

SEVENTY-SIXTH DAY

MONDAY, MAY 23, 2005

PROCEEDINGS

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

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

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

The Reverend Kenneth Darden, Macedonia Missionary Baptist Church, Livingston, offered the invocation as follows:

Eternal God, we thank You for giving us this opportunity to come together to exercise the wonderful privilege of prayer. I pray for those who are in authority that they will continue to make the best decisions which are in the best interest of the people they each represent. God, continue to bless America as America continues to bless You. In the name of God the father, the son, and the holy spirit. Amen.

Senator Whitmire moved that the reading of the Journal of the proceedings of Saturday, May 21, 2005, be dispensed with and the Journal be approved as printed.

The motion prevailed without objection.

CO-SPONSOR OF HOUSE BILL 1771

On motion of Senator Nelson, Senator Lindsay will be shown as Co-sponsor of **HB 1771**.

CO-SPONSOR OF HOUSE BILL 2815

On motion of Senator Madla, Senator Duncan will be shown as Co-sponsor of **HB 2815**.

MESSAGE FROM THE HOUSE**HOUSE CHAMBER**

Austin, Texas

May 23, 2005

The Honorable President of the Senate
Senate Chamber
Austin, Texas

Mr. President:

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

THE HOUSE HAS PASSED THE FOLLOWING MEASURES:

HCR 211, Congratulating Addison police officer Brad Freis on his selection to carry the torch for the 2005 Special Olympics World Winter Games in Japan.

Respectfully,

/s/Robert Haney, Chief Clerk
House of Representatives

CONFERENCE COMMITTEE ON HOUSE BILL 261

Senator Wentworth called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 261** 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 261** before appointment.

There were no motions offered.

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

SENATE BILL 48 WITH HOUSE AMENDMENT

Senator Nelson called **SB 48** from the President's table for consideration of the House amendment to the bill.

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

Amendment

Amend **SB 48** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED
AN ACT

relating to reporting requirements for convalescent and nursing homes and related institutions.

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

SECTION 1. Section 242.403, Health and Safety Code, is amended by amending Subsection (b) and adding Subsection (c) to read as follows:

(b) The department may require an institution to submit information to the department, including Minimum Data Set Resident Assessments, necessary to ensure the quality of care in institutions. Information submitted to the department that identifies a resident of an institution is confidential and not subject to disclosure under Chapter 552, Government Code.

(c) The department may adopt standards in addition to those required by Subsection (a) to implement Sections 242.401 and 242.402.

SECTION 2. Section 32.028, Human Resources Code, is amended by adding Subsection (n) to read as follows:

(n) The commission shall ensure that rules governing the determination of rates paid for nursing home services provide for the reporting of all revenue and costs, without regard to whether a cost is an allowable cost for reimbursement under the medical assistance program, except:

(1) as provided by Subsection (h); and

(2) a penalty imposed under this chapter or Chapter 242, Health and Safety

Code.

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

The amendment was read.

Senator Nelson moved to concur in the House amendment to **SB 48**.

The motion prevailed by a viva voce vote.

All Members are deemed to have voted "Yea" on the motion to concur.

SENATE BILL 485 WITH HOUSE AMENDMENT

Senator Armbrister called **SB 485** from the President's table for consideration of the House amendment to the bill.

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

Floor Amendment No. 1 on Third Reading

Amend **SB 485** (House committee printing) on third reading by adding the following appropriately numbered SECTION to the bill and renumbering the subsequent SECTIONS accordingly:

SECTION __. Subsection (b), Section 26.35731, Water Code, is amended to read as follows:

(b) The commission may postpone considering, processing, or paying ~~[not consider, process, or pay]~~ a claim for reimbursement from the petroleum storage tank remediation account for corrective action work begun without prior commission approval after September 1, 1993, that is filed with the commission before January 1, 2005 ~~[and without prior commission approval until all claims for reimbursement for corrective action work preapproved by the commission have been considered, processed, and paid].~~

The amendment was read.

Senator Armbrister moved to concur in the House amendment to **SB 485**.

The motion prevailed by a viva voce vote.

All Members are deemed to have voted "Yea" on the motion to concur.

SENATE BILL 316 WITH HOUSE AMENDMENT

Senator Lucio called **SB 316** from the President's table for consideration of the House amendment to the bill.

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

Floor Amendment No. 1

Amend **SB 316** (House committee printing), in SECTION 1 of the bill, as follows:

(1) In Section 161.502(a), Health and Safety Code (page 3, line 17), strike "and".

(2) In Section 161.502(a), Health and Safety Code (page 3, line 18), between "(4)" and "coordinate", insert "make the pamphlet required by Section 161.501 available for distribution to hospitals, physicians, birthing centers, nurse-midwives, and midwives; and

(5)".

The amendment was read.

Senator Lucio moved to concur in the House amendment to **SB 316**.

The motion prevailed by a viva voce vote.

All Members are deemed to have voted "Yea" on the motion to concur.

SENATE BILL 679 WITH HOUSE AMENDMENT

Senator Duncan called **SB 679** from the President's table for consideration of the House amendment to the bill.

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

Amendment

Amend **SB 679** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED

AN ACT

relating to the procedure for determining the incompetency of a defendant to stand trial.

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

SECTION 1. Article 46B.001, Code of Criminal Procedure, is amended by amending Subdivision (1) and adding Subdivision (9) to read as follows:

(1) "Department" means the [~~Texas~~] Department of State Health Services [~~Mental Health and Mental Retardation~~].

(9) "Electronic broadcast system" means a two-way electronic communication of image and sound between the defendant and the court and includes secure Internet videoconferencing.

SECTION 2. Article 46B.004, Code of Criminal Procedure, is amended by amending Subsection (d) and adding Subsection (e) to read as follows:

(d) If the court determines there is evidence to support a finding of incompetency, the court, except as provided by Subsection (e) and Article 46B.005(d), shall stay all other proceedings in the case.

(e) At any time during the proceedings under this chapter after the issue of the defendant's incompetency to stand trial is first raised, the court on the motion of the attorney representing the state may dismiss all charges pending against the defendant, regardless of whether there is any evidence to support a finding of the defendant's incompetency under Subsection (d) or whether the court has made a finding of incompetency under this chapter. If the court dismisses the charges against the defendant, the court may not continue the proceedings under this chapter, except that, if there is evidence to support a finding of the defendant's incompetency under Subsection (d), the court may proceed under Subchapter F. If the court does not elect to proceed under Subchapter F, the court shall discharge the defendant.

SECTION 3. Articles 46B.005, 46B.007, 46B.008, 46B.009, and 46B.011, Code of Criminal Procedure, are amended to read as follows:

Art. 46B.005. DETERMINING INCOMPETENCY TO STAND TRIAL. (a) If after an informal inquiry the court determines that evidence exists to support a finding of incompetency, the court shall order an examination under Subchapter B to determine whether the defendant is incompetent to stand trial in a criminal case.

(b) Except as provided by Subsection (c), the court shall hold a trial [hearing] under Subchapter C before determining whether the defendant is incompetent to stand trial on the merits.

(c) A trial under this chapter [The court] is not required [~~to hold a hearing~~] if:

(1) neither party's counsel [party] requests a [jury] trial on the issue of incompetency;

(2) neither party's counsel [party] opposes a finding of incompetency; and

(3) the court does not, on its own motion, determine that a trial [hearing] is necessary to determine incompetency.

(d) If the issue of the defendant's incompetency to stand trial is raised after the trial on the merits begins, the court may determine the issue at any time before the sentence is pronounced [sentencing]. If the determination is delayed until after the return of a verdict, the court shall make the determination as soon as reasonably possible after the return. If a verdict of not guilty is returned, the court may not determine the issue of incompetency.

Art. 46B.007. ADMISSIBILITY OF STATEMENTS AND CERTAIN OTHER EVIDENCE. A statement made by a defendant during an examination or trial [hearing] on the defendant's incompetency, the testimony of an expert based on that statement, and evidence obtained as a result of that statement may not be admitted in evidence against the defendant in any criminal proceeding, other than at:

(1) a trial [hearing] on the defendant's incompetency; or

(2) any proceeding at which the defendant first introduces into evidence a statement, testimony, or evidence described by this article [section].

Art. 46B.008. RULES OF EVIDENCE. Notwithstanding Rule 101, Texas Rules of Evidence, the Texas Rules of Evidence apply to a trial under Subchapter C or other proceeding [hearing] under this chapter whether the proceeding [hearing] is before a jury or before the court.

Art. 46B.009. TIME CREDITS. (a) A court sentencing a person convicted of a criminal offense shall credit to the term of the person's sentence the time the person is confined in a mental health facility, ~~or~~ residential care facility, or jail pending trial under Subchapter C.

(b) A defendant may not be committed to a mental hospital or other in-patient or residential facility under this chapter for a cumulative period that exceeds the maximum term provided by law for the offense for which the defendant was to be tried. On expiration of that maximum term, the defendant may be confined for an additional period in a mental hospital or other in-patient or residential facility only pursuant to civil commitment proceedings.

Art. 46B.011. APPEALS. Neither the state nor the defendant is entitled to make an interlocutory appeal relating to a determination or ruling [of incompetency] under Article 46B.005.

SECTION 4. Subchapter A, Chapter 46B, Code of Criminal Procedure, is amended by adding Article 46B.013 to read as follows:

Art. 46B.013. USE OF ELECTRONIC BROADCAST SYSTEM IN CERTAIN PROCEEDINGS UNDER THIS CHAPTER. (a) A hearing may be conducted using an electronic broadcast system as permitted by this chapter and in accordance with the other provisions of this code if:

(1) written consent to the use of an electronic broadcast system is filed with the court by:

(A) the defendant or the attorney representing the defendant; and

(B) the attorney representing the state;

(2) the electronic broadcast system provides for a simultaneous, compressed full motion video, and interactive communication of image and sound between the judge, the attorney representing the state, the attorney representing the defendant, and the defendant; and

(3) on request of the defendant or the attorney representing the defendant, the defendant and the attorney representing the defendant are able to communicate privately without being recorded or heard by the judge or the attorney representing the state.

(b) On the motion of the defendant, the attorney representing the defendant, or the attorney representing the state or on the court's own motion, the court may terminate an appearance made through an electronic broadcast system at any time during the appearance and require an appearance by the defendant in open court.

(c) A recording of the communication shall be made and preserved until any appellate proceedings have been concluded. The defendant may obtain a copy of the recording on payment of a reasonable amount to cover the costs of reproduction or, if the defendant is indigent, the court shall provide a copy to the defendant without charging a cost for the copy.

SECTION 5. The heading to Subchapter C, Chapter 46B, Code of Criminal Procedure, is amended to read as follows:

SUBCHAPTER C. INCOMPETENCY [~~HEARING AND~~] TRIAL

SECTION 6. Article 46B.051, Code of Criminal Procedure, is amended to read as follows:

Art. 46B.051. TRIAL [~~HEARING~~] BEFORE JUDGE OR JURY. (a) If a court holds a trial [~~hearing~~] to determine whether the defendant is incompetent to stand trial, on the request of either party or the motion of the court, a jury shall make the determination.

(b) The court shall make the determination of incompetency if a jury determination is not required by Subsection (a).

(c) If a jury determination is required by Subsection (a), a jury that has not been selected to determine the guilt or innocence of the defendant must determine the issue of incompetency.

SECTION 7. Articles 46B.053 and 46B.054, Code of Criminal Procedure, are amended to read as follows:

Art. 46B.053. PROCEDURE AFTER FINDING OF COMPETENCY. If [~~at a hearing~~] the court or jury determines that the defendant is competent to stand trial, the court shall continue the trial on the merits. If a jury determines that the defendant is competent and the trial on the merits is to be held before a jury, the court shall continue the trial with another jury selected for that purpose.

Art. 46B.054. UNCONTESTED INCOMPETENCY. If the court finds [~~as required by Article 46B.005~~] that [~~there is~~] evidence exists to support a finding of incompetency to stand trial and the court and the counsel for each party agree that the defendant is incompetent to stand trial, the court shall proceed in the same manner as if a jury had been impaneled and had found the defendant incompetent to stand trial.

SECTION 8. The heading to Subchapter D, Chapter 46B, Code of Criminal Procedure, is amended to read as follows:

SUBCHAPTER D. PROCEDURES AFTER [~~ON~~]
DETERMINATION OF INCOMPETENCY

SECTION 9. Subsections (c) and (d), Article 46B.073, Code of Criminal Procedure, are amended to read as follows:

(c) If the defendant is charged with an offense listed in Article 17.032(a) or the indictment alleges [~~requests~~] an affirmative finding under Section 3g(a)(2), Article 42.12, the court shall enter an order committing the defendant to the maximum security unit of any facility designated by the department, to an agency of the United States operating a mental hospital, or to a Department of Veterans Affairs hospital.

(d) If the defendant is not charged with an offense listed in Article 17.032(a) and the indictment does not allege [~~request~~] an affirmative finding under Section 3g(a)(2), Article 42.12, the court shall enter an order committing the defendant to a mental health facility or residential care facility determined to be appropriate by the local mental health authority or local mental retardation authority.

SECTION 10. Article 46B.074, Code of Criminal Procedure, is amended to read as follows:

Art. 46B.074. COMPETENT TESTIMONY REQUIRED. (a) A defendant may be committed to a mental health facility or residential care facility under this subchapter only on competent medical or psychiatric testimony provided by an expert qualified under Article 46B.022.

(b) The court may allow an expert to substitute the expert's report under Article 46B.025 for any testimony by the expert that may be required under this article.

SECTION 11. Article 46B.076(a), Code of Criminal Procedure, is amended to read as follows:

(a) If the defendant is found incompetent to stand trial, the court shall send a copy of the order to the facility to which the defendant is committed not later than the date the defendant is committed to the facility. The court shall also provide to the facility copies of the following made available to the court during the incompetency trial ~~hearing~~:

- (1) reports of each expert;
- (2) psychiatric, psychological, or social work reports that relate to the mental condition of the defendant;
- (3) documents provided by the attorney representing the state or the attorney representing the defendant that relate to the defendant's current or past mental condition;
- (4) copies of the indictment or information and any supporting documents used to establish probable cause in the case;
- (5) the defendant's criminal history record; and
- (6) the addresses of the attorney representing the state and the attorney representing the defendant.

SECTION 12. Articles 46B.079 and 46B.080, Code of Criminal Procedure, are amended to read as follows:

Art. 46B.079. RETURN TO COMMITTING COURT. (a) A defendant committed under this subchapter shall be returned to the committing court as soon as practicable after the date on which the defendant's term of commitment expires.

(b) A defendant committed under this subchapter whose term of commitment has not yet expired shall be returned to the committing court as soon as practicable after the 15th day following the date on which the parties receive service on any report filed under Article 46B.080(b) regarding the defendant's ability to attain competency, except that, if a party objects to the findings of the report and the issue is set for a hearing under Article 46B.084, the defendant may not be returned to the committing court earlier than 72 hours before the date the hearing is scheduled [the earliest of the following dates:

- ~~[(1) the date on which the facility determines that the defendant has attained competency;~~
- ~~[(2) the date on which the facility determines that the defendant will not attain competency in the foreseeable future; or~~
- ~~[(3) the date on which the term of commitment expires].~~

Art. 46B.080. NOTICE TO COMMITTING COURT. (a) The head of a facility to which a defendant has been committed under this subchapter, not later than the 14th day before the date on which a commitment order is to expire, shall notify the committing court that the term of the commitment is about to expire.

(b) The head of the facility to which a defendant has been committed under this subchapter shall promptly notify the committing court when the head of the facility is of the opinion that:

- (1) the defendant has attained competency to stand trial; or

(2) the defendant will not attain competency in the foreseeable future.

(c) When the head of the facility gives notice to the court under Subsection (a) or (b), the head of the facility also shall file a final report with the court stating the reason for the proposed discharge under this chapter and including a list of the types and dosages of medications with which the defendant was treated for mental illness while in the facility. The court shall provide copies of the report to the attorney representing the defendant and the attorney representing the state.

(d) If the head of the facility to which the defendant has been committed notifies the court that the commitment order is about to expire, the notice may contain a request for an extension of the commitment order for a period of 60 days and an explanation for the basis of the request.

SECTION 13. Subsection (a), Article 46B.081, Code of Criminal Procedure, is amended to read as follows:

(a) On the request of the head of a facility made under Article 46B.080(d) [~~46B.080(e)~~], the court may enter an order extending the term of the commitment order for a period of 60 days.

SECTION 14. Article 46B.083, Code of Criminal Procedure, is amended to read as follows:

Art. 46B.083. SUPPORTING COMMITMENT INFORMATION PROVIDED [REPORT] BY FACILITY HEAD. (a) [~~When the head of a facility to which the defendant is committed discharges the defendant and the defendant is returned to the committing court, the head of the facility shall file a final report with the court stating the reason for the discharge under Article 46B.080. The court shall furnish copies of the report to the defense counsel and the prosecuting attorney.~~

~~[(b)] If the head of the facility believes that the defendant is a person with mental illness and meets the criteria for court-ordered inpatient mental health services under Subtitle C, Title 7, Health and Safety Code, the head of the facility shall have submitted to the court a certificate of medical examination for mental illness. [The head of the facility shall include in the final report a list of the types and dosages of medications with which the defendant was treated for mental illness while in the facility.]~~

~~(b)~~ (c) If the head of the facility is of the opinion that the defendant is a person with mental retardation, the head of the facility shall have submitted to the court an affidavit stating the conclusions reached as a result of the examination.

SECTION 15. Article 46B.084, Code of Criminal Procedure, is amended by amending Subsections (a) and (c) and adding Subsection (b-1) to read as follows:

(a) On the return of a defendant to the committing court, the court shall make a determination with regard to the defendant's competency to stand trial. The court may make the determination based solely on the report filed under Article 46B.080(c) [~~46B.080(b)~~], unless any party objects in writing or in open court to the findings of the report not later than the 15th day after the date on which the report is served on the parties.

(b-1) If the hearing is before the court, the hearing may be conducted by means of an electronic broadcast system as provided by Article 46B.013. Notwithstanding any other provision of this chapter, the defendant is not required to be returned to the committing court with respect to any hearing that is conducted under this article in the manner described by this subsection.

(c) The hearing shall be held within 30 days following the date of objection unless continued for good cause for a period not to exceed 30 days.

SECTION 16. Article 46B.085, Code of Criminal Procedure, is amended to read as follows:

Art. 46B.085. SUBSEQUENT COMMITMENTS AND EXTENSIONS [RECOMMITMENT] PROHIBITED. (a) The court may order only one commitment and one extension under this subchapter [~~A defendant committed under this subchapter may not be recommitted under this subchapter~~] in connection with the same offense.

(b) After a commitment and an extension are ordered as described by Subsection (a), any subsequent court orders for treatment must be issued under Subchapter E or F.

SECTION 17. The heading to Subchapter E, Chapter 46B, Code of Criminal Procedure, is amended to read as follows:

SUBCHAPTER E. CIVIL [~~EXTENDED~~] COMMITMENT:
CHARGES PENDING

SECTION 18. The heading to Article 46B.102, Code of Criminal Procedure, is amended to read as follows:

Art. 46B.102. CIVIL COMMITMENT HEARING: MENTAL ILLNESS.

SECTION 19. The heading to Article 46B.103, Code of Criminal Procedure, is amended to read as follows:

Art. 46B.103. CIVIL COMMITMENT HEARING: MENTAL RETARDATION.

SECTION 20. Article 46B.104, Code of Criminal Procedure, is amended to read as follows:

Art. 46B.104. CIVIL [~~EXTENDED~~] COMMITMENT PLACEMENT: FINDING OF VIOLENCE. A defendant committed to a facility as a result of proceedings initiated under this chapter shall be committed to the maximum security unit of any facility designated by the department if:

(1) the defendant is charged with an offense listed in Article 17.032(a); or

(2) the indictment charging the offense alleges [~~requests~~] an affirmative finding under Section 3g(a)(2), Article 42.12.

SECTION 21. The heading to Article 46B.105, Code of Criminal Procedure, is amended to read as follows:

Art. 46B.105. TRANSFER FOLLOWING CIVIL [~~EXTENDED~~] COMMITMENT PLACEMENT.

SECTION 22. The heading to Article 46B.106, Code of Criminal Procedure, is amended to read as follows:

Art. 46B.106. CIVIL [~~EXTENDED~~] COMMITMENT PLACEMENT: NO FINDING OF VIOLENCE.

SECTION 23. The heading to Article 46B.107, Code of Criminal Procedure, is amended to read as follows:

Art. 46B.107. RELEASE OF DEFENDANT AFTER CIVIL COMMITMENT.

SECTION 24. Subsection (d), Article 46B.107, Code of Criminal Procedure, is amended to read as follows:

(d) The court may, on motion of the attorney representing the state or on its own motion, hold a hearing to determine whether release is appropriate under the applicable criteria in Subtitle C or D, Title 7, Health and Safety Code. The court may conduct the hearing:

(1) at the facility; or

(2) by means of an electronic broadcast system as provided by Article 46B.013.

SECTION 25. Subsection (b), Article 46B.108, Code of Criminal Procedure, is amended to read as follows:

(b) An inquiry into restoration of competency under this subchapter may be made at the request of the head of the mental health facility or residential care facility to which the defendant has been committed, the defendant, the attorney representing the defendant, or the attorney representing the state, or may be made on the court's own motion.

SECTION 26. Article 46B.110, Code of Criminal Procedure, is amended to read as follows:

Art. 46B.110. MOTION BY DEFENDANT, ATTORNEY REPRESENTING DEFENDANT, OR ATTORNEY REPRESENTING STATE. (a) The defendant, the attorney representing the defendant, or the attorney representing the state may move that the court determine that the defendant has been restored to competency.

(b) A motion for a determination of competency may be accompanied by affidavits supporting the moving party's assertion that the defendant is competent.

SECTION 27. Subsection (c), Article 46B.113, Code of Criminal Procedure, is amended to read as follows:

(c) If a court holds a hearing under this article, on the request of the counsel for either party or the motion of the court, a jury shall make the competency determination. If the competency determination will be made by the court rather than a jury, the court may conduct the hearing:

(1) at the facility; or

(2) by means of an electronic broadcast system as provided by Article 46B.013.

SECTION 28. Article 46B.114, Code of Criminal Procedure, is amended to read as follows:

Art. 46B.114. TRANSPORTATION OF DEFENDANT TO COURT. If the hearing is not conducted at the facility to which the defendant has been committed under this chapter or conducted by means of an electronic broadcast system as described by this subchapter, an [A+] order setting a hearing to determine whether the defendant has been restored to competency shall direct that, as soon as practicable but not earlier than 72 hours before the date the hearing is scheduled, the defendant be placed in the custody of the sheriff of the county in which the committing court is located or the sheriff's designee for transportation to the court. The sheriff or the sheriff's designee may not take custody of the defendant under this article until 72 hours before the date the hearing is scheduled.

SECTION 29. Article 46B.115, Code of Criminal Procedure, is amended by adding Subsection (c) to read as follows:

(c) If the competency determination will be made by the court, the court may conduct the hearing at the facility to which the defendant has been committed under this chapter or may conduct the hearing by means of an electronic broadcast system as provided by Article 46B.013.

SECTION 30. Subsection (a), Article 46B.117, Code of Criminal Procedure, is amended to read as follows:

(a) If a defendant under order of commitment to a facility is found to not have been restored to competency to stand trial, the court shall remand the defendant pursuant to that order of commitment, and, if applicable, order the defendant placed in the custody of the sheriff or the sheriff's designee for transportation back to the facility.

