

# SEVENTY-FIFTH DAY

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SATURDAY, MAY 21, 2005

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## PROCEEDINGS

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The Senate met at 9:00 a.m. pursuant to adjournment and was called to order by Senator Armbrister.

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

Absent-excused: Carona.

The Presiding Officer announced that a quorum of the Senate was present.

The Reverend Ray Still, Oakwood Baptist Church, New Braunfels, offered the invocation as follows:

Father, we come before You this day mindful of all the ways You have expressed Your great love for us, for the freedoms that we enjoy, for the way of life that You have provided, for the leaders that are before us, who according to Your word are in their position as a result of Your hand. Father, we pray for those of this great state that are suffering today, for the sick and dying, for the poor and downtrodden, for the sad and lonely, and we ask for Your love and comfort to fill their hearts. Father, we pray for our husbands and wives, mothers and fathers, and sons and daughters of our nation that are away on foreign soil serving in the armed services as they provide and defend that wonderful gift of freedom. Protect them and bring them home soon to their families. Lord, grant to their families a peace and provide for their needs while their loved one is away. Father, we ask for these leaders wisdom and courage in every decision they make, we ask for their best as they serve the people of this state, and we pray for them to be leaders of great character who live above reproach. Grant them an extra portion of Your strength this day, for we pray in Your 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.

### LEAVE OF ABSENCE

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

### CO-AUTHOR OF SENATE BILL 199

On motion of Senator Gallegos, Senator Zaffirini will be shown as Co-author of **SB 199**.

### PHYSICIAN OF THE DAY

Senator Seliger was recognized and presented the Honorable Dr. Robert Deuell of Greenville as the Physician of the Day.

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

### CONCLUSION OF MORNING CALL

The Presiding Officer, Senator Armbrister in Chair, at 9:37 a.m. announced the conclusion of morning call.

### COMMITTEE SUBSTITUTE HOUSE BILL 2760 ON SECOND READING

On motion of Senator Averitt and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 2760** at this time on its second reading:

**CSHB 2760**, Relating to regulation of rates for personal automobile and fire and allied lines insurance policies issued by a county mutual insurance company.

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:

Absent-excused: Carona.

### COMMITTEE SUBSTITUTE HOUSE BILL 2760 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 **CSHB 2760** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Carona.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

**COMMITTEE SUBSTITUTE  
HOUSE BILL 2587 ON SECOND READING**

On motion of Senator Duncan and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 2587** at this time on its second reading:

**CSHB 2587**, Relating to the Schleicher County Hospital District.

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:

Absent-excused: Carona.

**COMMITTEE SUBSTITUTE  
HOUSE BILL 2587 ON THIRD READING**

Senator Duncan moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 2587** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Carona.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

**VOTE RECONSIDERED ON  
HOUSE BILL 1644**

On motion of Senator Lindsay and by unanimous consent, the vote by which **HB 1644** was finally passed was reconsidered:

**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.

Question — Shall **HB 1644** be finally passed?

Senator Williams offered the following amendment to the bill:

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

Amend **HB 1644** on third reading as follows:

(1) In added Section 51.537, Water Code, insert a new Subsection (a) to read as follows, and renumber the remaining subsections of Section 51.537 accordingly:

(a) This section applies only to a municipality any portion of which is located in a county with a population of more than 800,000 and less than 1.3 million.

(2) In added Section 54.813, Water Code, insert a new Subsection (a) to read as follows, and renumber the remaining subsections of Section 54.813 accordingly:

(a) This section applies only to a municipality any portion of which is located in a county with a population of more than 800,000 and less than 1.3 million.

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 except as follows:

Absent-excused: Carona.

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

**HB 1644** as amended was again finally passed by the following vote: Yeas 30, Nays 0.

Absent-excused: Carona.

### **GUEST PRESENTED**

Senator Gallegos was recognized and introduced to the Senate D. L. "Dally" Willis of Midland.

The Senate welcomed its guest.

### **GUESTS PRESENTED**

Senator Wentworth was recognized and introduced to the Senate a group of fourth- and fifth-grade students from Oakwood Baptist Church in New Braunfels.

The Senate welcomed its guests.

### **HOUSE BILL 1271 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 1271** at this time on its second reading:

**HB 1271**, Relating to the voter registration of certain persons disqualified from jury 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 except as follows:

Absent-excused: Carona.

### **HOUSE BILL 1271 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 1271** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Carona.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

**COMMITTEE SUBSTITUTE  
HOUSE BILL 585 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 585** at this time on its second reading:

**CSHB 585**, Relating to the requirements for the incorporation of a municipality in the extraterritorial jurisdiction of certain existing municipalities.

The bill was read second time.

Senator Wentworth offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **CSHB 585** as follows:

(1) In SECTION 2 of the bill, in added Section 42.0411(a), Local Government Code (committee printing, page 1, line 22), between "area" and the colon, insert "located north and east of Interstate Highway 10".

(2) In SECTION 2 of the bill, in added Section 42.0411(c), Local Government Code (committee printing, page 1, line 57), after the period in the final sentence, insert "This subsection expires on the later of:

(1) September 1, 2009; or

(2) the date that all areas entitled to incorporate under this subsection have incorporated."

(3) In SECTION 2 of the bill, in added Section 42.0411(d), Local Government Code (committee printing, page 2, line 4), after the period in the final sentence, insert "This subsection expires on the later of:

(1) September 1, 2009; or

(2) the date that all areas entitled to incorporate under this subsection have incorporated."

(4) In SECTION 2 of the bill, in added Section 42.0411, Local Government Code (committee printing, page 2, between lines 4 and 5), insert the following:

(e) This section does not prohibit a municipality from annexing, as provided by law, an area in the extraterritorial jurisdiction of the municipality if a majority of the registered voters of the area agree in writing to the annexation.

The amendment was read.

On motion of Senator Wentworth, further consideration of **CSHB 585** was postponed to a time certain of 11:00 a.m. today.

Question — Shall Floor Amendment No. 1 to **CSHB 585** be adopted?

**BILLS AND RESOLUTION SIGNED**

The Presiding Officer announced the signing of the following enrolled bills and resolution in the presence of the Senate after the captions had been read:

**SB 50, SB 53, SB 114, SB 143, SB 144, SB 171, SB 200, SB 212, SB 224, SB 241, SB 264, SB 276, SB 318, SB 347, SB 381, SB 382, SB 399, SB 433, SB 436, SB 439, SB 443, SB 468, SB 480, SB 500, SB 554, SB 668, SB 672, SB 678, SB 886, SCR 39.**

**HOUSE BILL 2451 ON SECOND READING**

On motion of Senator Gallegos and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 2451** at this time on its second reading:

**HB 2451**, Relating to the sale, service, and delivery of alcoholic beverages; providing penalties.

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:

Absent-excused: Carona.

**HOUSE BILL 2451 ON THIRD READING**

Senator Gallegos moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2451** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Carona.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

**HOUSE BILL 812 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 812** at this time on its second reading:

**HB 812**, Relating to the creation of the Sunrise Municipal Utility District of Hunt County; providing authority to impose a tax and issue bonds; granting the power of eminent domain.

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:

Absent-excused: Carona.

**HOUSE BILL 812 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 812** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Carona.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

**HOUSE BILL 3517 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 3517** at this time on its second reading:

**HB 3517**, Relating to the creation of the Harris County Improvement District No. 7; providing authority to impose a tax and issue bonds.

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:

Absent-excused: Carona.

**HOUSE BILL 3517 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 3517** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Carona.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

**SENATE BILL 1354 WITH HOUSE AMENDMENTS**

Senator Estes called **SB 1354** from the President's table for consideration of the House amendments to the bill.

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

**Amendment**

Amend **SB 1354** by substituting in lieu thereof the following:

**A BILL TO BE ENTITLED  
AN ACT**

relating to the protection of water quality in watersheds threatened by quarry activities; establishing a pilot program in a certain portion of the Brazos River watershed; providing penalties.

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

SECTION 1. (a) The legislature recognizes that the beds, bottoms, and banks of navigable rivers and streams are precious and irreplaceable economic and recreational state resources that deserve protection.

(b) The legislature recognizes that the quantity and quality of water flowing in the navigable rivers and streams are precious and irreplaceable economic and recreational state resources that deserve protection.

(c) The legislature recognizes that:

(1) other valuable resources capable of being mined or quarried, including certain aggregate materials, exist in the proximity of the beds, bottoms, and banks of navigable rivers and streams in areas of the state;

(2) the right to develop those resources by mining and quarrying them is a right granted to individuals owning the property; and

(3) development of those resources by mining and quarrying is an important economic activity.

(d) The protection of the right to exploit those resources through mining and quarrying activities affecting the beds, bottoms, and banks of navigable rivers and streams, including the quantity and quality of the water flowing in them, in certain regions of the state, should not come at the cost of:

(1) uncontrolled damage to the beds, bottoms, and banks of navigable rivers and streams, including the quantity and quality of the water flowing in them; or

(2) infringement on private property rights of landowners adjacent to the affected navigable rivers and streams.

(e) The legislature finds that a unique portion of the Brazos River watershed between Possum Kingdom Reservoir in Palo Pinto County and Parker County, Texas, to be known as the "John Graves Scenic Riverway," merits protection from ongoing mining and quarrying activities in the proximity of the beds, bottoms, and banks of the river that significantly impair the quantity and quality of the water flowing in the river.

SECTION 2. Chapter 26, Water Code, is amended by adding Subchapter M to read as follows:

#### SUBCHAPTER M. WATER QUALITY PROTECTION AREAS

Sec. 26.551. DEFINITIONS. In this subchapter:

(1) "Aggregates" means any commonly recognized construction material originating from a quarry or pit by the disturbance of the surface, including dirt, soil, rock asphalt, granite, gravel, gypsum, marble, sand, stone, caliche, limestone, dolomite, rock, riprap, or other nonmineral substance. The term does not include clay or shale mined for use in manufacturing structural clay products.

(2) "John Graves Scenic Riverway" means that portion of the Brazos River Basin, and its contributing watershed, located downstream of the Morris Shepard Dam on the Possum Kingdom Reservoir in Palo Pinto County, Texas, and extending to the county line between Parker and Hood Counties, Texas.

(3) "Operator" means any person engaged in or responsible for the physical operation and control of a quarry.

(4) "Overburden" means all materials displaced in an aggregates extraction operation that are not, or reasonably would not be expected to be, removed from the affected area.

(5) "Owner" means any person having title, wholly or partly, to the land on which a quarry exists or has existed.

(6) "Pit" means an open excavation from which aggregates have been or are being extracted with a depth of five feet or more below the adjacent and natural ground level.

(7) "Quarry" means the site from which aggregates for commercial sale are being or have been removed or extracted from the earth to form a pit, including the entire excavation, stripped areas, haulage ramps, and the immediately adjacent land on which the plant processing the raw materials is located. The term does not include any land owned or leased by the responsible party not being currently used in the production of aggregates for commercial sale or an excavation to mine clay or shale for use in manufacturing structural clay products.

(8) "Quarrying" means the current and ongoing surface excavation and development without shafts, drafts, or tunnels, with or without slopes, for the extraction of aggregates for commercial sale from natural deposits occurring in the earth.

(9) "Refuse" means all waste material directly connected with the production, cleaning, or preparation of aggregates that have been produced by quarrying.

(10) "Responsible party" means the owner, operator, lessor, or lessee who is responsible for overall function and operation of a quarry required to apply for and hold a permit pursuant to this subchapter.

(11) "Water quality protection area" means a contributing watershed of a river the water quality of which is threatened by quarrying activities.

(12) "Water body" means any navigable watercourse, river, stream, or lake within the water quality protection area.

Sec. 26.552. APPLICABILITY; PILOT PROGRAM. (a) This subchapter applies only to quarrying in a water quality protection area designated by commission rule. This subchapter does not apply to the construction or operation of a municipal solid waste facility regardless of whether the facility includes a pit or quarry that is associated with past quarrying.

(b) For the period of September 1, 2005, to September 1, 2025, the commission shall apply this subchapter only as a pilot program in the John Graves Scenic Riverway.

(c) This subchapter does not apply to:

(1) a quarry or associated processing plant that since on or before January 1, 1994, has been in regular operation in the John Graves Scenic Riverway without cessation of operation for more than 30 consecutive days and under the same ownership;

(2) the construction or modification of associated equipment located on a quarry site or associated processing plant site described by Subdivision (1) or on contiguous property;

(3) an expansion of a quarry described by Subdivision (1) to contiguous property, except that an expansion of the quarry may not result in quarrying operations being closer than 200 feet from the cut bank of the Brazos River; or

(4) an activity, facility, or operation regulated under Chapter 134, Natural Resources Code.

Sec. 26.553. REGULATION OF QUARRIES WITHIN WATER QUALITY PROTECTION AREA. (a) The commission shall require a responsible party to obtain an individual permit for any discharges from a quarry located in a water quality protection area that is located:

(1) within a 100-year floodplain of any water body; or

(2) within one mile of any water body.

(b) The commission shall require a responsible party to obtain a general permit under Section 26.040 for any quarry that is located in a water quality protection area and located a distance of more than one mile from any water body.

