prescribe the specifications, form, and color of a converter temporary [~~cardboard~~] tag.

(e-1) The department by rule may issue a converter temporary tag or contract for the issuance of a converter temporary tag. If the department issues or contracts for issuance of a converter temporary tag, the department must do so under a plan that:

(1) provides for access to temporary tags by all converters, without regard to whether a converter has access to the Internet;

(2) establishes official fees for issuance of the converter temporary tags in amounts that are reasonable and not more than necessary to allow the department to recover all costs to the department associated with the issuance or contract to issue converter temporary tags;

(3) ensures availability of the converter temporary tag during reasonable business hours of the converter;

(4) provides for redundancy of processes and includes an alternate procedure when the system is not functioning, if the plan includes electronic components or the use of the Internet;

(5) provides for access to appropriate system information by any federal, state, or local agency, including the Department of Public Safety and peace officers through the established law enforcement communication network; and

(6) if a converter has a current and valid general distinguishing number, does not restrict the converter's ability to issue temporary tags except through the administrative contested case process.

(f) A converter or employee of a converter may not use a temporary [~~cardboard~~] tag issued under this section as authorization to operate a vehicle for the converter's or the employee's personal use.

SECTION __.08. The heading to Section 503.063, Transportation Code, is amended to read as follows:

Sec. 503.063. BUYER'S TEMPORARY [~~CARDBOARD~~] TAGS.

SECTION __.09. Sections 503.063(a), (b), (c), (e), and (f), Transportation Code, are amended to read as follows:

(a) At the time of delivery of a vehicle to the vehicle buyer or lessee, a dealer must issue:

(1) [~~Except as provided by this section, a dealer may issue to a person who buys an unregistered vehicle~~] one temporary [~~cardboard~~] buyer's tag for the vehicle; or

(2) if the dealer has been deputized as a deputy assessor-collector under Section 502.112, a license plate or set of plates or a device that, when attached to the vehicle as prescribed by the department, is the registration insignia for the period for which it is issued.

(b) The [~~Except as provided by this section, the~~] buyer's tag is valid for the operation of the vehicle until the earlier of:

(1) the date on which the vehicle is registered; or

(2) the 45th [~~21st~~] day after the date of purchase.

(c) The dealer[~~:~~

[~~(1) must show in ink on the buyer's tag the actual date of sale and any other required information; and~~

[~~(2)~~] is responsible for affixing [~~displaying~~] the tag to the vehicle.

(e) The department [~~may not issue a buyer's tag or contract for the issuance of a buyer's tag but~~] shall prescribe the specifications, color, and form of a buyer's tag.

(f) The department by rule may issue a buyer's tag or contract for the issuance of a buyer's tag. If the department issues or contracts for issuance of a buyer's tag, the department must do so under a plan that:

(1) provides for access to temporary tags by all dealers, without regard to whether a dealer has access to the Internet;

(2) establishes official fees for issuance of the buyer's tags in amounts that are reasonable and not more than necessary to allow the department to recover all costs to the department associated with the issuance or contract to issue buyer's tags;

(3) ensures availability of the buyer's tag during reasonable business hours of the dealer;

(4) provides for redundancy of processes and includes an alternate procedure when the system is not functioning, if the plan includes electronic components or the use of the Internet;

(5) provides for access to appropriate system information by any federal, state, or local agency, including the Department of Public Safety and peace officers through the established law enforcement communication network; and

(6) if a dealer has a current and valid general distinguishing number, does not restrict the dealer's ability to issue temporary tags except through the administrative contested case process. [~~A dealer may issue an additional temporary cardboard buyer's tag to a person after the expiration of 21 days after the issue of a temporary cardboard buyer's tag, and the person may operate the vehicle for which the tag was issued on the additional temporary cardboard buyer's tag if the dealer has~~

~~been unable to obtain on behalf of the vehicle's owner the necessary documents to obtain permanent metal license plates because the documents are in the possession of a lienholder who has not complied with the terms of Section 501.115(a) of this code. An additional tag issued under the terms of this subsection is valid for a maximum of 21 days after the date of issue.]~~

SECTION __.10. Subchapter C, Chapter 503, Transportation Code, is amended by adding Section 503.0635 to read as follows:

Sec. 503.0635. FEE FOR TEMPORARY TAG. The fee for a temporary tag under Section 503.062, 503.0625, or 503.063 is payable by the purchaser at the time of sale and may be included with the fees for registration, certificate of title, and license.

SECTION __.11. Section 503.067, Transportation Code, is amended to read as follows:

Sec. 503.067. UNAUTHORIZED REPRODUCTION OF TEMPORARY [~~CARDBOARD~~] TAGS. (a) A person other than a dealer may not produce or reproduce a buyer's or dealer's temporary [~~cardboard~~] tag.

(b) A person may not operate a vehicle that displays an unauthorized temporary [~~cardboard~~] tag.

SECTION __.12. Sections 503.068(a), (b), and (c), Transportation Code, are amended to read as follows:

(a) A dealer or an employee of a dealer may not use a dealer's temporary [~~cardboard~~] tag as authorization to operate a vehicle for the dealer's or the employee's personal use.

(b) A person may not use a metal dealer's license plate or dealer's temporary [~~cardboard~~] tag on:

- (1) a service or work vehicle; or
- (2) a commercial vehicle that is carrying a load.

(c) For purposes of this section, a boat trailer carrying a boat is not a commercial vehicle carrying a load. A dealer complying with this chapter may affix to the rear of a boat trailer the dealer owns or sells a metal dealer's license plate or temporary [~~cardboard~~] tag issued under Section 503.061, 503.062, or 503.063.

SECTION __.13. Section 503.069(a), Transportation Code, is amended to read as follows:

(a) A license plate, other than an in-transit license plate, or a temporary [~~cardboard~~] tag issued under this chapter shall be displayed in accordance with board rules.

SECTION __.14. Section 601.002(12), Transportation Code, is amended to read as follows:

(12) "Vehicle registration" means:

(A) a registration certificate, registration receipt, or number plate issued under Chapter 502; or

(B) a dealer's license plate or temporary [~~cardboard~~] tag issued under Chapter 503.

SECTION __.15. The changes in law made by this article take effect on the date the Texas Department of Transportation issues a determination that the plan created by those changes is functional. The law amended by this article as it exists immediately before the effective date of this article continues in effect until that date.

The amendment to **CSHB 2702** was read and failed of adoption by the following vote: Yeas 10, Nays 21.

Yeas: Deuell, Duncan, Estes, Harris, Janek, Nelson, Ogden, Staples, West, Whitmire.

Nays: Armbrister, Averitt, Barrientos, Brimer, Carona, Ellis, Eltife, Fraser, Gallegos, Hinojosa, Jackson, Lindsay, Lucio, Madla, Seliger, Shapiro, Shapleigh, Van de Putte, Wentworth, Williams, Zaffirini.

Senator Staples again offered the following amendment to the bill:

Floor Amendment No. 27

Amend **CSHB 2702** (Senate committee printing) by adding the following appropriately numbered SECTIONS to Article 2 of the bill and renumbering subsequent SECTIONS as appropriate:

SECTION __. Section 201.1055, Transportation Code, is amended to read as follows:

Sec. 201.1055. AGREEMENTS WITH PRIVATE ENTITIES. (a) Notwithstanding any other law, including Subchapter A, Chapter 2254, Government Code, Chapters 2165, 2166, and 2167, Government Code, and Sections 202.052, 202.053, 203.051, 203.052, and 223.001 of this code, the department and a private entity that offers the best value to the state may enter into an agreement for the ~~that includes~~:

(1) acquisition, ~~both~~ design, ~~and~~ construction, or renovation, including site development, of a building or other facility required to support department operations ~~[district office headquarters facility]~~ located on real property owned or acquired by the department ~~[in a county with a population of 3.3 million or more]; or~~

(2) acquisition from the private entity of real property, a building, or other facility required to support department operations that is constructed on the real property in exchange for department-owned real property, including any improvements ~~[a lease of department owned real property in a district that includes a county with a population of 3.3 million or more to the private entity;~~

~~[(3) a provision authorizing the private entity to construct and retain ownership of a building on property leased to the entity under Subdivision (2); and~~

~~[(4) a provision under which the department agrees to enter into an agreement to lease with an option or options to purchase a building constructed on property leased to the entity under Subdivision (2)].~~

(b) A project described by this section that is not wholly paid for by an exchange of department-owned real property may be financed in accordance with Section 1232.111, Government Code.

(c) Notwithstanding Section 202.024, the commission may authorize the executive director to execute a deed exchanging department-owned real property under Subsection (a)(2).

(d) The commission shall notify the Bond Review Board and Texas Public Finance Authority of the proposed transaction not less than 45 days before the date the commission signs an agreement under this section providing for the exchange of department-owned real under Subsection (a)(2).