SECTION 31. The heading to Subchapter F, Chapter 46B, Code of Criminal Procedure, is amended to read as follows:

SUBCHAPTER F. CIVIL ~~[EXTENDED]~~ COMMITMENT:
CHARGES DISMISSED

SECTION 32. The heading to Article 46B.151, Code of Criminal Procedure, is amended to read as follows:

Art. 46B.151. COURT DETERMINATION RELATED TO CIVIL COMMITMENT.

SECTION 33. Subsection (a), Article 46B.151, Code of Criminal Procedure, is amended to read as follows:

(a) If a court is required by Article 46B.084(f) or permitted by Article 46B.004(e) to proceed under this subchapter, the court shall determine whether there is evidence to support a finding that the defendant is either a person with mental illness or a person with mental retardation.

SECTION 34. Article 46B.171, Code of Criminal Procedure, is amended to read as follows:

Art. 46B.171. TRANSCRIPTS AND OTHER RECORDS ~~[+ DOCUMENTATION]~~. (a) The court shall order that:

(1) a transcript of all medical testimony received in both the criminal proceedings and the civil commitment proceedings under Subchapter E or F be prepared as soon as possible by the court reporters; and

(2) copies of documents listed in Article 46B.076 accompany the defendant to the mental health facility or residential care facility.

(b) On the request of the defendant or the attorney representing the defendant, a mental health facility or a residential care facility shall provide to the defendant or the attorney copies of the facility's records regarding the defendant.

SECTION 35. Section 614.0032, Health and Safety Code, is amended to read as follows:

Sec. 614.0032. SPECIAL DUTIES RELATED TO MEDICALLY RECOMMENDED SUPERVISION; DETERMINATIONS REGARDING COMPETENCY OR FITNESS TO PROCEED ~~[COMPETENCY DETERMINATION]~~. (a) The office shall perform duties imposed on the office by Section 508.146, Government Code.

(b) The office, with the special assistance of committee members appointed under Section 614.002(b)(1), shall:

(1) review examinations to determine the competency of defendants in criminal cases to stand trial and examinations to determine the fitness of children to proceed with respect to adjudications of delinquent conduct or conduct indicating a need for supervision; and

(2) periodically ~~shall~~ report to the legislature and the court of criminal appeals findings made as a result of the review described by Subdivision (1) ~~[to the legislature and the court of criminal appeals].~~

(c) A district or juvenile court shall submit to the office on a monthly basis all reports based on examinations described by Subsection (b).

SECTION 36. (a) The change in law made by this Act in amending Articles 46B.001, 46B.107, 46B.113, 46B.114, 46B.115, and 46B.117, Code of Criminal Procedure, applies only to a competency hearing requested by the motion of a party or held on the motion of the court on or after the effective date of this Act. A competency hearing requested by the motion of a party or held on the motion of the court before the effective date of this Act is covered by the law in effect when the motion for a hearing was made by a party or by the court, as applicable, and the former law is continued in effect for that purpose.

(b) The change in law made by this Act in amending Articles 46B.004, 46B.011, and 46B.074 and Subsection (c), Article 46B.084, Article 46B.085, and Subsection (a), Article 46B.151, Code of Criminal Procedure, applies only to a defendant charged with an offense committed on or after the effective date of this Act. A defendant charged with an offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this subsection, an offense was committed before the effective date of this Act if any element of the offense was committed before that date.

(c) The change in law made by this Act in amending Articles 46B.009, 46B.080, 46B.083, and 46B.171, Code of Criminal Procedure, and adding Subsection (b-1), Article 46B.084, Code of Criminal Procedure, applies to a defendant charged with an offense committed before, on, or after the effective date of this Act.

SECTION 37. Notwithstanding Section 16, Chapter 35, Acts of the 78th Legislature, Regular Session, 2003, a determination of incompetency is covered by Chapter 46B, Code of Criminal Procedure, for a defendant:

(1) against whom proceedings were initiated before January 1, 2004, under former Article 46.02, Code of Criminal Procedure; and

(2) for whom proceedings have not become final before the effective date of this Act.

SECTION 38. This Act takes effect September 1, 2005.

The amendment was read.

Senator Duncan moved to concur in the House amendment to **SB 679**.

The motion prevailed by a viva voce vote.

All Members are deemed to have voted "Yea" on the motion to concur.

SENATE BILL 261 WITH HOUSE AMENDMENT

Senator Williams called **SB 261** from the President's table for consideration of the House amendment to the bill.

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

Amendment

Amend **SB 261** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED
AN ACT

relating to the creation of a program to educate the public on the value of health coverage and to increase public awareness of health coverage options.

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

SECTION 1. Subtitle B, Title 5, Insurance Code, as effective April 1, 2005, is amended by adding Chapter 524 to read as follows:

CHAPTER 524. HEALTH COVERAGE AWARENESS AND
EDUCATION PROGRAM

Sec. 524.001. PROGRAM ESTABLISHED. (a) The department shall develop and implement a health coverage public awareness and education program that complies with this chapter. The program must:

(1) increase public awareness of health coverage options available in this state;

(2) educate the public on the value of health coverage; and

(3) provide information on health coverage options, including health savings accounts and compatible high deductible health benefit plans.

(b) The department may include information about specific health coverage issuers but may not favor or endorse one particular issuer over another.

Sec. 524.002. PUBLIC SERVICE ANNOUNCEMENTS. The department shall develop and make public service announcements to educate consumers and employers about the availability of health coverage in this state.

Sec. 524.003. INTERNET WEBSITE; PUBLIC EDUCATION. (a) The department shall develop an Internet website designed to educate the public about the availability of health coverage in this state, including information about health savings accounts and compatible high deductible health benefit plans.

(b) The department shall provide other appropriate education to the public regarding the value of health coverage.

Sec. 524.004. TASK FORCE. (a) The commissioner shall appoint a task force to make recommendations regarding the health coverage public awareness and education program. The task force is composed of:

(1) one representative from each of the following groups or entities:

(A) health benefit coverage consumers;

(B) small employers;

(C) employers generally;

(D) insurance agents;

(E) the office of public insurance counsel;

(F) the Texas Health Insurance Risk Pool;

(G) physicians;

(H) advanced practice nurses;

(I) hospital trade associations; and

(J) medical units of institutions of higher education;

(2) a representative of the Health and Human Services Commission responsible for programs under Medicaid and the children's health insurance program; and

(3) one or more representatives of health benefit plan issuers.

(b) The department shall consult the task force regarding the content for the public service announcements, Internet website, and educational materials required by this chapter. The commissioner has authority to make final decisions as to what the program's materials will contain.

Sec. 524.005. FUNDING. The department may accept gifts and grants from any party, including a health benefit plan issuer or a foundation associated with a health benefit plan issuer, to assist with funding the program. The department shall adopt rules governing acceptance of donations that are consistent with Chapter 575, Government Code. Before adopting rules under this subsection, the department shall:

(1) submit the proposed rules to the Texas Ethics Commission for review; and

(2) consider the commission's recommendations regarding the regulations.

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

The amendment was read.

Senator Williams moved to concur in the House amendment to **SB 261**.

The motion prevailed by a viva voce vote.

All Members are deemed to have voted "Yea" on the motion to concur.

PHYSICIAN OF THE DAY

Senator Lindsay was recognized and presented Dr. Lara Ann Longo of Houston as the Physician of the Day.

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

SENATE BILL 912 WITH HOUSE AMENDMENTS

Senator Shapiro called **SB 912** 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 912** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED
AN ACT

relating to the civil commitment of sexually violent predators.

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

SECTION 1. Section 841.002, Health and Safety Code, is amended by adding Subdivision (7-a) and amending Subdivision (8) to read as follows:

(7-a) "Sexually motivated conduct" means any conduct involving the intent to arouse or gratify the sexual desire of any person immediately before, during, or immediately after the commission of an offense.

(8) "Sexually violent offense" means:

(A) an offense under Section 21.11(a)(1), 22.011, or 22.021, Penal Code;

(B) an offense under Section 20.04(a)(4), Penal Code, if the person [~~defendant~~] committed the offense with the intent to violate or abuse the victim sexually;

(C) an offense under Section 30.02, Penal Code, if the offense is punishable under Subsection (d) of that section and the person [~~defendant~~] committed the offense with the intent to commit an offense listed in Paragraph (A) or (B);

(D) an offense under Section 19.02 or 19.03, Penal Code, that, during the guilt or innocence phase or the punishment phase for the offense, during the adjudication or disposition of delinquent conduct constituting the offense, or subsequently during a civil commitment proceeding under Subchapter D, is determined beyond a reasonable doubt to have been based on sexually motivated conduct;

(E) [~~(D)~~] an attempt, conspiracy, or solicitation, as defined by Chapter 15, Penal Code, to commit an offense listed in Paragraph (A), (B), [~~(C)~~], or (D);

(F) [~~(E)~~] an offense under prior state law that contains elements substantially similar to the elements of an offense listed in Paragraph (A), (B), (C), [~~(D)~~], or (E); or

(G) [~~(F)~~] an offense under the law of another state, federal law, or the Uniform Code of Military Justice that contains elements substantially similar to the elements of an offense listed in Paragraph (A), (B), (C), [~~(D)~~], or (E).

SECTION 2. Sections 841.021(a) and (b), Health and Safety Code, are amended to read as follows:

(a) Before the person's anticipated release date, the Texas Department of Criminal Justice shall give to the multidisciplinary team established under Section 841.022 written notice of the anticipated release of a person who:

(1) is serving a sentence for:

(A) a sexually violent offense described by Section 841.002(8)(A), (B), or (C); or

(B) what is, or as described by this chapter what the department reasonably believes may be determined to be, a sexually violent offense described by Section 841.002(8)(D); and

(2) may be a repeat sexually violent offender.

(b) Before the person's anticipated discharge date, the Texas Department of Mental Health and Mental Retardation shall give to the multidisciplinary team established under Section 841.022 written notice of the anticipated discharge of a person who:

(1) is committed to the department after having been adjudged not guilty by reason of insanity of:

(A) a sexually violent offense described by Section 841.002(8)(A), (B), or (C); or

(B) what is, or as described by this chapter what the department reasonably believes may be determined to be, a sexually violent offense described by Section 841.002(8)(D); and

(2) may be a repeat sexually violent offender.

SECTION 3. Sections 841.082(a) and (d), Health and Safety Code, are amended to read as follows:

(a) Before entering an order directing a person's outpatient civil commitment, the judge shall impose on the person requirements necessary to ensure the person's compliance with treatment and supervision and to protect the community. The requirements shall include:

(1) requiring the person to reside in a Texas residential facility under contract with the council or at another [particular] location or facility approved by the council;

(2) prohibiting the person's contact with a victim or potential victim of the person;

(3) prohibiting the person's possession or use of alcohol, inhalants, or a controlled substance;

(4) requiring the person's participation in and compliance with a specific course of treatment;

(5) requiring the person to:

(A) submit to tracking under a particular type of tracking service and to any other appropriate supervision; and

(B) refrain from tampering with, altering, modifying, obstructing, or manipulating the tracking equipment;

(6) prohibiting the person from changing the person's residence without prior authorization from the judge and from leaving the state without that prior authorization;

(7) if determined appropriate by the judge, establishing a child safety zone in the same manner as a child safety zone is established by a judge under Section 13B, Article 42.12, Code of Criminal Procedure, and requiring the person to comply with requirements related to the safety zone;

(8) requiring the person to notify the case manager immediately but in any event within 24 hours of any change in the person's status that affects proper treatment and supervision, including a change in the person's physical health or job status and including any incarceration of the person; and

(9) any other requirements determined necessary by the judge.

(d) ~~The court [Immediately after the case becomes final for purposes of appeal, the judge shall transfer jurisdiction of the case to a district court, other than a family district court, having jurisdiction in the county in which the person is residing, except that the judge]~~ retains jurisdiction of the case with respect to a civil commitment proceeding conducted under Subchapters F and G.

SECTION 4. Section 841.083, Health and Safety Code, is amended by amending Subsections (c) and (d) and adding Subsections (c-1) and (c-2) to read as follows:

(c) The council shall enter into appropriate memoranda of understanding ~~[an interagency agreement]~~ with the Texas Department of Public Safety for the provision of a tracking service and for assistance in the preparation of criminal complaints, warrants, and related documents and in the apprehension and arrest of a person.

(c-1) Notwithstanding Subsection (c) or any other provision of this subchapter, the council shall provide through the case management system any supervision or tracking service required under this chapter for persons residing in Dallas, Harris, or Tarrant County. The council shall provide the tracking service under this subsection through two employees of the Department of State Health Services. Any tracking personnel used by the department for purposes of this chapter must be approved by the council.

(c-2) If the equipment necessary to implement the tracking [that] service is available through a contract entered into by the Texas Building and Procurement Commission, the Department of Public Safety or the council, as appropriate, shall acquire that equipment through that contract.

(d) The council shall enter into appropriate memoranda of understanding ~~[an interagency agreement with the Texas Department of Criminal Justice]~~ for any necessary supervised housing. The council shall reimburse the applicable provider ~~[that department]~~ for housing costs under this section. The committed person may not be housed for any period of time in a mental health facility, state school, or community center, unless the placement results from a commitment of the person to that facility, school, or center by governmental action. In this subsection:

(1) "Community center" means a center established under Subchapter A, Chapter 534.

(2) "Mental health facility" has the meaning assigned by Section 571.003.

(3) "State school" has the meaning assigned by Section 531.002.

SECTION 5. Sections 841.145(a) and (b), Health and Safety Code, are amended to read as follows:

(a) At the person's own expense, a [A] person who is examined under this chapter may retain an expert to perform an examination or participate in a civil commitment proceeding on the person's behalf, including a biennial examination or other civil commitment proceeding to assess the person's status as a sexually violent predator.

(b) On the request of an indigent person examined under this chapter, the judge shall determine whether expert services for the person are necessary. If the judge determines that the services are necessary, the judge shall appoint an expert to perform an examination or participate in a civil commitment proceeding on the person's behalf and shall approve compensation for the expert as appropriate under Subsection (c).

SECTION 6. Section 841.150, Health and Safety Code, is amended to read as follows:

Sec. 841.150. EFFECT OF ~~[CERTAIN]~~ SUBSEQUENT COMMITMENT OR CONFINEMENT [CONVICTIONS, JUDGMENTS, OR VERDICTS] ON ORDER OF CIVIL COMMITMENT. (a) ~~[Except as provided by Subsection (b), the following convictions, judgments, or verdicts do not affect an order of civil commitment under this chapter:~~

~~[(1) a conviction for a felony if a sentence is not imposed;~~

~~[(2) a conviction for a misdemeanor, regardless of whether a sentence is imposed; and~~

~~[(3) a judgment or verdict of not guilty by reason of insanity for any offense absent a corresponding commitment to the Texas Department of Mental Health and Mental Retardation.~~

~~[(b) The [statutory] duties imposed by this chapter are suspended for the duration of any confinement of a person, or any commitment of a person to a community center, mental health facility, or state school, by governmental action [who receives a conviction described by Subsection (a)(2)].~~

(b) In this section:

(1) "Community center" means a center established under Subchapter A, Chapter 534.

(2) "Mental health facility" has the meaning assigned by Section 571.003.

(3) "State school" has the meaning assigned by Section 531.002.

SECTION 7. The following provisions are repealed:

(1) Section 841.082(b), Health and Safety Code; and

(2) Section 841.084, Health and Safety Code.

SECTION 8. The change in law made by this Act applies only to an individual who on or after September 1, 2005, is serving a sentence in the Texas Department of Criminal Justice or is committed to the Texas Department of Mental Health and Mental Retardation for an offense committed before, on, or after the effective date of this Act.

SECTION 9. This Act takes effect September 1, 2005.

Floor Amendment No. 1

Amend **CSSB 912** (House committee printing) by adding the following appropriately numbered SECTION to the bill and by renumbering existing SECTIONS of the bill accordingly:

SECTION __. (a) The Council on Sex Offender Treatment shall study the ways in which sexually violent predators, as defined by Section 841.002, Health and Safety Code, and other persons who commit sexually violent offenses, as defined by Article 62.01, Code of Criminal Procedure, use the Internet to meet or otherwise establish contact with potential victims.

(b) Not later than September 1, 2006, the council shall report the results of the study to the criminal justice division of the governor's office and to the legislature and shall include with the report recommendations for ensuring the safety of residents of this state from sexually violent predators or offenders who use the Internet to facilitate the commission of sex offenses.

The amendments were read.

Senator Shapiro moved to concur in the House amendments to **SB 912**.

The motion prevailed by a viva voce vote.

All Members are deemed to have voted "Yea" on the motion to concur.

SENATE BILL 736 WITH HOUSE AMENDMENT

Senator Brimer called **SB 736** from the President's table for consideration of the House amendment to the bill.

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

Floor Amendment No. 1

Amend **SB 736**, on page 1, line 9, between "or" and "dwelling", by inserting "multi-family".

The amendment was read.

Senator Brimer moved to concur in the House amendment to **SB 736**.

The motion prevailed by a viva voce vote.

All Members are deemed to have voted "Yea" on the motion to concur.

SENATE BILL 1800 WITH HOUSE AMENDMENT

Senator Jackson called **SB 1800** from the President's table for consideration of the House amendment to the bill.

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

Amendment

Amend **SB 1800** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED
AN ACT

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

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

SECTION 1. Subtitle F, Title 6, Special District Local Laws Code, is amended by adding Chapter 8137 to read as follows:

CHAPTER 8137. GALVESTON COUNTY MUNICIPAL
UTILITY DISTRICT NO. 60

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8137.001. DEFINITIONS. In this chapter:

- (1) "Board" means the board of directors of the district.
- (2) "City" means the City of Texas City, Texas.
- (3) "Director" means a member of the board.
- (4) "District" means the Galveston County Municipal Utility District No.

Sec. 8137.002. NATURE OF DISTRICT. The district is a municipal utility district in Galveston County created under and essential to accomplish the purposes of Section 59, Article XVI, Texas Constitution.

Sec. 8137.003. CONFIRMATION ELECTION REQUIRED. The board shall hold an election to confirm the creation of the district as provided by Section 49.102, Water Code.

Sec. 8137.004. FINDINGS OF BENEFIT AND PUBLIC PURPOSE. (a) All land and other property included in the district will benefit from the improvements and services to be provided by the district under powers conferred by Section 52, Article III, and Section 59, Article XVI, Texas Constitution.

(b) The district is created to accomplish:

(1) the same purposes as a municipal utility district as provided by Section 54.012, Water Code;

(2) the same purposes as a navigation district created under Section 59, Article XVI, Texas Constitution, and operating under Chapters 60 and 62, Water Code; and

(3) to the extent authorized by Section 52, Article III, Texas Constitution, the construction, acquisition, improvement, maintenance, or operation of macadamized, graveled, or paved roads or turnpikes, or improvements in aid of those roads or turnpikes, inside the district.

Sec. 8137.005. INITIAL DISTRICT TERRITORY. (a) The district is initially composed of the territory described by Section 2 of the Act creating this chapter.

(b) The boundaries and field notes contained in Section 2 of the Act creating this chapter form a closure. A mistake made in the field notes or in copying the field notes in the legislative process does not affect the district's:

(1) organization, existence, or validity;

(2) right to issue any type of bond for the purposes for which the district is created or to pay the principal of and interest on a bond;

(3) right to impose or collect an assessment or tax; or

(4) legality or operation.

[Sections 8137.006-8137.050 reserved for expansion]

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 8137.051. DIRECTORS; TERMS. (a) The district is governed by a board of five directors.

(b) Except as provided by Section 8137.053, directors serve staggered four-year terms.

Sec. 8137.052. ELECTION OF DIRECTORS. On the uniform election date in May of each even-numbered year, the appropriate number of directors shall be elected.

Sec. 8137.053. INITIAL DIRECTORS. (a) The initial board consists of:

(1) Oscar De La Rosa;

(2) Patrick Bourgoyne;

(3) Greg Young;

(4) James Radford; and

(5) Nikki Dickens.

(b) The terms of the first three directors named in Subsection (a) expire on the uniform election date in May of 2006, and the terms of the last two directors named in Subsection (a) expire on the uniform election date in May of 2008.

(c) This section expires September 1, 2009.

[Sections 8137.054-8137.100 reserved for expansion]

SUBCHAPTER C. GENERAL POWERS AND DUTIES

Sec. 8137.101. GENERAL POWERS AND DUTIES. The district has the powers and duties necessary to accomplish the purposes for which the district is created.

Sec. 8137.102. MUNICIPAL UTILITY DISTRICT POWERS AND DUTIES. The district has the powers and duties provided by the general law of this state, including Chapters 49 and 54, Water Code, applicable to municipal utility districts created under Section 59, Article XVI, Texas Constitution.

Sec. 8137.103. NAVIGATION POWERS. The district may purchase, construct, acquire, own, operate, maintain, improve, or extend, inside and outside the district, canals, waterways, bulkheads, docks, and any other improvements or facilities necessary or convenient to accomplish the navigation purposes of the district authorized by Section 59, Article XVI, Texas Constitution.

Sec. 8137.104. ROAD PROJECTS. (a) The district may construct, acquire, improve, maintain, or operate macadamized, graveled, or paved roads or turnpikes, or improvements in aid of those roads or turnpikes, inside the district.

(b) A road project must meet all applicable construction standards, zoning and subdivision requirements, and regulatory ordinances of the municipality or county in whose jurisdiction the district is located.

(c) The district may not undertake a road project unless each municipality or county in whose jurisdiction the district is located consents by ordinance or resolution.

Sec. 8137.105. COMPLIANCE WITH MUNICIPAL CONSENT ORDINANCES OR RESOLUTIONS. Subject to the limitations of Section 54.016, Water Code, the district shall comply with all applicable requirements of any ordinance or resolution adopted by the city council that consents to the creation of the district or to the inclusion of lands within the district.

Sec. 8137.106. LIMITATION ON USE OF EMINENT DOMAIN. The district may exercise the power of eminent domain outside the district only to acquire an easement necessary for underground water, sewage, or drainage facilities that serve the district.

[Sections 8137.107-8137.150 reserved for expansion]

SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

Sec. 8137.151. ELECTIONS REGARDING TAXES OR BONDS. (a) Except as provided by Section 8137.201(c), the district may issue, without an election, bonds and other obligations secured by revenue or contract payments from any lawful source other than ad valorem taxation.

(b) The district must hold an election in the manner provided by Chapters 49 and 54, Water Code, to obtain voter approval before the district may impose a maintenance tax or issue bonds payable from ad valorem taxes.

Sec. 8137.152. AD VALOREM TAX. (a) If authorized at an election held under Section 8137.151, the district may impose an annual ad valorem tax on taxable property in the district for the provision of services or for the maintenance and operation of the district, including the construction, acquisition, maintenance, and operation of improvements.

(b) The board shall determine the tax rate. The rate may not exceed the rate approved at the election.

[Sections 8137.153-8137.200 reserved for expansion]

SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

Sec. 8137.201. AUTHORITY TO ISSUE BONDS AND OTHER OBLIGATIONS. (a) The district may issue bonds or other obligations payable wholly or partly from ad valorem taxes, impact fees, revenue, grants, or other district money, or any combination of those sources, to pay for any authorized district purpose.

(b) In exercising the district's borrowing power, the district may issue a bond or other obligation in the form of a bond, note, certificate of participation, or other instrument evidencing a proportionate interest in payments to be made by the district, or other type of obligation.