(c) Subject to Subsection (d), the commission shall prohibit the construction or operation of any new quarry, or the expansion of an existing quarry, located within 1,500 feet of a water body located in a water quality protection area for which a person files an application for a permit or permit amendment after September 1, 2005.

(d) Notwithstanding Subsection (c), the commission may issue or amend a permit to authorize the construction or operation of a quarry located between 200 and 1,500 feet of a water body on finding that:

(1) the responsible party can satisfy performance criteria established by commission rule and incorporated into the permit to address:

(A) slope gradients that minimize the potential for erosion, slides, sloughing of quarry walls, overburden piles, and banks into the water body and related water quality considerations;

(B) whether operations could result in significant damage to important historic and cultural values and ecological systems;

(C) whether operations could affect renewable resource lands, including aquifers and aquifer recharge areas, in which the operations could result in a substantial loss or reduction of long-range productivity of a water supply or of food or fiber products; and

(D) whether operations could affect natural hazard land, including areas subject to frequent flooding and areas of unstable geology, in which the operations could substantially endanger life and property;

(2) the responsible party has provided a plan for the control of surface water drainage and water accumulation to prevent:

(A) erosion, siltation, or runoff; and

(B) damage to:

(i) fish, wildlife, or fish or wildlife habitat; or

(ii) public or private property;

(3) the responsible party has provided a plan for reclamation of the quarry that is consistent with best management standards and practices adopted by the commission for quarry reclamation, which may include backfilling, soil stabilization and compacting, grading, erosion control measures, and appropriate revegetation; and

(4) the responsible party has provided evidence that, to the extent possible, quarrying will be conducted using the best available technology to:

(A) minimize disturbance and adverse effects of the quarry operation on fish, wildlife, and related environmental resources; and

(B) enhance fish, wildlife, and related environmental resources where practicable.

(e) The commission by rule shall establish effluent or other water quality requirements, including requirements for financial responsibility, adequate to protect the water resources in a water quality protection area for inclusion in any authorization, including an individual or general permit, issued under this section by the commission.

(f) In addition to any other requirements established by commission rule adopted under Subsection (e), the responsible party for a quarry located in a water quality protection area required to obtain an individual or general permit shall include with an application filed with the commission under this section:

(1) a proposed plan of action for how the responsible party will restore the receiving water body to background conditions in the event of an unauthorized discharge that affects the water body; and

(2) evidence of sufficiently funded bonding or proof of financial resources to mitigate, remediate, and correct any potential future effects on a water body of an unauthorized discharge to a water body.

Sec. 26.554. FINANCIAL RESPONSIBILITY FOR DISCHARGES OF CERTAIN WASTES WITHIN WATER QUALITY PROTECTION AREA. (a) The commission by rule shall adopt requirements for:

(1) maintaining evidence of financial responsibility for restoration of a water body affected by an unauthorized discharge from a permitted quarry; or

(2) taking corrective action and compensating for water quality effects caused by an unauthorized discharge resulting from quarrying.

(b) A responsible party commits a violation if the responsible party operates a permitted quarry knowing that financial responsibility required by a permit does not exist.

Sec. 26.555. INSPECTIONS OF AND SAMPLING OF WATER IN JOHN GRAVES SCENIC RIVERWAY. (a) To detect potential violations of this subchapter in the John Graves Scenic Riverway, the commission, the Brazos River Authority, and the Parks and Wildlife Department shall coordinate efforts to conduct each calendar year:

(1) visual inspections of the riverway; and

(2) testing of water samples drawn from the Brazos River and its tributaries in the riverway.

(b) The visual inspections and the drawing of water samples must be conducted at least once in a winter month and at least once in a summer month. The visual inspections must be conducted both from the surface of the John Graves Scenic Riverway and from an aircraft flying over the riverway.

Sec. 26.556. UNAUTHORIZED DISCHARGES OF CERTAIN WASTES WITHIN WATER QUALITY PROTECTION AREA; ENFORCEMENT. (a) The commission shall enforce this subchapter and impose administrative and civil penalties for discharges from a quarry in violation of this subchapter. Subject to Subsection (d), the commission shall assess an administrative penalty against a responsible party of a quarry responsible for a discharge in violation of this subchapter or of a permit, rule, or order adopted or issued under this subchapter in an amount of not less than \$2,500 and not more than \$25,000 for each violation of this subchapter or of the permit, rule, or order adopted or issued under this subchapter.

Subject to Subsection (d), the commission shall assess an administrative penalty against a person for any other violation of this subchapter or of a permit, rule, or order adopted or issued under this subchapter in an amount of not less than \$100 for each violation of this subchapter or of the permit, rule, or order adopted or issued under this subchapter. Each day a violation continues may be considered a separate violation for purposes of penalty assessment.

(b) In determining the amount of the penalty, the commission shall consider:

(1) the nature, circumstances, extent, duration, and gravity of the prohibited acts, and the hazard or potential hazard the violation presents to the health, safety, or welfare of the public;

(2) the effects of the violation on instream uses, water quality, and fish and wildlife habitats;

(3) with respect to the alleged violator:

(A) the history and extent of previous violations;

(B) the degree of culpability, including whether the violation was attributable to mechanical or electrical failures and whether the violation could have been reasonably anticipated and avoided;

(C) demonstrated good faith, including actions taken by the alleged violator to rectify the cause of the violation and to compensate affected persons;

(D) whether the violator is engaged in a for-profit operation;

(E) any economic benefit gained through the violation; and

(F) the amount necessary to deter future violations; and

(4) any other matters that justice may require.

(c) In addition to the administrative penalties and other available remedies or causes of action, the commission may seek injunctive relief in the district courts of Travis County to:

(1) force the temporary or permanent closure of a quarry operated without authorization required under this subchapter;

(2) force the temporary or permanent closure of a permitted quarry under this subchapter for which acceptable evidence of financial responsibility is not maintained;

(3) force the temporary or permanent closure of any quarry responsible for an unauthorized discharge; or

(4) force corrective action by the responsible party of a quarry responsible for an unauthorized discharge.

(d) The commission may compromise, modify, or remit, with or without conditions, an administrative penalty imposed under this subchapter. In determining the appropriate amount of a penalty for settlement of an administrative enforcement matter, the commission may consider a respondent's willingness to contribute to supplemental environmental projects that are approved by the commission, giving preference to projects that benefit the community in which the alleged violation occurred and address the remediation, reclamation, or restoration of the water quality and the beds, bottoms, and banks of water bodies in the water quality area adversely affected by unauthorized discharges from quarries or abandoned quarries that threaten water quality and the beds, bottoms, and banks of water bodies in the water quality area. The commission may encourage the cleanup of contaminated property through

the use of supplemental environmental projects. The commission may not approve a project that is necessary to bring a respondent into compliance with environmental laws, that is necessary to remediate environmental harm caused by the respondent's alleged violation, or that the respondent has already agreed to perform under a preexisting agreement with a governmental agency.

(e) A violation of this subchapter also constitutes an offense that may be prosecuted and punished under Section 7.147.

(f) Nothing in this subchapter affects the right of any person that has a justiciable interest to pursue an available common law or statutory remedy to enforce a right, to prevent or seek redress or compensation for the violation of a right, or otherwise to redress an injury.

Sec. 26.557. EMERGENCY ORDERS. The commission may issue a temporary or emergency order under Section 5.509 relating to a discharge of waste or pollutants from a quarry in a water quality protection area.

Sec. 26.558. RECOVERY OF COSTS FOR UNAUTHORIZED DISCHARGES WITHIN WATER QUALITY PROTECTION AREA. If the commission has incurred any costs in undertaking a corrective or enforcement action with respect to an unauthorized discharge from a quarry under this subchapter, including a reclamation or restoration action, the responsible party is liable to the state for all reasonable costs of the corrective or enforcement action, including court costs and reasonable attorney's fees, and for any punitive damages that may be assessed by the court.

Sec. 26.559. RECLAMATION AND RESTORATION FUND ACCOUNT. (a) Penalties and other money received by the commission as a result of an enforcement action taken under this subchapter, and any gift or grant the commission receives for the purposes of this subchapter, shall be deposited into the reclamation and restoration fund account in the general revenue fund. Money in the account may be appropriated only to the commission for the reclamation and restoration of the beds, bottoms, and banks of water bodies affected by the unlawful discharges subject to this subchapter.

(b) At least 60 days before spending money from the reclamation and restoration fund account, the commission shall publish notice of its proposed plan and conduct a hearing for the purpose of soliciting public comment, oral or written. The commission shall fully consider all written and oral submissions on the proposed plan.

(c) At least 30 days before the date of the public hearing, the notice must be published in the Texas Register and in a newspaper of general circulation in the county where the violation resulting in the payment of the penalties or other money occurred.

(d) Interest and other income earned on money in the account shall be credited to the account. The account is exempt from the application of Section 403.095, Government Code.

Sec. 26.560. COOPERATION WITH OTHER STATE AGENCIES. (a) The commission is the principal authority in the state on matters relating to the implementation of this subchapter. All other state agencies engaged in water quality or water pollution control activities in a water quality protection area shall coordinate those activities with the commission.

(b) The executive director, with the consent of the commission, may enter into contracts, memoranda of understanding, or other agreements with other state agencies for purposes of developing effluent or other water quality requirements, including requirements for financial responsibility, adequate to protect the water resources in a water quality protection area, in any individual or general permit or other authorization issued under this subchapter.

Sec. 26.561. WATER QUALITY PROTECTION AREA REPORTS. (a) On or before December 1, 2006, the commission shall prepare a report describing its implementation of this subchapter and provide copies of the report to the governor, lieutenant governor, and speaker of the house of representatives.

(b) Beginning December 1, 2008, and on December 1 of each succeeding even-numbered year, the commission shall deliver a report to the governor, lieutenant governor, and speaker of the house of representatives evaluating the success of its implementation of the water quality protection permitting and enforcement programs developed under this subchapter.

Sec. 26.562. EXPIRATION. This subchapter expires September 1, 2025.

SECTION 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect on the 91st day after the last day of the legislative session.

### **Floor Amendment No. 2**

Amend **CSSB 1354** (House committee printing) in SECTION 2 of the bill, in proposed Section 26.552, Water Code, as follows:

(1) In Subdivision (2), Subsection (c), of that section (page 5, line 3), strike "or on contiguous property;" and substitute "; or".

(2) Strike Subdivision (3), Subsection (c), of that section (page 5, lines 4-7).

(3) In Subsection (c) of that section (page 5, line 8), strike "(4)" and substitute "(3)".

The amendments were read.

Senator Estes moved to concur in the House amendments to **SB 1354**.

The motion prevailed by the following vote: Yeas 29, Nays 1.

Nays: Armbrister.

Absent-excused: Carona.

### **HOUSE BILL 2079 ON SECOND READING**

On motion of Senator Estes and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 2079** at this time on its second reading:

**HB 2079**, Relating to the creation, administration, powers, duties, functions, operations, and financing of the Stephens Regional Special Utility District.

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:

Absent-excused: Carona.

### **HOUSE BILL 2079 ON THIRD READING**

Senator Estes moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2079** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Carona.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

### **COMMITTEE SUBSTITUTE HOUSE BILL 2266 ON SECOND READING**

Senator Deuell moved to suspend the regular order of business to take up for consideration **CSHB 2266** at this time on its second reading:

**CSHB 2266**, Relating to the authority of municipalities to enact a requirement that establishes the sales price for certain housing units or residential lots.

The motion prevailed.

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

The bill was read second time.

Senator Barrientos offered the following amendment to the bill:

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

Amend **CSHB 2266**, on page 1, lines 22-25, by striking proposed subsection (b), and substituting new subsection (b), to read as follows:

(b) This section does not affect any authority of a municipality to:

(1) create or implement an incentive, contract commitment, density bonus, or other voluntary program designed to increase the supply of moderate or lower cost housing units, or

(2) adopt a requirement applicable to an area served under the provisions of Subtitle A, Title 12, Local Government Code, Chapter 373A, which authorizes Homestead Preservation Districts, if such chapter is created by an Act of the legislature.

The amendment to **CSHB 2266** was read and was adopted by a viva voce vote.

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

Absent-excused: Carona.

Senator Lucio offered the following amendment to the bill:

### **Floor Amendment No. 2**

Amend **CSHB 2266** in SECTION 1 of the bill, added Subsection (a), Section 214.904, Local Government Code, (page 1, line 21, Senate committee printing) by inserting the following between "lot" and the period:

unless, following an independent feasibility study, the municipality determines that the requirement has no overall detrimental effect on the economic viability of residential subdivisions or apartment developments affected by the requirement. A requirement adopted under this section must allow for a reasonable profit by customary industry standards

The amendment was read.

On motion of Senator Deuell, Floor Amendment No. 2 to **CSHB 2266** was tabled by the following vote: Yeas 13, Nays 12.

Yeas: Averitt, Deuell, Duncan, Eltife, Estes, Fraser, Harris, Janek, Lindsay, Nelson, Seliger, Staples, Williams.

Nays: Armbrister, Barrientos, Ellis, Gallegos, Hinojosa, Jackson, Lucio, Madla, Shapleigh, Van de Putte, Whitmire, Zaffirini.