(e) An agreement under this section providing for the exchange of department-owned real property under Subsection (a)(2) that has an appraised value greater than the appraised value of real property and improvements acquired by the department under the agreement must require the private entity to compensate the department for the difference. Any compensation paid by a private entity must be deposited to the credit of the state highway fund and is exempt from the application of Section 403.095, Government Code.

SECTION __. Section 221.001(1), Transportation Code, is amended to read as follows:

(1) "Highway" includes a public road or part of a public road and a bridge, culvert, building, or other necessary structure related to a public road.

SECTION __. Section 2166.302, Government Code, is amended by amending Subsection (a) and adding Subsection (c) to read as follows:

(a) Except as provided by Subsections [Subsection] (b) and (c), the commission shall adopt uniform general conditions to be incorporated into all building construction contracts made by the state, including a contract for a project excluded from this chapter by Section 2166.003, but not including a contract for a project excluded from this chapter by Section 2166.004.

(c) Subsection (a) does not apply to a project constructed by and for the Texas Department of Transportation.

SECTION __. Subchapter C, Chapter 1232, Government Code, is amended by adding Section 1232.111 to read as follows:

Sec. 1232.111. CERTAIN PROJECTS BY TEXAS DEPARTMENT OF TRANSPORTATION. (a) The authority may issue and sell obligations to finance one or more projects described by Section 201.1055(a), Transportation Code. Notwithstanding Section 1232.108(2), the estimated cost of the project must be specified in the General Appropriations Act or other law.

(b) Any provision of this chapter that relates to the issuance or sale of obligations to finance the acquisition or construction of a building, including provisions relating to form, procedure, repayment, actions that may be taken to ensure that the payment of the principal of and interest on the obligations is continued without interruption, and other relevant matters, applies to the issuance or sale of obligations under this section to the extent that the provision may be appropriately made applicable.

(c) The legislature may appropriate money from any available source, including the state highway fund, to the Texas Department of Transportation to make lease payments to the authority for space occupied by the department in a building acquired or constructed under Section 201.1055(a), Transportation Code.

The amendment to **CSHB 2702** was again read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 27.

(President in Chair)

Senator Jackson offered the following amendment to the bill:

Floor Amendment No. 29

Amend **CSHB 2702** by inserting the following appropriately numbered section of the bill and by renumbering subsequent sections of the bill accordingly:

Section __. Section 542.202(b)(3), Transportation Code, is repealed.

The amendment was read.

On motion of Senator Shapiro, Floor Amendment No. 29 to **CSHB 2702** was tabled by the following vote: Yeas 18, Nays 13.

Yeas: Armbrister, Averitt, Carona, Deuell, Ellis, Eltife, Estes, Gallegos, Harris, Janek, Lindsay, Nelson, Ogden, Seliger, Shapiro, Wentworth, Whitmire, Zaffirini.

Nays: Barrientos, Brimer, Duncan, Fraser, Hinojosa, Jackson, Lucio, Madla, Shapleigh, Staples, Van de Putte, West, Williams.

Senator Ellis offered the following amendment to the bill:

Floor Amendment No. 30

Amend **CSHB 2702** by adding a new Section __ to read as follows and renumbering the subsequent sections accordingly:

SECTION __. Subchapter B, Chapter 545, Transportation Code, is amended by adding Section 545.0535 to read as follows:

Sec. 545.0535. PASSING BICYCLIST ON HIGHWAY OR STREET. (a) An operator of a motor vehicle passing a bicyclist operating on a highway or street shall:

(1) vacate the lane in which the bicyclist is operating when operating on a highway with two or more marked lanes; or

(2) pass at a safe distance.

(b) For the purposes of Subsection (a), the operator is presumed to have passed the bicyclist at a distance that was not safe if the distance between the operator's vehicle and the bicycle was less than:

(1) three feet if the operator's vehicle is a vehicle other than a vehicle described by Subdivision (2); or

(2) six feet if the operator's vehicle is:

(A) a truck other than a light truck; or

(B) a commercial motor vehicle, as defined by Section 522.003.

(c) A violation of this section is:

(1) a misdemeanor punishable under Section 542.401;

(2) a misdemeanor punishable by a fine of \$500 if the violation results in property damage; or

(3) a Class B misdemeanor if the violation results in bodily injury.

(d) It is a defense to prosecution under this section that at the time of the offense the bicyclist was not in compliance with Section 551.103 or 551.104(b)(2).

(e) If conduct constituting an offense under this section also constitutes an offense under another section of this code or the Penal Code, the actor may be prosecuted under either section or under both sections.

The amendment was read.

POINT OF ORDER

Senator Ogden raised a point of order that Floor Amendment No. 30 was not germane to the body of the bill.

POINT OF ORDER WITHDRAWN

Senator Ogden withdrew the point of order.

Senator Staples offered the following amendment to Floor Amendment No. 30:

Floor Amendment No. 31

Amend Floor Amendment No. 30 to **CSHB 2702** by striking page 1 lines 3-27 and substituting the following:

SECTION __. Section 545.053, Transportation Code, is amended by adding Subsection (d) to read as follows:

(d) A violation of Subsection (a) is a Class B misdemeanor if the vehicle being passed is a bicycle.

The amendment to Floor Amendment No. 30 to **CSHB 2702** was read and was adopted by the following vote: Yeas 29, Nays 1.

Nays: Ogden.

Absent: Hinojosa.

Question recurring on the adoption of Floor Amendment No. 30 to **CSHB 2702**, the amendment as amended was adopted by the following vote: Yeas 26, Nays 5.

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

Nays: Armbrister, Brimer, Estes, Fraser, Ogden.

Floor Amendment No. 32 was not offered.

Senator Duncan offered the following amendment to the bill:

Floor Amendment No. 33

Amend **CSHB 2702** (committee printing) by adding the following appropriately numbered sections.

SECTION __. Section 21.001, Property Code, is amended to read as follows:

Sec. 21.001. CONCURRENT JURISDICTION. District courts and county courts at law have concurrent jurisdiction in eminent domain cases in every county in the state, notwithstanding any other law. A county court has no jurisdiction in eminent domain cases.

SECTION __. Section 21.013, Property Code, is amended to read as follows:

Sec. 21.013. VENUE; FEES AND PROCESSING FOR ACTION ~~[SUIT]~~ FILED IN DISTRICT COURT. (a) The venue of a condemnation proceeding is the county in which the owner of the property being condemned resides if the owner resides in a county in which part of the property is located. Otherwise, the venue of a condemnation proceeding is any county in which at least part of the property is located.

(b) Except where otherwise provided by law, a party initiating a condemnation proceeding [~~in a county in which there is one or more county courts at law with jurisdiction~~] shall file the petition with any clerk authorized to handle such filings for a [~~that~~] court that has jurisdiction in eminent domain cases [~~or courts~~].

(c) [~~A party initiating a condemnation proceeding in a county in which there is not a county court at law must file the condemnation petition with the district clerk.~~] The filing fee shall be due at the time of filing in accordance with Section 51.317, Government Code.

(d) District and county clerks shall assign an equal number of eminent domain cases in rotation to each court with jurisdiction that the clerk serves.

The amendment to **CSHB 2702** 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. 33.

Senator Ellis offered the following amendment to the bill:

Floor Amendment No. 34

Amend **CSHB 2702** by adding a new Section __ as follows and renumber all remaining sections appropriately.

(a) The Study Commission on Availability of Pre-Owned Heavy Duty Commercial Motor Vehicles is created as provided by this section.

(b) The commission is composed of three members as follows:

- (1) one member appointed by the governor;
- (2) one member appointed by the lieutenant governor;
- (3) one member appointed by the speaker of the house of representatives.

(c) Each member of the commission serves at the will of the person who appointed the member.

(d) The members of the commission shall select the presiding officer.

(e) A member of the commission is not entitled to receive compensation for service on the commission but is entitled to reimbursement of the travel expenses incurred by the member while conducting the business of the commission, as provided by the General Appropriations Act.

(f) The commission may accept gifts and grants from any source to be used to carry out a function of the commission.

(g) The commission shall conduct public hearings and study public policy implications relating to any act by the Texas Department of Transportation that would close existing businesses in this state because of the ownership structure of businesses that sell pre-owned heavy duty trucks that weigh in excess of 11,000 pounds. The commission shall determine whether such actions by the department could impact the use and operation of rail and highway transportation facilities in this state by heavy duty trucks.

(h) The study shall include:

(1) a review of the laws of other states regarding whether there are restrictions on ownership structure of businesses that sell heavy duty commercial trucks;

(2) a review of whether safety of pre-owned heavy duty trucks on highways in this state could be compromised if the Texas Department of Transportation closes businesses that currently sell such trucks;

(3) a review of whether the Texas Department of Transportation's application of Section 2301.476 of the Occupations Code could negatively impact competition in the pre-owned heavy duty truck market as well as the impact that such a decision could have on small, independent pre-owned truck dealerships, and independent owner/operators of trucking businesses in this state;

(4) other issues that the commission considers relevant to protecting the public interest regarding safety and availability of pre-owned heavy duty trucks that operate on the highways of this state.