(c) The district may not issue bonds to finance projects authorized by Section 8137.104 unless the issuance is approved by a vote of a two-thirds majority of the voters of the district voting at an election called for that purpose.

(d) Bonds or other obligations issued or incurred to finance projects authorized by Section 8137.104 may not exceed one-fourth of the assessed value of the real property in the district.

(e) Sections 49.181 and 49.182, Water Code, do not apply to a project undertaken by the district under Section 8137.104 or to bonds issued by the district to finance the project.

Sec. 8137.202. TAXES FOR BONDS AND OTHER OBLIGATIONS. At the time bonds or other obligations payable wholly or partly from ad valorem taxes are issued:

(1) the board shall impose a continuing direct annual ad valorem tax, without limit as to rate or amount, for each year that all or part of the bonds are outstanding; and

(2) the district annually shall impose an ad valorem tax on all taxable property in the district in an amount sufficient to:

(A) pay the interest on the bonds or other obligations as the interest becomes due;

(B) create a sinking fund for the payment of the principal of the bonds or other obligations when due or the redemption price at any earlier required redemption date; and

(C) pay the expenses of imposing the taxes.

SECTION 2. The Galveston County Municipal Utility District No. 60 initially includes all the territory contained in the following area:

TRACT 1

Description of 201.0931 acres of land being part of Subdivisions 0, P, Q, H, F, and G, of the KOHFELDT'S RESUBDIVISION according to the map or plat thereof recorded in Volume 10, Page 35 of the Deed Records of Galveston County, Texas. Said 201.0931 acres being part of the tracts of land conveyed by deed dated March 22, 2004 from Kohfeldt family Limited Partnership, to Texas Gulf Coast Holdings I LP., as recorded in Galveston County Clerk's File No. GAC 2004020691, of the Deed Records of Galveston County, Texas, Said 201.0931 acres being situated in the Thomas W. Johnson Survey and the James Smith Survey, Galveston County, Texas, and being more particularly described by metes and bounds as follows; (Bearings based plat calls of said Kohfeldts Resubdivision)

COMMENCING at a point corner at the intersection of the north line of F.M. 1764 with the northeasterly line of the G.H. & H. R.R. railroad right-of-way adjacent to State Highway 3;

THENCE North $87^{\circ} 48' 00''$ East, along the north line of said F.M. 1764, for a distance of 1,474.34 feet to a to a point for the beginning of a curve to the right;

THENCE along said curve to the right having a radius of 2,906.79 feet, a central angle of $22^{\circ} 11' 55''$, a chord bearing and distance of S $83^{\circ} 06' 06''$ E, 1,119.17 feet, an arc length of 1,126.20 feet to a to a point for tangent;

THENCE North $89^{\circ} 53' 00''$ East, continuing along the north line of said F.M. 1764, for a distance of 338.57 feet to a to a point for corner;

THENCE North, for a distance of 865.06 feet to the most westerly southwest corner of and PLACE OF BEGINNING of the herein described tract;

THENCE North, for a distance of 1,155.00 feet to a point for corner;

THENCE East, for a distance of 1,320.00 feet to a point for corner;

THENCE North, for a distance of 1,155.00 feet to a point for corner;

THENCE East, for a distance of 2,451.45 feet to a point for corner;

THENCE South, for a distance of 1,155.00 feet to a point for corner;

THENCE East, for a distance of 377.15 feet to a point for corner;

THENCE South, for a distance of 1,155.00 feet to a point for corner;

THENCE West, for a distance of 1,508.60 feet to a point for corner;

THENCE South, for a distance of 859.68 feet to a point for corner in the north line of said F.M. 1764;

THENCE South $89^{\circ} 53' 00''$ West, along the north line of said F.M. 1764, for a distance of 1,320.00 feet to a to a to a point for corner;

THENCE North, for a distance of 862.37 feet to a to a point for corner;

THENCE West, for a distance of 1,320.00 feet to the PLACE OF BEGINNING of herein described tract of land and containing within these calls 8,759,616 square feet or 201.0931 acres of land.

TRACT 2

Description of 20.5734 acres of land being part of Subdivision "0" of the KOHFELDT'S RESUBDIVISION according to the map or plat thereof recorded in Volume 10, Page 35 of the Deed Records of Galveston County, Texas. Said 20.5734201.0931 acres being part of the tracts of land conveyed by deed dated March 22, 2004 from Kohfeldt family Limited Partnership, to Texas Gulf Coast Holdings I LP., as recorded in Galveston County Clerk's File No. GAC 2004020691, of the Deed

Records of Galveston County, Texas, Said 20.5734 acres being situated in the Thomas W. Johnson Survey, Galveston County, Texas, and being more particularly described by metes and bounds as follows; (Bearings based plat calls of said Kohfeldts Resubdivision)

COMMENCING at a point for corner at the intersection of the north line of F.M. 1764 with the northeasterly line of the G.H. & H. R.R. railroad right-of-way adjacent to State Highway 3;

THENCE North $87^{\circ} 48' 00''$ East, along the north line of said F.M. 1764, for a distance of 1,474.34 feet to a to a point for the beginning of a curve to the right;

THENCE along said curve to the right having a radius of 2,906.79 feet, a central angle of $22^{\circ} 11' 55''$, a chord bearing and distance of S $83^{\circ} 06' 06''$ E, 1,119.17 feet, an arc length of 1,126.20 feet to a to a point for tangent;

THENCE North $89^{\circ} 53' 00''$ East, continuing along the north line of said F.M. 1764, for a distance of 338.57 feet to a to a point for corner;

THENCE North, for a distance of 865.06 feet to the northeast corner and PLACE of BEGINNING of the herein described tract;

THENCE South, for a distance of 865.06 feet to a point for corner in the north line of said F.M. 1764;

THENCE South $89^{\circ} 53' 00''$ West, continuing along the north line of said F.M. 1764, for a distance of 338.57 feet to a to a point for the beginning of a curve to the right;

THENCE along said curve to the right having a radius of 2,816.93 feet, a central angle of $06^{\circ} 33' 25''$, a chord bearing and distance of N $86^{\circ} 54' 43''$ W, 412.52 feet, an arc length of 322.38 feet to a to a point for corner;

THENCE North, for a distance of 353.39 feet to a point for corner;

THENCE West, for a distance of 660.00 feet to a point for corner;

THENCE North, for a distance of 495.00 feet to a point for the northwest corner of the herein described tract;

THENCE East, for a distance of 1,320.00 feet to a point for the northeast corner of the herein described tract;

THENCE South, for a distance of 856.06 feet to a point for corner to the PLACE OF BEGINNING of herein described tract of land and containing within these calls 896,176 square feet or 20.5734 acres of land.

SECTION 3. (a) The legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published as provided by law, and the notice and a copy of this Act have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished under Section 59, Article XVI, Texas Constitution, and Chapter 313, Government Code.

(b) The governor, one of the required recipients, has submitted the notice and Act to the Texas Commission on Environmental Quality.

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

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

SECTION 4. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2005.

The amendment was read.

Senator Jackson moved to concur in the House amendment to **SB 1800**.

The motion prevailed by a viva voce vote.

All Members are deemed to have voted "Yea" on the motion to concur.

SENATE BILL 1801 WITH HOUSE AMENDMENT

Senator Jackson called **SB 1801** from the President's table for consideration of the House amendment to the bill.

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

Amendment

Amend **SB 1801** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED AN ACT

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

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

SECTION 1. Subtitle F, Title 6, Special District Local Laws Code, is amended by adding Chapter 8143 to read as follows:

CHAPTER 8143. GALVESTON COUNTY MUNICIPAL UTILITY DISTRICT NO. 61 SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8143.001. DEFINITIONS. In this chapter:

- (1) "Board" means the board of directors of the district.
- (2) "City" means the City of Texas City, Texas.
- (3) "Director" means a member of the board.
- (4) "District" means the Galveston County Municipal Utility District No.

61.

Sec. 8143.002. NATURE OF DISTRICT. The district is a municipal utility district in Galveston County created under and essential to accomplish the purposes of Section 59, Article XVI, Texas Constitution.

Sec. 8143.003. CONFIRMATION ELECTION REQUIRED. The board shall hold an election to confirm the creation of the district as provided by Section 49.102, Water Code.

Sec. 8143.004. FINDINGS OF BENEFIT AND PUBLIC PURPOSE. (a) All land and other property included in the district will benefit from the improvements and services to be provided by the district under powers conferred by Section 52, Article III, and Section 59, Article XVI, Texas Constitution.

(b) The district is created to accomplish:

(1) the same purposes as a municipal utility district as provided by Section 54.012, Water Code;

(2) the same purposes as a navigation district created under Section 59, Article XVI, Texas Constitution, and operating under Chapters 60 and 62, Water Code; and

(3) to the extent authorized by Section 52, Article III, Texas Constitution, the construction, acquisition, improvement, maintenance, or operation of macadamized, graveled, or paved roads or turnpikes, or improvements in aid of those roads or turnpikes, inside the district.

Sec. 8143.005. INITIAL DISTRICT TERRITORY. (a) The district is initially composed of the territory described by Section 2 of the Act creating this chapter.

(b) The boundaries and field notes contained in Section 2 of the Act creating this chapter form a closure. A mistake made in the field notes or in copying the field notes in the legislative process does not affect the district's:

(1) organization, existence, or validity;

(2) right to issue any type of bond for the purposes for which the district is created or to pay the principal of and interest on a bond;

(3) right to impose or collect an assessment or tax; or

(4) legality or operation.

[Sections 8143.006-8143.050 reserved for expansion]

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 8143.051. DIRECTORS; TERMS. (a) The district is governed by a board of five directors.

(b) Except as provided by Section 8143.053, directors serve staggered four-year terms.

Sec. 8143.052. ELECTION OF DIRECTORS. On the uniform election date in May of each even-numbered year, the appropriate number of directors shall be elected.

Sec. 8143.053. INITIAL DIRECTORS. (a) The initial board consists of:

(1) Andy Heard;

(2) Steve Sheldon;

(3) Stephanie Tharpe;

(4) Larry Boudloche; and

(5) Oliver Aldridge.

(b) The terms of the first three directors named in Subsection (a) expire on the uniform election date in May 2006, and the terms of the last two directors named in Subsection (a) expire on the uniform election date in May 2008.

(c) This section expires September 1, 2009.

[Sections 8143.054-8143.100 reserved for expansion]

SUBCHAPTER C. GENERAL POWERS AND DUTIES

Sec. 8143.101. GENERAL POWERS AND DUTIES. The district has the powers and duties necessary to accomplish the purposes for which the district is created.

Sec. 8143.102. MUNICIPAL UTILITY DISTRICT POWERS AND DUTIES. The district has the powers and duties provided by the general law of this state, including Chapters 49 and 54, Water Code, applicable to municipal utility districts created under Section 59, Article XVI, Texas Constitution.

Sec. 8143.103. NAVIGATION POWERS. The district may purchase, construct, acquire, own, operate, maintain, improve, or extend, inside and outside the district, canals, waterways, bulkheads, docks, and any other improvements or facilities necessary or convenient to accomplish the navigation purposes of the district authorized by Section 59, Article XVI, Texas Constitution.

Sec. 8143.104. ROAD PROJECTS. (a) The district may construct, acquire, improve, maintain, or operate macadamized, graveled, or paved roads or turnpikes, or improvements in aid of those roads or turnpikes, inside the district.

(b) A road project must meet all applicable construction standards, zoning and subdivision requirements, and regulatory ordinances of the municipality or county in whose jurisdiction the district is located.

(c) The district may not undertake a road project unless each municipality or county in whose jurisdiction the district is located consents by ordinance or resolution.

Sec. 8143.105. COMPLIANCE WITH MUNICIPAL CONSENT ORDINANCES OR RESOLUTIONS. Subject to the limitations of Section 54.016, Water Code, the district shall comply with all applicable requirements of any ordinance or resolution adopted by the city council that consents to the creation of the district or to the inclusion of lands within the district.

Sec. 8143.106. LIMITATION ON USE OF EMINENT DOMAIN. The district may exercise the power of eminent domain outside the district only to acquire an easement necessary for underground water, sewage, or drainage facilities that serve the district.

[Sections 8143.107-8143.150 reserved for expansion]

SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

Sec. 8143.151. ELECTIONS REGARDING TAXES OR BONDS. (a) Except as provided by Section 8143.201(c), the district may issue, without an election, bonds and other obligations secured by revenue or contract payments from any lawful source other than ad valorem taxation.

(b) The district must hold an election in the manner provided by Chapters 49 and 54, Water Code, to obtain voter approval before the district may impose a maintenance tax or issue bonds payable from ad valorem taxes.

Sec. 8143.152. AD VALOREM TAX. (a) If authorized at an election held under Section 8143.151, the district may impose an annual ad valorem tax on taxable property in the district for the provision of services or for the maintenance and operation of the district, including the construction, acquisition, maintenance, and operation of improvements.

(b) The board shall determine the tax rate. The rate may not exceed the rate approved at the election.

[Sections 8143.153-8143.200 reserved for expansion]

SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

Sec. 8143.201. AUTHORITY TO ISSUE BONDS AND OTHER OBLIGATIONS. (a) The district may issue bonds or other obligations payable wholly or partly from ad valorem taxes, impact fees, revenue, grants, or other district money, or any combination of those sources, to pay for any authorized district purpose.

(b) In exercising the district's borrowing power, the district may issue a bond or other obligation in the form of a bond, note, certificate of participation, or other instrument evidencing a proportionate interest in payments to be made by the district, or other type of obligation.

(c) The district may not issue bonds to finance projects authorized by Section 8143.104 unless the issuance is approved by a vote of a two-thirds majority of the voters of the district voting at an election called for that purpose.

(d) Bonds or other obligations issued or incurred to finance projects authorized by Section 8143.104 may not exceed one-fourth of the assessed value of the real property in the district.

(e) Sections 49.181 and 49.182, Water Code, do not apply to a project undertaken by the district under Section 8143.104 or to bonds issued by the district to finance the project.

Sec. 8143.202. TAXES FOR BONDS AND OTHER OBLIGATIONS. At the time bonds or other obligations payable wholly or partly from ad valorem taxes are issued:

(1) the board shall impose a continuing direct annual ad valorem tax, without limit as to rate or amount, for each year that all or part of the bonds are outstanding; and

(2) the district annually shall impose an ad valorem tax on all taxable property in the district in an amount sufficient to:

(A) pay the interest on the bonds or other obligations as the interest becomes due;

(B) create a sinking fund for the payment of the principal of the bonds or other obligations when due or the redemption price at any earlier required redemption date; and

(C) pay the expenses of imposing the taxes.

SECTION 2. The Galveston County Municipal Utility District No. 61 initially includes all the territory contained in the following area:

Of 329.9550 acres of land being part of Subdivisions I, J, K, L, M, N, and O, of the KOHFELDT'S RESUBDIVISION according to the map or plat thereof recorded in Volume 10, Page 35 of the Deed Records of Galveston County, Texas. Said 329.9550 acres being part of the tracts of land conveyed by deed dated March 22, 2004 from Kohfeldt family Limited Partnership, to Texas Gulf Coast Holdings I LP., as recorded in Galveston County Clerk's File No. GAC 2004020691, of the Deed Records of Galveston County, Texas. Said 329.9550 acres being situated in the Thomas W.

Johnson Survey, James Haggard Survey, and the James Smith Survey Galveston County, Texas, and being more particularly described by metes and bounds as follows; (Bearings based plat calls of said Kohfeldts Resubdivision)

BEGINNING at a point for corner at the intersection of the north line of F.M. 1764 with the northeasterly line of the G.H. & H. R.R. railroad right-of-way adjacent to State Highway 3;

THENCE North $39^{\circ} 12' 00''$ West, along the said northeasterly line of the G.H. & H. R.R. railroad right-of-way, for a distance of 557.48 feet to a to a point for corner;

THENCE North, along the west line of said Haggard Survey, for a distance of 3,560.62 feet to a to a point for corner in the south line of 25th Avenue (R.O.W. 120') (also known as Loop 197), said to a point for corner being the northwest corner of the herein described tract;

THENCE East, continuing along the south line of 25th Avenue (also known as Loop 197), for a distance of 5,752.59 feet to the northeast corner of the herein described tract;

THENCE South, for a distance of 1,095.00 feet to a to a point for corner;

THENCE West, for a distance of 1,320.00 feet to a to a point for corner in the common line of the Thomas W. Johnson Survey, and the James Smith Survey;

THENCE South, along the common line of the Thomas W. Johnson Survey, and the James Smith Survey, for a distance of 1,155.00 feet to a to a point for corner;

THENCE West, for a distance of 2,640.00 feet to a to a point for corner in the east line of the James Haggard Survey;

THENCE South, along the east line of the James Haggard Survey, for a distance of 1,657.30 feet to a to a point for corner in the north line of said F.M. 1764;

THENCE South $87^{\circ} 48' 00''$ West along the north line of said F.M. 1764, for a distance of 1,441.31 feet to the PLACE OF BEGINNING of herein described tract of land and containing within these calls 14,372,838 square feet or 329.9550 acres of land.

SECTION 3. (a) The legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published as provided by law, and the notice and a copy of this Act have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished under Section 59, Article XVI, Texas Constitution, and Chapter 313, Government Code.

(b) The governor, one of the required recipients, has submitted the notice and Act to the Texas Commission on Environmental Quality.

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

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

SECTION 4. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2005.

The amendment was read.

Senator Jackson moved to concur in the House amendment to **SB 1801**.

The motion prevailed by a viva voce vote.

All Members are deemed to have voted "Yea" on the motion to concur.

SENATE BILL 1802 WITH HOUSE AMENDMENT

Senator Jackson called **SB 1802** from the President's table for consideration of the House amendment to the bill.

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

Amendment

Amend **SB 1802** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED
AN ACT

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

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

SECTION 1. Subtitle F, Title 6, Special District Local Laws Code, is amended by adding Chapter 8144 to read as follows:

CHAPTER 8144. GALVESTON COUNTY MUNICIPAL
UTILITY DISTRICT NO. 62

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8144.001. DEFINITIONS. In this chapter:

- (1) "Board" means the board of directors of the district.
- (2) "City" means the City of Texas City, Texas.
- (3) "Director" means a member of the board.
- (4) "District" means the Galveston County Municipal Utility District No.

62.

Sec. 8144.002. NATURE OF DISTRICT. The district is a municipal utility district in Galveston County created under and essential to accomplish the purposes of Section 59, Article XVI, Texas Constitution.

Sec. 8144.003. CONFIRMATION ELECTION REQUIRED. The board shall hold an election to confirm the creation of the district as provided by Section 49.102, Water Code.

Sec. 8144.004. FINDINGS OF BENEFIT AND PUBLIC PURPOSE. (a) All land and other property included in the district will benefit from the improvements and services to be provided by the district under powers conferred by Section 52, Article III, and Section 59, Article XVI, Texas Constitution.

(b) The district is created to accomplish:

(1) the same purposes as a municipal utility district as provided by Section 54.012, Water Code;

(2) the same purposes as a navigation district created under Section 59, Article XVI, Texas Constitution, and operating under Chapters 60 and 62, Water Code; and

(3) to the extent authorized by Section 52, Article III, Texas Constitution, the construction, acquisition, improvement, maintenance, or operation of macadamized, graveled, or paved roads or turnpikes, or improvements in aid of those roads or turnpikes, inside the district.

Sec. 8144.005. INITIAL DISTRICT TERRITORY. (a) The district is initially composed of the territory described by Section 2 of the Act creating this chapter.

(b) The boundaries and field notes contained in Section 2 of the Act creating this chapter form a closure. A mistake made in the field notes or in copying the field notes in the legislative process does not affect the district's:

(1) organization, existence, or validity;

(2) right to issue any type of bond for the purposes for which the district is created or to pay the principal of and interest on a bond;

(3) right to impose or collect an assessment or tax; or

(4) legality or operation.

[Sections 8144.006-8144.050 reserved for expansion]

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 8144.051. DIRECTORS; TERMS. (a) The district is governed by a board of five directors.

(b) Except as provided by Section 8144.053, directors serve staggered four-year terms.

Sec. 8144.052. ELECTION OF DIRECTORS. On the uniform election date in May of each even-numbered year, the appropriate number of directors shall be elected.

Sec. 8144.053. INITIAL DIRECTORS. (a) The initial board consists of:

(1) Carlos C. Quintero;

(2) Tom Simmons;

(3) Rick Alejo;

(4) Justin Harbison; and

(5) James A. Willis.

(b) The terms of the first three directors named in Subsection (a) expire on the uniform election date in May 2006, and the terms of the last two directors named in Subsection (a) expire on the uniform election date in May 2008.

(c) This section expires September 1, 2009.

[Sections 8144.054-8144.100 reserved for expansion]

SUBCHAPTER C. GENERAL POWERS AND DUTIES

Sec. 8144.101. GENERAL POWERS AND DUTIES. The district has the powers and duties necessary to accomplish the purposes for which the district is created.

Sec. 8144.102. MUNICIPAL UTILITY DISTRICT POWERS AND DUTIES. The district has the powers and duties provided by the general law of this state, including Chapters 49 and 54, Water Code, applicable to municipal utility districts created under Section 59, Article XVI, Texas Constitution.

Sec. 8144.103. NAVIGATION POWERS. The district may purchase, construct, acquire, own, operate, maintain, improve, or extend, inside and outside the district, canals, waterways, bulkheads, docks, and any other improvements or facilities necessary or convenient to accomplish the navigation purposes of the district authorized by Section 59, Article XVI, Texas Constitution.

Sec. 8144.104. ROAD PROJECTS. (a) The district may construct, acquire, improve, maintain, or operate macadamized, graveled, or paved roads or turnpikes, or improvements in aid of those roads or turnpikes, inside the district.

(b) A road project must meet all applicable construction standards, zoning and subdivision requirements, and regulatory ordinances of the municipality or county in whose jurisdiction the district is located.

(c) The district may not undertake a road project unless each municipality or county in whose jurisdiction the district is located consents by ordinance or resolution.

Sec. 8144.105. COMPLIANCE WITH MUNICIPAL CONSENT ORDINANCES OR RESOLUTIONS. Subject to the limitations of Section 54.016, Water Code, the district shall comply with all applicable requirements of any ordinance or resolution adopted by the city council that consents to the creation of the district or to the inclusion of lands within the district.

Sec. 8144.106. LIMITATION ON USE OF EMINENT DOMAIN. The district may exercise the power of eminent domain outside the district only to acquire an easement necessary for underground water, sewage, or drainage facilities that serve the district.

[Sections 8144.107-8144.150 reserved for expansion]

SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

Sec. 8144.151. ELECTIONS REGARDING TAXES OR BONDS. (a) Except as provided by Section 8144.201(c), the district may issue, without an election, bonds and other obligations secured by revenue or contract payments from any lawful source other than ad valorem taxation.

(b) The district must hold an election in the manner provided by Chapters 49 and 54, Water Code, to obtain voter approval before the district may impose a maintenance tax or issue bonds payable from ad valorem taxes.

Sec. 8144.152. AD VALOREM TAX. (a) If authorized at an election held under Section 8144.151, the district may impose an annual ad valorem tax on taxable property in the district for the provision of services or for the maintenance and operation of the district, including the construction, acquisition, maintenance, and operation of improvements.

(b) The board shall determine the tax rate. The rate may not exceed the rate approved at the election.

[Sections 8144.153-8144.200 reserved for expansion]

SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

Sec. 8144.201. AUTHORITY TO ISSUE BONDS AND OTHER OBLIGATIONS. (a) The district may issue bonds or other obligations payable wholly or partly from ad valorem taxes, impact fees, revenue, grants, or other district money, or any combination of those sources, to pay for any authorized district purpose.