Absent: Brimer, Ogden, Shapiro, Wentworth, West.

Absent-excused: Carona.

Senator Barrientos offered the following amendment to the bill:

### **Floor Amendment No. 3**

Amend **CSHB 2266** (Senate committee printing) on page 1, line 21, by inserting the following between "lot" and the period:

"unless an independent feasibility study determines that the requirement has no overall detrimental effect on the economic viability of residential subdivisions or apartment developments affected by the requirement, including a reasonable profit by customary industry standards."

The amendment was read.

Senator Barrientos withdrew Floor Amendment No. 3.

Senator Ellis offered the following amendment to the bill:

### **Floor Amendment No. 4**

Amend **CSHB 2266** in SECTION 1 of the bill, by adding a new Subsection (d) to added Section 214.904, Local Government Code, (page 1, between lines 28 and 29, Senate committee printing) to read as follows:

(d) This section does not apply to property that is part of an urban land bank program.

The amendment to **CSHB 2266** 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 except as follows:

Absent-excused: Carona.

Senator Barrientos offered the following amendment to the bill:

**Floor Amendment No. 5**

Amend **CSHB 2266** (Senate committee printing) on page 1, between lines 28 and 29, by inserting new subsection (d), to read as follows:

(d) This section does not apply to a municipality that has segregated communities in census tracts as defined by the United States Census Bureau.

The amendment was read.

On motion of Senator Deuell, Floor Amendment No. 5 to **CSHB 2266** was tabled by the following vote: Yeas 16, Nays 11.

Yeas: Averitt, Deuell, Duncan, Eltife, Estes, Fraser, Harris, Jackson, Janek, Lindsay, Nelson, Seliger, Shapiro, Staples, Wentworth, Williams.

Nays: Armbrister, Barrientos, Ellis, Gallegos, Hinojosa, Lucio, Madla, Shapleigh, Van de Putte, Whitmire, Zaffirini.

Absent: Brimer, Ogden, West.

Absent-excused: Carona.

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

**CSHB 2266** 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: Lucio, Shapleigh, Zaffirini.

Absent-excused: Carona.

**COMMITTEE SUBSTITUTE  
HOUSE BILL 2266 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 2266** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 27, Nays 3.

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

Nays: Lucio, Shapleigh, Zaffirini.

Absent-excused: Carona.

The bill was read third time and was passed by the following vote: Yeas 27, Nays 3. (Same as previous roll call)

### REMARKS ORDERED PRINTED

On motion of Senator Barrientos and by unanimous consent, the remarks by Senator Barrientos and Senator Deuell regarding Floor Amendment No. 5 to **CSHB 2266** were ordered reduced to writing and printed in the *Senate Journal*.

The remarks were printed in the addendum to today's journal.

### REMARKS ORDERED PRINTED

On motion of Senator Deuell and by unanimous consent, his remarks regarding **CSHB 2266** on final passage were ordered reduced to writing and printed in the *Senate Journal*.

The remarks were printed in the addendum to today's journal.

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

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

### COMMITTEE SUBSTITUTE HOUSE BILL 585 ON SECOND READING

The Presiding Officer, Senator Armbrister in Chair, laid before the Senate **CSHB 585** on its second reading. The bill had been read second time, an amendment offered, and further consideration postponed to a time certain of 11:00 today:

**CSHB 585**, Relating to the requirements for the incorporation of a municipality in the extraterritorial jurisdiction of certain existing municipalities.

Question — Shall Floor Amendment No. 1 to **CSHB 585** be adopted?

Senator Wentworth withdrew Floor Amendment No. 1.

Senator Wentworth offered the following amendment to the bill:

#### Floor Amendment No. 2

Amend **CSHB 585** as follows:

(1) In SECTION 2 of the bill, in added Section 42.0411(a), Local Government Code (committee printing, page 1, lines 21-34), after "This section applies only to", strike the remainder of the sentence and insert the following:

(1) an area located north and east of Interstate Highway 10 that is included in the extraterritorial jurisdiction, or the limited-purpose annexation area, of a municipality with a population of one million or more that has operated under a three-year annexation plan similar to the municipal annexation plan described by Section 43.052 for at least 10 years; or

(2) an area located north and east of Interstate Highway 10:

(A) that is included in the extraterritorial jurisdiction, or the limited-purpose annexation area, of a municipality with a population of one million or more that has operated under a three-year annexation plan similar to the municipal annexation plan described by Section 43.052 for at least 10 years;

(B) that has not been included in the municipality's annexation plan described by Section 43.052 before the 180th day before the date consent for incorporation is requested under Section 42.041(a); and

(C) for which the municipality refused to give its consent to incorporation under Section 42.041(a).

(2) In SECTION 2 of the bill, in added Section 42.0411(b), Local Government Code (committee printing, page 1, line 35), strike "(a)" and substitute "(a)(2)".

(3) In SECTION 2 of the bill, in added Section 42.0411(c), Local Government Code (committee printing, page 1, line 57), after the period in the final sentence, insert "This subsection expires on the later of:

(1) September 1, 2009; or

(2) the date that all areas entitled to incorporate under this subsection have incorporated."

(4) In SECTION 2 of the bill, in added Section 42.0411(d), Local Government Code (committee printing, page 2, line 4), after the period in the final sentence, insert "This subsection expires on the later of:

(1) September 1, 2009; or

(2) the date that all areas entitled to incorporate under this subsection have incorporated."

(5) In SECTION 2 of the bill, in added Section 42.0411, Local Government Code (committee printing, page 2, between lines 4 and 5), insert the following:

(e) This section does not prohibit a municipality from annexing, as provided by law, an area in the extraterritorial jurisdiction of the municipality if a majority of the registered voters of the area agree in writing to the annexation.

The amendment to **CSHB 585** was read and was adopted by a viva voce vote.

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

Absent-excused: Carona.

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

**CSHB 585** as amended was passed to third reading by a viva voce vote.

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

Absent-excused: Carona.

### COMMITTEE SUBSTITUTE HOUSE BILL 585 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 585** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Carona.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

**HOUSE BILL 2174 ON SECOND READING**

On motion of Senator Estes and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 2174** at this time on its second reading:

**HB 2174**, Relating to the terms of court of the 15th, 59th, and 336th District Courts.

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:

Absent-excused: Carona.

**HOUSE BILL 2174 ON THIRD READING**

Senator Estes moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2174** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Carona.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

**HOUSE BILL 3486 ON SECOND READING**

On motion of Senator Estes and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 3486** at this time on its second reading:

**HB 3486**, Relating to the Nocona Hospital District.

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:

Absent-excused: Carona.

**HOUSE BILL 3486 ON THIRD READING**

Senator Estes moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 3486** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Carona.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

**HOUSE BILL 1141 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 1141** at this time on its second reading:

**HB 1141**, Relating to the conversion of the Verandah Fresh Water Supply District of Hunt County to a municipal utility district; providing authority to impose a tax and issue bonds; granting the power of eminent domain.

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:

Absent-excused: Carona.

**HOUSE BILL 1141 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 1141** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Carona.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

**COMMITTEE SUBSTITUTE****HOUSE BILL 3547 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 3547** at this time on its second reading:

**CSHB 3547**, Relating to the creation of an additional county court at law in Kaufman County.

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:

Absent-excused: Carona.

**COMMITTEE SUBSTITUTE****HOUSE BILL 3547 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 3547** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Carona.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

**SENATE JOINT RESOLUTION 12 ON SECOND READING**

Senator Janek moved to suspend the regular order of business to take up for consideration **SJR 12** at this time on its second reading:

**SJR 12**, Proposing a constitutional amendment to abolish the office of county treasurer of Fort Bend County.

The motion prevailed by the following vote: Yeas 22, Nays 4.

Yeas: Averitt, Barrientos, Deuell, Duncan, Ellis, Eltife, Estes, Fraser, Gallegos, Harris, Hinojosa, Janek, Nelson, Ogden, Seliger, Shapiro, Shapleigh, Staples, Wentworth, Whitmire, Williams, Zaffirini.

Nays: Armbrister, Jackson, Lucio, Madla.

Absent: Brimer, Lindsay, Van de Putte, West.

Absent-excused: Carona.

The resolution 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: Armbrister, Jackson, Lucio, Madla.

Absent-excused: Carona.

**SENATE JOINT RESOLUTION 12 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 **SJR 12** be placed on its third reading and final passage.

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

Yeas: Averitt, Barrientos, Brimer, Deuell, Duncan, Ellis, Eltife, Estes, Fraser, Gallegos, Harris, Hinojosa, Janek, Nelson, Ogden, Seliger, Shapiro, Shapleigh, Staples, Wentworth, West, Whitmire, Williams, Zaffirini.

Nays: Armbrister, Jackson, Lucio, Madla.

Absent: Lindsay, Van de Putte.

Absent-excused: Carona.

The resolution was read third time and was passed by the following vote: Yeas 24, Nays 4.

Yeas: Averitt, Barrientos, Brimer, Deuell, Duncan, Ellis, Eltife, Estes, Fraser, Gallegos, Harris, Hinojosa, Janek, Madla, Nelson, Ogden, Seliger, Shapiro, Shapleigh, Staples, West, Whitmire, Williams, Zaffirini.

Nays: Armbrister, Jackson, Lucio, Wentworth.

Absent: Lindsay, Van de Putte.

Absent-excused: Carona.

**COMMITTEE SUBSTITUTE  
HOUSE BILL 2702 ON SECOND READING**

The Presiding Officer, Senator Armbrister in Chair, laid before the Senate **CSHB 2702** on its second reading. The bill had been read second time, amended, and further consideration postponed to a time certain of 10:00 a.m. today:

**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.

Question — Shall **CSHB 2702** as amended be passed to third reading?

**VOTE RECONSIDERED ON  
FLOOR AMENDMENT NO. 17**

On motion of Senator Wentworth and by unanimous consent, the vote by which Floor Amendment No. 17 was adopted was reconsidered.

Question — Shall Floor Amendment No. 17 to **CSHB 2702** be adopted?

Senator Wentworth withdrew Floor Amendment No. 17.

Senator Barrientos offered the following amendment to the bill:

**Floor Amendment No. 44**

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) Segments 1 through 4 of State Highway 130."

The amendment to **CSHB 2702** was read and was adopted by the following vote: Yeas 17, Nays 12.

Yeas: Averitt, Barrientos, Ellis, Estes, Gallegos, Harris, Hinojosa, Lindsay, Lucio, Madla, Nelson, Shapleigh, Van de Putte, Wentworth, West, Whitmire, Zaffirini.

Nays: Armbrister, Deuell, Duncan, Eltife, Fraser, Jackson, Janek, Ogden, Seliger, Shapiro, Staples, Williams.

Absent: Brimer.

Absent-excused: Carona.

Senator Estes offered the following amendment to the bill:

#### **Floor Amendment No. 45**

Amend **CSHB 2702** by adding the following appropriately numbered section to Article 2 of the bill and renumbering existing sections of Article 2 accordingly:

SECTION 2. \_\_. (a) Subchapter D, Chapter 542, Transportation Code, is amended by adding Section 542.405 to read as follows:

Sec. 542.405. DEPOSIT OF REVENUE FROM CERTAIN TRAFFIC PENALTIES FOR FOUNDATION SCHOOL PROGRAM. (a) In this section, "photographic traffic signal enforcement system" means a system that:

(1) consists of a camera system and vehicle sensor installed to exclusively work in conjunction with an electrically operated traffic-control signal;

(2) is capable of producing one or more recorded photographic or digital images that depict the license plate attached to the front or the rear of a motor vehicle that is not operated in compliance with the instructions of the traffic-control signal; and

(3) is designed to enforce compliance with the instructions of the traffic-control signal by imposition of a civil or administrative penalty against the owner of the motor vehicle.

(b) This section applies only to a civil or administrative penalty imposed on the owner of a motor vehicle by a local authority that operates or contracts for the operation of a photographic traffic signal enforcement system with respect to a highway under its jurisdiction or that operates or contracts for the operation of any other type of electronic traffic law enforcement system consisting of a camera system that automatically produces one or more recorded photographs or digital images of the license plate on a motor vehicle or the operator of a motor vehicle.

(c) Of the gross amount received by a local authority from the imposition of a civil or administrative penalty against the owner of a motor vehicle, the local authority may retain \$1 and shall remit the remainder to the comptroller for deposit to the credit of the foundation school fund.

(d) The comptroller shall adopt rules and forms to implement and enforce this section.

(b) Section 542.405, Transportation Code, as added by this section, applies to revenue received by a local authority unit of this state from the imposition of a civil or administrative penalty on or after the effective date of this Act, regardless of whether the penalty was imposed before, on, or after the effective date of this Act.

The amendment was read.

Senator Seliger offered the following amendment to Floor Amendment No. 45:

**Floor Amendment No. 46**

Amend Floor Amendment No. 45 (Estes) to **CSHB 2702** (at page 2, line 5) by inserting the following between "(c)" and "the gross":

"If a local authority incurs any cost for equipment, installation, or implementation of a photographic traffic signal enforcement system; the local authority may apply the gross amount received from the imposition of a civil or administrative penalty against the owner of a motor vehicle to the cost until the local authority recovers its cost. Upon recovering its cost, of [Øf]".