(i) Not later than December 1, 2006, the commission shall issue a report to the governor, lieutenant governor, speaker of the house of representatives, and the chair of the committee in the house and senate with jurisdiction of transportation issues. The report shall summarize the following:

- (1) any hearings conducted by the commission;
- (2) any studies conducted by the commission;
- (3) any legislation proposed by the commission; and,
- (4) any other findings and recommendations of the commission.

The amendment to **CSHB 2702** 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. 34.

Senator Jackson offered the following amendment to the bill:

Floor Amendment No. 35

Amend **CSHB 2702** (Senate committee printing) by adding the following appropriately numbered SECTION to Article 2 of the bill and renumbering subsequent SECTIONS as appropriate:

SECTION __. (a) Article 45.051(f), Code of Criminal Procedure, is amended to read as follows:

(f) This article does not apply to:

(1) an offense to which Section 542.404 or 729.004(b), Transportation Code, applies; or

(2) a violation of a state law or local ordinance relating to motor vehicle control, other than a parking violation, [~~traffic offense~~] committed by a person who holds a commercial driver's license.

(b) The change in law made by this section applies only to an offense committed on or after September 1, 2005.

(c) An offense committed before September 1, 2005, is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before September 1, 2005, if any element of the offense was committed before that date.

The amendment to **CSHB 2702** 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. 35.

Senator Ogden offered the following amendment to the bill:

Floor Amendment No. 36

Amend **CSHB 2702** by adding the following appropriately numbered SECTION to Article 3 of the bill and renumbering subsequent SECTIONS as appropriate:

SECTION __. Sections 21.069(a) and (e), Transportation Code, are amended to read as follows:

(a) The department[~~, in consultation with the State Aircraft Pooling Board,~~] shall establish a state airport in Central Texas that is open to the general public.

(e) The department may utilize only federal matching funds, federal grants, in-kind contributions, private sector funds, nonprofit grants, department funds appropriated for aviation services, and local government funding for the establishment of this facility.

The amendment to **CSHB 2702** 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. 36.

Senator Shapiro offered the following amendment to the bill:

Floor Amendment No. 37

Amend **CSHB 2702** by adding the following appropriately numbered article to the bill and renumbering subsequent articles of the bill accordingly:

ARTICLE __. REGIONAL TRANSIT SYSTEM REVIEW COMMITTEE

SECTION __.01. (a) In this section, "region" means the region formed by two contiguous counties each containing a municipality having a population of at least 530,000 and the counties adjacent to one or both of those counties.

(b) The Regional Transit System Review Committee is created to conduct public hearings regarding, and study the implications of, implementing regional transit service in the region.

(c) The committee consists of:

(1) each member of the legislature who represents a district that contains territory in the region;

(2) each mayor of a municipality in the region;

(3) each county judge and commissioner in the region; and

(4) the executive director of each transportation authority in the region.

(d) In conducting hearings and studies the committee shall:

(1) examine whether a seamless system of transit systems should be offered throughout the region;

(2) examine whether there should be a mechanism for additional counties to participate in the regional transit system; and

(3) perform a review of funding and financing options.

(e) The initial meeting of the committee shall take place before September 30, 2005. At the initial meeting the committee shall adopt rules governing the committee and establish a work plan and schedule for future meetings.

(f) The committee may accept gifts, grants, technical support, or any other resources from any source to carry out the functions of the committee.

(g) Not later than September 1, 2006, the committee shall issue a report summarizing:

- (1) hearings conducted by the committee;
- (2) studies conducted by the committee;
- (3) any legislation proposed by the committee; and
- (4) any other findings or recommendations of the committee.

(h) This section expires September 1, 2007.

The amendment to **CSHB 2702** 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. 37.

Senator Whitmire offered the following amendment to the bill:

Floor Amendment No. 38

Amend **CSHB 2702** by adding the following appropriately numbered sections to the bill and renumbering the remaining sections of the bill appropriately:

SECTION _____. The heading to Article 4413(37), Revised Statutes, is amended to read as follows:

Art. 4413(37). AUTOMOBILE BURGLARY AND THEFT PREVENTION AUTHORITY

SECTION _____. Section 1, Article 4413(37), Revised Statutes, is amended to read as follows:

Sec. 1. DEFINITIONS. In this article:

(1) "Authority" means the Automobile Burglary and Theft Prevention Authority.

(2) "Economic automobile theft" means automobile burglary or theft committed for financial gain.

(3) "Department" means the Texas Department of Transportation.

(4) "Director" means the executive director of the Texas Department of Transportation.

SECTION _____. Section 2, Article 4413(37), Revised Statutes, is amended to read as follows:

Sec. 2. ESTABLISHMENT OF AUTHORITY. The Automobile Burglary and Theft Prevention Authority is established in the Texas Department of Transportation. The authority is not an advisory body to the Texas Department of Transportation.

SECTION _____. Subsection (d), Section 6A, Article 4413(37), Revised Statutes, is amended to read as follows:

(d) Determinations made under this section shall be performed in accordance with procedures set forth in rules adopted by the authority [~~Automobile Theft Prevention Authority~~]. The question of eligibility for a refund is not a contested case within the meaning of the Administrative Procedure Act (Chapter 2001, Government Code).

SECTION _____. Subsection (b), Section 7, Article 4413(37), Revised Statutes, is amended to read as follows:

(b) The plan of operation must include:

(1) an assessment of the scope of the problems of automobile burglary or theft and economic automobile theft, including particular areas of the state where the problems are greatest;

(2) an analysis of various methods of combating the problems of automobile burglary or theft and economic automobile theft;

(3) a plan for providing financial support to combat automobile burglary or theft and economic automobile theft; and

(4) an estimate of the funds required to implement the plan of operation.

SECTION _____. Subsection (a), Section 8, Article 4413(37), Revised Statutes, is amended to read as follows:

(a) Money appropriated to the department for authority purposes shall be used by the authority to pay the department for administrative costs and to achieve the purposes of this article, including:

(1) establishing and funding the automobile registration program required by Section 9 of this article;

(2) providing financial support to law enforcement agencies for economic automobile theft enforcement teams;

(3) providing financial support to law enforcement agencies, local prosecutors, judicial agencies, and neighborhood, community, business, and nonprofit organizations for programs designed to reduce the incidence of economic automobile theft;

(4) conducting educational programs designed to inform automobile owners of methods of preventing automobile burglary or theft;

(5) providing equipment, for experimental purposes, to assist automobile owners in preventing automobile burglary or theft; and

(6) establishing a uniform program to prevent stolen motor vehicles from entering Mexico.

SECTION _____. Subsection (a), Section 11, Article 4413(37), Revised Statutes, is amended to read as follows:

(a) In this section, "automobile theft rate" means the ratio of automobile burglaries or thefts in this state to the number of automobiles in this state. The ratio shall be based on statistical information provided by the Department of Public Safety's uniform crime reporting division.

The amendment to **CSHB 2702** 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. 38.

Senator Carona offered the following amendment to the bill:

Floor Amendment No. 39

Amend **CSHB 2702** by adding a new appropriately numbered SECTION to read as follows:

SECTION _____. Title 6, Chapter 472, Transportation Code, is amended by adding a new Section 472.032 to read as follows:

Sec. 472.032. SAFETY OF PERSONS AND PROPERTY IN AND ADJACENT TO TRANSPORTATION FACILITIES, THOROUGHFARES, TRANSIT ROUTES AND TRANSIT FACILITIES. (a) It is the policy of this state to protect the safety of persons and their property in the areas in and adjacent to public thoroughfares and transit systems in this state.

(b) This section applies to:

(1) the area occupied by a public thoroughfare of any class, including:

(A) an interstate highway;

(B) a state highway;

(C) a toll highway;

(D) a connector, service road, access road, ramp, or interchange;

(E) a local street or rural road;

(F) the Trans Texas Corridor;

(G) a non-tolled public road;

(H) a tolled public road;

(I) a bridge, overpass, underpass, toll entrance plaza, rest stop, public park, ferry, or causeway;

(2) passenger or freight rail facilities;

(3) transit routes and transit systems;

(4) an airport;

(5) pedestrian and bicycle facilities;

(6) a parking area or structure, rest stop, park, and any other improvement or amenity considered necessary, useful, or beneficial for the operation of a turnpike project;

(7) a toll-free facility that is appurtenant to and necessary for the efficient operation of a turnpike project, including a service road, access road, ramp, interchange, bridge, or tunnel; and

(8) any area that is adjacent to a thoroughfare, facility or area described by Subsections (b)(1)-(7).