(b) In exercising the district's borrowing power, the district may issue a bond or other obligation in the form of a bond, note, certificate of participation, or other instrument evidencing a proportionate interest in payments to be made by the district, or other type of obligation.

(c) The district may not issue bonds to finance projects authorized by Section 8144.104 unless the issuance is approved by a vote of a two-thirds majority of the voters of the district voting at an election called for that purpose.

(d) Bonds or other obligations issued or incurred to finance projects authorized by Section 8144.104 may not exceed one-fourth of the assessed value of the real property in the district.

(e) Sections 49.181 and 49.182, Water Code, do not apply to a project undertaken by the district under Section 8144.104 or to bonds issued by the district to finance the project.

Sec. 8144.202. TAXES FOR BONDS AND OTHER OBLIGATIONS. At the time bonds or other obligations payable wholly or partly from ad valorem taxes are issued:

(1) the board shall impose a continuing direct annual ad valorem tax, without limit as to rate or amount, for each year that all or part of the bonds are outstanding; and

(2) the district annually shall impose an ad valorem tax on all taxable property in the district in an amount sufficient to:

(A) pay the interest on the bonds or other obligations as the interest becomes due;

(B) create a sinking fund for the payment of the principal of the bonds or other obligations when due or the redemption price at any earlier required redemption date; and

(C) pay the expenses of imposing the taxes.

SECTION 2. The Galveston County Municipal Utility District No. 62 initially includes all the territory contained in the following area:

Of 215.1242 acres of land being part of Subdivisions D, E, F, C, and L, of the KOHFELDT'S RESUBDIVISION according to the map or plat thereof recorded in Volume 10, Page 35 of the Deed Records of Galveston County, Texas. Said 215.1242 being part of the tracts of land conveyed by deed dated March 22, 2004 from Kohfeldt family Limited Partnership, to Texas Gulf Coast Holdings I LP., as recorded in Galveston County Clerk's File No. GAC 2004020691, of the Deed Records of Galveston County, Texas. Said 215.1242 acres being situated in the Thomas W. Johnson Survey and the James Haggard Survey, Galveston County, Texas, and being more particularly described by metes and bounds as follows; (Bearings based plat calls of said Kohfeldt's Resubdivision)

COMMENCING at a point for corner at the intersection of the north line of F.M. 1764 with the northeasterly line of the G.H. & H. R.R. railroad right-of-way adjacent to State Highway 3;

THENCE North 39° 12' 00" West, along the said northeasterly line of the G.H. & H. R.R. railroad right-of-way, for a distance of 557.48 feet to a point for corner;

THENCE North, along the west line of said Haggard Survey, for a distance of 3,650.62 feet to a to a point for corner in the north line of 25th Avenue (R.O.W. 120') (also known as Loop 197), said to a point for corner being the southwest corner and PLACE of BEGINNING of the herein described tract;

THENCE North, continuing along the west line of said Haggard Survey, for a distance of 3,312.10 feet to the northwest corner of the herein described tract;

THENCE North $89^{\circ} 59' 35''$ East, for a distance of 683.93 feet to a to a point for corner;

THENCE South, for a distance of 500.00 feet to a to a point for the northwest corner of Lot 1, Block C of said Kohfeldts Resubdivision

THENCE North $89^{\circ} 59' 35''$ East, for a distance of 994.76 feet to a to a point for corner in the southwesterly line of a called 190.6 acre tract (Golf Course) conveyed by deed dated August 17, 1971 to the City of Texas City, Texas;

THENCE in a southeasterly direction along the perimeter of the 190.6 acre tract (Golf Course), the following calls;

South $40^{\circ} 33' 00''$ East, for a distance of 833.60 feet to a to a point for corner;

South $02^{\circ} 45' 00''$ West, for a distance of 275.00 feet to a to a point for corner;

South $44^{\circ} 57' 49''$ East, for a distance of 780.31 feet to a to a point for corner;

South $43^{\circ} 47' 00''$ East, for a distance of 555.00 feet to a to a point for corner;

South $65^{\circ} 47' 37''$ East, for a distance of 446.49 feet to a to a point for corner;

North $69^{\circ} 34' 39''$ East, for a distance of 102.66 feet to a to a point for corner;

North $49^{\circ} 15' 00''$ East, for a distance of 237.85 feet to a to a point for corner;

South $40^{\circ} 44' 13''$ East, for a distance of 639.48 feet to a to a point for corner;

North $88^{\circ} 07' 49''$ East, for a distance of 952.24 feet to a to a point for corner in the west line of a called 8.23 acre tract (Tract 2) conveyed by deed dated August 17, 1971 to the City of Texas City, Texas;

THENCE South $37^{\circ} 08' 52''$ East, for a distance of 35.32 feet to a to a point for the beginning of a curve to the right;

THENCE along said curve having a radius of 200.00 feet, a central angle of $68^{\circ} 43' 28''$, a chord bearing and distance of S $02^{\circ} 56' 25''$ E, 225.78 feet, an arc length of 239.90 feet to a to a point for reverse curve;

THENCE along said curve to the left having a radius of 745.49 feet, a central angle of $29^{\circ} 48' 20''$, a chord bearing and distance of S $16^{\circ} 31' 10''$ E, 383.60 feet, an arc length of 387.96 feet to a to a point for corner in the north line of said 25th Avenue (also known as Loop 197);

THENCE West along the north line of said 25th Avenue (also known as Loop 197), for a distance of 5,253.36 feet to the PLACE OF BEGINNING of herein described tract of land and containing within these calls 9,370,811 square feet or 215.1242 acres of land.

SECTION 3. (a) The legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published as provided by law, and the notice and a copy of this Act have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished under Section 59, Article XVI, Texas Constitution, and Chapter 313, Government Code.

(b) The governor, one of the required recipients, has submitted the notice and Act to the Texas Commission on Environmental Quality.

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

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

SECTION 4. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2005.

The amendment was read.

Senator Jackson moved to concur in the House amendment to **SB 1802**.

The motion prevailed by a viva voce vote.

All Members are deemed to have voted "Yea" on the motion to concur.

SENATE BILL 1803 WITH HOUSE AMENDMENT

Senator Jackson called **SB 1803** from the President's table for consideration of the House amendment to the bill.

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

Amendment

Amend **SB 1803** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED AN ACT

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

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

SECTION 1. Subtitle F, Title 6, Special District Local Laws Code, is amended by adding Chapter 8145 to read as follows:

CHAPTER 8145. GALVESTON COUNTY MUNICIPAL UTILITY DISTRICT NO. 63

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8145.001. DEFINITIONS. In this chapter:

- (1) "Board" means the board of directors of the district.
- (2) "City" means the City of Texas City, Texas.
- (3) "Director" means a member of the board.

(4) "District" means the Galveston County Municipal Utility District No. 63.

Sec. 8145.002. NATURE OF DISTRICT. The district is a municipal utility district in Galveston County created under and essential to accomplish the purposes of Section 59, Article XVI, Texas Constitution.

Sec. 8145.003. CONFIRMATION ELECTION REQUIRED. The board shall hold an election to confirm the creation of the district as provided by Section 49.102, Water Code.

Sec. 8145.004. FINDINGS OF BENEFIT AND PUBLIC PURPOSE. (a) All land and other property included in the district will benefit from the improvements and services to be provided by the district under powers conferred by Section 52, Article III, and Section 59, Article XVI, Texas Constitution.

(b) The district is created to accomplish:

(1) the same purposes as a municipal utility district as provided by Section 54.012, Water Code;

(2) the same purposes as a navigation district created under Section 59, Article XVI, Texas Constitution, and operating under Chapters 60 and 62, Water Code; and

(3) to the extent authorized by Section 52, Article III, Texas Constitution, the construction, acquisition, improvement, maintenance, or operation of macadamized, graveled, or paved roads or turnpikes, or improvements in aid of those roads or turnpikes, inside the district.

Sec. 8145.005. INITIAL DISTRICT TERRITORY. (a) The district is initially composed of the territory described by Section 2 of the Act creating this chapter.

(b) The boundaries and field notes contained in Section 2 of the Act creating this chapter form a closure. A mistake made in the field notes or in copying the field notes in the legislative process does not affect the district's:

(1) organization, existence, or validity;

(2) right to issue any type of bond for the purposes for which the district is created or to pay the principal of and interest on a bond;

(3) right to impose or collect an assessment or tax; or

(4) legality or operation.

[Sections 8145.006-8145.050 reserved for expansion]

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 8145.051. DIRECTORS; TERMS. (a) The district is governed by a board of five directors.

(b) Except as provided by Section 8145.053, directors serve staggered four-year terms.

Sec. 8145.052. ELECTION OF DIRECTORS. On the uniform election date in May of each even-numbered year, the appropriate number of directors shall be elected.

Sec. 8145.053. INITIAL DIRECTORS. (a) The initial board consists of:

(1) Patrick Carmichael;

(2) Matthew Mannen;

(3) Matthew May;

(4) Gigi Strang; and

(5) Jason H. Styles.

(b) The terms of the first three directors named in Subsection (a) expire on the uniform election date in May 2006, and the terms of the last two directors named in Subsection (a) expire on the uniform election date in May 2008.

(c) This section expires September 1, 2009.

[Sections 8145.054-8145.100 reserved for expansion]

SUBCHAPTER C. GENERAL POWERS AND DUTIES

Sec. 8145.101. GENERAL POWERS AND DUTIES. The district has the powers and duties necessary to accomplish the purposes for which the district is created.

Sec. 8145.102. MUNICIPAL UTILITY DISTRICT POWERS AND DUTIES. The district has the powers and duties provided by the general law of this state, including Chapters 49 and 54, Water Code, applicable to municipal utility districts created under Section 59, Article XVI, Texas Constitution.

Sec. 8145.103. NAVIGATION POWERS. The district may purchase, construct, acquire, own, operate, maintain, improve, or extend, inside and outside the district, canals, waterways, bulkheads, docks, and any other improvements or facilities necessary or convenient to accomplish the navigation purposes of the district authorized by Section 59, Article XVI, Texas Constitution.

Sec. 8145.104. ROAD PROJECTS. (a) The district may construct, acquire, improve, maintain, or operate macadamized, graveled, or paved roads or turnpikes, or improvements in aid of those roads or turnpikes, inside the district.

(b) A road project must meet all applicable construction standards, zoning and subdivision requirements, and regulatory ordinances of the municipality or county in whose jurisdiction the district is located.

(c) The district may not undertake a road project unless each municipality or county in whose jurisdiction the district is located consents by ordinance or resolution.

Sec. 8145.105. COMPLIANCE WITH MUNICIPAL CONSENT ORDINANCES OR RESOLUTIONS. Subject to the limitations of Section 54.016, Water Code, the district shall comply with all applicable requirements of any ordinance or resolution adopted by the city council that consents to the creation of the district or to the inclusion of lands within the district.

Sec. 8145.106. LIMITATION ON USE OF EMINENT DOMAIN. The district may exercise the power of eminent domain outside the district only to acquire an easement necessary for underground water, sewage, or drainage facilities that serve the district.

[Sections 8145.107-8145.150 reserved for expansion]

SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

Sec. 8145.151. ELECTIONS REGARDING TAXES OR BONDS. (a) Except as provided by Section 8145.201(c), the district may issue, without an election, bonds and other obligations secured by revenue or contract payments from any lawful source other than ad valorem taxation.

(b) The district must hold an election in the manner provided by Chapters 49 and 54, Water Code, to obtain voter approval before the district may impose a maintenance tax or issue bonds payable from ad valorem taxes.

Sec. 8145.152. AD VALOREM TAX. (a) If authorized at an election held under Section 8145.151, the district may impose an annual ad valorem tax on taxable property in the district for the provision of services or for the maintenance and operation of the district, including the construction, acquisition, maintenance, and operation of improvements.

(b) The board shall determine the tax rate. The rate may not exceed the rate approved at the election.

[Sections 8145.153-8145.200 reserved for expansion]

SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

Sec. 8145.201. AUTHORITY TO ISSUE BONDS AND OTHER OBLIGATIONS. (a) The district may issue bonds or other obligations payable wholly or partly from ad valorem taxes, impact fees, revenue, grants, or other district money, or any combination of those sources, to pay for any authorized district purpose.

(b) In exercising the district's borrowing power, the district may issue a bond or other obligation in the form of a bond, note, certificate of participation, or other instrument evidencing a proportionate interest in payments to be made by the district, or other type of obligation.

(c) The district may not issue bonds to finance projects authorized by Section 8145.104 unless the issuance is approved by a vote of a two-thirds majority of the voters of the district voting at an election called for that purpose.

(d) Bonds or other obligations issued or incurred to finance projects authorized by Section 8145.104 may not exceed one-fourth of the assessed value of the real property in the district.

(e) Sections 49.181 and 49.182, Water Code, do not apply to a project undertaken by the district under Section 8145.104 or to bonds issued by the district to finance the project.

Sec. 8145.202. TAXES FOR BONDS AND OTHER OBLIGATIONS. At the time bonds or other obligations payable wholly or partly from ad valorem taxes are issued:

(1) the board shall impose a continuing direct annual ad valorem tax, without limit as to rate or amount, for each year that all or part of the bonds are outstanding; and

(2) the district annually shall impose an ad valorem tax on all taxable property in the district in an amount sufficient to:

(A) pay the interest on the bonds or other obligations as the interest becomes due;

(B) create a sinking fund for the payment of the principal of the bonds or other obligations when due or the redemption price at any earlier required redemption date; and

(C) pay the expenses of imposing the taxes.

SECTION 2. The Galveston County Municipal Utility District No. 63 initially includes all the territory contained in the following area:

TRACT 1

Description of 249.1201 acres of land being part of Subdivisions A, E, F, C, and L, of the KOHFELDT'S RESUBDIVISION according to the map or plat thereof recorded in Volume 10, Page 35 of the Deed Records of Galveston County, Texas. Said 249.1201 being part of the tracts of land conveyed by deed dated March 22, 2004 from Kohfeldt family Limited Partnership, to Texas Gulf Coast Holdings I LP., as recorded in Galveston County Clerk's File No. GAC 2004020691, of the Deed Records of Galveston County, Texas, and being all of the property conveyed by deed dated December 12, 2003 from Presbyterian Children's Homes and Services to Texas Gulf Coast Holdings I LP., as recorded in Galveston County Clerk's File No. GAC 2003089572, of the Deed Records of Galveston County, Texas. Said 249.1201 acres being situated in the Thomas W. Johnson Survey and the James Smith Survey, Galveston County, Texas, and being more particularly described by metes and bounds as follows; (Bearings based plat calls of said Kohfeldt's Resubdivision)

COMMENCING at a point for corner at the intersection of the north line of F.M. 1764 with the northeasterly line of the G.H. & H. R.R. railroad right-of-way adjacent to State Highway 3;

THENCE North $39^{\circ} 12' 00''$ West, along the said northeasterly line of the G.H. & H. R.R. railroad right-of-way, for a distance of 557.48 feet to a to a point for corner;

THENCE North, along the west line of said Haggard Survey, for a distance of 3,650.62 feet to a to a point for corner in the north line of 25th Avenue (R.O.W. 120') (also known as Loop 197);

THENCE East, along the north line of said 25th Avenue, for a distance of 5373.41 feet to a to a point for corner at the intersection of the north line of 25th Avenue and the east line of a called 8.23 acre tract (Tract 2) conveyed by deed dated August 17, 1971 to the City of Texas City, Texas. Said point for corner being the southwest corner and PLACE of BEGINNING of the herein described tract;

THENCE along the east line of said 8.23 acres with a curve to the right having a radius of 625.80 feet, a central angle of $29^{\circ} 29' 43''$, a chord bearing and distance of N $16^{\circ} 40' 28''$ E, 318.61 feet, an arc length of 322.16 feet to a to a point for reverse curve;

THENCE continuing along the east line of said 8.23 acres along said curve to the left having a radius of 320.00 feet, a central angle of $68^{\circ} 43' 28''$, a chord bearing and distance of N $02^{\circ} 56' 25''$ W, 361.23 feet, an arc length of 383.83 feet to a to the point of tangent;

THENCE North $37^{\circ} 08' 45''$ West, continuing along the east line of said 8.23 acres for a distance of 2,306.59 feet to a to a point for corner in the south line of called 190.6 acre tract (Golf Course) conveyed by deed dated August 17, 1971 to the City of Texas City, Texas;

THENCE in a easterly direction along the perimeter of the 190.6 acre tract (Golf Course), the following calls;

North $87^{\circ} 28' 47''$ East, for a distance of 30.11 feet to a to a point for corner;

South $36^{\circ} 30' 23''$ East, for a distance of 49.19 feet to a to a point for corner;

North $87^{\circ} 28' 47''$ East, for a distance of 54.39 feet to a to a point for corner;

North $85^{\circ} 48' 20''$ East, for a distance of 1,121.18 feet to a to a point for corner;

North $23^{\circ} 36' 58''$ West, for a distance of 280.94 feet to a to a point for corner;

North $81^{\circ} 28' 44''$ East, for a distance of 1,708.56 feet to a to a point for corner;
South $68^{\circ} 58' 23''$ East, for a distance of 735.29 feet to a to a point for corner;
North $68^{\circ} 34' 30''$ East, for a distance of 533.76 feet to a to a point for corner;
North $60^{\circ} 30' 34''$ East, for a distance of 466.76 feet to a to a point for corner in the west line of a 100' Texas & New Orleans Rail Road right-of-way;
THENCE South $11^{\circ} 37' 17''$ East, along the west line of said 100' Texas & New Orleans Rail Road right-of-way, for a distance of 2,151.34 feet to a to a to a point for corner;

THENCE West, for a distance of 308.27 feet to a to a point for corner;

THENCE South, for a distance of 1,095.00 feet to a to a point for corner in the north line of said 25th Avenue (also known as Loop 197);

THENCE West along the north line of said 25th Avenue (also known as Loop 197), for a distance of 3,207.79 feet to the PLACE OF BEGINNING of herein described tract of land and containing within these calls 10,851,671 square feet or 249.1201 acres of land.

TRACT 2

Description of 9.7801 acres of land being part of Subdivisions E, and F of the KOHFELDT'S RESUBDIVISION according to the map or plat thereof recorded in Volume 10, Page 35 of the Deed Records of Galveston County, Texas. Said 9.7801 acres being part of the tracts of land conveyed by deed dated March 22, 2004 from Kohfeldt family Limited Partnership, to Texas Gulf Coast Holdings I LP., as recorded in Galveston County Clerk's File No. GAC 2004020691, of the Deed Records of Galveston County, Texas. Said 9.7801 acres being situated in the Thomas W. Johnson Survey, Galveston County, Texas, and being more particularly described by metes and bounds as follows; (Bearings based plat calls of said Kohfeldts Resubdivision)

COMMENCING at a point for corner at the intersection of the north line of F.M. 1764 with the northeasterly line of the G.H. & H. R.R. railroad right-of-way adjacent to State Highway 3;

THENCE North $39^{\circ} 12' 00''$ West, along the said northeasterly line of the G.H. & H. R.R. railroad right-of-way, for a distance of 557.48 feet to a to a point for corner;

THENCE North, along the west line of said Haggard Survey, for a distance of 3,650.62 feet to a to a point for corner in the north line of 25th Avenue (R.O.W. 120') (also known as Loop 197);

THENCE East, along the north line of said 25th Avenue, for a distance of 5,253.36 feet to a to a point for corner at the intersection of the north line of 25th Avenue and the west line of a called 8.23 acre tract (Tract 2) conveyed by deed dated August 17, 1971 to the City of Texas City, Texas;

THENCE along the west line of said 8.23 acres with a curve to the right having a radius of 745.80 feet, a central angle of $29^{\circ} 48' 20''$, a chord bearing and distance of N $16^{\circ} 31' 10''$ E, 383.60 feet, an arc length of 387.96 feet to a to a point for reverse curve;

THENCE continuing along the west line of said 8.23 acres along said curve to the left having a radius of 200.00 feet, a central angle of $68^{\circ} 43' 28''$, a chord bearing and distance of N $02^{\circ} 56' 25''$ W, 225.78 feet, an arc length of 239.90 feet to a to the point of tangent;

THENCE North 37° 08' 45" West, continuing along the west line of said 8.23 acres for a distance of 595.32 feet to the southeast corner and PLACE OF BEGINNING of the herein described tract;

THENCE in a northwesterly direction along the perimeter of the said 190.6 acre tract (Golf Course), the following calls;

North 69° 32' 47" West, for a distance of 865.01 feet to a to a point for corner;

North 14° 17' 14" West, for a distance of 832.79 feet to a to a point for corner;

North 37° 08' 45" West, for a distance of 180.00 feet to a to a point for corner;

North 52° 51' 15" East, for a distance of 140.00 feet to a to a point for the most westerly northwest corner of said 8.23 acre tract;

THENCE South 37° 08' 45" East, along the west line of said 8.23 acres for a distance of 1,677.74 feet to the PLACE OF BEGINNING of herein described tract of land and containing within these calls 426,021 square feet or 9.7801 acres of land.

SECTION 3. (a) The legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published as provided by law, and the notice and a copy of this Act have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished under Section 59, Article XVI, Texas Constitution, and Chapter 313, Government Code.

(b) The governor, one of the required recipients, has submitted the notice and Act to the Texas Commission on Environmental Quality.

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

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

SECTION 4. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2005.

The amendment was read.

Senator Jackson moved to concur in the House amendment to **SB 1803**.

The motion prevailed by a viva voce vote.

All Members are deemed to have voted "Yea" on the motion to concur.

SENATE BILL 1804 WITH HOUSE AMENDMENT

Senator Jackson called **SB 1804** from the President's table for consideration of the House amendment to the bill.

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

Amendment

Amend **SB 1804** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED
AN ACT

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

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

SECTION 1. Subtitle F, Title 6, Special District Local Laws Code, is amended by adding Chapter 8146 to read as follows:

CHAPTER 8146. GALVESTON COUNTY MUNICIPAL
UTILITY DISTRICT NO. 64

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8146.001. DEFINITIONS. In this chapter:

- (1) "Board" means the board of directors of the district.
- (2) "City" means the City of Texas City, Texas.
- (3) "Director" means a member of the board.
- (4) "District" means the Galveston County Municipal Utility District No.

64.

Sec. 8146.002. NATURE OF DISTRICT. The district is a municipal utility district in Galveston County created under and essential to accomplish the purposes of Section 59, Article XVI, Texas Constitution.

Sec. 8146.003. CONFIRMATION ELECTION REQUIRED. The board shall hold an election to confirm the creation of the district as provided by Section 49.102, Water Code.

Sec. 8146.004. FINDINGS OF BENEFIT AND PUBLIC PURPOSE. (a) All land and other property included in the district will benefit from the improvements and services to be provided by the district under powers conferred by Section 52, Article III, and Section 59, Article XVI, Texas Constitution.

(b) The district is created to accomplish:

(1) the same purposes as a municipal utility district as provided by Section 54.012, Water Code;

(2) the same purposes as a navigation district created under Section 59, Article XVI, Texas Constitution, and operating under Chapters 60 and 62, Water Code; and

(3) to the extent authorized by Section 52, Article III, Texas Constitution, the construction, acquisition, improvement, maintenance, or operation of macadamized, graveled, or paved roads or turnpikes, or improvements in aid of those roads or turnpikes, inside the district.

Sec. 8146.005. INITIAL DISTRICT TERRITORY. (a) The district is initially composed of the territory described by Section 2 of the Act creating this chapter.