The amendment to the amendment was read.

**POINT OF ORDER**

Senator Ellis raised a point of order that Floor Amendment No. 46 was not germane to the body of the bill.

**POINT OF ORDER WITHDRAWN**

Senator Ellis withdrew the point of order.

Question recurring on the adoption of Floor Amendment No. 46 to Floor Amendment No. 45 to **CSHB 2702**, the amendment to the amendment was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 46 except as follows:

Absent-excused: Carona.

Question — Shall Floor Amendment No. 45 as amended to **CSHB 2702** be adopted?

**POINT OF ORDER**

Senator Ellis raised a point of order that Floor Amendment No. 45 as amended was not germane to the body of the bill.

**POINT OF ORDER WITHDRAWN**

Senator Ellis withdrew the point of order.

Senator Estes withdrew Floor Amendment No. 45 as amended.

Senator Ogden offered the following amendment to the bill:

**Floor Amendment No. 47**

Amend **CSHB 2702** (committee printing) by adding an appropriately numbered SECTION to the bill to read as follows:

SECTION \_\_. (a) In order to ensure the safety of persons and transportation in this state, the Texas Department of Transportation shall conduct a study of systems for issuing temporary tags for use on unregistered motor vehicles. In studying the systems, the department shall:

(1) compare the current system to other potential systems, including systems used in other states;

(2) seek input from interested parties, including members of the public, dealers, converters, and law enforcement; and

(3) consider issues of public and transportation safety, homeland security, costs, efficiency, and reliability.

(b) The department shall report its findings and recommendations to the Governor, Lieutenant Governor and Speaker of the House of Representatives not later than November 1, 2006.

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. 47 except as follows:

Absent-excused: Carona.

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

**CSHB 2702** as amended was passed to third reading by a viva voce vote.

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

Absent-excused: Carona.

**COMMITTEE SUBSTITUTE  
HOUSE BILL 2702 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 2702** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Carona.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

**GUEST PRESENTED**

Senator Van de Putte was recognized and introduced to the Senate Dr. Frank Madla III, son of Senator Madla.

The Senate welcomed its guest.

(Senator Averitt in Chair)

(President in Chair)

**HOUSE JOINT RESOLUTION 6 ON SECOND READING**

Senator Staples moved to suspend the regular order of business, the printing rule, and Senate Rule 10.01, which states that joint resolutions shall be subject to rules that govern the proceedings on bills, to take up for consideration **HJR 6** at this time on its second reading:

**HJR 6**, Proposing a constitutional amendment providing that marriage in this state consists only of the union of one man and one woman.

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

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

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

Absent: Gallegos.

Absent-excused: Carona.

The resolution was read second time.

Senator Shapleigh offered the following amendment to the resolution:

**Floor Amendment No. 1**

Amend **HJR 6** (Senate committee printing) as follows:

(1) In SECTION 1 of the resolution, at the end of added Section 32, Article I, Texas Constitution (page 1, between lines 16 and 17), insert the following:

(c) This state shall recognize any right regarding hospital visitation or direct physician consultation that arises from a legal marriage, legal contract, or civil union entered into in another jurisdiction.

(2) In SECTION 3 of the resolution (page 1, line 29), immediately following "woman", strike "and" and substitute ",".

(3) In SECTION 3 of the resolution (page 1, line 31), between "marriage" and the period, insert ", and requiring this state to recognize any right regarding hospital visitation or direct physician consultation that arises from a legal marriage, legal contract, or civil union entered into in another jurisdiction".

The amendment was read.

On motion of Senator Staples, Floor Amendment No. 1 to **HJR 6** was tabled by the following vote: Yeas 19, Nays 10.

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

Nays: Barrientos, Ellis, Hinojosa, Lucio, Madla, Shapleigh, Van de Putte, West, Whitmire, Zaffirini.

Absent: Gallegos.

Absent-excused: Carona.

Senator Shapleigh offered the following amendment to the resolution:

**Floor Amendment No. 2**

Amend **HJR 6** (Senate committee printing) as follows:

(1) In SECTION 1 of the resolution, at the end of added Section 32, Article I, Texas Constitution (page 1, between lines 16 and 17), insert the following:

(c) This section may not be construed to prohibit the recognition of any adoption or child custody order issued in this state or in any other jurisdiction.

(2) In SECTION 3 of the resolution (page 1, line 29), immediately following "woman", strike "and" and substitute ",".

(3) In SECTION 3 of the resolution (page 1, line 31), between "marriage" and the period, insert ", and prohibiting this constitutional amendment from being construed as prohibiting the recognition of any adoption or child custody order issued in this state or in any other jurisdiction".

The amendment was read.

On motion of Senator Staples, Floor Amendment No. 2 to **HJR 6** was tabled by the following vote: Yeas 21, Nays 8.

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

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

Absent: Gallegos.

Absent-excused: Carona.

Senator Ellis offered the following amendment to the resolution:

**Floor Amendment No. 3**

Amend **HJR 6**, Senate committee printing by striking lines 7-32 and replace with the following:

proposing a constitutional amendment providing that marriage in this state consists only of the union of one man and one woman.

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

SECTION 1. Article I, Texas Constitution, is amended by adding Section 32 to read as follows:

Sec. 32. Marriage in this state shall consist only of the union of one man and one woman.

SECTION 2. This proposed constitutional amendment shall be submitted to the voters at an election to be held November 8, 2005. The ballot shall be printed to permit voting for or against the proposition: "The constitutional amendment providing that marriage in this state consists only of the union of one man and one woman."

The amendment was read.

On motion of Senator Staples, Floor Amendment No. 3 to **HJR 6** was tabled by the following vote: Yeas 21, Nays 8.

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

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

Absent: Gallegos.

Absent-excused: Carona.

Senator Ellis offered the following amendment to the resolution:

#### **Floor Amendment No. 4**

Amend **HJR 6**, Senate committee printing by striking lines 14 through 16 and adding the following:

"Nothing in this Constitution shall preclude the Legislature from establishing a civil contract or a statutory form or statutory forms of recognition granting persons of the same gender the same or similar, in whole or in part, rights, duties, and responsibilities of marriage, including requirements for ordered dissolution."

The amendment was read.

On motion of Senator Staples, Floor Amendment No. 4 to **HJR 6** was tabled by the following vote: Yeas 21, Nays 9.

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

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

Absent-excused: Carona.

Senator Ellis offered the following amendment to the resolution:

#### **Floor Amendment No. 5**

Amend **HJR 6**, Senate committee printing by inserting the following at the end of Subsection (b):

This section may not be construed to prohibit the recognition of any contractual relationship currently available.

Strike lines 11 through 17.

The amendment was read.

Senator Ellis withdrew Floor Amendment No. 5.

Senator Lucio offered the following amendment to the resolution:

**Floor Amendment No. 6**

Amend **HJR 6**, Senate committee printing as follows:

In Section 2, page 1, line 21, insert "health insurance policies" after "property," AND before "and".

LUCIO  
MADLA

The amendment was read.

On motion of Senator Staples, Floor Amendment No. 6 to **HJR 6** was tabled by the following vote: Yeas 17, Nays 13.

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

Nays: Barrientos, Ellis, Eltife, Gallegos, Hinojosa, Lucio, Madla, Seliger, Shapleigh, Van de Putte, West, Whitmire, Zaffirini.

Absent-excused: Carona.

Senator Hinojosa offered the following amendment to the resolution:

**Floor Amendment No. 7**

Amend **HJR 6** (Senate committee printing) as follows:

(1) In SECTION 1 of the resolution, at the end of added Section 32, Article I, Texas Constitution (page 1, between lines 16 and 17), insert the following:

(c) This state may not recognize a marriage if either party to the marriage has previously been married three or more times in this state or in another jurisdiction.

(2) In SECTION 3 of the resolution (page 1, line 29), immediately following "woman", strike "and" and substitute ",".

(3) In SECTION 3 of the resolution (page 1, line 31), between "marriage" and the period, insert ", and prohibiting this state from recognizing a marriage if either party to the marriage has previously been married three or more times in this state or in another jurisdiction".

The amendment was read.

Senator Staples moved to table Floor Amendment No. 7 to **HJR 6**.

Senator Hinojosa withdrew Floor Amendment No. 7.

Senator Staples withdrew the motion to table Floor Amendment No 7.

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

**Floor Amendment No. 8**

Amend **HJR 6**, (Senate committee printing) as follows:

(1) In SECTION 1 of the resolution, at the end of added Section 32, Article I, Texas Constitution (page 1, between lines 16 and 17), insert the following:

(c) A union in this state, of one man and one woman, must include some sexual intercourse.

The amendment was read.

Senator Van de Putte withdrew Floor Amendment No. 8.

**HJR 6** was adopted by the following vote: Yeas 21, Nays 9.

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

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

Absent-excused: Carona.

### **REMARKS ORDERED PRINTED**

On motion of Senator Barrientos and by unanimous consent, the remarks regarding **HJR 6** were ordered reduced to writing and printed in the *Senate Journal*.

The remarks were printed in the addendum to today's journal.

### **GUEST PRESENTED**

Senator Van de Putte was recognized and introduced to the Senate Chad Sour, an intern in her office, who graduated from The University of Texas at Austin.

The Senate welcomed its guest.

### **LEAVE OF ABSENCE**

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

### **COMMITTEE SUBSTITUTE SENATE BILL 1404 ON THIRD READING**

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

**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 19, Nays 8.

Yeas: Armbrister, Averitt, Brimer, Duncan, Ellis, Eltife, Gallegos, Harris, Hinojosa, Lindsay, Madla, Nelson, Seliger, Shapiro, Shapleigh, Van de Putte, Wentworth, West, Whitmire.

Nays: Barrientos, Deuell, Estes, Fraser, Jackson, Ogden, Staples, Zaffirini.

Absent: Janek, Williams.

Absent-excused: Carona, Lucio.

The bill was read third time and was passed by the following vote: Yeas 18, Nays 9.

Yeas: Armbrister, Averitt, Brimer, Duncan, Ellis, Eltife, Gallegos, Hinojosa, Lindsay, Madla, Nelson, Seliger, Shapiro, Shapleigh, Van de Putte, Wentworth, West, Whitmire.

Nays: Barrientos, Deuell, Estes, Fraser, Harris, Jackson, Ogden, Staples, Zaffirini.

Absent: Janek, Williams.

Absent-excused: Carona, Lucio.

### **SENATE BILL 334 WITH HOUSE AMENDMENTS**

Senator Duncan called **SB 334** from the President's table for consideration of the House amendments to the bill.

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

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

Amend **SB 334** by striking Section 2 of the bill and substituting the following:

SECTION 2. Section 27.007, Property Code, as amended by this Act, applies only to a cause of action that is brought on or after the effective date of this Act.

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

Amend **SB 334** on third reading by striking SECTION 3 of the bill and substituting the following:

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

The amendments were read.

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

The motion prevailed without objection.

The President asked if there were any motions to instruct the conference committee on **SB 334** before appointment.

There were no motions offered.

The President announced the appointment of the following conferees on the part of the Senate: Senators Duncan, Chair; Fraser, Armbrister, Hinojosa, and Eltife.

### **CONFERENCE COMMITTEE ON HOUSE BILL 7**

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 7** 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 7** 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; Duncan, Fraser, Madla, and Nelson.

**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 **HB 2421** today.

**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 649, HB 1546, HJR 54.**

**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 and resolution today: **SR 970, HB 2051, HB 3071.**

**LEAVE OF ABSENCE**

On motion of Senator Whitmire, Senator Williams was granted leave of absence for the remainder of today on account of family matters.

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

On motion of Senator Ellis and by unanimous consent, Senate Rule 11.10(a) and Senate Rule 11.18(a) were suspended in order that the Committee on Government Organization might meet and consider **HB 2932** today.

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

On motion of Senator Shapiro and by unanimous consent, Senate Rule 11.10(a) and Senate Rule 11.18(a) were suspended in order that the Committee on Education might meet and consider the following bills today:

**HB 1172, HB 1412, HB 1687, HB 1826, HB 2212, HB 2330, 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 2753** today.

## SENATE BILL 368 WITH HOUSE AMENDMENTS

Senator Duncan called **SB 368** from the President's table for consideration of the House amendments to the bill.

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

### Amendment

Amend **SB 368** by substituting in lieu thereof the following:

#### A BILL TO BE ENTITLED AN ACT

relating to the compensation of state judges and to the computation of retirement benefits for state judges and for members of the elected class of the Employees Retirement System of Texas.