(c)(1) A person commits an offense if, without the effective consent of the owner, he breaks into and enters a vehicle or any part of a vehicle with intent to commit any felony or theft if the vehicle is located in an area to which this section applies.

(2) For purposes of this Subsection:

(A) "enter" means to intrude:

(1) any part of the body; or

(2) any physical object connected with the body; and

(B) "adjacent to" means any property from which a vehicle may lawfully directly or indirectly enter or exit a thoroughfare, facility or area described by Subsections (b)(1)-(7).

(d) An offense under this section is a Class A misdemeanor, except that the offense is a state jail felony if:

(1) it is shown on the trial of the offense that the defendant has been previously convicted under this section; or

(2) the vehicle or part of the vehicle broken into or entered is a rail car.

The amendment to **CSHB 2702** 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. 39.

Senator Armbrister offered the following amendment to the bill:

Floor Amendment No. 40

Amend **CSHB 2702**, by adding the following new SECTIONS and renumbering subsequent SECTIONS accordingly:

SECTION _____. Section 643.051, Transportation Code, is amended to read as follows:

Sec. 643.051. REGISTRATION REQUIRED. (a) A motor carrier may not operate a commercial motor vehicle, as defined by Section 548.001, or a tow truck on a road or highway of this state unless the carrier registers with the department under this subchapter.

(b) A motor carrier may not operate a vehicle, regardless of size of the vehicle, to transport household goods for compensation unless the carrier registers with the department under this subchapter.

SECTION _____. Section 643.153(b), Transportation Code, is amended to read as follows:

(b) The department may adopt rules necessary to ensure that a customer of a motor carrier transporting household goods is protected from deceptive or unfair practices and unreasonably hazardous activities. The rules must:

(1) establish a formal process for resolving a dispute over a fee or damage;

(2) require a motor carrier to indicate clearly to a customer whether an estimate is binding or nonbinding and disclose the maximum price a customer could be required to pay;

(3) create a centralized process for making complaints about a motor carrier that also allows a customer to inquire about a carrier's complaint record; and

(4) require a motor carrier transporting household goods to list a place of business with a street address in this state and the carrier's registration number issued under this article in any print advertising published in this state[;]

~~[(5) require motor carriers that are required to register under Subsection (c) to file proof of cargo insurance in amounts to be determined by the department that do not exceed the amount required for a motor carrier transporting household goods under federal law and allow alternative evidence of financial responsibility, through surety bonds, letters of credit, or other means satisfactory to the department, for contractual obligations to customers that do not exceed \$5,000 aggregate loss or damage to total cargo shipped at any one time;~~

~~[(6) require motor carriers that are required to register under Subsection (c) to conspicuously advise consumers concerning limitation of any carrier liability for loss or damage as determined under Subdivision (7); and~~

~~[(7) determine reasonable provisions governing limitation of liability for loss or damage of motor carriers required to register under Subsection (c), not to exceed 60 cents per pound per article].~~

SECTION _____. Section 643.155(c), Transportation Code, is amended to read as follows:

(c) The committee shall[;]

~~[(1)]~~ examine the rules adopted by the department under Sections 643.153(a) and (b) and make recommendations to the department on modernizing and streamlining the rules[;]

~~[(2) conduct a study of the feasibility and necessity of requiring any vehicle liability insurance for household goods carriers required to register under Section 643.153(e); and~~

~~[(3) recommend a maximum level of liability limitation under Section 643.153(b)(7) that does not exceed 60 cents per pound].~~

SECTION _____. Section 643.252(a), Transportation Code, is amended to read as follows:

(a) The department may suspend or revoke a registration issued under this chapter or place on probation a motor carrier whose registration is suspended if a motor carrier:

(1) fails to maintain insurance or evidence of financial responsibility as required by Section 643.101(a), (b), (c), or (d) ~~[or 643.153(b)]~~;

(2) fails to keep evidence of insurance in the cab of each vehicle as required by Section 643.103(b);

(3) fails to register a vehicle requiring registration;

(4) knowingly provides false information on any form filed with the department under this chapter; or

(5) violates a rule adopted under Section 643.063.

SECTION _____. Sections 643.253(a), (b), and (e), Transportation Code, are amended to read as follows:

(a) A person commits an offense if the person fails to:

(1) register as required by Subchapter B ~~[or Section 643.153(e)]~~;

(2) maintain insurance or evidence of financial responsibility as required by Subchapter C ~~[or Section 643.153]~~; or

(3) keep a cab card in the cab of a vehicle as required by Section 643.059.

(b) A person commits an offense if the person solicits the transportation of household goods for compensation and is not registered as required by Subchapter B ~~[or Section 643.153]~~.

(e) An offense under Subsection (b) or (d) is a misdemeanor punishable by a fine of not less than \$200 or more than \$1,000 per violation.

SECTION _____. Section 643.153(c), Transportation Code, is repealed.

The amendment to **CSHB 2702** 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. 40.

Senator Deuell offered the following amendment to the bill:

Floor Amendment No. 41

Amend **CSHB 2702** (Senate committee printing) on second reading as follows:

Add the following SECTION, appropriately numbered, to read as follows:

SECTION _____. Subchapter B, Chapter 225, Transportation Code, is amended by adding Section 225.061 to read as follows:

Sec. 225.061. SPEAKER JIMMY TURMAN ROAD. (a) Farm-to-Market Road 68 in Fannin County is designated as Speaker Jimmy Turman Road.

(b) The department shall design and construct markers indicating the road number, the designation as Speaker Jimmy Turman Road, and any other appropriate information.

(c) Except as provided by Subsection (d), the department shall erect a marker at each end of the road and at appropriate intermediate sites along the road.

(d) The department is not required to design, construct, or erect a marker required by this section unless a grant or donation of private funds is made to the department to cover the cost of the design, construction, and erection of the marker.

(e) Money received under Subsection (d) shall be deposited to the credit of the state highway fund.

The amendment to **CSHB 2702** 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. 41.

Senator Brimer offered the following amendment to the bill:

Floor Amendment No. 42

Amend **CSHB 2702** by adding the following appropriately numbered SECTIONS and renumbering subsequent SECTIONS accordingly:

SECTION _____. Subsection (2) and (10), Section 2301.002, Occupations Code, is amended to read as follows:

(2) "Board" ~~[means the Motor Vehicle Board of the Texas Department of Transportation]~~ has the meaning assigned by section 2301.005.

(10) "Director" means the director ~~[of the board and]~~ of the division.

SECTION _____. Subsection (a), Section 2301.005, Occupations Code, is amended to read as follows:

(a) A reference in law, including a rule, to the Texas Motor Vehicle Commission ~~or to the board~~ means the director, except that a reference to the board means the commission if it relates to the promulgation of rules [board].

SECTION _____. Section 2301.005, Occupations Code, is amended by adding subsection (e) to read as follows:

(e) A reference in this chapter to a rule or to a board rule means a rule adopted by the commission, except that all board rules that were in effect on the effective date of this legislation shall remain in effect.

SECTION _____. Subsection (c), Section 2301.101, Occupations Code, is amended to read as follows:

(c) The director serves at the will of the executive director ~~[board].~~

SECTION _____. Section 2301.103, Occupations Code, is amended to read as follows:

Sec. 2301.103. PERSONNEL. ~~[(a) The director shall appoint and employ personnel necessary to carry out the duties and functions of the director and the board under this chapter.]~~

~~[(b) A division employee is an employee of the department and is subject to the human resource rules and policies of the department and the transportation commission, except that, as applied to a division employee, any powers granted to the executive director by those rules and policies shall be exercised by the director.]~~

~~[(e) A division employee is subject to dismissal if the employee has an interest in or is related within the first degree by consanguinity or affinity, as determined under Chapter 573, Government Code, to a person who has an interest in a business that manufactures, distributes, converts, sells, or leases motor vehicles.~~

SECTION _____. Section 2301.154, Occupations Code, is amended to read as follows:

Sec. 2301.154. DELEGATION OF POWERS. The director ~~[board]~~ may delegate any of the director's ~~[its]~~ powers to~~[-]~~

~~[(1) one or more of its members;]~~

~~[(2) the director; or]~~

~~[(3) one or more of the division's ~~[its]~~ employees.~~

SECTION _____. The following provisions are repealed:

- (1) Subchapter B, Chapter 2301, Occupations Code;
- (2) Section 2301.102, Occupations Code;
- (3) Section 2301.104, Occupations Code;
- (4) Section 2301.158, Occupations Code; and
- (5) Section 2301.159, Occupations Code.

The amendment to **CSHB 2702** 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. 42.

VOTES RECONSIDERED

On motion of Senator Ellis and by unanimous consent, the vote by which Floor Amendment No. 30 as amended was adopted was reconsidered.