(b) The boundaries and field notes contained in Section 2 of the Act creating this chapter form a closure. A mistake made in the field notes or in copying the field notes in the legislative process does not affect the district's:

(1) organization, existence, or validity;
(2) right to issue any type of bond for the purposes for which the district is created or to pay the principal of and interest on a bond;

(3) right to impose or collect an assessment or tax; or

(4) legality or operation.

[Sections 8146.006-8146.050 reserved for expansion]

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 8146.051. DIRECTORS; TERMS. (a) The district is governed by a board of five directors.

(b) Except as provided by Section 8146.053, directors serve staggered four-year terms.

Sec. 8146.052. ELECTION OF DIRECTORS. On the uniform election date in May of each even-numbered year, the appropriate number of directors shall be elected.

Sec. 8146.053. INITIAL DIRECTORS. (a) The initial board consists of:

- (1) Troy Maxwell;
- (2) Phillip Franshaw;
- (3) David Hile;
- (4) Jeremy Radack; and
- (5) Robert Anthony.

(b) The terms of the first three directors named in Subsection (a) expire on the uniform election date in May 2006, and the terms of the last two directors named in Subsection (a) expire on the uniform election date in May 2008.

(c) This section expires September 1, 2009.

[Sections 8146.054-8146.100 reserved for expansion]

SUBCHAPTER C. GENERAL POWERS AND DUTIES

Sec. 8146.101. GENERAL POWERS AND DUTIES. The district has the powers and duties necessary to accomplish the purposes for which the district is created.

Sec. 8146.102. MUNICIPAL UTILITY DISTRICT POWERS AND DUTIES. The district has the powers and duties provided by the general law of this state, including Chapters 49 and 54, Water Code, applicable to municipal utility districts created under Section 59, Article XVI, Texas Constitution.

Sec. 8146.103. NAVIGATION POWERS. The district may purchase, construct, acquire, own, operate, maintain, improve, or extend, inside and outside the district, canals, waterways, bulkheads, docks, and any other improvements or facilities necessary or convenient to accomplish the navigation purposes of the district authorized by Section 59, Article XVI, Texas Constitution.

Sec. 8146.104. ROAD PROJECTS. (a) The district may construct, acquire, improve, maintain, or operate macadamized, graveled, or paved roads or turnpikes, or improvements in aid of those roads or turnpikes, inside the district.

(b) A road project must meet all applicable construction standards, zoning and subdivision requirements, and regulatory ordinances of the municipality or county in whose jurisdiction the district is located.

(c) The district may not undertake a road project unless each municipality or county in whose jurisdiction the district is located consents by ordinance or resolution.

Sec. 8146.105. COMPLIANCE WITH MUNICIPAL CONSENT ORDINANCES OR RESOLUTIONS. Subject to the limitations of Section 54.016, Water Code, the district shall comply with all applicable requirements of any ordinance or resolution adopted by the city council that consents to the creation of the district or to the inclusion of lands within the district.

Sec. 8146.106. LIMITATION ON USE OF EMINENT DOMAIN. The district may exercise the power of eminent domain outside the district only to acquire an easement necessary for underground water, sewage, or drainage facilities that serve the district.

[Sections 8146.107-8146.150 reserved for expansion]

SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

Sec. 8146.151. ELECTIONS REGARDING TAXES OR BONDS. (a) Except as provided by Section 8146.201(c), the district may issue, without an election, bonds and other obligations secured by revenue or contract payments from any lawful source other than ad valorem taxation.

(b) The district must hold an election in the manner provided by Chapters 49 and 54, Water Code, to obtain voter approval before the district may impose a maintenance tax or issue bonds payable from ad valorem taxes.

Sec. 8146.152. AD VALOREM TAX. (a) If authorized at an election held under Section 8146.151, the district may impose an annual ad valorem tax on taxable property in the district for the provision of services or for the maintenance and operation of the district, including the construction, acquisition, maintenance, and operation of improvements.

(b) The board shall determine the tax rate. The rate may not exceed the rate approved at the election.

[Sections 8146.153-8146.200 reserved for expansion]

SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

Sec. 8146.201. AUTHORITY TO ISSUE BONDS AND OTHER OBLIGATIONS. (a) The district may issue bonds or other obligations payable wholly or partly from ad valorem taxes, impact fees, revenue, grants, or other district money, or any combination of those sources, to pay for any authorized district purpose.

(b) In exercising the district's borrowing power, the district may issue a bond or other obligation in the form of a bond, note, certificate of participation, or other instrument evidencing a proportionate interest in payments to be made by the district, or other type of obligation.

(c) The district may not issue bonds to finance projects authorized by Section 8146.104 unless the issuance is approved by a vote of a two-thirds majority of the voters of the district voting at an election called for that purpose.

(d) Bonds or other obligations issued or incurred to finance projects authorized by Section 8146.104 may not exceed one-fourth of the assessed value of the real property in the district.

(e) Sections 49.181 and 49.182, Water Code, do not apply to a project undertaken by the district under Section 8146.104 or to bonds issued by the district to finance the project.

Sec. 8146.202. TAXES FOR BONDS AND OTHER OBLIGATIONS. At the time bonds or other obligations payable wholly or partly from ad valorem taxes are issued:

(1) the board shall impose a continuing direct annual ad valorem tax, without limit as to rate or amount, for each year that all or part of the bonds are outstanding; and

(2) the district annually shall impose an ad valorem tax on all taxable property in the district in an amount sufficient to:

(A) pay the interest on the bonds or other obligations as the interest becomes due;

(B) create a sinking fund for the payment of the principal of the bonds or other obligations when due or the redemption price at any earlier required redemption date; and

(C) pay the expenses of imposing the taxes.

SECTION 2. The Galveston County Municipal Utility District No. 64 initially includes all the territory contained in the following area:

Of 91.9438 acres of land being Lots 1 & 8, Block 2, Subdivision "D", Lots 3 & 4, Block 2, Subdivision "C", Lots 1 thru 6 Block 1, Subdivision "C", and all of Block 1, Subdivision "B", of the KOHFELDTS RESUBDIVISION according to the map or plat thereof recorded in Volume 10, Page 35 of the Deed Records of Galveston County, Texas. Said 91.9438 acres being part of the tracts of land conveyed by deed dated March 22, 2004 from Kohfeldt family Limited Partnership, to Texas Gulf Coast Holdings I LP., as recorded in Galveston County Clerk's File No. GAC 2004020693, of the Deed Records of Galveston County, Texas. Said 91.9438 acres being situated in the Thomas W. Johnson Survey, James Haggard Survey, and the James Smith Survey Galveston County, Texas, and being more particularly described by metes and bounds as follows; (Bearings based plat calls of said Kohfeldts Resubdivision) BEGINNING at a point for corner at the intersection of the north line of 25th Avenue (120' R.O.W.) (also known as Loop 197), with the west line of said Lot 8, Block 2, Subdivision "D" (James Smith Survey);

THENCE North, along the west line of said Lots 1 & 8, Block 2, Subdivision "D", for a distance of 1,095.00 feet to a point for corner;

THENCE East, for a distance of 377.15 feet to a point for the southwest corner of said Block 1, Subdivision "C";

THENCE North, along the west line of said Block 1, Subdivision "C" for a distance of 1,155.00 feet to a point for corner;

THENCE East, along the north line of said Block 1, Subdivision "C" for a distance of 1,282.30 feet to a point for corner;

THENCE North, along the east line of Block 2, of said Subdivision "B" for a distance of 1,155.00 feet to a point for corner;

THENCE West, along the south line of said Block 1, Subdivision "B" for a distance of 1,282.30 feet to a point for corner;

THENCE North, along the west line of said Block 1, Subdivision "B" for a distance of 1,030.00 feet to a point for corner;

THENCE North 82° 26' 53" East along the meanders of Moses Lake, for a distance of 1,293.52 feet to a point for the northeast corner of said Block 1, Subdivision "B"

THENCE East, for a distance of 30.00 feet to a point for corner in the east line of a 60' dedicated road right-of-way;

THENCE South, along a line 30.00 feet east of and parallel with the east line said Subdivisions "B" & "C", for a distance of 3,510.00 feet to a point for corner in the common line of Blocks 1 & 2, of said Subdivision "C";

THENCE West, for a distance of 786.30 feet to a to a point for the northeast corner of said Lot 3, Block 2, of said Subdivision "C";

THENCE South, along the east line of said Lots 3 & 4, Block 2, of said Subdivision "C" for a distance of 1,095.00 feet to a point for corner in the north line of said F.M. 1764;

THENCE West, along the north line of said F.M. 1764, for a distance of 903.15 feet to the PLACE OF BEGINNING of herein described tract of land and containing within these calls 4,005,070 square feet or 91.9438 acres of land.

SECTION 3. (a) The legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published as provided by law, and the notice and a copy of this Act have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished under Section 59, Article XVI, Texas Constitution, and Chapter 313, Government Code.

(b) The governor, one of the required recipients, has submitted the notice and Act to the Texas Commission on Environmental Quality.

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

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

SECTION 4. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2005.

The amendment was read.

Senator Jackson moved to concur in the House amendment to **SB 1804**.

The motion prevailed by a viva voce vote.

All Members are deemed to have voted "Yea" on the motion to concur.

SENATE BILL 1805 WITH HOUSE AMENDMENT

Senator Jackson called **SB 1805** from the President's table for consideration of the House amendment to the bill.

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

Amendment

Amend **SB 1805** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED
AN ACT

relating to the creation of the Galveston County Management District No. 1; providing authority to levy an assessment, impose a tax, and issue bonds.

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

SECTION 1. GALVESTON COUNTY MANAGEMENT DISTRICT NO. 1. Subtitle C, Title 4, Special District Local Laws Code, is amended by adding Chapter 3841 to read as follows:

CHAPTER 3841. GALVESTON COUNTY MANAGEMENT DISTRICT NO. 1
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 3841.001. DEFINITIONS. In this chapter:

(1) "Board" means the board of directors of the district.

(2) "District" means the Galveston County Management District No. 1.

Sec. 3841.002. GALVESTON COUNTY MANAGEMENT DISTRICT NO. 1. The Galveston County Management District No. 1 is a special district created under Section 59, Article XVI, Texas Constitution.

Sec. 3841.003. PURPOSE; DECLARATION OF INTENT. (a) The creation of the district is essential to accomplish the purposes of Sections 52 and 52-a, Article III, and Section 59, Article XVI, Texas Constitution, and other public purposes stated in this chapter. By creating the district and in authorizing the City of League City, Galveston County, and other political subdivisions to contract with the district, the legislature has established a program to accomplish the public purposes set out in Section 52-a, Article III, Texas Constitution.

(b) The creation of the district is necessary to promote, develop, encourage, and maintain employment, commerce, transportation, housing, tourism, recreation, the arts, entertainment, economic development, safety, and the public welfare in the area of the district.

(c) This chapter and the creation of the district may not be interpreted to relieve Galveston County or the City of League City from providing the level of services provided as of the effective date of the Act enacting this chapter to the area in the district. The district is created to supplement and not to supplant the county or city services provided in the area in the district.

Sec. 3841.004. FINDINGS OF BENEFIT AND PUBLIC PURPOSE. (a) The district is created to serve a public use and benefit.

(b) All land and other property included in the district will benefit from the improvements and services to be provided by the district under powers conferred by Sections 52 and 52-a, Article III, and Section 59, Article XVI, Texas Constitution, and other powers granted under this chapter.

(c) The creation of the district is in the public interest and is essential to:

(1) further the public purposes of developing and diversifying the economy of the state;

(2) eliminate unemployment and underemployment; and

(3) develop or expand transportation and commerce.

(d) The district will:

(1) promote the health, safety, and general welfare of residents, employers, potential employees, employees, visitors, and consumers in the district, and of the public;

(2) provide needed funding for the district to preserve, maintain, and enhance the economic health and vitality of the district territory as a community and business center; and

(3) promote the health, safety, welfare, and enjoyment of the public by providing pedestrian ways and by landscaping and developing certain areas in the district, which are necessary for the restoration, preservation, and enhancement of scenic beauty.

(e) Pedestrian ways along or across a street, whether at grade or above or below the surface, and street lighting, street landscaping, parking, and street art objects are parts of and necessary components of a street and are considered to be a street or road improvement.

(f) The district will not act as the agent or instrumentality of any private interest even though the district will benefit many private interests as well as the public.

Sec. 3841.005. DISTRICT TERRITORY. (a) The district is composed of the territory described by Section 2 of the Act enacting this chapter, as that territory may have been modified under:

(1) Subchapter J, Chapter 49, Water Code; or

(2) other law.

(b) The boundaries and field notes of the district contained in Section 2 of the Act enacting this chapter form a closure. A mistake in the field notes or in copying the field notes in the legislative process does not in any way affect the district's:

(1) organization, existence, or validity;

(2) right to issue any type of bond for a purpose for which the district is created or to pay the principal of and interest on the bond;

(3) right to impose or collect an assessment or tax; or

(4) legality or operation.

Sec. 3841.006. ELIGIBILITY FOR INCLUSION IN SPECIAL ZONES. All or any part of the area of the district is eligible to be included in:

(1) a tax increment reinvestment zone created by the City of League City under Chapter 311, Tax Code;

(2) a tax abatement reinvestment zone created by the City of League City under Chapter 312, Tax Code; or

(3) an enterprise zone created by the City of League City under Chapter 2303, Government Code.

Sec. 3841.007. APPLICABILITY OF MUNICIPAL MANAGEMENT DISTRICTS LAW. Except as otherwise provided by this chapter, Chapter 375, Local Government Code, applies to the district.

Sec. 3841.008. LIBERAL CONSTRUCTION OF CHAPTER. This chapter shall be liberally construed in conformity with the findings and purposes stated in this chapter.

[Sections 3841.009-3841.050 reserved for expansion]

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 3841.051. BOARD OF DIRECTORS; TERMS. (a) The district is governed by a board of five voting directors who serve staggered terms of four years, with two or three directors' terms expiring June 1 of each odd-numbered year.

(b) The board by resolution may change the number of voting directors on the board, but only if the board determines that the change is in the best interest of the district. The board may not consist of fewer than five or more than 15 voting directors.

Sec. 3841.052. APPOINTMENT OF DIRECTORS. The Texas Commission on Environmental Quality shall appoint voting directors from persons recommended by the board.

Sec. 3841.053. NONVOTING DIRECTORS. The board may appoint nonvoting directors to serve at the pleasure of the voting directors.

Sec. 3841.054. QUORUM. For purposes of determining the requirements for a quorum of the board, the following are not counted:

(1) a board position vacant for any reason, including death, resignation, or disqualification;

(2) a director who is abstaining from participation in a vote because of a conflict of interest; or

(3) a nonvoting director.

Sec. 3841.055. INITIAL VOTING DIRECTORS. (a) The initial board consists of the following voting directors:

<u>Pos. No.</u>	<u>Name of Director</u>
<u>1</u>	<u>Brian K. Yates</u>
<u>2</u>	<u>E. John Justema</u>
<u>3</u>	<u>Tod A. Ruble</u>
<u>4</u>	<u>Steve Whynott</u>
<u>5</u>	<u>David R. Hearne</u>

(b) Of the initial directors, the terms of directors appointed for positions 1 through 3 expire June 1, 2007, and the terms of directors appointed for positions 4 and 5 expire June 1, 2009.

(c) Section 3841.052 does not apply to this section.

(d) This section expires September 1, 2010.

[Sections 3841.056-3841.100 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

Sec. 3841.101. ADDITIONAL POWERS OF DISTRICT. The district may exercise the powers given to:

(1) an economic development corporation under Section 4B, Development Corporation Act of 1979 (Article 5190.6, Vernon's Texas Civil Statutes), including the power to own, operate, acquire, construct, lease, improve, or maintain a project described by that section; and

(2) a housing finance corporation under Chapter 394, Local Government Code, to provide housing or residential development projects in the district.

Sec. 3841.102. NONPROFIT CORPORATION. (a) The board by resolution may authorize the creation of a nonprofit corporation to assist and act for the district in implementing a project or providing a service authorized by this chapter.

(b) The nonprofit corporation:

(1) has each power of and is considered for purposes of this chapter to be a local government corporation created under Chapter 431, Transportation Code; and

(2) may implement any project and provide any service authorized by this chapter.

(c) The board shall appoint the board of directors of the nonprofit corporation. The board of directors of the nonprofit corporation shall serve in the same manner as the board of directors of a local government corporation created under Chapter 431, Transportation Code, except that a board member is not required to reside in the district.

Sec. 3841.103. AGREEMENTS; GRANTS. (a) The district may make an agreement with or accept a gift, grant, or loan from any person.

(b) The implementation of a project is a governmental function or service for the purposes of Chapter 791, Government Code.

Sec. 3841.104. AUTHORITY TO CONTRACT FOR LAW ENFORCEMENT. To protect the public interest, the district may contract with a qualified party, including Galveston County or the City of League City, for the county or the city to provide law enforcement services in the district for a fee.

Sec. 3841.105. MEMBERSHIP IN CHARITABLE ORGANIZATIONS. The district may join and pay dues to an organization that:

(1) enjoys tax-exempt status under Section 501(c)(3), (4), or (6), Internal Revenue Code of 1986; and

(2) performs a service or provides an activity consistent with the furtherance of a district purpose.

Sec. 3841.106. ECONOMIC DEVELOPMENT PROGRAMS. (a) The district may establish and provide for the administration of one or more programs to promote state or local economic development and to stimulate business and commercial activity in the district, including programs to:

(1) make loans and grants of public money; and

(2) provide district personnel and services.

(b) For purposes of this section, the district has all of the powers of a municipality under Chapter 380, Local Government Code.

Sec. 3841.107. NO EMINENT DOMAIN. The district may not exercise the power of eminent domain.

[Sections 3841.108-3841.150 reserved for expansion]

SUBCHAPTER D. FINANCIAL PROVISIONS

Sec. 3841.151. DISBURSEMENTS AND TRANSFERS OF MONEY. The board by resolution shall establish the number of directors' signatures and the procedure required for a disbursement or transfer of the district's money.

Sec. 3841.152. MONEY USED FOR IMPROVEMENTS OR SERVICES. The district may acquire, construct, finance, operate, or maintain any improvement or service authorized under this chapter or Chapter 375, Local Government Code, using any money available to the district.

Sec. 3841.153. PETITION REQUIRED FOR FINANCING SERVICES AND IMPROVEMENTS WITH ASSESSMENTS. (a) The board may not finance a service or improvement project with assessments under this chapter unless a written petition requesting that service or improvement has been filed with the board.

(b) A petition filed under Subsection (a) must be signed by:

(1) the owners of a majority of the assessed value of real property in the district subject to assessment according to the most recent certified tax appraisal roll for Galveston County; or

(2) at least 50 persons who own real property in the district, if more than 50 persons own real property in the district as determined by the most recent certified tax appraisal roll for Galveston County.

Sec. 3841.154. METHOD OF NOTICE FOR HEARING. The district may mail the notice required by Section 375.115(c), Local Government Code, by certified United States mail or an equivalent service that can provide a record of mailing or other delivery.

Sec. 3841.155. ASSESSMENTS; LIENS FOR ASSESSMENTS. (a) The board by resolution may impose and collect an assessment for any purpose authorized by this chapter in all or any part of the district.

(b) An assessment, a reassessment, or an assessment resulting from an addition to or correction of the assessment roll by the district, penalties and interest on an assessment or reassessment, an expense of collection, and reasonable attorney's fees incurred by the district:

(1) are a first and prior lien against the property assessed;

(2) are superior to any other lien or claim other than a lien or claim for county, school district, or municipal ad valorem taxes; and

(3) are the personal liability of and a charge against the owners of the property even if the owners are not named in the assessment proceedings.

(c) The lien is effective from the date of the board's resolution imposing the assessment until the date the assessment is paid. The board may enforce the lien in the same manner that the board may enforce an ad valorem tax lien against real property.

(d) The board may make a correction to or deletion from the assessment roll that does not increase the amount of assessment of any parcel of land without providing notice and holding a hearing in the manner required for additional assessments.

Sec. 3841.156. AD VALOREM TAX. (a) If authorized at an election held in accordance with Section 3841.160, the district may impose an annual ad valorem tax on taxable property in the district for any district purpose, including to:

(1) maintain and operate the district;

(2) construct or acquire improvements; or

(3) provide a service.

(b) The board shall determine the tax rate.

Sec. 3841.157. UTILITY PROPERTY EXEMPT FROM IMPACT FEES AND ASSESSMENTS. The district may not impose an impact fee or assessment on the property, including the equipment, rights-of-way, facilities, or improvements, of:

(1) an electric utility or a power generation company as defined by Section 31.002, Utilities Code;

(2) a gas utility as defined by Section 101.003 or 121.001, Utilities Code;

(3) a telecommunications provider as defined by Section 51.002, Utilities Code; or

(4) a person who provides to the public cable television or advanced telecommunications services.

Sec. 3841.158. BONDS AND OTHER OBLIGATIONS. (a) The district may issue bonds or other obligations, by competitive bid or negotiated sale, payable wholly or partly from ad valorem taxes, assessments, impact fees, revenue, grants, or other money of the district, or any combination of those sources of money, to pay for any authorized purpose of the district.

(b) The district may issue a bond or other obligation in the form of a bond, note, certificate of participation or other instrument evidencing a proportionate interest in payments to be made by the district, or other type of obligation.

Sec. 3841.159. TAXES FOR BONDS AND OTHER OBLIGATIONS. At the time bonds or other obligations payable wholly or partly from ad valorem taxes are issued:

(1) the board shall impose a continuing direct annual ad valorem tax, without limit as to rate or amount, for each year that all or part of the bonds are outstanding; and

(2) the district annually shall impose the continuing direct ad valorem tax on all taxable property in the district in an amount sufficient to:

(A) pay the interest on the bonds or other obligations as the interest becomes due;

(B) create a sinking fund for the payment of the principal of the bonds or other obligations when due or the redemption price at any earlier required redemption date; and

(C) pay the expenses of imposing the taxes.

Sec. 3841.160. TAX AND BOND ELECTIONS. (a) The district shall hold an election in the manner provided by Subchapter L, Chapter 375, Local Government Code, to obtain voter approval before the district imposes an ad valorem tax or issues bonds payable from ad valorem taxes.

(b) Section 375.243, Local Government Code, does not apply to the district.

Sec. 3841.161. CITIES NOT REQUIRED TO PAY DISTRICT OBLIGATIONS. Except as provided by Section 375.263, Local Government Code, the City of League City is not required to pay a bond, note, or other obligation of the district.

Sec. 3841.162. COMPETITIVE BIDDING. Section 375.221, Local Government Code, applies to the district only for a contract that has a value greater than \$25,000.

Sec. 3841.163. TAX AND ASSESSMENT ABATEMENTS. The district may grant in the manner authorized by Chapter 312, Tax Code, an abatement for a tax or assessment owed to the district.

[Sections 3841.164-3841.200 reserved for expansion]

SUBCHAPTER E. DISSOLUTION

Sec. 3841.201. DISSOLUTION OF DISTRICT WITH OUTSTANDING DEBT. (a) The board may dissolve the district regardless of whether the district has debt. Section 375.264, Local Government Code, does not apply to the district.

(b) If the district has debt when it is dissolved, the district shall remain in existence solely for the purpose of discharging its debts. The dissolution is effective when all debts have been discharged.