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

SECTION 1. Section 659.012, Government Code, is amended to read as follows:

Sec. 659.012. JUDICIAL SALARIES. (a) Notwithstanding Section 659.011:

(1) a judge of a district court is entitled to an annual salary from the state of at least \$125,000, except that the combined salary of a district judge from state and county sources, including compensation for any extrajudicial services performed on behalf of the county, may not exceed the amount that is \$5,000 less than the salary provided for a justice of a court of appeals other than a chief justice [justice of the supreme court is entitled to an annual salary from the state that is at least \$102,463];

(2) a justice of a court of appeals other than the chief justice is entitled to an annual salary from the state that is equal to 110 percent of the salary of a district judge [five percent less than the salary provided by the General Appropriations Act for a justice of the supreme court], except that the combined salary of a justice of the court of appeals other than the chief justice from all state and county sources, including compensation for any extrajudicial services performed on behalf of the county, may not exceed the amount that is \$5,000 [~~\$1,000~~] less than the salary provided for a justice of the supreme court;

(3) a justice of the supreme court other than the chief justice or a judge of the court of criminal appeals other than the presiding judge is entitled to an annual salary from the state that is equal to 120 percent of the salary of a district judge; and

(4) the chief justice or presiding judge of an appellate [a] court [of appeals] is entitled to an annual salary from the state that is \$2,500 more than the salary provided for the other justices or judges of the court [of appeals], except that the combined salary of the chief justice of a court of appeals may not exceed the amount that is \$2,500 [~~\$500~~] less than the salary provided for a justice of the supreme court[; and

~~[(4) a judge of a district court is entitled to an annual salary from the state that is 10 percent less than the salary provided in the General Appropriations Act for a justice of the supreme court, except that unless otherwise provided by law, the combined salary of a district judge from state and county sources may not exceed the amount that is \$2,000 less than the salary provided for a justice of the supreme court].~~

(b) To the extent of any conflict, the salary limitations [~~differential~~] provided by this section for the combined salary of a state [~~district~~] judge or justice from state and local sources prevails over any provision of Chapter 31 or [~~differential set by~~] Chapter 32 that authorizes the payment of additional compensation to a state judge or justice.

(d) In a county with more than five district courts, a district judge who serves as a local administrative district judge under Section 74.091 is entitled to an annual salary from the state that is \$5,000 more than the salary from the state to which the judge is otherwise entitled under Subsection (a)(1) [~~(c)~~].

(e) For the purpose of salary payments by the state, the comptroller shall determine from sworn statements filed by the justices of the courts of appeals and district judges that the required salary limitations [~~differentials~~] provided by this section are maintained. If a salary combined with additional compensation from a county [~~supplement~~] would be in excess of the limitations [~~differential~~] provided by this section, the comptroller shall reduce the state salary by the amount of the excess.

SECTION 2. Section 31.001, Government Code, is amended to read as follows:

Sec. 31.001. AUTHORITY FOR COUNTY PAYMENT OF COMPENSATION. The commissioners courts in the counties of each of the 14 courts of appeals districts may pay additional compensation in an amount that does not [~~to~~] exceed the limitations of Section 659.012 [~~\$15,000 a year~~] to each of the justices of the courts of appeals residing within the court of appeals district that includes those counties. The compensation [~~payment~~] is for all extrajudicial [~~judicial and administrative~~] services performed by the justices.

SECTION 3. The heading to Chapter 32, Government Code, is amended to read as follows:

CHAPTER 32. ADDITIONAL [~~SUPPLEMENTAL~~] COMPENSATION OF DISTRICT JUDGES [~~FOR CERTAIN DUTIES~~]

SECTION 4. The heading to Subchapter A, Chapter 32, Government Code, is amended to read as follows:

SUBCHAPTER A. ADDITIONAL COMPENSATION [~~SUPPLEMENTAL SALARY~~] PAID BY COUNTY FOR EXTRAJUDICIAL SERVICES

SECTION 5. Section 32.001, Government Code, is amended to read as follows:

Sec. 32.001. AUTHORITY FOR ADDITIONAL COMPENSATION [~~ANDERSON COUNTY~~]. (a) The commissioners court of a county [~~Commissioners Court of Anderson County~~] may pay the judges of the district courts having jurisdiction in the county additional compensation in an amount that does not exceed the limitations of Section 659.012 for extrajudicial [~~an annual salary not to exceed \$1,200 for judicial and administrative~~] services performed by the district judges.

(b) The compensation [~~salary~~] shall be paid in monthly installments from the county general fund or other available funds of the county.

(c) The compensation [~~salary~~] is in addition to the salary paid by the state and any other compensation authorized by law.

~~[(d) The aggregate amount of \$2,900 is the maximum supplemental salary that may be paid under this subchapter to a judge of a district court having jurisdiction in Anderson County from all counties that comprise a part of a judicial district consisting of not less than four counties, of which two of those counties have two or more district courts.]~~

SECTION 6. Section 152.0003, Human Resources Code, is amended to read as follows:

Sec. 152.0003. COMPENSATION. The compensation authorized under this chapter for a judge serving on a juvenile board is in addition to all other compensation provided or allowed by law for a judge. Notwithstanding any other law, the combined salary from all state and local sources of a district judge serving on a juvenile board may not exceed an amount that is \$5,000 less than the salary provided by the state for a justice of a court of appeals other than the chief justice.

SECTION 7. Subchapter C, Chapter 72, Government Code, is amended by adding Section 72.030 to read as follows:

Sec. 72.030. COLLECTION OF DATA RELATING TO JUDICIAL TURNOVER. (a) The office biennially shall collect data relating to:

(1) the rate at which state judges resign from office or do not seek reelection; and

(2) the reason for action under Subdivision (1).

(b) Not later than December 1 of each even-numbered year, the office shall file a report containing the data collected under Subsection (a) for the preceding state fiscal biennium with the governor, the lieutenant governor, the speaker of the house of representatives, and the presiding officers of the standing committees of each house of the legislature with jurisdiction over the judiciary or appropriations.

(c) The report filed under Subsection (b) must include the following findings:

(1) whether the compensation of state judges exceeds, is equal to, or is less than the compensation of judges at corresponding levels in the five states closest in population to this state; and

(2) whether the compensation of state judges exceeds, is equal to, or is less than the average salary of lawyers engaged in the private practice of law, using data collected by the state bar under Section 81.116.

(d) The purpose of filing the report with the legislature is to provide the legislature with information to facilitate legislation that ensures that the compensation of state judges is adequate and appropriate.

SECTION 8. Subchapter H, Chapter 81, Government Code, is amended by adding Section 81.116 to read as follows:

Sec. 81.116. COLLECTION OF DATA RELATING TO ATTORNEY COMPENSATION. (a) The state bar shall biennially collect data relating to the compensation of lawyers engaged in the private practice of law.

(b) Not later than December 1 of each even-numbered year, the state bar shall file a report containing the data collected under Subsection (a) for the preceding state fiscal biennium with the governor, the lieutenant governor, the speaker of the house of representatives, and the presiding officers of the standing committees of each house of the legislature with jurisdiction over the judiciary or appropriations.

SECTION 9. Section 814.103, Government Code, is amended to read as follows:

Sec. 814.103. SERVICE RETIREMENT BENEFITS FOR ELECTED CLASS SERVICE. (a) Except as provided by Subsection (b), the standard service retirement annuity for service credited in the elected class of membership is an amount equal to the number of years of service credit in that class, times 2.3 [~~two~~] percent of the state salary, as adjusted from time to time, being paid a district judge.

(b) The standard service retirement annuity for service credited in the elected class may not exceed at any time 100 percent of the state salary being paid a district judge.

SECTION 10. Subchapter B, Chapter 833, Government Code, is amended by adding Section 833.1035 to read as follows:

Sec. 833.1035. SERVICE IN EXCESS OF 20 YEARS. (a) Subject to the limitation on the amount of a retirement annuity under Section 834.102(c), an eligible member may establish service credit in the retirement system for service in excess of 20 years performed before September 1, 2005.

(b) A member eligible to establish credit under Subsection (a) is one who elects to make contributions under Section 835.1015.

(c) A member may not establish more than 120 months of service credit under this section.

(d) A member may establish credit under this section by depositing with the retirement system a contribution computed for each month of qualifying service claimed at the rate of six percent of the member's current monthly state salary.

(e) The board of trustees may adopt rules to administer this section.

SECTION 11. Section 834.102, Government Code, is amended by adding Subsection (c) to read as follows:

(c) The service retirement annuity of a member qualifying for retirement under Section 834.101(a) is the applicable state salary under Subsection (a), multiplied by a percentage amount that is the sum of 50 percent plus the product of two percent multiplied by the number of years of subsequent service credit the member accrues under Section 835.1015(a). After including any increase under Subsection (b), the service retirement annuity under this subsection may not be an amount that is greater than 80 percent of the applicable salary under Subsection (a).

SECTION 12. Subsection (c), Section 835.101, Government Code, is amended to read as follows:

(c) Except as provided by Section 835.1015, a [A] member who accrues 20 years of service credit in the retirement system ceases making contributions under this section.

SECTION 13. Subchapter B, Chapter 835, Government Code, is amended by adding Section 835.1015 to read as follows:

Sec. 835.1015. CONTRIBUTIONS AFTER 20 YEARS OF SERVICE CREDIT. (a) A judicial officer who is a member of the retirement system and who accrues 20 years of service credit in the retirement system may elect to make contributions for each subsequent year of service credit that the member accrues by filing an application with the retirement system.

(b) A member who elects to make contributions under Subsection (a) shall contribute six percent of the member's state compensation for each payroll period in the manner provided by Sections 835.101(a) and (b).

(c) A member may not make contributions under this section for more than 10 years of subsequent service credit that the member accrues.

SECTION 14. Subchapter B, Chapter 838, Government Code, is amended by adding Section 838.1035 to read as follows:

Sec. 838.1035. SERVICE IN EXCESS OF 20 YEARS. (a) Subject to the limitation on the amount of a retirement annuity under Section 839.102(d), an eligible member may establish service credit in the retirement system for service in excess of 20 years performed before September 1, 2005.

(b) A member eligible to establish credit under Subsection (a) is one who elects to make contributions under Section 840.1025.

(c) A member may not establish more than 120 months of service credit under this section.

(d) A member may establish credit under this section by depositing with the retirement system a contribution computed for each month of qualifying service claimed at the rate of six percent of the member's current monthly state salary.

(e) The board of trustees may adopt rules to administer this section.

SECTION 15. Section 839.102, Government Code, is amended by amending Subsection (a) and adding Subsection (d) to read as follows:

(a) Except as provided by Subsections (b), ~~(c)~~, and (d), the standard service retirement annuity is an amount equal to 50 percent of the state salary being paid at the time the member retires to a judge of a court of the same classification as the last court to which the retiring member was elected or appointed.

(d) The service retirement annuity of a member qualifying for retirement under Section 839.101(a) is the applicable state salary under Subsection (a) multiplied by a percentage amount that is the sum of 50 percent plus the product of two percent multiplied by the number of years of subsequent service credit the member accrues under Section 840.1025(a). After including any increase under Subsection (b), the service retirement annuity under this subsection may not be an amount that is greater than 80 percent of the applicable salary under Subsection (a).

SECTION 16. Subsection (g), Section 840.102, Government Code, is amended to read as follows:

(g) Except as provided by Section 840.1025, a [A] member who accrues 20 years of service credit in the retirement system ceases making contributions under this section but is considered a contributing member for all other purposes under this subtitle.

SECTION 17. Subchapter B, Chapter 840, Government Code, is amended by adding Section 840.1025 to read as follows:

Sec. 840.1025. CONTRIBUTIONS AFTER 20 YEARS OF SERVICE CREDIT. (a) A judicial officer who is a member of the retirement system and who accrues 20 years of service credit in the retirement system may elect to make contributions for each subsequent year of service credit that the member accrues by filing an application with the retirement system.

(b) A member who elects to make contributions under Subsection (a) shall contribute six percent of the member's state compensation for each payroll period in the manner provided by Sections 840.102(b)-(f).

(c) A member may not make contributions under this section for more than 10 years of subsequent service credit that the member accrues.

SECTION 18. Section 133.003, Local Government Code, is amended to read as follows:

Sec. 133.003. CRIMINAL FEES. This chapter applies to the following criminal fees:

- (1) the consolidated fee imposed under Section 133.102;
- (2) the time payment fee imposed under Section 133.103;
- (3) fees for services of peace officers employed by the state imposed under Article 102.011, Code of Criminal Procedure, and forwarded to the comptroller as provided by Section 133.104;
- (4) costs on conviction imposed in certain statutory county courts under Section 51.702, Government Code, and deposited in the judicial fund;
- (5) costs on conviction imposed in certain county courts under Section 51.703, Government Code, and deposited in the judicial fund;
- (6) the administrative fee for failure to appear or failure to pay or satisfy a judgment imposed under Section 706.006, Transportation Code; ~~and~~
- (7) fines on conviction imposed under Section 621.506(g), Transportation Code; and
- (8) the cost on conviction imposed under Section 133.105 and deposited in the judicial fund.