Question — Shall Floor Amendment No. 30 as amended to **CSHB 2702** be adopted?

On motion of Senator Staples and by unanimous consent, the vote by which Floor Amendment No. 31 to Floor Amendment No. 30 was adopted was reconsidered.

Question — Shall Floor Amendment No. 31 to Floor Amendment No. 30 to **CSHB 2702** be adopted?

Senator Staples withdrew Floor Amendment No. 31.

Senator Staples offered the following amendment to Floor Amendment No. 30:

Floor Amendment No. 43

Amend Floor Amendment No. 30 to **CSHB 2702** by striking Subsections (a) and (b) of added Section 545.0535, Transportation Code (committee printing, page 1, lines 16-31), substituting the following, and relettering subsequent subsections of Section 545.0535 accordingly:

(a) An operator of a motor vehicle passing a bicyclist operating on a highway or street shall pass at a safe distance.

The amendment to Floor Amendment No. 30 to **CSHB 2702** 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. 43.

Question recurring on the adoption of Floor Amendment No. 30 to **CSHB 2702**, the amendment as amended was again adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 30 as amended.

Senator Staples moved to postpone further consideration of **CSHB 2702** to a time certain of 10:00 a.m. tomorrow.

The motion prevailed.

Question — Shall **CSHB 2702** as amended be passed to third reading?

MESSAGES FROM THE HOUSE

HOUSE CHAMBER

Austin, Texas

May 20, 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 925, Relating to creating an interagency work group on border issues.

HB 3482, Relating to the creation of the North Fort Bend Water Authority; providing authority to issue bonds; granting the power of eminent domain; providing an administrative penalty.

HB 3498, Relating to the creation, administration, powers, duties, functions, operations, and financing of the Rose Hill Special Utility District.

HB 3534, Relating to the creation of the Denton County Municipal Utility District No. 6; providing authority to impose a tax and issue bonds; granting the power of eminent domain.

HB 3539, Relating to the composition of the board of directors of the Saratoga Underground Water Conservation District.

HB 3549, Relating to the creation of the Williamson County Municipal Utility District No. 21; providing authority to impose a tax and issue bonds.

HB 3557, Relating to statutory probate court associate judges in certain courts in Harris County.

HB 3566, Relating to the creation, administration, powers, duties, functions, operations, and financing of the La Joya Special Utility District; providing authority to issue bonds.

HB 3569, Relating to the creation, administration, powers, duties, operation, and financing of the Zapata County Municipal Utility District No. 2.

HB 3574, 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.

HB 3576, Relating to the powers, duties, administration, governance, and functions of the Benbrook Water and Sewer Authority.

HB 3582, Relating to the Kingsborough Municipal Utility District Nos. 1, 2, 3, 4, and 5 of Kaufman County.

HB 3583, Relating to the creation of the Harris County Municipal Utility District No. 464; providing authority to impose a tax and issue bonds; granting the power of eminent domain.

HB 3589, Relating to the creation of the Research Valley Innovation District.

HB 2445, Relating to service by water and sewer utilities.

HB 2815, Relating to the Concho River Watermaster Program.

HB 3488, Relating to the creation of the Fort Bend County Municipal Utility District No. 167; providing authority to impose taxes and issue bonds; granting the power of eminent domain.

HB 3502, Relating to the creation of the Harris County Municipal Utility District No. 406; providing authority to impose taxes and issue bonds; granting the power of eminent domain.

HB 3530, Relating to the creation of the City of Fort Worth Municipal Utility District No. 2 of Tarrant County; providing authority to impose a tax and issue bonds; granting the power of eminent domain.

HB 3531, Relating to the Dallas County district and county courts administration and court services.

HB 3535, Relating to the creation of the City of Fort Worth Municipal Utility District No. 1 of Denton County; providing authority to impose a tax and issue bonds; granting the power of eminent domain.

HB 3546, Relating to the creation of the East Montgomery County Municipal Utility Districts Nos. 5, 6, and 7; providing authority to impose a tax and issue bonds; granting the power of eminent domain.

HB 3548, Relating to the creation of the Williamson County Municipal Utility District No. 16; providing authority to impose a tax and issue bonds.

HB 3554, Relating to the creation of the Imperial Redevelopment District; providing authority to impose taxes and issue bonds.

HB 3556, Relating to the creation of Las Lomas Municipal Utility District No. 4 of Kaufman County; providing authority to impose a tax and issue bonds; granting the power of eminent domain.

HB 3568, Relating to the creation of the San Patricio County Groundwater Conservation District; providing authority to impose a tax.

HB 3578, Relating to the creation of the Fort Bend County Municipal Utility District No. 178; providing authority to impose a tax and issue bonds; granting the power of eminent domain.

HB 3579, Relating to the creation of the Fort Bend County Municipal Utility District No. 182; providing authority to impose a tax and issue bonds; granting the power of eminent domain.

HB 3580, Relating to the creation of the Fort Bend County Municipal Utility District No. 181; providing authority to impose a tax and issue bonds; granting the power of eminent domain.

HB 3584, Relating to the creation of the Harris County Municipal Utility District No. 465; providing authority to impose a tax and issue bonds; granting the power of eminent domain.

Respectfully,

/s/Robert Haney, Chief Clerk
House of Representatives

SENATE RESOLUTION ON FIRST READING

The following resolution was introduced, read first time, and referred to the committee indicated:

SR 970 by Hinojosa, Barrientos, Ellis, Gallegos, Lucio, Madla, Shapleigh, Van de Putte, West, Whitmire, Zaffirini

Urging Governor Rick Perry to oppose the plans of the Minuteman Project to begin patrolling the Texas-Mexico border.

To Committee on Intergovernmental Relations.

HOUSE BILLS AND RESOLUTION ON FIRST READING

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

HB 925 to Committee on International Relations and Trade.

HB 2445 to Committee on Natural Resources.

HB 2815 to Committee on Natural Resources.

HB 3482 to Committee on Natural Resources.

HB 3488 to Committee on Intergovernmental Relations.

HB 3498 to Committee on Intergovernmental Relations.

HB 3502 to Committee on Intergovernmental Relations.

HB 3530 to Committee on Intergovernmental Relations.

HB 3531 to Committee on Jurisprudence.
HB 3534 to Committee on Intergovernmental Relations.
HB 3535 to Committee on Intergovernmental Relations.
HB 3539 to Committee on Natural Resources.
HB 3546 to Committee on Intergovernmental Relations.
HB 3548 to Committee on Intergovernmental Relations.
HB 3549 to Committee on Intergovernmental Relations.
HB 3554 to Committee on Intergovernmental Relations.
HB 3556 to Committee on Intergovernmental Relations.
HB 3557 to Committee on Jurisprudence.
HB 3566 to Committee on Natural Resources.
HB 3568 to Committee on Natural Resources.
HB 3569 to Committee on Intergovernmental Relations.
HB 3574 to Committee on Intergovernmental Relations.
HB 3576 to Committee on Natural Resources.
HB 3578 to Committee on Intergovernmental Relations.
HB 3579 to Committee on Intergovernmental Relations.
HB 3580 to Committee on Intergovernmental Relations.
HB 3582 to Committee on Intergovernmental Relations.
HB 3583 to Committee on Intergovernmental Relations.
HB 3584 to Committee on Intergovernmental Relations.
HB 3589 to Committee on Intergovernmental Relations.
HJR 54 to Committee on Transportation and Homeland Security.

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 the following bills today:

HB 1172, HB 1412, HB 1687, HB 2212, HB 2806.

SENATE RULES SUSPENDED
(Posting Rules)

On motion of Senator Ogden and by unanimous consent, Senate Rule 11.10(a) and Senate Rule 11.18(a) were suspended in order that the Committee on Finance might meet and consider **HB 880** tomorrow.

SENATE RULES SUSPENDED
(Posting Rules)

On motion of Senator Madla and by unanimous consent, Senate Rule 11.10(a) and Senate Rule 11.18(a) were suspended in order that the Committee on Intergovernmental Relations might meet and consider the following bills today:

HB 39, HB 602, HB 638, HB 1632, HB 1812, HB 2051, HB 2235, HB 2254, HB 2492, HB 2966, HB 3482, HB 3488, HB 3498, HB 3502, HB 3530, HB 3534, HB 3535, HB 3537, HB 3546, HB 3548, HB 3549, HB 3554, HB 3556, HB 3569, HB 3574, HB 3578, HB 3579, HB 3580, HB 3582, HB 3583, HB 3584, HB 3589.

SENATE RULES SUSPENDED

(Posting Rules)

On motion of Senator Fraser and by unanimous consent, Senate Rule 11.10(a) and Senate Rule 11.18(a) were suspended in order that the Committee on Business and Commerce might meet and consider the following bills and resolution today:

HB 551, HB 1253, HB 1547, HB 1583, HB 1659, HB 1765, HB 2755, HB 2928, HB 3036, HJR 80.