SECTION 2. BOUNDARIES. As of the effective date of this Act, the Galveston County Management District No. 1 includes all territory contained in the following described area:

All that certain 98.86 acre tract of land located in the STEPHEN F. AUSTIN SURVEY, ABSTRACT 3, Galveston County, Texas, being the remainder of a 76.3820 acre tract called Tract A (a portion of which is out of Lot 11, Block B, CLEAR CREEK SUBDIVISION, a subdivision in Galveston County, according to the map or plat recorded in Volume 119, Page 67), a 0.515 acre tract called Tract B (out of said Lot 11) and a 3.00 acre tract called Tract C all described in a deed recorded under Film Code No. 006-07-1921, a 44.2763 acre tract described in a deed recorded under Film Code No. 017-24-1293, and a 2.36 acre tract out of BIG LEAGUE DREAMS, recorded in Plat No. 2005A, Map No. 72 all deeds and maps recorded in the Office of the County Clerk of Galveston County and being more particularly described by metes and bounds as follows:

BEGINNING at a 2 inch iron pipe found marking the Southeast corner of said Lot 11 of CLEAR CREEK SUBDIVISION;

THENCE N 00°53'20" W, along the East line of said Lot 11 a distance of 565.90 feet to a point for corner, from which a fence corner bears S 72°22'01" W, 2.63 feet;

THENCE S 89°07'15" W, a distance of 746.38 feet (called 747.94 feet) to a point for corner on the East line of Calder Road (50 foot right-of-way), from which a 1/2 inch iron rod bears

S 17°07'25" W, 0.86 feet;

THENCE N 00°53'20" W, along the East line of Calder Road a distance of 30.00 feet to a point for corner, from which a 60D nail bears S 56°56'32" E, 1.41 feet;

THENCE N 89°07'15" E, a distance of 746.38 feet (called 748.95 feet) p to a point for corner on the East line of said Lot 11, from which a 1/2 inch iron rod bears S 53°59'49" E, 0.81 feet;

THENCE N 00°53'20" W, along the East line of said Lot 11 a distance of 60.00 feet to a point for corner, from which a 60D nail bears S 47°39'50" E, 1.64 feet;

THENCE S 89°07'15" W, a distance of 746.38 feet (called 747.79 feet) to a point for corner on the East line of said Calder Road;

THENCE N 00°53'20" W, along the East line of said Calder Road a distance of 192.11 feet to a point for corner, from which a 1/2 inch iron rod bears S 62°02'39" W, 1.60 feet;

THENCE N 89°07'15" E, a distance of 746.38 feet (called 748.10 feet) to a 1/2 inch iron rod with cap stamped "GeoSurv" found for corner;

THENCE N 00°53'20" W, along the East line of said Lot 11 a distance of 282.36 feet to a point for corner, being the Northeast corner of Lot 11, the same being the Southeast corner of said Lot 10, from which a 3/4 inch iron pipe bears S 43°48'04" W, 1.61 feet;

THENCE S 89°06'40" W, along the common line of Lots 10 and 11, the same being the South line of Big League Parkway (70 foot right-of-way) as shown on said plat of BIG LEAGUE DREAMS a distance of 746.38 feet to an iron rod with cap stamped "GeoSurv" found for corner on the East line of said Calder Road;

THENCE N 00°53'20" W, along the East line of Calder Road, the same being the West line of Lot 10 a distance of 70.00 feet to a point for corner;

THENCE N 89°06'40" E, along the North line of said Big League Parkway, the same being the South line of Reserve 'A' of said BIG LEAGUE DREAMS a distance of 1236.18 feet to the Point of Curve of a curve to the left having a central angle of 11°28'42" and a radius of 1065.00 feet;

THENCE continuing along the North line of Big League Parkway and the South line of said Reserve 'A', curving to the left, an arc distance of 213.36 feet (chord bears N 83°22'19" E, 213.00 feet) to an iron rod with cap stamped "GeoSurv" found for corner;

THENCE N 00°53'20" W, along the East line of said Reserve 'A' a distance of 1194.49 feet to an iron rod with cap stamped "GeoSurv" found for corner;

THENCE N 88°26'53" E, a distance of 706.40 feet to an iron rod with cap stamped "GeoSurv" found for corner on the Westerly line of Interstate Highway 45 (300 foot right-of-way);

THENCE S 27°32'00" E, along the Westerly line of Interstate Highway 45 a distance of 1418.63 feet to an iron rod with cap stamped "GeoSurv" found for the Point of Curve of a curve to the left having a central angle of 07°42'21" and a radius of 5877.65 feet;

THENCE continuing along the Westerly line of Interstate Highway 45 curving to the left an arc distance of 790.49 feet (chord bears S 31°17'56" E, 789.89 feet) to an iron rod with cap stamped "GeoSurv" set for Point of Tangent;

THENCE S 35°09'41" E, continuing along the Westerly line of Interstate Highway 45 a distance of 483.31 feet to an angle point, from which a 1 inch iron pipe bears S 87°42'43" E, 0.61 feet;

THENCE S 00°32'16" W, continuing along the Westerly line of Interstate Highway 45 a distance of 77.21 feet to a point for corner, from which a 1 inch iron pipe bears N 89°08'30" E, 1.20 feet;

THENCE S 89°08'30" W, a distance of 2714.35 feet to the POINT OF BEGINNING and containing 98.86 acres of land.

SECTION 3. LEGISLATIVE FINDINGS. The legislature finds that:

(1) proper and legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published as provided by law, and the notice and a copy of this Act have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished by the constitution and laws of this state, including the governor, who has submitted the notice and Act to the Texas Commission on Environmental Quality;

(2) the Texas Commission on Environmental Quality has filed its recommendations relating to this Act with the governor, lieutenant governor, and speaker of the house of representatives within the required time;

(3) the general law relating to consent by political subdivisions to the creation of districts with conservation, reclamation, and road powers and the inclusion of land in those districts has been complied with; and

(4) all requirements of the constitution and laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this Act have been fulfilled and accomplished.

SECTION 4. EFFECTIVE DATE. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2005.

The amendment was read.

Senator Jackson moved to concur in the House amendment to **SB 1805**.

The motion prevailed by a viva voce vote.

All Members are deemed to have voted "Yea" on the motion to concur.

SENATE BILL 1808 WITH HOUSE AMENDMENT

Senator Jackson called **SB 1808** from the President's table for consideration of the House amendment to the bill.

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

Amendment

Amend **SB 1808** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED AN ACT

relating to the creation of the Galveston County Municipal Utility District No. 54; providing authority to impose taxes and issue bonds; granting the power of eminent domain.

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

SECTION 1. Subtitle F, Title 6, Special District Local Laws Code, is amended by adding Chapter 8147 to read as follows:

CHAPTER 8147. GALVESTON COUNTY MUNICIPAL UTILITY DISTRICT NO. 54

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8147.001. DEFINITIONS. In this chapter:

(1) "Board" means the board of directors of the district.

(2) "City" means the City of Texas City, Texas.

(3) "Director" means a member of the board.

(4) "District" means the Galveston County Municipal Utility District No.

54.

Sec. 8147.002. NATURE OF DISTRICT. The district is a municipal utility district in Galveston County created under and essential to accomplish the purposes of Section 59, Article XVI, Texas Constitution.

Sec. 8147.003. CONFIRMATION ELECTION REQUIRED. The board shall hold an election to confirm the creation of the district as provided by Section 49.102, Water Code.

Sec. 8147.004. FINDINGS OF BENEFIT AND PUBLIC PURPOSE. (a) All land and other property included in the district will benefit from the improvements and services to be provided by the district under powers conferred by Section 52, Article III, and Section 59, Article XVI, Texas Constitution.

(b) The district is created to accomplish:

(1) the same purposes as a municipal utility district as provided by Section 54.012, Water Code; and

(2) to the extent authorized by Section 52, Article III, Texas Constitution, the construction, acquisition, improvement, maintenance, or operation of macadamized, graveled, or paved roads or turnpikes, or improvements in aid of those roads or turnpikes, inside the district.

Sec. 8147.005. INITIAL DISTRICT TERRITORY. (a) The district is initially composed of the territory described by Section 2 of the Act creating this chapter.

(b) The boundaries and field notes contained in Section 2 of the Act creating this chapter form a closure. A mistake made in the field notes or in copying the field notes in the legislative process does not affect the district's:

(1) organization, existence, or validity;

(2) right to issue any type of bond for the purposes for which the district is created or to pay the principal of and interest on a bond;

(3) right to impose or collect an assessment or tax; or

(4) legality or operation.

[Sections 8147.006-8147.050 reserved for expansion]

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 8147.051. DIRECTORS; TERMS. (a) The district is governed by a board of five directors.

(b) Except as provided by Section 8147.053, directors serve staggered four-year terms.

Sec. 8147.052. ELECTION OF DIRECTORS. On the uniform election date in May of each even-numbered year, the appropriate number of directors shall be elected.

Sec. 8147.053. INITIAL DIRECTORS. (a) The initial board consists of:

(1) Shirley McLennan;

(2) Greg Ordeneaux;

(3) Amy Zapletal;

(4) Terri Schoener; and

(5) Scott Bean.

(b) The terms of the first three directors named in Subsection (a) expire on the uniform election date in May of 2006, and the terms of the last two directors named in Subsection (a) expire on the uniform election date in May of 2008.

(c) This section expires September 1, 2009.

[Sections 8147.054-8147.100 reserved for expansion]

SUBCHAPTER C. GENERAL POWERS AND DUTIES

Sec. 8147.101. GENERAL POWERS AND DUTIES. The district has the powers and duties necessary to accomplish the purposes for which the district is created.

Sec. 8147.102. MUNICIPAL UTILITY DISTRICT POWERS AND DUTIES. The district has the powers and duties provided by the general law of this state, including Chapters 49 and 54, Water Code, applicable to municipal utility districts created under Section 59, Article XVI, Texas Constitution.

Sec. 8147.103. ROAD PROJECTS. (a) The district may construct, acquire, improve, maintain, or operate macadamized, graveled, or paved roads or turnpikes, or improvements in aid of those roads or turnpikes, inside the district.

(b) A road project must meet all applicable construction standards, zoning and subdivision requirements, and regulatory ordinances of the municipality or county in whose jurisdiction the district is located.

(c) The district may not undertake a road project unless each municipality or county in whose jurisdiction the district is located consents by ordinance or resolution.

Sec. 8147.104. COMPLIANCE WITH MUNICIPAL CONSENT ORDINANCES OR RESOLUTIONS. Subject to the limitations of Section 54.016, Water Code, the district shall comply with all applicable requirements of any ordinance or resolution adopted by the city council that consents to the creation of the district or to the inclusion of lands within the district.

Sec. 8147.105. LIMITATION ON USE OF EMINENT DOMAIN. The district may exercise the power of eminent domain outside the district only to acquire an easement necessary for underground water, sewage, or drainage facilities that serve the district.

[Sections 8147.106-8147.150 reserved for expansion]

SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

Sec. 8147.151. ELECTIONS REGARDING TAXES OR BONDS. (a) Except as provided by Section 8147.201(c), the district may issue, without an election, bonds and other obligations secured by revenue or contract payments from any lawful source other than ad valorem taxation.

(b) The district must hold an election in the manner provided by Chapters 49 and 54, Water Code, to obtain voter approval before the district may impose a maintenance tax or issue bonds payable from ad valorem taxes.

Sec. 8147.152. AD VALOREM TAX. (a) If authorized at an election held under Section 8147.151, the district may impose an annual ad valorem tax on taxable property in the district for the provision of services or for the maintenance and operation of the district, including the construction, acquisition, maintenance, and operation of improvements.

(b) The board shall determine the tax rate. The rate may not exceed the rate approved at the election.

[Sections 8147.153-8147.200 reserved for expansion]

SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

Sec. 8147.201. AUTHORITY TO ISSUE BONDS AND OTHER OBLIGATIONS. (a) The district may issue bonds or other obligations payable wholly or partly from ad valorem taxes, impact fees, revenue, grants, or other district money, or any combination of those sources, to pay for any authorized district purpose.

(b) In exercising the district's borrowing power, the district may issue a bond or other obligation in the form of a bond, note, certificate of participation, or other instrument evidencing a proportionate interest in payments to be made by the district, or other type of obligation.

(c) The district may not issue bonds to finance projects authorized by Section 8147.103 unless the issuance is approved by a vote of a two-thirds majority of the voters of the district voting at an election called for that purpose.

(d) Bonds or other obligations issued or incurred to finance projects authorized by Section 8147.103 may not exceed one-fourth of the assessed value of the real property in the district.

(e) Sections 49.181 and 49.182, Water Code, do not apply to a project undertaken by the district under Section 8147.103 or to bonds issued by the district to finance the project.

Sec. 8147.202. TAXES FOR BONDS AND OTHER OBLIGATIONS. At the time bonds or other obligations payable wholly or partly from ad valorem taxes are issued:

(1) the board shall impose a continuing direct annual ad valorem tax, without limit as to rate or amount, for each year that all or part of the bonds are outstanding; and

(2) the district annually shall impose an ad valorem tax on all taxable property in the district in an amount sufficient to:

(A) pay the interest on the bonds or other obligations as the interest becomes due;

(B) create a sinking fund for the payment of the principal of the bonds or other obligations when due or the redemption price at any earlier required redemption date; and

(C) pay the expenses of imposing the taxes.

SECTION 2. The Galveston County Municipal Utility District No. 54 initially includes all the territory contained in the following area:

BEING 212.06 acres of land situated in the Alexander Farmer League, Abstract No. 11, Galveston County, Texas, being out of a called 2,052.761 acre tract of land recorded under Galveston County Clerk's File Number 2000027987 and a portion of Holland Road recorded under Volume 1199, Page 407 of the Galveston County Deed Records, said 212.06 acre tract being more particularly described by metes and bounds as follows with the basis of bearings being the Texas State Plane Coordinate System, South Central Zone:

BEGINNING at a 5/8-inch iron rod with cap stamped "Hovis Surveying" found for the most northerly corner of said called 2,052.761 acre tract, being in the east line of Interurban Gardens, a subdivision recorded in Volume 223, Page 207 of the Galveston County Map Records and in the south right-of-way line of Interstate Highway 45 (Width Varies), from which a found disturbed 5/8-inch iron rod bears S 40° 53' E, 1.22 feet and a found 5/8-inch iron rod bears S 02° 01' E, 6.82 feet;

THENCE with the southwesterly right-of-way line of Interstate Highway 45 (Width Varies) as follows:

S 42° 38' 35" E, a distance of 1,594.72 feet to a point for corner and point of curve;

In a southerly direction, 558.46 feet, with the arc of a curve to the right, having a radius of 533.69 feet, a central angle of $59^{\circ} 57' 19''$ and chord which bears $S 12^{\circ} 26' 02'' E$, 533.33 feet to a broken TxDOT monument found for corner;

$S 17^{\circ} 32' 12'' W$, a distance of 51.06 feet to a TxDOT monument found for corner and point of curve, from which a found 5/8-inch iron rod bears $S 73^{\circ} 23' W$, 2.05 feet;

In a southerly direction, 185.89 feet, with the arc of a curve to the left, having a radius of 423.06 feet, a central angle of $25^{\circ} 10' 32''$ and chord which bears $S 04^{\circ} 30' 42'' W$, 184.40 feet to a TxDOT monument found for corner, from which a found 5/8-inch iron rod bears $S 89^{\circ} 02' W$, 0.98 feet;

$S 07^{\circ} 34' 27'' E$, a distance of 35.11 feet to a broken TxDOT monument found for corner;

$S 46^{\circ} 19' 11'' W$, a distance of 49.82 feet to a broken TxDOT monument found for corner from which a found 5/8-inch iron rod bears $N 66^{\circ} 13' W$, 0.70 feet;

$S 01^{\circ} 26' 48'' E$, a distance of 80.39 feet to a TxDOT monument found for corner;

$S 59^{\circ} 51' 01'' E$, a distance of 99.95 feet to a TxDOT monument found for corner;

$S 29^{\circ} 02' 56'' E$, a distance of 38.17 feet to a TxDOT monument found for corner and point of curve from which a found 5/8-inch iron rod bears $S 09^{\circ} 48' E$, 5.28 feet;

In a southeasterly direction, 480.47 feet, with the arc of a curve to the left, having a radius of 423.06 feet, a central angle of $65^{\circ} 04' 17''$ and chord which bears $S 60^{\circ} 14' 11'' E$, 455.06 feet to a TxDOT monument found for a corner, from which a 5/8-inch iron rod bears $N 16^{\circ} 14' W$, 3.45 feet;

$N 87^{\circ} 26' 16'' E$, a distance of 291.31 feet to a broken TxDOT monument found for corner and point of curve;

In a southeasterly direction, 464.90 feet, with the arc of a curve to the right, having a radius of 533.69 feet, a central angle of $49^{\circ} 54' 39''$ and chord which bears $S 67^{\circ} 36' 31'' E$, 450.34 feet to a disturbed TxDOT monument found at the end of curve from which a found 5/8-inch iron rod bears $N 08^{\circ} 38' E$, 2.55 feet;

$S 42^{\circ} 40' 24'' E$, a distance of 4811.23 feet to a TxDOT monument, and a 5/8-inch iron rod with cap stamped "Hovis Surveying" found for corner;

$N 47^{\circ} 19' 36'' E$, a distance of 40.00 feet to a 5/8-inch iron rod with cap stamped "Hovis Surveying" found for corner from which a found broken TxDOT monument which bears $N 53^{\circ} 47' W$, 0.78 feet, and from which a found broken TxDOT monument bears $N 44^{\circ} 02' W$, 5.46 feet;

$S 42^{\circ} 40' 24'' E$, a distance of 70.00 feet to a 5/8-inch iron rod with cap stamped "Hovis Surveying" found for corner;

$S 47^{\circ} 19' 36'' W$, a distance of 40.00 feet to a 5/8-inch iron rod with cap stamped "Hovis Surveying" found for corner from which a found TxDOT monument bears $N 41^{\circ} 18' W$, 7.38 feet;

$S 42^{\circ} 40' 24'' E$, a distance of 1,605.85 feet to a point for a corner;

THENCE over and across the said called 2,052.761 acre tract as follows:

$S 47^{\circ} 19' 36'' W$, a distance of 1000.00 feet to a point for a corner;

$N 42^{\circ} 40' 24'' W$, a distance of 1,804.37 feet to a point in the southeasterly line of a varied width Galveston County Water Company Canal as recorded in Volume 821, Page 490 of the Galveston County Deed Records;

THENCE along the southeasterly line of the said varied width Galveston County Water Company Canal as follows:

N 66° 22' 36" E, a distance of 459.14 feet to a point for a corner;

S 33° 12' 24" E, a distance of 8.80 feet to a point for a corner;

N 56° 47' 36" E, a distance of 549.94 feet to a point for a corner;

THENCE N 42° 40' 24" W over and across the said varied width Galveston County Water Company Canal and the said called 2,052.761 acre tract, a distance of 1,710.86 feet to a point for a corner;

THENCE over and across the said called 2,052.761 acre tract as follows:

S 47° 19' 36" W, a distance of 975.00 feet to a point for a corner;

N 42° 40' 24" W, a distance of 2,700.00 feet to a point for a corner;

S 88° 01' 49" W, a distance of 1836.03 feet to a point in the east line of the said Interurban Gardens Subdivision;

THENCE N 01° 58' 11" W, along the east lines of the said Interurban Gardens Subdivision and Holland Road Estates, Section Two as recorded under Volume 18, Page 442, of the Galveston County Map Records, a distance of 3,670.00 feet to the POINT OF BEGINNING and containing 212.06 acres of land.

SECTION 3. (a) The legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published as provided by law, and the notice and a copy of this Act have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished under Section 59, Article XVI, Texas Constitution, and Chapter 313, Government Code.

(b) The governor, one of the required recipients, has submitted the notice and Act to the Texas Commission on Environmental Quality.

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

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

SECTION 4. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2005.

The amendment was read.

Senator Jackson moved to concur in the House amendment to **SB 1808**.

The motion prevailed by a viva voce vote.

All Members are deemed to have voted "Yea" on the motion to concur.

SENATE BILL 1864 WITH HOUSE AMENDMENT

Senator Jackson called **SB 1864** from the President's table for consideration of the House amendment to the bill.

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

Amendment

Amend **SB 1864** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED
AN ACT

relating to the powers of the Galveston County Municipal Utility District No. 51, including powers related to the construction, maintenance, operation, and financing of roads or turnpikes.

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

SECTION 1. Subtitle F, Title 6, Special District Local Laws Code, is amended by adding Chapter 8130 to read as follows:

CHAPTER 8130. GALVESTON COUNTY MUNICIPAL
UTILITY DISTRICT NO. 51

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8130.001. DEFINITION. In this chapter, "district" means the Galveston County Municipal Utility District No. 51.

Sec. 8130.002. NATURE OF DISTRICT. The district is a municipal utility district in Galveston County created under and essential to accomplish the purposes of Section 59, Article XVI, Texas Constitution.

Sec. 8130.003. APPLICABILITY OF OTHER LAW. Except as otherwise provided by this chapter, the following laws apply to the district:

(1) Chapters 49 and 54, Water Code, including Subchapter J, Chapter 54, Water Code, notwithstanding the limitation on authorization based on acreage under Section 54.801 of that code; and

(2) Section 52(b)(3), Article III, Texas Constitution.

[Sections 8130.004-8130.050 reserved for expansion]

SUBCHAPTER B. POWERS AND DUTIES

Sec. 8130.051. ROAD PROJECTS. (a) The district may construct, acquire, improve, maintain, or operate macadamized, graveled, or paved roads or turnpikes, or improvements in aid of those roads or turnpikes, inside the district.

(b) A road project must meet all applicable construction standards, zoning and subdivision requirements, and regulatory ordinances of the municipality or county in whose jurisdiction the district is located.

(c) The district may not undertake a road project unless each municipality or county in whose jurisdiction the district is located consents by ordinance or resolution.

Sec. 8130.052. COMPLIANCE WITH MUNICIPAL CONSENT ORDINANCES OR RESOLUTIONS. Subject to the limitations of Section 54.016, Water Code, the district shall comply with all applicable requirements of any ordinance or resolution adopted by the city council of the City of Kemah, including an ordinance or resolution adopted before September 1, 2005, that consents to the creation of the district or to the inclusion of lands within the district.

[Sections 8130.053-8130.100 reserved for expansion]

SUBCHAPTER C. GENERAL FINANCIAL PROVISIONS

Sec. 8130.101. TAX TO REPAY BONDS FOR ROAD PROJECTS. The district may impose a tax to pay the principal of or interest on bonds issued under Section 8130.151.

[Sections 8130.102-8130.150 reserved for expansion]

SUBCHAPTER D. BONDS

Sec. 8130.151. AUTHORITY TO ISSUE BONDS FOR ROAD PROJECTS. (a)

The district may issue bonds or other obligations as provided by Chapters 49 and 54, Water Code, to finance the construction, maintenance, or operation of projects under Section 8130.051.

(b) The district may not issue bonds or other obligations secured in whole or in part by ad valorem taxation to finance projects authorized by Section 8130.051 unless the issuance is approved by a vote of a two-thirds majority of the voters of the district or of the defined area to be benefited by the project as provided by Subchapter J, Chapter 54, Water Code, voting at an election called for that purpose. The simple majority vote approval required by Section 54.808(a), Water Code, does not apply to an election under this subsection.

(c) Bonds or other obligations issued or incurred to finance projects authorized by Section 8130.051 may not exceed one-fourth of the assessed value of the real property in the district or the defined area, as applicable.