SECTION 19. Section 133.004, Local Government Code, is amended to read as follows:

Sec. 133.004. CIVIL FEES. This chapter applies to the following civil fees:

- (1) the consolidated fee on filing in district court imposed under Section 133.151;
- (2) the filing fee in district court for basic civil legal services for indigents imposed under Section 133.152;
- (3) the filing fee in courts other than district court for basic civil legal services for indigents imposed under Section 133.153;
- (4) the filing fees for the judicial fund imposed in certain statutory county courts under Section 51.702, Government Code;
- (5) the filing fees for the judicial fund imposed in certain county courts under Section 51.703, Government Code;
- (6) the filing fees for the judicial fund imposed in certain statutory probate courts under Section 51.704, Government Code;
- (7) fees collected under Section 118.015;
- (8) marriage license fees for the family trust fund collected under Section 118.018; ~~and~~
- (9) marriage license or declaration of informal marriage fees for the child abuse and neglect prevention trust fund account collected under Section 118.022; and
- (10) the filing fee for the judicial fund imposed in district court, statutory county court, and county court under Section 133.154.

SECTION 20. Subchapter C, Chapter 133, Local Government Code, is amended by adding Section 133.105 to read as follows:

Sec. 133.105. FEE FOR SUPPORT OF COURT-RELATED PURPOSES. (a) A person convicted of any offense, other than an offense relating to a pedestrian or the parking of a motor vehicle, shall pay as a court cost, in addition to all other costs, a fee of \$4 to be used for court-related purposes for the support of the judiciary.

(b) The treasurer shall deposit 60 cents of each fee collected under this section in the general fund of the municipality to promote the efficient operation of the municipal court and the investigation, prosecution, and enforcement of municipal and state offenses that are within the jurisdiction of the municipal court.

(c) The treasurer shall remit the remainder of the fees collected under this section to the comptroller in the manner provided by Subchapter B. The comptroller shall deposit the fees in the judicial fund.

SECTION 21. Subchapter D, Chapter 133, Local Government Code, is amended by adding Section 133.154 to read as follows:

Sec. 133.154. ADDITIONAL FILING FEE IN DISTRICT COURT, STATUTORY COUNTY COURT, OR COUNTY COURT FOR SUPPORT OF JUDICIARY. (a) In addition to other fees authorized or required by law, the clerk of a district court, statutory county court, or county court shall collect a fee of \$37 on the filing of any civil suit to be used for court-related purposes for the support of the judiciary.

(b) The treasurer shall remit the fees collected under this section to the comptroller in the manner provided by Subchapter B. The comptroller shall deposit the fees in the judicial fund.

SECTION 22. Section 101.061, Government Code, is amended to read as follows:

Sec. 101.061. DISTRICT COURT FEES AND COSTS. The clerk of a district court shall collect fees and costs as follows:

(1) filing fee in action with respect to a fraudulent court record or fraudulent lien or claim filed against property (Sec. 12.005, Civil Practice and Remedies Code) . . . \$15;

(2) fee for service of notice of action with respect to a fraudulent court record or fraudulent lien or claim filed against property (Sec. 12.005, Civil Practice and Remedies Code) . . . not to exceed \$20, if notice delivered in person, or the cost of postage, if service is by registered or certified mail;

(3) court cost in certain civil cases to establish and maintain an alternative dispute resolution system, if authorized by the county commissioners court (Sec. 152.004, Civil Practice and Remedies Code) . . . not to exceed \$10;

(4) appellate judicial system filing fees for:

(A) First or Fourteenth Court of Appeals District (Sec. 22.2021, Government Code) . . . not more than \$5;

(B) Second Court of Appeals District (Sec. 22.2031, Government Code) . . . not more than \$5;

(C) Fourth Court of Appeals District (Sec. 22.2051, Government Code) . . . not more than \$5;

(D) Fifth Court of Appeals District (Sec. 22.2061, Government Code) . . . not more than \$5; and

(E) Thirteenth Court of Appeals District (Sec. 22.2141, Government Code) . . . not more than \$5;

(5) additional filing fees:

(A) for each suit filed for insurance contingency fund, if authorized by the county commissioners court (Sec. 51.302, Government Code) . . . not to exceed \$5;

(B) for each civil suit filed, for court-related purposes for the support of the judiciary and for civil legal services to an indigent:

(i) for family law cases and proceedings as defined by Section 25.0002, Government Code (Sec. 133.151, Local Government Code) . . . \$45; or

(ii) for any case other than a case described by Subparagraph (i) (Sec. 133.151, Local Government Code) . . . \$50;

(C) to fund the improvement of Dallas County civil court facilities, if authorized by the county commissioners court (Sec. 51.705, Government Code) . . . not more than \$15; ~~and~~

(D) on the filing of any civil action or proceeding requiring a filing fee, including an appeal, and on the filing of any counterclaim, cross-action, intervention, interpleader, or third-party action requiring a filing fee, to fund civil legal services for the indigent:

(i) for family law cases and proceedings as defined by Section 25.0002, Government Code (Sec. 133.152, Local Government Code) . . . \$5; or

(ii) for any case other than a case described by Subparagraph (i) (Sec. 133.152, Local Government Code) . . . \$10; and

(E) for each civil suit filed, to be used for court-related purposes for the support of the judiciary (Sec. 133.154, Local Government Code) . . . \$37;

(6) for filing a suit, including an appeal from an inferior court:

(A) for a suit with 10 or fewer plaintiffs (Sec. 51.317, Government Code) . . . \$50;

(B) for a suit with at least 11 but not more than 25 plaintiffs (Sec. 51.317, Government Code) . . . \$75;

(C) for a suit with at least 26 but not more than 100 plaintiffs (Sec. 51.317, Government Code) . . . \$100;

(D) for a suit with at least 101 but not more than 500 plaintiffs (Sec. 51.317, Government Code) . . . \$125;

(E) for a suit with at least 501 but not more than 1,000 plaintiffs (Sec. 51.317, Government Code) . . . \$150; or

(F) for a suit with more than 1,000 plaintiffs (Sec. 51.317, Government Code) . . . \$200;

(7) for filing a cross-action, counterclaim, intervention, contempt action, motion for new trial, or third-party petition (Sec. 51.317, Government Code) . . . \$15;

(8) for issuing a citation or other writ or process not otherwise provided for, including one copy, when requested at the time a suit or action is filed (Sec. 51.317, Government Code) . . . \$8;

(9) for records management and preservation (Sec. 51.317, Government Code) . . . \$10;

(10) for issuing a subpoena, including one copy (Sec. 51.318, Government Code) . . . \$8;

(11) for issuing a citation, commission for deposition, writ of execution, order of sale, writ of execution and order of sale, writ of injunction, writ of garnishment, writ of attachment, or writ of sequestration not provided for in Section 51.317, or any other writ or process not otherwise provided for, including one copy if required by law (Sec. 51.318, Government Code) . . . \$8;

(12) for searching files or records to locate a cause when the docket number is not provided (Sec. 51.318, Government Code) . . . \$5;

(13) for searching files or records to ascertain the existence of an instrument or record in the district clerk's office (Sec. 51.318, Government Code) . . . \$5;

(14) for abstracting a judgment (Sec. 51.318, Government Code) . . . \$8;

(15) for approving a bond (Sec. 51.318, Government Code) . . . \$4;

(16) for a certified copy of a record, judgment, order, pleading, or paper on file or of record in the district clerk's office, including certificate and seal, for each page or part of a page (Sec. 51.318, Government Code) . . . \$1;

(17) for a noncertified copy, for each page or part of a page (Sec. 51.318, Government Code) . . . not to exceed \$1;

(18) jury fee (Sec. 51.604, Government Code) . . . \$30;

(19) for filing a report of divorce or annulment (Sec. 194.002, Health and Safety Code) . . . \$1;

(20) for filing a suit in Comal County (Sec. 152.0522, Human Resources Code) . . . \$4;

(21) additional filing fee for family protection on filing a suit for dissolution of a marriage under Chapter 6, Family Code, if authorized by the county commissioners court (Sec. 51.961, Government Code) . . . not to exceed \$15;

(22) fee on filing a suit for dissolution of a marriage for services of child support department in Harris County, if authorized by the county commissioners court (Sec. 152.1074, Human Resources Code) . . . not to exceed \$12;

(23) fee on filing a suit requesting an adoption in Montague County (Sec. 152.1752, Human Resources Code) . . . \$25;

(24) court cost on citation for contempt of court for failure to comply with child support order in Nueces County, if authorized by the commissioners court (Sec. 152.1844, Human Resources Code) . . . not to exceed \$10;

(25) fee on filing a suit for divorce in Orange County (Sec. 152.1873, Human Resources Code) . . . not less than \$5;

(26) court costs on citation for contempt of court in Orange County for failure to comply with a child support order or order providing for possession of or access to a child (Sec. 152.1873, Human Resources Code) . . . amount determined by district clerk;

(27) fee on filing a suit requesting an adoption in Orange County (Sec. 152.1874, Human Resources Code) . . . not less than \$25;

(28) fee on filing a suit requesting an adoption in Wichita County (Sec. 152.2496, Human Resources Code) . . . \$100;

(29) additional filing fee to fund the courthouse security fund, if authorized by the county commissioners court (Sec. 291.008, Local Government Code) . . . not to exceed \$5;

(30) additional filing fee for filing documents not subject to certain filing fees to fund the courthouse security fund, if authorized by the county commissioners court (Sec. 291.008, Local Government Code) . . . \$1;

(31) additional filing fee to fund the courthouse security fund in Webb County, if authorized by the county commissioners court (Sec. 291.009, Local Government Code) . . . not to exceed \$20;

(32) court cost in civil cases other than suits for delinquent taxes to fund the county law library fund, if authorized by the county commissioners court (Sec. 323.023, Local Government Code) . . . not to exceed \$35;

(33) when administering a case for the Rockwall County Court at Law (Sec. 25.2012, Government Code) . . . civil fees and court costs as if the case had been filed in district court;

(34) at a hearing held by an associate judge in Dallas County, a court cost to preserve the record, in the absence of a court reporter, by other means (Sec. 54.509, Government Code) . . . as assessed by the referring court or associate judge; and

(35) at a hearing held by an associate judge in Duval County, a court cost to preserve the record (Sec. 54.1151, Government Code, as added by Chapter 1150, Acts of the 78th Legislature, Regular Session, 2003) . . . as imposed by the referring court or associate judge.

SECTION 23. Section 101.081, Government Code, is amended to read as follows:

Sec. 101.081. STATUTORY COUNTY COURT FEES AND COSTS. The clerk of a statutory county court shall collect fees and costs as follows:

(1) court cost in certain civil cases to establish and maintain an alternative dispute resolution system, if authorized by the county commissioners court (Sec. 152.004, Civil Practice and Remedies Code) . . . not to exceed \$10;

(2) appellate judicial system filing fees:

(A) First or Fourteenth Court of Appeals District (Sec. 22.2021, Government Code) . . . not more than \$5;

(B) Second Court of Appeals District (Sec. 22.2031, Government Code) . . . not more than \$5;

(C) Fourth Court of Appeals District (Sec. 22.2051, Government Code) . . . not more than \$5;

(D) Fifth Court of Appeals District (Sec. 22.2061, Government Code) . . . not more than \$5; and

(E) Thirteenth Court of Appeals District (Sec. 22.2141, Government Code) . . . not more than \$5;

(3) an official court reporter fee, County Court at Law No. 2 of Bexar County (Sec. 25.0172, Government Code) . . . \$3;

(4) a court reporter fee when testimony is taken in a county court at law in McLennan County (Sec. 25.1572, Government Code) . . . \$3;

(5) a stenographer fee, if a record or part of a record is made:

(A) in a county court at law in Hidalgo County (Sec. 25.1102, Government Code) . . . \$20; and

(B) in a county court at law in Nolan County (Sec. 25.1792, Government Code) . . . \$25;

(6) jury fee (Sec. 51.604, Government Code) . . . \$22;

(7) an additional filing fee:

(A) for each civil case filed to be used for court-related purposes for the support of the judiciary, if authorized by the county commissioners court (Sec. 51.702, Government Code) . . . \$40;

(B) to fund the improvement of Dallas County civil court facilities, if authorized by the county commissioners court (Sec. 51.705, Government Code) . . . not more than \$15; ~~and~~

(C) for filing any civil action or proceeding requiring a filing fee, including an appeal, and on the filing of any counterclaim, cross-action, intervention, interpleader, or third-party action requiring a filing fee, to fund civil legal services for the indigent (Sec. 133.153, Local Government Code) . . . \$5; and

(D) for each civil suit filed, to be used for court-related purposes for the support of the judiciary (Sec. 133.154, Local Government Code) . . . \$37;

(8) for filing an application for registration of death (Sec. 193.007, Health and Safety Code) . . . \$1;

(9) fee for judge's services on an application for court-ordered mental health services (Sec. 574.031, Health and Safety Code) . . . not to exceed \$50;

(10) fee for prosecutor's services on an application for court-ordered mental health services (Sec. 574.031, Health and Safety Code) . . . not to exceed \$50;

(11) for filing a suit in Comal County (Sec. 152.0522, Human Resources Code) . . . \$4;

(12) additional filing fee to fund contingency fund for liability insurance, if authorized by the county commissioners court (Sec. 82.003, Local Government Code) . . . not to exceed \$5;

(13) civil court actions (Sec. 118.052, Local Government Code):

(A) filing of original action (Secs. 118.052 and 118.053, Local Government Code):

(i) garnishment after judgment (Sec. 118.052, Local Government Code) . . . \$15; and

(ii) all others (Sec. 118.052, Local Government Code) . . . \$40;