SENATE RULE 11.10(a) SUSPENDED

(Public Notice of Committee Meetings)

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

SENATE RULES SUSPENDED

(Posting Rules)

On motion of Senator Wentworth and by unanimous consent, Senate Rule 11.10(a) and Senate Rule 11.18(a) were suspended in order that the Committee on Jurisprudence might meet and consider the following bills today:

HB 383, HB 1404, HB 3531, HB 3557.

SENATE RULES SUSPENDED

(Posting Rules)

On motion of Senator Staples and by unanimous consent, Senate Rule 11.10(a) and Senate Rule 11.18(a) were suspended in order that the Committee on Transportation and Homeland Security might meet and consider the following bills and resolution today:

HB 120, HB 504, HB 1137, HB 1885, HB 2422, HB 2647, HB 2894, HB 3041, HJR 79.

SENATE RULES SUSPENDED

(Posting Rules)

On motion of Senator Armbrister and by unanimous consent, Senate Rule 11.10(a) and Senate Rule 11.18(a) were suspended in order that the Committee on Natural Resources might meet and consider the following bills today:

HB 1821, HB 2370, HB 2651, HB 3423, HB 3482, HB 3539.

**SENATE RULES SUSPENDED
(Posting Rules)**

On motion of Senator Lucio and by unanimous consent, Senate Rule 11.10(a) and Senate Rule 11.18(a) were suspended in order that the Committee on International Relations and Trade might meet and consider **HB 925** tomorrow.

**CONFERENCE COMMITTEE REPORT ON
SENATE BILL 122**

Senator Hinojosa submitted the following Conference Committee Report:

Austin, Texas
May 20, 2005

Honorable David Dewhurst
President of the Senate

Honorable Tom Craddick
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **SB 122** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

HINOJOSA
CARONA
GALLEGOS
HARRIS
WILLIAMS

On the part of the Senate

GIDDINGS
DUTTON
KEEL
MCCALL
TURNER

On the part of the House

A BILL TO BE ENTITLED
AN ACT

relating to the prevention and punishment of identity theft and the rights of certain victims of identity theft; providing penalties.

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

SECTION 1. (a) Chapter 2, Code of Criminal Procedure, is amended by adding Article 2.29 to read as follows:

Art. 2.29. REPORT REQUIRED IN CONNECTION WITH FRAUDULENT USE OR POSSESSION OF IDENTIFYING INFORMATION. (a) A peace officer to whom an alleged violation of Section 32.51, Penal Code, is reported shall make a written report to the law enforcement agency that employs the peace officer that includes the following information:

- (1) the name of the victim;
- (2) the name of the suspect, if known;
- (3) the type of identifying information obtained, possessed, transferred, or used in violation of Section 32.51, Penal Code; and
- (4) the results of any investigation.

(b) On the victim's request, the law enforcement agency shall provide the report created under Subsection (a) to the victim. In providing the report, the law enforcement agency shall redact any otherwise confidential information that is included in the report, other than the information described by Subsection (a).

(b) The change in law made by this section applies only to the investigation of an offense committed on or after September 1, 2005. The investigation of an offense committed before September 1, 2005, is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this subsection, an offense is committed before September 1, 2005, if any element of the offense occurs before that date.

SECTION 2. Title 4, Business & Commerce Code, is amended by adding Chapter 48 to read as follows:

CHAPTER 48. UNAUTHORIZED USE OF IDENTIFYING INFORMATION
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 48.001. SHORT TITLE. This chapter may be cited as the Identity Theft Enforcement and Protection Act.

Sec. 48.002. DEFINITIONS. In this chapter:

(1) "Personal identifying information" means information that alone or in conjunction with other information identifies an individual, including an individual's:

(A) name, social security number, date of birth, or government-issued identification number;

(B) mother's maiden name;

(C) unique biometric data, including the individual's fingerprint, voice print, and retina or iris image;

(D) unique electronic identification number, address, or routing code;
and

(E) telecommunication access device.

(2) "Sensitive personal information":

(A) means an individual's first name or first initial and last name in combination with any one or more of the following items, if the name and the items are not encrypted:

(i) social security number;

(ii) driver's license number or government-issued identification number; or

(iii) account number or credit or debit card number in combination with any required security code, access code, or password that would permit access to an individual's financial account; and

(B) does not include publicly available information that is lawfully made available to the general public from the federal government or a state or local government.

(3) "Telecommunication access device" has the meaning assigned by Section 32.51, Penal Code.

(4) "Victim" means a person whose identifying information is used by an unauthorized person.

[Sections 48.003-48.100 reserved for expansion]

SUBCHAPTER B. IDENTITY THEFT

Sec. 48.101. UNAUTHORIZED USE OR POSSESSION OF PERSONAL IDENTIFYING INFORMATION. (a) A person may not obtain, possess, transfer, or use personal identifying information of another person without the other person's consent and with intent to obtain a good, a service, insurance, an extension of credit, or any other thing of value in the other person's name.

(b) It is a defense to an action brought under this section that an act by a person:

(1) is covered by the Fair Credit Reporting Act (15 U.S.C. Section 1681 et seq.); and

(2) is in compliance with that Act and regulations adopted under that Act.

(c) This section does not apply to:

(1) a financial institution as defined by 15 U.S.C. Section 6809; or

(2) a covered entity as defined by Section 601.001 or 602.001, Insurance

Code.

Sec. 48.102. BUSINESS DUTY TO PROTECT AND SAFEGUARD SENSITIVE PERSONAL INFORMATION. (a) A business shall implement and maintain reasonable procedures, including taking any appropriate corrective action, to protect and safeguard from unlawful use or disclosure any sensitive personal information collected or maintained by the business in the regular course of business.

(b) A business shall destroy or arrange for the destruction of customer records containing sensitive personal information within the business's custody or control that are not to be retained by the business by:

(1) shredding;

(2) erasing; or

(3) otherwise modifying the sensitive personal information in the records to make the information unreadable or undecipherable through any means.

(c) This section does not apply to a financial institution as defined by 15 U.S.C. Section 6809.

Sec. 48.103. NOTIFICATION REQUIRED FOLLOWING BREACH OF SECURITY OF COMPUTERIZED DATA. (a) In this section, "breach of system security" means unauthorized acquisition of computerized data that compromises the security, confidentiality, or integrity of sensitive personal information maintained by a person. Good faith acquisition of sensitive personal information by an employee or agent of the person or business for the purposes of the person is not a breach of system security unless the sensitive personal information is used or disclosed by the person in an unauthorized manner.

(b) A person that conducts business in this state and owns or licenses computerized data that includes sensitive personal information shall disclose any breach of system security, after discovering or receiving notification of the breach, to any resident of this state whose sensitive personal information was, or is reasonably believed to have been, acquired by an unauthorized person. The disclosure shall be made as quickly as possible, except as provided by Subsection (d) or as necessary to determine the scope of the breach and restore the reasonable integrity of the data system.

(c) Any person that maintains computerized data that includes sensitive personal information that the person does not own shall notify the owner or license holder of the information of any breach of system security immediately after discovering the breach, if the sensitive personal information was, or is reasonably believed to have been, acquired by an unauthorized person.

(d) A person may delay providing notice as required by Subsections (b) and (c) at the request of a law enforcement agency that determines that the notification will impede a criminal investigation. The notification shall be made as soon as the law enforcement agency determines that it will not compromise the investigation.

(e) A person may give notice as required by Subsections (b) and (c) by providing:

(1) written notice;

(2) electronic notice, if the notice is provided in accordance with 15 U.S.C. Section 7001; or

(3) notice as provided by Subsection (f).

(f) If the person or business demonstrates that the cost of providing notice would exceed \$250,000, the number of affected persons exceeds 500,000, or the person does not have sufficient contact information, the notice may be given by:

(1) electronic mail, if the person has an electronic mail address for the affected persons;

(2) conspicuous posting of the notice on the person's website; or

(3) notice published in or broadcast on major statewide media.

(g) Notwithstanding Subsection (e), a person that maintains its own notification procedures as part of an information security policy for the treatment of sensitive personal information that complies with the timing requirements for notice under this section complies with this section if the person notifies affected persons in accordance with that policy.

(h) If a person is required by this section to notify at one time more than 10,000 persons of a breach of system security, the person shall also notify, without unreasonable delay, all consumer reporting agencies, as defined by 15 U.S.C. Section 1681a, that maintain files on consumers on a nationwide basis, of the timing, distribution, and content of the notices.

[Sections 48.104-48.200 reserved for expansion]

SUBCHAPTER C. REMEDIES AND OFFENSES

Sec. 48.201. CIVIL PENALTY; INJUNCTION. (a) A person who violates this chapter is liable to the state for a civil penalty of at least \$2,000 but not more than \$50,000 for each violation. The attorney general may bring suit to recover the civil penalty imposed by this subsection.