(d) Sections 49.181, 49.182, and 50.107, Water Code, do not apply to a project undertaken by the district under Section 8130.051 or to bonds issued by the district to finance the project.

SECTION 2. (a) The legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published as provided by law, and the notice and a copy of this Act have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished under Section 59, Article XVI, Texas Constitution, and Chapter 313, Government Code.

(b) The governor, one of the required recipients, has submitted the notice and Act to the Texas Commission on Environmental Quality.

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

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

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

The amendment was read.

Senator Jackson moved to concur in the House amendment to **SB 1864**.

The motion prevailed by a viva voce vote.

All Members are deemed to have voted "Yea" on the motion to concur.

SENATE BILL 1465 WITH HOUSE AMENDMENT

Senator Whitmire called **SB 1465** from the President's table for consideration of the House amendment to the bill.

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

Floor Amendment No. 1

Amend **SB 1465** (House committee report) as follows:

(1) In SECTION 1 of the bill, in added Subsection (c), Section 161.0825, Health and Safety Code (page 1, line 21), strike "comptroller or a law enforcement officer or agency" and substitute "comptroller, a law enforcement officer, or a law enforcement agency".

(2) In SECTION 3 of the bill, in added Subsection (d), Section 106.03, Alcoholic Beverage Code (page 3, line 6), strike "Section 190.61" and substitute "Section 109.61".

The amendment was read.

Senator Whitmire moved to concur in the House amendment to **SB 1465**.

The motion prevailed by a viva voce vote.

All Members are deemed to have voted "Yea" on the motion to concur.

CONFERENCE COMMITTEE ON HOUSE BILL 55

Senator Harris 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 55** 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 55** before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate: Senators Harris, Chair; West, Madla, Jackson, and Brimer.

SENATE BILL 1884 WITH HOUSE AMENDMENT

Senator Ellis called **SB 1884** from the President's table for consideration of the House amendment to the bill.

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

Amendment

Amend **SB 1884** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED AN ACT

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

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

SECTION 1. Subtitle F, Title 6, Special District Local Laws Code, is amended by adding Chapter 8124 to read as follows:

CHAPTER 8124. HARRIS COUNTY MUNICIPAL UTILITY DISTRICT NO. 460

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8124.001. DEFINITIONS. In this chapter:

(1) "Board" means the board of directors of the district.

(2) "Director" means a member of the board.

(3) "District" means the Harris County Municipal Utility District No. 460.

Sec. 8124.002. NATURE OF DISTRICT. The district is a municipal utility district in Harris County created under and essential to accomplish the purposes of Section 59, Article XVI, Texas Constitution.

Sec. 8124.003. CONFIRMATION ELECTION REQUIRED. If the creation of the district is not confirmed at a confirmation election held under Section 8124.023 before September 1, 2007:

(1) the district is dissolved September 1, 2007, except that:

(A) any debts incurred shall be paid;

(B) any assets that remain after the payment of debts shall be transferred to Harris County; and

(C) the organization of the district shall be maintained until all debts are paid and remaining assets are transferred; and

(2) this chapter expires September 1, 2010.

Sec. 8124.004. INITIAL DISTRICT TERRITORY. (a) The district is initially composed of the territory described by Section 2 of the Act creating this chapter.

(b) The boundaries and field notes contained in Section 2 of the Act creating this chapter form a closure. A mistake made in the field notes or in copying the field notes in the legislative process does not affect:

(1) the organization, existence, or validity of the district;

(2) the right of the district to impose taxes;

(3) the validity of the district's bonds, notes, or indebtedness; or

(4) the legality or operation of the district or the board.

[Sections 8124.005-8124.020 reserved for expansion]

SUBCHAPTER A1. TEMPORARY PROVISIONS

Sec. 8124.021. TEMPORARY DIRECTORS. (a) On or after September 1, 2005, a person who owns land in the district may submit a petition to the Texas Commission on Environmental Quality requesting that the commission appoint as temporary directors the five persons named in the petition.

(b) The commission shall appoint as temporary directors the five persons named in the first petition received by the commission under Subsection (a).

(c) If a temporary director fails to qualify for office, the commission shall appoint a person to fill the vacancy.

(d) Temporary directors serve until the earlier of:

(1) the date directors are elected under Section 8124.023; or

(2) the date this chapter expires under Section 8124.003.

Sec. 8124.022. ORGANIZATIONAL MEETING OF TEMPORARY DIRECTORS. As soon as practicable after all the temporary directors have qualified under Section 49.055, Water Code, the temporary directors shall meet at a location in the district agreeable to a majority of the directors. If a location cannot be agreed upon, the meeting shall be at the Harris County Courthouse. At the meeting, the temporary directors shall elect officers from among the temporary directors and conduct any other district business.

Sec. 8124.023. CONFIRMATION AND INITIAL DIRECTORS' ELECTION. The temporary directors shall hold an election to confirm the creation of the district and to elect five directors as provided by Section 49.102, Water Code.

Sec. 8124.024. INITIAL ELECTED DIRECTORS; TERMS. The directors elected under Section 8124.023 shall draw lots to determine which two shall serve until the first regularly scheduled election of directors under Section 8124.052 and which three shall serve until the second regularly scheduled election of directors.

Sec. 8124.025. EXPIRATION OF SUBCHAPTER. This subchapter expires September 1, 2010.

[Sections 8124.026-8124.050 reserved for expansion]

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 8124.051. DIRECTORS; TERMS. (a) The district is governed by a board of five directors.

(b) Directors serve staggered four-year terms.

Sec. 8124.052. ELECTION OF DIRECTORS. On the uniform election date in May of each even-numbered year, the appropriate number of directors shall be elected.

[Sections 8124.053-8124.100 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

Sec. 8124.101. MUNICIPAL UTILITY DISTRICT POWERS AND DUTIES. The district has the powers and duties provided by the general law of this state, including Chapters 49 and 54, Water Code, applicable to municipal utility districts created under Section 59, Article XVI, Texas Constitution.

Sec. 8124.102. ROAD PROJECTS. (a) To the extent authorized by Section 52, Article III, Texas Constitution, the district may construct, acquire, improve, maintain, or operate macadamized, graveled, or paved roads or turnpikes, or improvements in aid of those roads or turnpikes, inside the district.

(b) A road project must meet all applicable construction standards, zoning and subdivision requirements, and regulatory ordinances of the municipality or county in whose jurisdiction the district is located.

(c) The district may not undertake a road project unless each municipality or county in whose jurisdiction the district is located consents by ordinance or resolution.

Sec. 8124.103. COMPLIANCE WITH MUNICIPAL CONSENT ORDINANCES OR RESOLUTIONS. Subject to the limitations of Section 54.016, Water Code, the district shall comply with all applicable requirements of any ordinance or resolution adopted by the city council of the City of Houston, including an ordinance or resolution adopted before September 1, 2005, that consents to the creation of the district or to the inclusion of lands within the district.

Sec. 8124.104. LIMITATION ON USE OF EMINENT DOMAIN. The district may exercise the power of eminent domain outside the district only to acquire an easement necessary for a pipeline that serves the district.

[Sections 8124.105-8124.150 reserved for expansion]

SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

Sec. 8124.151. TAX TO REPAY BONDS. The district may impose a tax to pay the principal of or interest on bonds issued under Section 8124.201.

[Sections 8124.152-8124.200 reserved for expansion]

SUBCHAPTER E. BONDS

Sec. 8124.201. AUTHORITY TO ISSUE BONDS AND OTHER OBLIGATIONS. (a) The district may issue bonds or other obligations as provided by Chapters 49 and 54, Water Code, to finance the construction, maintenance, or operation of projects under Sections 8124.101 and 8124.102.

(b) The district may not issue bonds to finance projects authorized by Section 8124.102 unless the issuance is approved by a vote of a two-thirds majority of the voters of the district voting at an election called for that purpose.

(c) Bonds or other obligations issued or incurred to finance projects authorized by Section 8124.102 may not exceed one-fourth of the assessed value of the real property in the district.

(d) Sections 49.181 and 49.182, Water Code, do not apply to a project undertaken by the district under Section 8124.102 or to bonds issued by the district to finance the project.

SECTION 2. The Harris County Municipal Utility District No. 460 initially includes all the territory contained in the following area:

TRACT I:

BEING all of Lot 191 of Minnetex Place an addition in Harris County, Texas according to the map or plat thereof recorded at Volume 2, Page 57 of the Harris County Map Records (HCMR) situated in the William J. Lovett Survey, Abstract No. 526;

BEGINNING at the northwest corner of Lot 191 in the south line of Fuqua Street same being the northwest corner of Lot 192;

THENCE West along the south line of Fuqua Street, 655 feet (Volume 2 Page 57 HCMR) to a point for the northeast corner of said Lot 191 in the West right-of-way line of Myakawa Road;

THENCE 15° 20' E, 810.5 feet (calculated) along the west right-of-way line of Myakawa Road to a point for the southeast corner of this tract same being the northeast corner of Lot 255;

THENCE West 869.4 feet (Volume 2, Page 57 HCMR) along the north line of Lots 255 and 254 to a point for the southwest corner of Lot 191 same being the southeast corner of Lot 192;

THENCE North 781.6 feet (Volume 2, Page 57 HCMR) along the common line of Lot 191 and 192 to PLACE OF BEGINNING and containing 14.08 acres of land.

TRACT II:

The East one-half of Block 192 of Minnetex Place Subdivision as shown in Volume 2, Page 27, of the Map Records of Harris County, Texas.

BEGINNING at a found iron rod for the Southeast corner of said Block 192;

THENCE in a Northerly direction along the East line of said Block 192 a distance of 780.30 feet to a found iron rod marking the South line of Fuqua Street; and being a point for corner;

THENCE in a Westerly direction along the South line of Fuqua Street; a distance of 270.60 feet to a point for corner;

THENCE in a Southerly direction along a line parallel to the East line of said Block 192, a distance of 780.30 feet to a point for corner, said point being on the South line of said Block 192;

THENCE in an Easterly direction along said line a distance of 270.60 feet to the Point of BEGINNING and containing 4.85 acres, more or less.

TRACT III

BEING 6.500 acres of land out of and a part of Lot 192 and Lot 193 of Minnetex Place Subdivision, situated in the William J. Lovett Abstract 526, according to the map or plat thereof record in Volume 2, Page 57, Map Records, Harris County, Texas; said 6.500 acres more fully described as follows:

BEGINNING at a point in the centerline of Fuqua Road from which a 5/8 inch iron rod set in the South line of Fuqua Road, lying due West 81.18 feet and North 00° 33' 01" West, 0.98 feet from an old iron pipe found on line between Lot 192 and said Lot 193;

THENCE due East with the centerline of Fuqua Road, at 81.18 feet pass the North common corner of Lots 192 and 193 from which an old 1 1/2 inch iron pipe found bears South 00° 33' 01" East 25.00 feet, continuing in all a distance of 351.78 feet to a point for the North common corner of the East one-half and the West one-half of Lot 192;

THENCE South 00° 33' 01" East at 25.00 feet pass a 5/8 inch iron rod set for reference in the South line of Fuqua Road, continuing in all, a distance of 804.90 feet to a 5/8 inch iron rod set for corner in the North line of Lot 253;

THENCE due West with the North line of Lot 253, at 269.97 feet pass the South common corner of Lots 192 and 193 continuing in all, a distance of 351.78 feet to a 5/8 inch iron rod set for corner, in the North line of Lot 252;

THENCE North 00° 33' 01" West a distance of 804.90 feet to the Place of Beginning containing 6.50 acres;

TRACT IV

BEING 6.500 acres of land out of and a part of Lot 193 of Minnetex Place Subdivision, situated in the William J. Lovett Survey Abstract 526, according to the map or plat thereof record in Volume 2, Page 57, Map Records, Harris County, Texas; said 6.500 acres more fully described as follows:

BEGINNING at a point in the centerline of Fuqua Road from which a 5/8 inch iron rod set in the South line of Fuqua Road, lying due West 81.18 feet and North 00° 33' 01" West, 0.98 feet from an old iron pipe found on line between Lot 192 and said Lot 193;

THENCE South 00° 33' 01" East a distance of 804.90 feet to a 5/8 inch iron rod set for corner in the North line of Lot 252;

THENCE due West with the North line of Lot 252, a distance of 351.78 feet to a 5/8 inch iron rod set for corner, from which a railroad "X" tie for fence corner bears South 00° 33' 01" East, 23.62 feet;

THENCE North 00° 33' 01" West with the East line of a 2.000 acre tract, part of said Lot 193, at 779.90 feet pass a 5/8 inch iron rod set for reference in the South line of Fuqua Road continuing in all, a distance of 804.90 feet to a point for corner, in the

centerline of Fuqua Road; 5/8 inch iron rod set for corner in the South line of Fuqua Road from which a chain link fence post bears North 84° 34' 17" East, 6.9 feet and a railroad "X" tie for fence corner post bears North 85° 41' 38" East, 8.9 feet;

THENCE due East with the centerline of Fuqua Road, a distance of 351.78 feet to the Place of Beginning containing 6.500 acres.

TRACT V:

A tract or parcel of land containing 36.8116 acres of land being all of lots 252, 253, 254, and 255 of Minnetex Place Subdivision in the William J. Lovett Survey, Abstract 526 in Harris County, Texas, according to the map or plat thereof recorded in Volume 2, Page 57 of the Harris County Map Records, said 36.8116 acre tract of land being more particularly described by metes and bounds as follows to-wit:

BEGINNING at a 5/8 inch iron rod set at the residual Southeast corner of Lot 255 marking the intersection of the North right-of-way line of Schurmier Road (50.00 ft. in width) and the Southwesterly right-of-way line of Mykawa Road (60.00 ft. in width) and the Southeast corner of the herein described 36.8116 acre tract;

THENCE South 88 degrees 26 minutes 10 seconds West with the North right-of-way line of Schurmier Road at a distance of 2162.38 ft. to a 5/8 inch iron rod set at the Southwest corner of the herein described tract;

THENCE North 1 degree 22 minutes 58 seconds West with the division line between Lots 251 and 252 and passing a 5/8 inch iron rod at the Southeast corner of the William Shoff Estate tract at 2.19 ft. and following an old fence line a total distance of 779.59 ft. (called 779.9 ft.) to 1/2 inch iron rod found at a fence corner marking the Northwest corner of Lot 252, the Northeast corner of Lot 251, the Southeast corner of Lot 194, and the Southwest corner of Lot 193;

THENCE North 88 degrees 26 minutes 10 seconds East with the division line between Lots 193 and 252, and 192 and 253, and 191 and 254 and 255 and with the South line of the Ada Sullivan tract and the South line of the Texas A&M Development Foundation tracts a total distance of 1952.78 ft. to a 5/8 inch iron rod marking the Northeast corner of Lot 255 and the Southwest corner of Lot 191;

THENCE South 16 degrees 26 minutes 44 seconds East with the Westerly right-of-way line of said Mykawa Road a distance of 806.48 ft. to the PLACE OF BEGINNING and containing 36.8116 acres of land.

TRACT VI

All that certain tract or parcel of land lying and being situated in the County of Harris, State of Texas, in the W. J. Lovett Survey, and described by metes and bounds as follows, to-wit:

BEGINNING at the Northeast corner of the tract which is South 13 deg. 25' East 60 feet from the Southeast corner of Block R of the Townsite of Mykawa, Texas, for description of which reference is hereby made to Volume 2, Page 57, of the Map Records of Harris County, Texas;

THENCE North 88 deg. 31' West 1507.1 feet to the Northwest corner of this tract;

THENCE South 1 deg. 29' West 1554.7 feet to the Southwest corner of this tract;

THENCE South 88 deg. 31' East 1920.8 feet to the West edge of Mykawa and Pearland Road for the Southeast corner of this tract;

THENCE North 13 deg. 25' West 1615 feet to the place of beginning, containing 61.1 acres of land, and being the same property conveyed to E. G. Siadous by Peter Martin, et al, by Deed dated February 1, 1928, recorded in Volume 734, Page 606 of the Deed Records of Harris County, Texas.

SECTION 3. (a) The legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published as provided by law, and the notice and a copy of this Act have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished under Section 59, Article XVI, Texas Constitution, and Chapter 313, Government Code.

(b) The governor, one of the required recipients, has submitted the notice and Act to the Texas Commission on Environmental Quality.

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

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

SECTION 4. This Act takes effect September 1, 2005.

The amendment was read.

Senator Ellis moved to concur in the House amendment to **SB 1884**.

The motion prevailed by a viva voce vote.

All Members are deemed to have voted "Yea" on the motion to concur.

SENATE BILL 1257 WITH HOUSE AMENDMENTS

Senator Lindsay called **SB 1257** 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 1257** by adding the following appropriately numbered section to the bill and renumbering existing sections accordingly:

SECTION _____. Sections 545.424(a) and (b), Transportation Code, are amended to read as follows:

(a) A person under 18 years of age, during the six-month period following issuance of an original Class A, B, or C driver's license to the person, may not operate a motor vehicle:

(1) after midnight and before 5 a.m. unless the operation of the vehicle is necessary for the operator to attend or participate in employment or a school-related activity or because of a medical emergency; ~~or~~

(2) with more than one passenger in the vehicle under 21 years of age who is not a family member; or

(3) while using a wireless communications device.

(b) A person under 17 years of age who holds a restricted motorcycle license or moped license, during the six-month period following the issuance of an original motorcycle license or moped license to the person, may not operate a motorcycle or moped:

(1) after midnight and before 5 a.m. unless:

(A) ~~(1)~~ the person is in sight of the person's parent or guardian; or

(B) ~~(2)~~ the operation of the vehicle is necessary for the operator to attend or participate in employment or a school-related activity or because of a medical emergency; or

(2) while using a wireless communications device.

Floor Amendment No. 1 on Third Reading

Amend Floor Amendment No. 1 by Menendez to **SB 1257** on third reading by inserting the following new SECTION:

SECTION __. Subchapter I, Chapter 445, Transportation Code, is amended by adding Section 545.425 to read as follows:

Sec. 545.425. USE OF WIRELESS COMMUNICATION DEVICE BY CERTAIN MOTORISTS. A person may not use a wireless communication device while operating a passenger bus with a minor passenger on the bus except in case of emergency or if the passenger bus is not in motion.

The amendments were read.

Senator Lindsay moved to concur in the House amendments to **SB 1257**.

The motion prevailed by a viva voce vote.

All Members are deemed to have voted "Yea" on the motion to concur.

SENATE BILL 833 WITH HOUSE AMENDMENT

Senator Barrientos called **SB 833** from the President's table for consideration of the House amendment to the bill.

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

Floor Amendment No. 1

Amend **SB 833** in SECTION 1 of the bill, proposed Subsection (h), Section 311.011, Tax Code (House committee printing, page 1, line 8), by striking "3.3" and substituting "1.4".

The amendment was read.

Senator Barrientos moved to concur in the House amendment to **SB 833**.

The motion prevailed by a viva voce vote.

All Members are deemed to have voted "Yea" on the motion to concur.

SENATE BILL 1214 WITH HOUSE AMENDMENT

Senator Barrientos called **SB 1214** from the President's table for consideration of the House amendment to the bill.

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

Amendment

Amend **SB 1214** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED
AN ACT

relating to the selection and retention of an insurance broker by certain counties; imposing an administrative penalty.

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

SECTION 1. Subchapter C, Chapter 262, Local Government Code, is amended by adding Section 262.036 to read as follows:

Sec. 262.036. SELECTION AND RETENTION OF INSURANCE BROKER.

(a) Notwithstanding any other provision in this chapter, a county with a population of 800,000 or more may select an appropriately licensed insurance agent as the sole broker of record to obtain proposals and coverages for insurance that provides necessary coverage and adequate limits of coverage in all areas of risk, including public official liability, property, casualty, workers' compensation, and specific and aggregate stop-loss coverage for self-funded health care.

(b) The county may retain a broker of record selected under this section only on a fee basis paid by the county. A broker of record retained in this manner may not directly or indirectly receive any other remuneration, compensation, or other form of payment from any other source for the placement of insurance business under the broker of record contract.

(c) A broker of record retained under this section may not submit any insurance carrier proposal to the county or direct any county insurance business to an insurance carrier if the broker has a business relationship or proposed business relationship with the carrier, including an appointment, unless the broker first discloses the nature of that relationship or proposed relationship, in writing, to the county.

(d) A broker who violates this section is subject to any disciplinary remedy available under Chapter 82, Insurance Code, or Section 4005.102, Insurance Code, including license revocation and fine.

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

The amendment was read.

Senator Barrientos moved to concur in the House amendment to **SB 1214**.

The motion prevailed by a viva voce vote.

All Members are deemed to have voted "Yea" on the motion to concur.

SENATE BILL 1882 WITH HOUSE AMENDMENT

Senator Jackson called **SB 1882** from the President's table for consideration of the House amendment to the bill.

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

Amendment

Amend **SB 1882** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED
AN ACT

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

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

SECTION 1. Subtitle F, Title 6, Special District Local Laws Code, is amended by adding Chapter 8151 to read as follows:

CHAPTER 8151. GALVESTON COUNTY MUNICIPAL
UTILITY DISTRICT NO. 67

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8151.001. DEFINITIONS. In this chapter:

- (1) "Board" means the board of directors of the district.
- (2) "Director" means a member of the board.
- (3) "District" means the Galveston County Municipal Utility District No.

67.

Sec. 8151.002. NATURE OF DISTRICT. The district is a municipal utility district in Galveston County created under and essential to accomplish the purposes of Section 52, Article III, and Section 59, Article XVI, Texas Constitution.

Sec. 8151.003. CONFIRMATION ELECTION REQUIRED. If the creation of the district is not confirmed at a confirmation election held under Section 8151.023 before September 1, 2007:

- (1) the district is dissolved September 1, 2007, except that:
 - (A) any debts incurred shall be paid;
 - (B) any assets that remain after the payment of debts shall be transferred to Galveston County; and
 - (C) the organization of the district shall be maintained until all debts are paid and remaining assets are transferred; and

(2) this chapter expires September 1, 2010.

Sec. 8151.004. INITIAL DISTRICT TERRITORY. (a) The district is initially composed of the territory described by Section 2 of the Act creating this chapter.

(b) The boundaries and field notes contained in Section 2 of the Act creating this chapter form a closure. A mistake made in the field notes or in copying the field notes in the legislative process does not affect:

- (1) the organization, existence, or validity of the district;
- (2) the right of the district to impose taxes;
- (3) the validity of the district's bonds, notes, or indebtedness; or
- (4) the legality or operation of the district or the board.

[Sections 8151.005-8151.020 reserved for expansion]

SUBCHAPTER A1. TEMPORARY PROVISIONS

Sec. 8151.021. TEMPORARY DIRECTORS. (a) On or after September 1, 2005, a person who owns land inside the boundaries of the proposed district may petition the Texas Commission on Environmental Quality to appoint as temporary directors the five persons listed in the petition.

(b) The commission shall appoint as temporary directors the persons listed in a petition received by the commission under Subsection (a).

(c) If a temporary director fails to qualify for office, the commission shall appoint a person to fill the vacancy.

(d) Temporary directors serve until the earlier of:

(1) the date directors are elected under Section 8151.023; or

(2) the date this chapter expires under Section 8151.003.

Sec. 8151.022. ORGANIZATIONAL MEETING OF TEMPORARY DIRECTORS. As soon as practicable after all the temporary directors have qualified under Section 49.055, Water Code, the temporary directors shall meet at a location in the district agreeable to a majority of the directors. If a location cannot be agreed upon, the meeting shall be at the Galveston County Courthouse. At the meeting, the temporary directors shall elect officers from among the temporary directors and conduct any other district business.