(B) filing of action other than original (Secs. 118.052 and 118.054, Local Government Code) . . . \$30; and

(C) services rendered after judgment in original action (Secs. 118.052 and 118.0545, Local Government Code):

(i) abstract of judgment (Sec. 118.052, Local Government Code) . . . \$5; and

(ii) execution, order of sale, writ, or other process (Sec. 118.052, Local Government Code) . . . \$5;

(14) probate court actions (Sec. 118.052, Local Government Code):

(A) probate original action (Secs. 118.052 and 118.055, Local Government Code):

- (i) probate of a will with independent executor, administration with will attached, administration of an estate, guardianship or receivership of an estate, or muniment of title (Sec. 118.052, Local Government Code) . . . \$40;
- (ii) community survivors (Sec. 118.052, Local Government Code) . . . \$40;
- (iii) small estates (Sec. 118.052, Local Government Code) . . . \$40;
- (iv) declarations of heirship (Sec. 118.052, Local Government Code) . . . \$40;
- (v) mental health or chemical dependency services (Sec. 118.052, Local Government Code) . . . \$40; and
- (vi) additional, special fee (Secs. 118.052 and 118.064, Local Government Code) . . . \$5;
- (B) services in pending probate action (Secs. 118.052 and 118.056, Local Government Code):
  - (i) filing an inventory and appraisal after the 120th day after the date of the initial filing of the action (Sec. 118.052, Local Government Code) . . . \$25;
  - (ii) approving and recording bond (Sec. 118.052, Local Government Code) . . . \$3;
  - (iii) administering oath (Sec. 118.052, Local Government Code) . . . \$2;
  - (iv) filing annual or final account of estate (Sec. 118.052, Local Government Code) . . . \$25;
  - (v) filing application for sale of real or personal property (Sec. 118.052, Local Government Code) . . . \$25; and
  - (vi) filing annual or final report of guardian of a person (Sec. 118.052, Local Government Code) . . . \$10;
- (C) adverse probate action (Secs. 118.052 and 118.057, Local Government Code) . . . \$40; and
- (D) claim against estate (Secs. 118.052 and 118.058, Local Government Code) . . . \$2;
- (15) other fees (Sec. 118.052, Local Government Code):
  - (A) issuing document (Secs. 118.052 and 118.059, Local Government Code):
    - (i) original document and one copy (Sec. 118.052, Local Government Code) . . . \$4; and
    - (ii) each additional set of an original and one copy (Sec. 118.052, Local Government Code) . . . \$4;
  - (B) certified papers (Secs. 118.052 and 118.060, Local Government Code):
    - (i) for the clerk's certificate (Sec. 118.052, Local Government Code) . . . \$5; and
    - (ii) a fee per page or part of a page (Sec. 118.052, Local Government Code) . . . \$1;
  - (C) noncertified papers, for each page or part of a page (Secs. 118.052 and 118.0605, Local Government Code) . . . \$1;

(D) letters testamentary, letter of guardianship, letter of administration, or abstract of judgment (Secs. 118.052 and 118.061, Local Government Code) . . . \$2;

(E) safekeeping of wills (Secs. 118.052 and 118.062, Local Government Code) . . . \$5;

(F) mail service of process (Secs. 118.052 and 118.063, Local Government Code) . . . same as sheriff; and

(G) records management and preservation fee (Secs. 118.052, 118.0546, and 118.0645, Local Government Code) . . . \$5;

(16) additional filing fee to fund the courthouse security fund, if authorized by the county commissioners court (Sec. 291.008, Local Government Code) . . . not to exceed \$5;

(17) additional filing fee for filing documents (not subject to certain filing fees to fund the courthouse security fund, if authorized by the county commissioners court (Sec. 291.008, Local Government Code) . . . \$1;

(18) additional filing fee to fund the courthouse security fund in Webb County, if authorized by the county commissioners court (Sec. 291.009, Local Government Code) . . . not to exceed \$20;

(19) court cost in civil cases other than suits for delinquent taxes to fund the county law library fund, if authorized by the county commissioners court (Sec. 323.023, Local Government Code) . . . not to exceed \$35;

(20) fee for deposit of a will with the county clerk during testator's lifetime (Sec. 71, Texas Probate Code) . . . \$3;

(21) court cost for each special commissioner in an eminent domain proceeding (Sec. 21.047, Property Code) . . . as taxed by the court, \$10 or more; and

(22) fee for county attorney in a suit regarding a railroad company's failure to keep roadbed and right-of-way in proper condition (Art. 6327, Vernon's Texas Civil Statutes) . . . \$10.

SECTION 24. Section 101.121, Government Code, is amended to read as follows:

Sec. 101.121. COUNTY COURT FEES AND COSTS. The clerk of a county court shall collect:

(1) fee for hearing on application for a license to manufacture, distribute, store, or sell beer (Sec. 61.31, Alcoholic Beverage Code) . . . \$5;

(2) court cost in certain civil cases to establish and maintain an alternative dispute resolution system, if authorized by the county commissioners court (Sec. 152.004, Civil Practice and Remedies Code) . . . not to exceed \$10;

(3) appellate judicial system filing fees:

(A) First or Fourteenth Court of Appeals District (Sec. 22.2021, Government Code) . . . not more than \$5;

(B) Second Court of Appeals District (Sec. 22.2031, Government Code) . . . not more than \$5;

(C) Fourth Court of Appeals District (Sec. 22.2051, Government Code) . . . not more than \$5;

(D) Fifth Court of Appeals District (Sec. 22.2061, Government Code) . . . not more than \$5; and

(E) Thirteenth Court of Appeals District (Sec. 22.2141, Government Code) . . . not more than \$5;

(4) a jury fee (Sec. 51.604, Government Code) . . . \$22;

(5) a filing fee in each civil case filed to be used for court-related purposes for the support of the judiciary (Sec. 51.703, Government Code) . . . \$40;

(6) for filing an application for registration of death (Sec. 193.007, Health and Safety Code) . . . \$1;

(7) fee for judge's services on an application for court-ordered mental health services (Sec. 574.031, Health and Safety Code) . . . not to exceed \$50;

(8) fee for prosecutor's services on an application for court-ordered mental health services (Sec. 574.031, Health and Safety Code) . . . not to exceed \$50;

(9) additional filing fee to fund contingency fund for liability insurance, if authorized by the county commissioners court (Sec. 82.003, Local Government Code) . . . not to exceed \$5;

(10) civil court actions (Sec. 118.052, Local Government Code):

(A) filing of original action (Secs. 118.052 and 118.053, Local Government Code):

(i) garnishment after judgment (Sec. 118.052, Local Government Code) . . . \$15; and

(ii) all others (Sec. 118.052, Local Government Code) . . . \$40;

(B) filing of action other than original (Secs. 118.052 and 118.054, Local Government Code) . . . \$30; and

(C) services rendered after judgment in original action (Secs. 118.052 and 118.0545, Local Government Code):

(i) abstract of judgment (Sec. 118.052, Local Government Code) . . . \$5; and

(ii) execution, order of sale, writ, or other process (Sec. 118.052, Local Government Code) . . . \$5;

(11) probate court actions (Sec. 118.052, Local Government Code):

(A) probate original action (Secs. 118.052 and 118.055, Local Government Code):

(i) probate of a will with independent executor, administration with will attached, administration of an estate, guardianship or receivership of an estate, or muniment of title (Sec. 118.052, Local Government Code) . . . \$40;

(ii) community survivors (Sec. 118.052, Local Government Code) . . . \$40;

(iii) small estates (Sec. 118.052, Local Government Code) . . . \$40;

(iv) declarations of heirship (Sec. 118.052, Local Government Code) . . . \$40;

(v) mental health or chemical dependency services (Sec. 118.052, Local Government Code) . . . \$40; and

(vi) additional, special fee (Secs. 118.052 and 118.064, Local Government Code) . . . \$5;

(B) services in pending probate action (Secs. 118.052 and 118.056, Local Government Code):

- (i) filing an inventory and appraisal after the 120th day after the date of the initial filing of the action (Sec. 118.052, Local Government Code) . . . \$25;
- (ii) approving and recording bond (Sec. 118.052, Local Government Code) . . . \$3;
- (iii) administering oath (Sec. 118.052, Local Government Code) . . . \$2;
- (iv) filing annual or final account of estate (Sec. 118.052, Local Government Code) . . . \$25;
- (v) filing application for sale of real or personal property (Sec. 118.052, Local Government Code) . . . \$25; and
- (vi) filing annual or final report of guardian of a person (Sec. 118.052, Local Government Code) . . . \$10;
- (C) adverse probate action (Secs. 118.052 and 118.057, Local Government Code) . . . \$40; and
- (D) claim against estate (Secs. 118.052 and 118.058, Local Government Code) . . . \$2;
- (12) other fees (Sec. 118.052, Local Government Code):
  - (A) issuing document (Secs. 118.052 and 118.059, Local Government Code):
    - (i) original document and one copy (Sec. 118.052, Local Government Code) . . . \$4; and
    - (ii) each additional set of an original and one copy (Sec. 118.052, Local Government Code) . . . \$4;
  - (B) certified papers (Secs. 118.052 and 118.060, Local Government Code):
    - (i) for the clerk's certificate (Sec. 118.052, Local Government Code) . . . \$5; and
    - (ii) a fee per page or part of a page (Sec. 118.052, Local Government Code) . . . \$1;
  - (C) noncertified papers, for each page or part of a page (Secs. 118.052 and 118.0605, Local Government Code) . . . \$1;
  - (D) letters testamentary, letter of guardianship, letter of administration, or abstract of judgment (Secs. 118.052 and 118.061, Local Government Code) . . . \$2;
  - (E) safekeeping of wills (Secs. 118.052 and 118.062, Local Government Code) . . . \$5;
  - (F) mail service of process (Secs. 118.052 and 118.063, Local Government Code) . . . same as sheriff; and
  - (G) records management and preservation fee (Secs. 118.052, 118.0546, and 118.0645, Local Government Code) . . . \$5;
- (13) deposit on filing petition requesting permission to create a municipal civic center authority (Sec. 281.013, Local Government Code) . . . \$200;
- (14) additional filing fee to fund the courthouse security fund, if authorized by the county commissioners court (Sec. 291.008, Local Government Code) . . . not to exceed \$5;

(15) additional filing fee for filing documents not subject to certain filing fees to fund the courthouse security fund, if authorized by the county commissioners court (Sec. 291.008, Local Government Code) . . . \$1;

(16) additional filing fee to fund the courthouse security fund in Webb County, if authorized by the county commissioners court (Sec. 291.009, Local Government Code) . . . not to exceed \$20;

(17) court cost in civil cases other than suits for delinquent taxes to fund the county law library fund, if authorized by the county commissioners court (Sec. 323.023, Local Government Code) . . . not to exceed \$35;

(18) fee for deposit of a will with the county clerk during testator's lifetime (Sec. 71, Texas Probate Code) . . . \$3;

(19) fee for county attorney in a suit regarding a railroad company's failure to keep roadbed and right-of-way in proper condition (Art. 6327, Vernon's Texas Civil Statutes) . . . \$10;

(20) appeal bond from a petitioner or taxpayer in a water control and preservation district (Art. 7818, Vernon's Texas Civil Statutes) . . . \$100; ~~and~~

(21) additional filing fee for filing any civil action or proceeding requiring a filing fee, including an appeal, and on the filing of any counterclaim, cross-action, intervention, interpleader, or third-party action requiring a filing fee, to fund civil legal services for the indigent (Sec. 133.153, Local Government Code) . . . \$5; and

(22) additional filing fee for each civil suit filed, to be used for court-related purposes for the support of the judiciary (Sec. 133.154, Local Government Code) . . . \$37.