(b) If it appears to the attorney general that a person is engaging in, has engaged in, or is about to engage in conduct that violates this chapter, the attorney general may bring an action in the name of this state against the person to restrain the violation by a temporary restraining order or a permanent or temporary injunction.

(c) An action brought under Subsection (b) shall be filed in a district court in Travis County or:

(1) in any county in which the violation occurred; or

(2) in the county in which the victim resides, regardless of whether the alleged violator has resided, worked, or done business in the county in which the victim resides.

(d) The plaintiff in an action under this section is not required to give a bond. The court may also grant any other equitable relief that the court considers appropriate to prevent any additional harm to a victim of identity theft or a further violation of this chapter or to satisfy any judgment entered against the defendant, including the issuance of an order to appoint a receiver, sequester assets, correct a public or private record, or prevent the dissipation of a victim's assets.

(e) The attorney general is entitled to recover reasonable expenses incurred in obtaining injunctive relief, civil penalties, or both, under this section, including reasonable attorney's fees, court costs, and investigatory costs. Amounts collected by the attorney general under this section shall be deposited in the general revenue fund and may be appropriated only for the investigation and prosecution of other cases under this chapter.

(f) The fees associated with an action under this section are the same as in a civil case, but the fees may be assessed only against the defendant.

Sec. 48.202. COURT ORDER TO DECLARE INDIVIDUAL A VICTIM OF IDENTITY THEFT. (a) A person who is injured by a violation of Section 48.101 or who has filed a criminal complaint alleging commission of an offense under Section 32.51, Penal Code, may file an application with a district court for the issuance of a court order declaring that the person is a victim of identity theft. A person may file an application under this section regardless of whether the person is able to identify each person who allegedly transferred or used the person's identifying information in an unlawful manner.

(b) A person is presumed to be a victim of identity theft under this section if the person charged with an offense under Section 32.51, Penal Code, is convicted of the offense.

(c) After notice and hearing, if the court is satisfied by a preponderance of the evidence that the applicant has been injured by a violation of Section 48.101 or is the victim of an offense under Section 32.51, Penal Code, the court shall enter an order containing:

(1) a declaration that the person filing the application is a victim of identity theft resulting from a violation of Section 48.101 or an offense under Section 32.51, Penal Code, as appropriate;

(2) any known information identifying the violator or person charged with the offense;

(3) the specific personal identifying information and any related document used to commit the alleged violation or offense; and

(4) information identifying any financial account or transaction affected by the alleged violation or offense, including:

(A) the name of the financial institution in which the account is established or of the merchant involved in the transaction, as appropriate;

(B) any relevant account numbers;

(C) the dollar amount of the account or transaction affected by the alleged violation or offense; and

(D) the date of the alleged violation or offense.

(d) An order rendered under this section must be sealed because of the confidential nature of the information required to be included in the order. The order may be opened and the order or a copy of the order may be released only:

(1) to the proper officials in a civil proceeding brought by or against the victim arising or resulting from a violation of this chapter, including a proceeding to set aside a judgment obtained against the victim;

(2) to the victim for the purpose of submitting the copy of the order to a governmental entity or private business to:

(A) prove that a financial transaction or account of the victim was directly affected by a violation of this chapter or the commission of an offense under Section 32.51, Penal Code; or

(B) correct any record of the entity or business that contains inaccurate or false information as a result of the violation or offense;

(3) on order of the judge; or

(4) as otherwise required or provided by law.

(e) A court at any time may vacate an order issued under this section if the court finds that the application or any information submitted to the court by the applicant contains a fraudulent misrepresentation or a material misrepresentation of fact.

(f) A copy of an order provided to a person under Subsection (d)(1) must remain sealed throughout and after the civil proceeding. Information contained in a copy of an order provided to a governmental entity or business under Subsection (d)(2) is confidential and may not be released to another person except as otherwise required or provided by law.

Sec. 48.203. DECEPTIVE TRADE PRACTICE. A violation of Section 48.101 is a deceptive trade practice actionable under Subchapter E, Chapter 17.

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

The Conference Committee Report on **SB 122** was filed with the Secretary of the Senate.

RESOLUTIONS OF RECOGNITION

The following resolutions were adopted by the Senate:

Memorial Resolutions

SR 925 by Zaffirini, In memory of Evangelina Santos Caffey of Seguin.

SR 957 by Lucio, In memory of the life of Filemon B. Vela of South Texas.

SR 959 by Lucio, In memory of Adolfo G. Betancourt, Sr., of Cameron County.

SR 960 by Lucio, In memory of Laura Canales.

SR 972 by Wentworth, In memory of Joe Douglas Moore of Wimberley.

SR 979 by Ellis, In memory of Deborah Ann Dembski Shelton of Houston.

HCR 175 (Eltife), In memory of Dave L. Rodgers of Paris.

HCR 176 (Eltife), In memory of Dr. Raymond Armstrong of Paris.

HCR 177 (Eltife), In memory of Dr. John Larry Walker of Paris.

HCR 178 (Eltife), In memory of Mary Lou Williams of Paris.

HCR 179 (Eltife), In memory of Patsy Brulte Kemp of Paris.

HCR 180 (Eltife), In memory of Frances Ellis of Paris.

HCR 181 (Eltife), In memory of Juanita Stamper of Paris.

HCR 182 (Eltife), In memory of Wynona Harper Harrison of Paris.

HCR 183 (Eltife), In memory of William Merritt Noel of Paris.

HCR 184 (Eltife), In memory of Richard J. Rast of Howland.

Congratulatory Resolutions

SCR 40 by Madla, Congratulating the citizens of Terrell County on the occasion of its Centennial Celebration.

SR 953 by West, Recognizing Daryl R. Carter for his service to Carver Heights Baptist Church in Dallas and his community.

SR 954 by Brimer, Recognizing John Washington for his contributions to the field of education.

SR 955 by Lucio, Recognizing Francisco X. "Frank" Lopez on the occasion of his retirement.

SR 956 by Lucio, Recognizing Lance Lopez of Missouri City for his accomplishments as a golfer.

SR 958 by Lucio, Recognizing Oscar De La Hoya for his accomplishments.

SR 961 by Lucio, Recognizing Jonathan Gulley for winning the silver medal in the pole vault at the National Junior Olympic Championships.

SR 962 by Lucio, Recognizing Jose M. Amador on the occasion of his retirement.

SR 963 by Lucio, Recognizing the International Order of the Alhambra, Alva Caravan 91, in Brownsville on the occasion of its 50th anniversary.

SR 964 by Lucio, Commending Fernando Spada, Jr., of Brownsville for placing second in the First World School Chess Championships.

SR 965 by Lucio, Recognizing William C. Powers, Jr., for his service to the profession of law.

SR 966 by Lucio, Wishing Pope Benedict XVI a time of peace and goodwill during his papacy.

SR 967 by Lucio, Recognizing Jose Luis Santillan on the occasion of his retirement as a city commissioner from the City of San Juan.

SR 968 by Van de Putte, Recognizing Latina Crown USA for its contributions to the Latinas of the Lone Star State.

SR 969 by Barrientos, Recognizing Roy Douglas Prince on the occasion of his retirement.

SR 971 by Ellis and Gallegos, Commending the Houston Fire Museum for its plans for an education center.

SR 973 by West, Recognizing Willard Lewis of Mount Pleasant on the occasion of his 80th birthday.

SR 974 by Lucio, Recognizing Roberto F. Loredó on the occasion of his retirement as Mayor of the City of San Juan.

SR 975 by Ellis, Commending Jonathan Charles Hyde for achieving the rank of Eagle Scout.

SR 976 by Ellis, Recognizing Jennifer Parker on the occasion of her graduation from The University of Texas at Austin.

SR 977 by Ellis, Recognizing Brandalyn Cheree Taylor on the occasion of her graduation from John Marshall High School in San Antonio.

SR 978 by Ellis, Recognizing Alondra Joishelle Robinson on the occasion of her graduation from The University of Texas at Austin.

SR 980 by Ellis, Recognizing Nicholas Pradia Guidry on the occasion of his graduation from Carnegie Mellon University.

HCR 174 (Shapiro), Honoring Olympic gold medalist Carly Patterson.

HCR 197 (Eltife), Congratulating Bobby Dejoux of Direct on winning first place at the 2003 SkillsUSA state competition.

HCR 198 (Eltife), Congratulating Cory Morris of Powderly on winning first place at the 2005 SkillsUSA state competition.

HCR 199 (Eltife), Congratulating Jonathan Daniels of Paris on his success at the 2004 National SkillsUSA competition.

HCR 200 (Eltife), Honoring Bo Bolton on his retirement from North Lamar High School in Paris.

HCR 206 (Ellis), Congratulating the Houston Lawyers Association on their 50th Anniversary.

ADJOURNMENT

On motion of Senator Whitmire, the Senate at 9:51 p.m. adjourned until 9:00 a.m. tomorrow.

APPENDIX

COMMITTEE REPORTS

The following committee reports were received by the Secretary of the Senate in the order listed:

May 20, 2005

JURISPRUDENCE — **HB 3485**

TRANSPORTATION AND HOMELAND SECURITY — **CSHB 1986, HB 370, CSHB 2137**

JURISPRUDENCE — **CSHB 401, CSHB 3547**

TRANSPORTATION AND HOMELAND SECURITY — **CSHB 137, CSHB 1044, CSHB 2653**

INTERGOVERNMENTAL RELATIONS — **HB 813, HB 812, HB 1141, HB 1648, HB 2079, HB 3461, HB 3476, HB 3479, HB 3486, HB 3487, HB 3490, HB 3497, HB 3514, HB 3517, HB 3520, HB 3524, HB 3525, HB 3550, HB 3560, HB 148 (Amended), HB 2135 (Amended), CSHB 1582, CSHB 2241, HB 2694 (Amended), CSHB 3528**

EDUCATION — **HB 381, CSHB 495, HB 868, HB 994, HB 1063, HB 1215, HB 1274 (Amended), HB 3297, HB 2162, HB 1102, HB 295, HB 2221, HB 2109, HB 603, HB 283, HB 1791, HB 3012, HB 3468, HB 2441, HB 2333, HB 1737 (Amended), HB 1409, CSSB 934**

STATE AFFAIRS — **HB 1030, HB 1268, HB 1414, HB 1428, HB 1580, HB 1647, HB 1664, HB 1775, HB 1945, HB 2371, HB 2810, HB 2826, HB 2988, HB 2999, HB 873, HB 1485, HCR 49, HB 888**

GOVERNMENT ORGANIZATION — **HB 2819, HB 3047, HB 1413**

JURISPRUDENCE — **CSHB 1449**

BUSINESS AND COMMERCE — **HB 62**

JURISPRUDENCE — **HB 201**

BUSINESS AND COMMERCE — **HB 2716, HB 2613, HB 3376, HB 2627, HB 900, HB 3428, HB 363, HB 1892, HB 2879, HB 3221, HB 1891, HB 1572, HB 2437, HB 637, HB 1234, CSHB 2218**

HEALTH AND HUMAN SERVICES — **CSSB 199, HB 984 (Amended), HB 669, HB 2507**

STATE AFFAIRS — **HJR 6**

EDUCATION — **HB 1173, HB 2956, HB 1111, HB 3563 (Amended), HB 133**

JURISPRUDENCE — **CSHB 2120**

HEALTH AND HUMAN SERVICES — **HB 2101, HB 2765, HB 2471, HB 3357, HB 1502**

FINANCE — **HB 2080, HB 573**

JURISPRUDENCE — **CSHB 3434, CSHB 934**

ADMINISTRATION — **HCR 108, HCR 35, HCR 105, HCR 117**

NATURAL RESOURCES — **HB 1611, CSHB 1208, CSHB 2423**

CRIMINAL JUSTICE — **HB 268** (Amended), **HB 1483**, **HB 2077**, **HB 1484**, **HB 1831**, **HB 1681**, **HB 1601**, **HB 1438**, **HB 1470**, **HB 2384**, **HB 2036**, **HB 1896**, **HB 1589**, **HB 2228**, **HB 2296**, **HB 2294**, **HB 2193**, **HB 1068**, **HB 2574**, **HB 2791**, **HB 1323**, **HB 1357**, **HB 2769**, **HB 681**, **HB 3152**, **HB 2677**, **HB 2839**, **HB 2837**, **HB 2823**, **HB 3353**, **HB 480**, **HB 1634**, **HB 3093**, **HB 615**

INTERGOVERNMENTAL RELATIONS — **CSHB 3164**, **CSHB 192**

GOVERNMENT ORGANIZATION — **CSHB 1516**

NATURAL RESOURCES — **HB 3029**, **CSHB 1740**, **HB 3527**, **HCR 132**, **HB 580**

HEALTH AND HUMAN SERVICES — **HB 1366** (Amended)

GOVERNMENT ORGANIZATION — **CSHB 1434**, **HB 908** (Amended), **HB 2593** (Amended), **CSHB 933**

INTERNATIONAL RELATIONS AND TRADE — **CSHB 3426**

INTERGOVERNMENTAL RELATIONS — **HB 2618**

TRANSPORTATION AND HOMELAND SECURITY — **CSHB 2958**

INTERGOVERNMENTAL RELATIONS — **HB 2667**

TRANSPORTATION AND HOMELAND SECURITY — **CSHB 1672**

FINANCE — **CSHB 1006**, **CSHB 809**

INTERGOVERNMENTAL RELATIONS — **HB 2957**, **HB 1140**, **HB 1248**, **HB 1631**, **HB 1475**, **HB 2695**, **HB 2866**, **HB 1232**, **HB 3409**, **HB 1928**, **HB 1851**, **HB 1830**

BUSINESS AND COMMERCE — **CSHB 1823**

STATE AFFAIRS — **CSHB 1294**, **CSHB 178**, **HB 2772** (Amended), **CSHB 107**

BUSINESS AND COMMERCE — **CSHB 2303**

STATE AFFAIRS — **HB 1379** (Amended), **HB 914** (Amended), **CSHB 616**, **HB 3162** (Amended), **CSHB 2759**, **HB 2381** (Amended)

CRIMINAL JUSTICE — **CSHB 646**, **CSHB 2840**

VETERAN AFFAIRS AND MILITARY INSTALLATIONS — **CSHB 2335**

NATURAL RESOURCES — **HB 2440**, **HB 1733**, **HB 2376**, **HB 1636**

INTERGOVERNMENTAL RELATIONS — **HB 2640**, **CSHB 3526**, **HB 2747**

CRIMINAL JUSTICE — **HB 1012** (Amended)

HEALTH AND HUMAN SERVICES — **CSHB 2180**

EDUCATION — **HB 2701**, **HB 1106**, **HB 776**, **HB 407**, **CSHB 2808**

CRIMINAL JUSTICE — **HB 157**, **HB 51** (Amended), **CSHB 2767**, **HB 1096** (Amended), **HB 2630** (Amended)

HEALTH AND HUMAN SERVICES — **HB 1252**

CRIMINAL JUSTICE — **HB 582**

HEALTH AND HUMAN SERVICES — **CSHB 677, HB 2572** (Amended)
CRIMINAL JUSTICE — **CSHB 1701**
GOVERNMENT ORGANIZATION — **HB 3112** (Amended), **CSHB 1116, CSHB 2525**
INTERGOVERNMENTAL RELATIONS — **CSHB 3518**
TRANSPORTATION AND HOMELAND SECURITY — **CSHB 2955**
EDUCATION — **CSHB 316**
ADMINISTRATION — **HCR 98**
NATURAL RESOURCES — **CSHB 3469, HB 3386, CSHB 2901, CSHB 1767**
TRANSPORTATION AND HOMELAND SECURITY — **HB 2071, HB 1789, HB 3425, HB 2139, HB 3111, HB 1925, HB 2495, HB 1584, HB 2300**
BUSINESS AND COMMERCE — **CSHB 2267**
HEALTH AND HUMAN SERVICES — **CSHB 3235, HB 2696, SCR 37, CSSB 1899**
NATURAL RESOURCES — **CSHB 1900, CSHB 2026**
INTERGOVERNMENTAL RELATIONS — **HB 2491** (Amended)
NATURAL RESOURCES — **HB 2793**
TRANSPORTATION AND HOMELAND SECURITY — **HB 1816** (Amended)
CRIMINAL JUSTICE — **CSHB 164, HB 1575** (Amended), **CSHB 1751, CSHB 2110, CSHB 867, CSHB 823**
INTERGOVERNMENTAL RELATIONS — **CSHB 3262, CSHB 1188, HB 1092** (Amended), **HB 1610** (Amended), **CSHB 34**
NATURAL RESOURCES — **HB 1053, HB 3513, HB 3478, HB 1462, HB 506, HB 505, HB 2140**
INTERGOVERNMENTAL RELATIONS — **CSHB 266, CSHB 1773**
BUSINESS AND COMMERCE — **CSHB 1317, CSHB 1890, CSHB 2965, CSHB 1399, CSHB 412, CSHB 2959, CSHB 853, CSHB 2941, CSHB 2157**
NATURAL RESOURCES — **HB 2301, CSHB 3024**

SENT TO GOVERNOR

May 20, 2005

SB 56, SB 121, SB 149, SB 164, SB 363, SB 415, SB 509, SB 517, SB 637, SB 651, SB 910, SB 1186, SB 1311, SB 1331, SB 1447, SB 1791