SECTION 25. Section 102.021, Government Code, is amended to read as follows:

Sec. 102.021. COURT COSTS ON CONVICTION. A person convicted of an offense shall pay, in addition to all other costs:

(1) court costs on conviction of a felony (Sec. 133.102, Local Government Code) . . . \$133;

(2) court costs on conviction of a Class A or Class B misdemeanor (Sec. 133.102, Local Government Code) . . . \$83;

(3) court costs on conviction of a nonjailable misdemeanor offense, including a criminal violation of a municipal ordinance, other than a conviction of an offense relating to a pedestrian or the parking of a motor vehicle (Sec. 133.102, Local Government Code) . . . \$40;

(4) court costs on certain convictions in statutory county courts (Sec. 51.702, Government Code) . . . \$15;

(5) court costs on certain convictions in certain county courts (Sec. 51.703, Government Code) . . . \$15;

(6) a time payment fee if convicted of a felony or misdemeanor for paying any part of a fine, court costs, or restitution on or after the 31st day after the date on which a judgment is entered assessing the fine, court costs, or restitution (Sec. 133.103, Local Government Code) . . . \$25;

(7) a fee for services of prosecutor (Art. 102.008, Code of Criminal Procedure) . . . \$25;

(8) fees for services of peace officer:

- (A) issuing a written notice to appear in court for certain violations (Art. 102.011, Code of Criminal Procedure) . . . \$5;
- (B) executing or processing an issued arrest warrant or capias (Art. 102.011, Code of Criminal Procedure) . . . \$50;
- (C) summoning a witness (Art. 102.011, Code of Criminal Procedure) . . . \$5;
- (D) serving a writ not otherwise listed (Art. 102.011, Code of Criminal Procedure) . . . \$35;
- (E) taking and approving a bond and, if necessary, returning the bond to courthouse (Art. 102.011, Code of Criminal Procedure) . . . \$10;
- (F) commitment or release (Art. 102.011, Code of Criminal Procedure) . . . \$5;
- (G) summoning a jury (Art. 102.011, Code of Criminal Procedure) . . . \$5;
- (H) attendance of a prisoner in habeas corpus case if prisoner has been remanded to custody or held to bail (Art. 102.011, Code of Criminal Procedure) . . . \$8 each day;
- (I) mileage for certain services performed (Art. 102.011, Code of Criminal Procedure) . . . \$0.29 per mile; and
- (J) services of a sheriff or constable who serves process and attends examining trial in certain cases (Art. 102.011, Code of Criminal Procedure) . . . not to exceed \$5;
- (9) services of a peace officer in conveying a witness outside the county (Art. 102.011, Code of Criminal Procedure) . . . \$10 per day or part of a day, plus actual necessary travel expenses;
- (10) overtime of peace officer for time spent testifying in the trial or traveling to or from testifying in the trial (Art. 102.011, Code of Criminal Procedure) . . . actual cost;
- (11) court costs on an offense relating to rules of the road, when offense occurs within a school crossing zone (Art. 102.014, Code of Criminal Procedure) . . . \$25;
- (12) court costs on an offense of passing a school bus (Art. 102.014, Code of Criminal Procedure) . . . \$25;
- (13) court costs on an offense of truancy or contributing to truancy (Art. 102.014, Code of Criminal Procedure) . . . \$20;
- (14) cost for visual recording of intoxication arrest before conviction (Art. 102.018, Code of Criminal Procedure) . . . \$15;
- (15) cost of certain evaluations (Art. 102.018, Code of Criminal Procedure) . . . actual cost;
- (16) additional costs attendant to certain intoxication convictions under Chapter 49, Penal Code, for emergency medical services, trauma facilities, and trauma care systems (Art. 102.0185, Code of Criminal Procedure) . . . \$100;
- (17) cost for DNA testing for certain felonies (Art. 102.020, Code of Criminal Procedure) . . . \$250;
- (18) court cost on an offense of public lewdness or indecent exposure (Art. 102.020, Code of Criminal Procedure) . . . \$50;

(19) court cost on conviction of a misdemeanor under Subtitle C, Title 7, Transportation Code (Sec. 542.403, Transportation Code) . . . \$3;

(20) cost for impoundment of vehicle (Sec. 601.263, Transportation Code) . . . \$15 per day; ~~and~~

(21) a civil and criminal enforcement cost on conviction of an offense of, or related to, the nonpayment of a toll in certain counties (Sec. 284.2031, Transportation Code) . . . \$1; and

(22) court cost on conviction of any offense, other than a conviction of an offense relating to a pedestrian or the parking of a motor vehicle (Sec. 133.105, Local Government Code) . . . \$4.

SECTION 26. Section 51.607, Government Code, does not apply to court costs or fees imposed under this Act.

SECTION 27. The following laws are repealed:

(1) Section 2, Chapter 100, Acts of the 78th Legislature, Regular Session, 2003;

(2) Section 4, Chapter 62, Acts of the 78th Legislature, Regular Session, 2003;

(3) Sections 2 and 4, Chapter 675, Acts of the 78th Legislature, Regular Session, 2003; and

(4) Sections 32.002 through 32.253 and 659.0125, Government Code.

SECTION 28. (a) Not later than December 1, 2005, the Office of Court Administration of the Texas Judicial System shall begin collecting the data required by Section 72.030, Government Code, as added by this Act.

(b) Not later than December 1, 2005, the State Bar of Texas shall begin collecting the data required by Section 81.116, Government Code, as added by this Act.

SECTION 29. (a) Section 814.103, Government Code, as amended by this Act, applies only to an annuity payment made on or after September 1, 2005.

(b) The Employees Retirement System of Texas shall recompute an annuity that first became payable before September 1, 2005, as though Section 814.103, Government Code, as amended by this Act, was in effect on the date the annuity first became payable.

(c) The first payment of the recomputed annuity is payable on the first payment date occurring on or after September 1, 2005.

SECTION 30. Sections 834.102 and 839.102, Government Code, as amended by this Act, apply only to a benefit payment made by the Judicial Retirement System of Texas Plan One or the Judicial Retirement System of Texas Plan Two on or after September 1, 2005.

SECTION 31. For purposes of determining the salary of a county official that is based on the salary paid to a district judge by the state, the changes in law made by this Act take effect October 1, 2005, and apply only to a salary payment made on or after that date. A salary payment made before October 1, 2005, is governed by the law in effect on the date the salary payment was made, and that law is continued in effect for that purpose.

SECTION 32. This Act takes effect September 1, 2005.

**Floor Amendment No. 1**

Section 20 of **CSSB 368** is amended by striking the proposed new Sec. 133.105(b) on lines 12-17, page 13 and substituting the following:

(b) The treasurer shall deposit 60 cents of each fee collected under this section in the general fund of the municipality or county to promote the efficient operation of the municipal or county courts and the investigation, prosecution, and enforcement of offenses that are within the jurisdiction of the courts.

**Floor Amendment No. 2**

Amend **CSSB 368** (House committee report) as follows:

(1) In SECTION 15 of the bill, in proposed Section 839.102(d), Government Code (page 10, line 7), between "840.1025(a)" and the period, insert "or 840.1027".

(2) Strike SECTION 16 of the bill, amending Section 840.102, Government Code (page 10, lines 11-16), and substitute the following:

SECTION 16. Section 840.102, Government Code, is amended by amending Subsections (a) and (g) and adding Subsection (h) to read as follows:

(a) Except as provided by Subsections [~~Subsection~~] (g) and (h), each payroll period, a judicial officer who is a member of the retirement system is required to contribute six percent of the officer's state compensation for the period to the retirement system.

(g) Except as provided by Section 840.1025, a [A] member who accrues 20 years of service credit in the retirement system ceases making contributions under this section but is considered a contributing member for all other purposes under this subtitle.

(h) Except as provided by Section 840.1027, if a member has served at least 12 years on an appellate court and the sum of the member's age and amount of service credited in the retirement system equals or exceeds the number 70, the member ceases making contributions under this section. A member described by this subsection is considered a contributing member for all other purposes under this subtitle.

(3) Between SECTIONS 17 and 18 of the bill (page 11, between lines 4 and 5), insert the following appropriately numbered SECTION and renumber subsequent SECTIONS of the bill accordingly:

SECTION \_\_. Subchapter B, Chapter 840, Government Code, is amended by adding Section 840.1027 to read as follows:

Sec. 840.1027. CONTRIBUTIONS AFTER ATTAINING RULE OF 70. (a) A judicial officer who is a member of the retirement system, who has served at least 12 years on an appellate court, and the sum of whose age and amount of service credited in the retirement system equals or exceeds the number 70 may elect to make contributions for each subsequent year of service credit that the member accrues by filing an application with the retirement system.

(b) A member who elects to make contributions under Subsection (a) shall contribute two percent of the member's state compensation for each payroll period in the manner provided by Sections 840.102(b)-(f). Section 840.105 does not apply to a contribution under this section.

(c) A member may not make contributions under this section for more than 10 years of subsequent service credit that the member accrues.

**Floor Amendment No. 5**

Amend **CSSB 368** (House committee printing) by adding the following appropriately numbered section and renumbering subsequent sections of the bill accordingly.

SECTION \_\_. Section 26.006(a), Government Code, is amended to read as follows:

(a) A county judge is entitled to an annual salary supplement from the state of \$12,000 [~~\$10,000~~] if at least 40 percent of the functions that the judge performs are judicial functions.

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

Amend **CSSB 368** on third reading by inserting the following SECTION, appropriately numbered:

SECTION \_\_. On September 1, 2005, the Employees Retirement System of Texas shall recompute under Section 839.102, Government Code, as amended by this Act, the annuities of persons who have retired, or the annuities of beneficiaries of persons who have died, as if the persons had retired or died under the lesser of the salary provisions of Subchapter E, Title 8, Government Code, or the salary provisions of the General Appropriations Act of the 79th Legislature, Regular Session, 2005. The first payment of the recomputed annuities becomes payable on the first date a payment becomes due after the effective date of this Act.

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

Amend **CSSB 368** on third reading by inserting the following new SECTIONS, appropriately numbered, and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_. Section 834.101(a), Government Code, is amended to read as follows:

(a) A member is eligible to retire and receive a base service retirement annuity if the member:

(1) is at least 65 years old, currently holds a judicial office, and has at least 10 years of service credited in the retirement system;

(2) is at least 65 years old and has at least 12 years of service credited in the retirement system, regardless of whether the member currently holds a judicial office; ~~or~~

(3) has at least 20 years of service credited in the retirement system, regardless of whether the member currently holds a judicial office; or

(4) has served at least 12 years on an appellate court and the sum of the member's age and amount of service credited in the retirement system equals or exceeds the number 70, regardless of whether the member currently holds a judicial office.

SECTION \_\_. Section 839.101(a), Government Code, is amended to read as follows:

(a) A member is eligible to retire and receive a service retirement annuity if the member:

- (1) is at least 65 years old, currently holds a judicial office, and has at least 10 years of service credited in the retirement system;
- (2) is at least 65 years old and has at least 12 years of service credited in the retirement system, regardless of whether the member currently holds a judicial office;
- (3) is at least 55 years old and has at least 20 years of service credited in the retirement system, regardless of whether the member currently holds a judicial office; or
- (4) has served at least 12 years [~~two full terms~~] on an appellate court and the sum of the member's age and amount of service credited in the retirement system equals or exceeds the number 70, regardless of whether the member currently holds a judicial office.

The amendments were read.

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

The motion prevailed without objection.

The President asked if there were any motions to instruct the conference committee on **SB 368** before appointment.

There were no motions offered.

The President announced the appointment of the following conferees on the part of the Senate: Senators Duncan, Chair; Ogden, Ellis, Averitt, and Whitmire.

### ADJOURNMENT

On motion of Senator Whitmire, the Senate at 2:58 p.m. adjourned until 11:00 a.m. Monday, May 23, 2005.

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## APPENDIX

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### COMMITTEE REPORTS

The following committee reports were received by the Secretary of the Senate in the order listed:

May 21, 2005

VETERAN AFFAIRS AND MILITARY INSTALLATIONS — **HCR 138, HB 3302**

STATE AFFAIRS — **HB 2309** (Amended)

NATURAL RESOURCES — **HB 2370**

EDUCATION — **CSHB 4, CSHB 1829**

STATE AFFAIRS — **CSHB 1079, CSHB 1579**

BUSINESS AND COMMERCE — **CSHB 698**

INTERGOVERNMENTAL RELATIONS — **HB 2966, HB 2254, HB 2235, HB 1812, HB 1632, HB 638, HB 39, HB 2458, HB 1984, HB 647, HB 275, HB 3498, HB 3573, HB 3333 (Amended), HB 2828 (Amended), HB 1772 (Amended)**

JURISPRUDENCE — **HB 3098, HB 2668, HB 3045, HB 371, HB 1238, HB 383, HB 209, HB 440, HB 1472, HB 2795, HB 1999, HB 260, HB 3557, HB 3531, HB 3515, HB 1404, HB 3441, HB 3542, HCR 153**

STATE AFFAIRS — **CSHB 1940, HB 2339 (Amended), HB 765 (Amended)**

FINANCE — **HB 1655**

BUSINESS AND COMMERCE — **HJR 80, HB 551, HB 1253, HB 1547, HB 1659, HB 1765, HB 2755, CSHB 2928, HB 3036**

NATURAL RESOURCES — **HB 3423**

INTERGOVERNMENTAL RELATIONS — **HB 3589, HB 3582, HB 3580, HB 3579, HB 3578, HB 3574, HB 3569, HB 3556, HB 3554, HB 3549**

BUSINESS AND COMMERCE — **CSHB 955, CSHB 607, CSHB 789**

FINANCE — **CSHB 10**

INTERGOVERNMENTAL RELATIONS — **HB 3548, HB 3502, HB 3530, HB 3534, HB 3535, HB 3537, HB 3546, HB 1438**

NATURAL RESOURCES — **CSHB 1207, CSHB 2161, CSHB 2201**

INTERGOVERNMENTAL RELATIONS — **HB 273 (Amended), HB 602 (Amended), CSHB 664, HB 2199 (Amended), HB 2304 (Amended)**

FINANCE — **CSHB 2329**

CRIMINAL JUSTICE — **HB 1438**

BUSINESS AND COMMERCE — **HB 1583 (Amended)**

NATURAL RESOURCES — **HB 1821, HB 3539, HB 3566, HB 3482, HB 2651, CSHB 2833, HB 3181**

BUSINESS AND COMMERCE — **CSHB 843**

NATURAL RESOURCES — **CSHB 2639, CSHB 2876**