Sec. 8151.023. CONFIRMATION AND INITIAL DIRECTORS' ELECTION. The temporary directors shall hold an election to confirm the creation of the district and to elect five directors as provided by Section 49.102, Water Code.

Sec. 8151.024. INITIAL ELECTED DIRECTORS; TERMS. The directors elected under Section 8151.023 shall draw lots to determine which two shall serve terms expiring June 1 following the first regularly scheduled election of directors under Section 8151.052 and which three shall serve until June 1 following the second regularly scheduled election of directors.

Sec. 8151.025. EXPIRATION OF SUBCHAPTER. This subchapter expires September 1, 2010.

[Sections 8151.026-8151.050 reserved for expansion]

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 8151.051. DIRECTORS; TERMS. (a) The district is governed by a board of five directors.

(b) Directors serve staggered four-year terms that expire June 1 of even-numbered years.

Sec. 8151.052. ELECTION OF DIRECTORS. On the uniform election date in May of each even-numbered year, the appropriate number of directors shall be elected.

[Sections 8151.053-8151.100 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

Sec. 8151.101. MUNICIPAL UTILITY DISTRICT POWERS AND DUTIES. The district has the powers and duties provided by the general law of this state, including Chapters 49 and 54, Water Code, applicable to municipal utility districts created under Section 59, Article XVI, Texas Constitution.

Sec. 8151.102. ROAD PROJECTS. (a) To the extent authorized by Section 52, Article III, Texas Constitution, the district may construct, acquire, improve, maintain, or operate macadamized, graveled, or paved roads or turnpikes, or improvements in aid of those roads or turnpikes, inside the district.

(b) A road project must meet all applicable construction standards, zoning and subdivision requirements, and regulatory ordinances of the municipality or county in whose jurisdiction the district is located.

(c) The district may not undertake a road project unless each municipality or county in whose jurisdiction the district is located consents by ordinance or resolution.

Sec. 8151.103. LIMITATION ON USE OF EMINENT DOMAIN. The district may exercise the power of eminent domain outside the district only to acquire an easement necessary for a pipeline that serves the district.

Sec. 8151.104. COMPLIANCE WITH MUNICIPAL CONSENT ORDINANCES OR RESOLUTIONS. Subject to the limitations of Section 54.016, Water Code, the district shall comply with all applicable requirements of any ordinance or resolution adopted by the city council of the City of Texas City, including an ordinance or resolution adopted before September 1, 2005, that consents to the creation of the district or to the inclusion of lands within the district.

Sec. 8151.105. DIVISION OF DISTRICT. The district may divide into two or more districts in the manner provided by Section 53.029, Water Code, if the district:

- (1) has no outstanding bonded debt; and
- (2) is not imposing an ad valorem tax.

[Sections 8151.106-8151.150 reserved for expansion]

SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

Sec. 8151.151. TAX TO REPAY BONDS. The district may impose a tax to pay the principal of or interest on bonds issued under Section 8151.201.

Sec. 8151.152. UTILITY PROPERTY EXEMPT FROM IMPACT FEES AND ASSESSMENTS. The district may not impose an impact fee or assessment on the property, including the equipment, rights-of-way, facilities, or improvements, of:

(1) an electric utility or a power generation company as defined by Section 31.002, Utilities Code;

(2) a gas utility as defined by Section 101.003 or 121.001, Utilities Code;

(3) a telecommunications provider as defined by Section 51.002, Utilities Code; or

(4) a person who provides to the public cable television or advanced telecommunications services.

[Sections 8151.153-8151.200 reserved for expansion]

SUBCHAPTER E. BONDS

Sec. 8151.201. AUTHORITY TO ISSUE BONDS AND OTHER OBLIGATIONS. (a) The district may issue bonds or other obligations as provided by Chapters 49 and 54, Water Code, to finance the construction, maintenance, or operation of projects under Sections 8151.101 and 8151.102.

(b) The district may not issue bonds under Subsection (a) unless the issuance is approved by a vote of a two-thirds majority of the voters of the district voting at an election called for that purpose.

(c) Bonds or other obligations issued or incurred to finance projects authorized by Section 8151.102 may not exceed one-fourth of the assessed value of the real property in the district.

(d) Sections 49.181 and 49.182, Water Code, do not apply to a project undertaken by the district under Section 8151.102 or to bonds issued by the district to finance the project.

SECTION 2. The Galveston County Municipal Utility District No. 67 initially includes all the territory contained in the following area:

METES AND BOUNDS:

ALL OF THE FOLLOWING TRACTS OUT OF SAN LEON FARM HOME TRACTS, A SUBDIVISION IN GALVESTON COUNTY, TEXAS, ACCORDING TO THE MAP OR PLAT THEREOF RECORDED IN VOLUME 238, PAGE 25, IN THE OFFICE OF THE COUNTY CLERK OF GALVESTON COUNTY, TEXAS. [All references to "Volume ___, Page(s) ___," are to the Deed Records or other records in the Office of the County Clerk of Galveston County, Texas];

(PARCEL A) BLOCK 56: LOTS 6, 7 and 8

(PARCEL B) BLOCK 66, together with that portion designated as Motor Car right-of-way lying within the boundary lines of said Block.

(PARCEL C) BLOCK 67, together with that portion designated as Motor Car right-of-way lying within the boundaries lines of said Block, SAVE AND EXCEPT that portion thereof conveyed to Houston Lighting and Power Company by instrument recorded in Volume 1403, Page 203, and being further described by metes and bounds in the Parcel C description ATTACHED hereto and made a part hereof.

(PARCEL D) BLOCK 68: LOTS 7 and 8, SAVE AND EXCEPT those portions thereof conveyed to Houston Lighting and Power Company by instruments recorded in Volume 1403, Pages 203 and 205, and being further described by metes and bounds in Parcel D description ATTACHED hereto and made a part hereof.

(PARCEL E) BLOCK 70, SAVE AND EXCEPT that portion thereof conveyed to Houston Lighting and Power Company by instrument recorded in Volume 1403, Page 200, and being further described by metes and bounds in the Parcel E description ATTACHED hereto and made a part hereof.

(PARCEL F) BLOCK 71, which DOES NOT INCLUDE that portion thereof designated for railroad right-of-way, AND SAVE AND EXCEPT that portion of Lots 2 and 2A in said Block conveyed to Houston Lighting and Power Company by instrument recorded in Volume 1403, Page 200, and being further described by metes and bounds in two (2) parts in Parcel F description ATTACHED hereto and made a part hereof.

(PARCEL G) BLOCK 72, which DOES NOT INCLUDE that portion thereof designated for railroad right-of-way, and being further described by metes and bounds in two (2) parts in the Parcel G description ATTACHED hereto and made a part hereof.

(PARCEL H) BLOCK 73, together with that portion designated as Motor Car right-of-way lying within the boundaries of said Block.

(PARCEL I) BLOCK 85, and being further described by metes and bounds in the Parcel I description ATTACHED hereto and made a part hereof.

(PARCEL J) BLOCK 82: Lots 1, 1A, 2, and 2A, which DOES NOT INCLUDE that portion thereof designated for railroad right-of-way, and being further described by metes and bounds in the Parcel J description ATTACHED hereto and made a part hereof.

TRACT I - Parcel "C"

METES AND BOUNDS DESCRIPTION OF PART OF BLOCK 67, SAN LEON FARM HOME TRACTS, A SUBDIVISION IN GALVESTON COUNTY, TEXAS, ACCORDING TO THE MAP OR PLAT RECORDED IN VOLUME 238, PAGE 25 IN THE OFFICE OF THE COUNTY CLERK OF GALVESTON COUNTY, TEXAS.

BEGINNING at the Southwest corner of Lot 8, Block 67, said point being the intersection of the North line of Avenue "Q," 60 feet right of way, with the East line of 27th Street, 60 foot right of way;

THENCE from said beginning point N14° 17' 00" E, along the West line of Lots 8 and 1, a distance of 1260.00 feet to a point for corner being the Northwest corner of Lot 1;

THENCE S75° 43' 00" E, along the North line of Lots 1, 2 and 3, a distance of 766.43 feet to a point for corner in the West line of an H.L. & P. Company Tract recorded in Volume 1403, Page 203 in the Office of the County Clerk of Galveston County, Texas;

THENCE along the West and South line of said H.L. & P. Company Tract S14° 17' 00" W 65.50 feet and S34° 35' 10" E 818.40 feet to a point for corner in the East line of Lot 4;

THENCE S14° 17' 00" W, along the East line of Lots 4 and 5, a distance of 656.18 feet to a point for corner by the Southeast corner of Lot 5;

THENCE N75° 43' 00" W, a distance of 1380.86 feet to the place of beginning and containing 35.2641 acres, more or less.

(Part of Block 67/35.2641 Acres)

TRACT I - Parcel "D"

METES AND BOUNDS DESCRIPTION OF PART OF BLOCK 68, SAN LEON FARM HOME TRACTS, A SUBDIVISION IN GALVESTON COUNTY, TEXAS, ACCORDING TO THE MAP OR PLAT RECORDED IN VOLUME 239, PAGE 25 IN THE OFFICE OF THE COUNTY CLERK OF GALVESTON COUNTY, TEXAS.

BEGINNING at the Southwest corner of Lot 8, Block 58, said point being the intersection of the North line of Avenue "Q," 60 foot right of way, with the East right of way line of 26th Street, 60 foot right of way;

THENCE from said beginning point N14° 17' 00" E, along the West line of Lot 8, a distance of 603.78 feet to a point for corner in the South line of an H.L.& P. Company Tract recorded in Volume 1403, Pages 203 and 205 in the Office of the County Clerk of Galveston County, Texas;

THENCE S34° 35' 10" E, along the South line of said H.L.& P. Company Tract, a distance of 917.91 feet to a point for corner in the South line of Lot 7;

THENCE N75° 43' 00" W, along the South line of Lots 7 and 8, a distance of 691.38 feet to the place of beginning and containing 4.7916 acres, more or less.

(Part of Block 68/4.7916 Acres)

TRACT I, PARCEL "E"

METES AND BOUNDS DESCRIPTIONS OF PART OF BLOCK 70, SAN LEON FARM HOME TRACTS, A SUBDIVISION IN GALVESTON COUNTY, TEXAS, ACCORDING TO THE MAP OR PLAT RECORDED IN VOLUME 238, PAGE 25 IN THE OFFICE OF THE COUNTY CLERK OF GALVESTON COUNTY, TEXAS.

BEGINNING at the South corner of Block 70, said point being the intersection of the North line of Avenue "R," 60 foot right of way, with the East line of 25th Street, 60 foot right of way;

THENCE from said beginning point N28° 24' 30" E, along the East line of said Block 70, a distance of 561.12 feet to a point for corner in the South line of an H.L. & P. Company Tract recorded in Volume 1403, Page 200 in the Office of the County Clerk of Galveston County, Texas;

THENCE along the South line of said H.L. & P. Company Tract, N34° 35' 10" W 176.86 feet, N25° 07' 40" E 252.97 feet and N34° 50' 30" W 87.87 feet to a point for corner in the West line of said Block 70, said point lying in the East line of 25th Street;

THENCE S14° 17' 00" W, along the West line of said Block 70 and the East line of 25th Street, a distance of 953.35 feet to the place of beginning and containing 1.2263 acres, more or less.

(Part of Block 70/1.2263 Acres)

TRACT I, PARCEL "F"-(a)

METES AND BOUNDS DESCRIPTIONS OF PART OF BLOCK 71, SAN LEON FARM HOME TRACTS, A SUBDIVISION IN GALVESTON COUNTY, TEXAS, ACCORDING TO THE MAP OR PLAT RECORDED IN VOLUME 238, PAGE 25 IN THE OFFICE OF THE COUNTY CLERK OF GALVESTON COUNTY, TEXAS.

BEGINNING at the Northwest corner of Lot 1, Block 71, said point being the intersection of the South right of way line of Avenue "Q," 60 foot right of way, with the East right of way line of 26th Street, 60 foot right of way;

THENCE from said beginning point S75° 43' 00" E, along the North line of Lots 1, 1A and 2, Block 71, a distance of 760.09 feet to a point for corner in the Southwesterly line of an H.L. & P. Company Tract as recorded in Volume 1403, Page 200 in the Office of the County Clerk of Galveston County, Texas;

THENCE S34° 35' 10" E, along the Westerly line of said H.L. & P. Company Tract, a distance of 12.46 feet to a point for corner in the Northerly line of an S.P.T. Corporation Tract;

THENCE S60° 30' W, along the North line of said S.P.T. Corporation Tract, a distance of 795.17 feet to the P.C. of a curve;

THENCE continuing along the North line of said S.P.T. Corporation Tract around a curve to the right whose radius is 9900.00 feet, whose chord bears S61° 16' 24" W 267.20 feet, a distance of 267.21 feet to a point for corner in the West line of Lot 4, Block 71;

THENCE W14° 17' 00" E, along the West line of Lots 4 and 1, Block 71, a distance of 740.66 feet to the place of beginning and containing 6.6499 acres, more or less.

(Part of Block 71/6.6499 acres)

TRACT I, PARCEL "F"-(b)

METES AND BOUNDS DESCRIPTIONS OF PART OF BLOCK 71, SAN LEON FARM HOME TRACTS, A SUBDIVISION IN GALVESTON COUNTY, TEXAS, ACCORDING TO THE MAP OR PLAT RECORDED IN VOLUME 238, PAGE 25 IN THE OFFICE OF THE COUNTY CLERK OF GALVESTON COUNTY, TEXAS.

BEGINNING at the Southwest corner of Lot 4, Block 71, said point being the intersection of the North right of way line of Avenue "R," 60 foot right of way, with the East right of way line of 26th Street, 60 foot right of way;

THENCE from said beginning point N14° 17' 00" E, along the West line of Lot 4, a distance of 384.02 feet to a point for corner in the South line of an S.P.T. Corporation Tract;

THENCE in an Easterly direction, around a curve to the left whose radius is 10,000.00 feet, whose chord bears N61°31'56" E 360.31 feet, a distance of 360.33 feet to the P.T. of said curve;

THENCE N60°30' 00" E, continuing along the South line of said S.P.T. Corporation Tract, a distance of 804.07 feet to a point for corner in the Southwesterly line of an H.L.& P. Company Tract as recorded in Volume 1403, Page 200 in the Office of the County Clerk of Galveston County, Texas;

THENCE S34° 35' 10" E, along the Southwesterly line of said H.L. & P. Company Tract, a distance of 713.97 feet to a point for corner in the East line of Lot 2-A;

THENCE S14° 17' 00" W, along the East line of Lots 2-A and 3-A, a distance of 716.14 feet to a point for corner being the Southeast corner of Lot 3-A;

THENCE N75° 43' 00" W, along the South line of Lots 3-A, 3, 4-A and 4, a distance of 1392.86 feet to the place of beginning and containing 26.9063 acre, more less.

(Part of Block 71/26.9063 Acres)

TRACT I, PARCEL "G"-(a)

METES AND BOUNDS DESCRIPTIONS OF PART OF BLOCK 72, SAN LEON FARM HOME TRACTS, A SUBDIVISION IN GALVESTON COUNTY, TEXAS, ACCORDING TO THE MAP OR PLAT RECORDED IN VOLUME 238, PAGE 25 IN THE OFFICE OF THE COUNTY CLERK OF GALVESTON COUNTY, TEXAS.

BEGINNING at the Southwest corner of Lot 4, Block 72, said point being the intersection of the North line of Avenue "R," 60 foot right of way, with the East right of way line of 27th Street, 60 foot right of way;

THENCE N14° 17' 00" E, along the West line of Lots 4 and 1, a distance of 1260.00 feet to a point for corner being the Northwest corner of Lot 1;

THENCE S75° 43' 00" E, along the North line of Lots 1, 1-A, 2 and 2-A, a distance of 1382.86 feet to a point for corner being the Northeast corner of Lot 2-A;

THENCE S14° 17' 00" W, along the East line of Lots 2-A and 3-A, a distance of 794.69 feet to a point in the North line of an S.P.T. Company Tract;

THENCE in a Westerly direction, around a curve to the right whose radius is 9900.00 feet, whose chord bears S64° 37' 26" W 729.07 feet, a distance of 729.23 feet to a point for corner in the South line of Lot 3;

THENCE N75° 43' 00" W, along the South line of Lots 3, 4-A and 4, a distance of 921.58 feet to the place of beginning and containing 37.0022 acres, more or less.

(Part of Block 72/37.0022 Acres)

TRACT I, PARCEL "G"-(b)

METES AND BOUNDS DESCRIPTIONS OF PART OF BLOCK 72, SAN LEON FARM HOME TRACTS, A SUBDIVISION IN GALVESTON COUNTY, TEXAS, ACCORDING TO THE MAP OR PLAT RECORDED IN VOLUME 238, PAGE 25 IN THE OFFICE OF THE COUNTY CLERK OF GALVESTON COUNTY, TEXAS.

BEGINNING at the Southwest corner of Lot 3-A, Block 72, said point being the intersection of the North line of Avenue "R," 60 foot right of way, with the West right of way line of 26th Street, 60 foot right of way;

THENCE from said beginning point N75° 43' 00" W, along the South line of Lots 3-A and 3, a distance of 398.66 feet to a point for corner;

THENCE in an Easterly direction, around a curve to the left whose radius is 10,000.00 feet, whose chord bears N64° 30' 33" E 518.57 feet, a distance of 518.62 feet to a point for corner in the West line of Lot 3-A;

THENCE South, along the East line of Lot 3-A, a distance of 331.76 feet to the place of beginning and containing 1.4910 acre, more or less.

(Part of Block 72/1.4910 Acres)

TRACT I-Parcel "I"

METES AND BOUNDS DESCRIPTIONS OF PART OF BLOCK 85, SAN LEON FARM HOME TRACTS, A SUBDIVISION IN GALVESTON COUNTY, TEXAS, ACCORDING TO THE MAP OR PLAT RECORDED IN VOLUME 238, PAGE 25 IN THE OFFICE OF THE COUNTY CLERK OF GALVESTON COUNTY, TEXAS.

BEGINNING at the Northwest corner of Lot 1, Block 85, said point being the intersection of the South line of Avenue "R," 60 foot right of way, with the East right of way line of 26th Street, 60 foot right of way;

THENCE from said beginning point S75° 43' 00" E, along the North line of Lots 1, 1-A, 2 and 2-A, in Block 85, a distance of 1382.86 feet to a point for corner being the Northeast corner of Lot 2-A;

THENCE S18° 54' 45" W, along the East line of Lots 2-A and 3-A, in Block 85, a distance of 1239.04 feet to a point for corner being the Southeast corner of Lot 3-A and Block 85;

THENCE in an Easterly direction, along the South line of Block 85 as follows:

S74° 36' 37" W, 282.80 feet

N75° 43' 00" W, 585.71 feet and

N34° 31' 51" W, 599.84 feet to a point for corner

being the Southwest corner of Lot 4 and Block 85;

THENCE N14° 17'00"E, along the West line of Lots 4 and 1, in Block 85, a distance of 980.00 feet to the place of beginning and containing 39.4702 acres, more or less.

(Block 85/39.4702 Acres)

TRACT 1-PARCEL "J"

METES AND BOUNDS DESCRIPTIONS OF PART OF BLOCK 83, SAN LEON FARM HOME TRACTS, A SUBDIVISION IN GALVESTON COUNTY, TEXAS, ACCORDING TO THE MAP OR PLAT RECORDED IN VOLUME 238, PAGE 25 IN THE OFFICE OF THE COUNTY CLERK OF GALVESTON COUNTY, TEXAS.

BEGINNING at the Northwest corner of Lot 1, Block 83, said point being the intersection of the South line of Avenue "R," 60 foot right of way, with the East right of way line of 28th Street, 60 foot right of way;

THENCE from said beginning corner S75° 43'00" E, along the North line of Lots 1, 1-A, 2 and 2-A, a distance of 1382.86 feet to a point for corner being the Northeast corner of Lot 2-A;

THENCE S14° 17'00" W, along the East line of Lot 2-A, a distance of 601.33 feet to a point for corner in the North line of an S.P.T. Company Tract;

THENCE S67° 26'50" W, along the North line of said S.P.T. Company Tract, a distance of 47.81 feet to a point for corner in the South line of Lot 2-A;

THENCE N75° 43'00" W, along the South line of Lots 2-A, 2, 1-A and 1, a distance of 1344.59 feet, being the Southwest corner of Lot 1;

THENCE N14° 17'00" E, along the West line of Lot 1, a distance of 630.00 feet to the place of beginning and containing 19.9874 acres, more or less.

(Part of Block 83/19.9874 Acres)

SECTION 3. (a) The legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published as provided by law, and the notice and a copy of this Act have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished under Section 59, Article XVI, Texas Constitution, and Chapter 313, Government Code.

(b) The governor, one of the required recipients, has submitted the notice and Act to the Texas Commission on Environmental Quality.

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

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

SECTION 4. This Act takes effect September 1, 2005.

The amendment was read.

Senator Jackson moved to concur in the House amendment to **SB 1882**.

The motion prevailed by a viva voce vote.

All Members are deemed to have voted "Yea" on the motion to concur.

SENATE BILL 1865 WITH HOUSE AMENDMENT

Senator Jackson called **SB 1865** from the President's table for consideration of the House amendment to the bill.

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

Amendment

Amend **SB 1865** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED
AN ACT

relating to the creation of the Galveston County Municipal Utility District No. 53; providing authority to impose a tax and issue bonds; granting the power of eminent domain.

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

SECTION 1. Subtitle F, Title 6, Special District Local Laws Code, is amended by adding Chapter 8131 to read as follows:

CHAPTER 8131. GALVESTON COUNTY MUNICIPAL
UTILITY DISTRICT NO. 53
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8131.001. DEFINITIONS. In this chapter:

- (1) "Board" means the board of directors of the district.
- (2) "Director" means a member of the board.
- (3) "District" means the Galveston County Municipal Utility District No.

53.

Sec. 8131.002. NATURE OF DISTRICT. The district is a municipal utility district in Galveston County created under and essential to accomplish the purposes of Section 52, Article III, and Section 59, Article XVI, Texas Constitution.

Sec. 8131.003. CONFIRMATION ELECTION REQUIRED. If the creation of the district is not confirmed at a confirmation election held under Section 8131.023 before September 1, 2009:

(1) the district is dissolved September 1, 2009, except that:

- (A) any debts incurred shall be paid;
- (B) any assets that remain after the payment of debts shall be transferred to Galveston County; and
- (C) the organization of the district shall be maintained until all debts are paid and remaining assets are transferred; and

(2) this chapter expires September 1, 2010.

Sec. 8131.004. INITIAL DISTRICT TERRITORY. (a) The district is initially composed of the territory described by Section 2 of the Act creating this chapter.

(b) The boundaries and field notes contained in Section 2 of the Act creating this chapter form a closure. A mistake made in the field notes or in copying the field notes in the legislative process does not affect:

- (1) the organization, existence, or validity of the district;
- (2) the right of the district to impose taxes;
- (3) the validity of the district's bonds, notes, or indebtedness; or
- (4) the legality or operation of the district or the board.

Sec. 8131.005. APPLICABILITY OF OTHER LAW. Except as otherwise provided by this chapter, Chapters 49 and 54, Water Code, apply to the district.

[Sections 8131.006-8131.020 reserved for expansion]

SUBCHAPTER A1. TEMPORARY PROVISIONS

Sec. 8131.021. TEMPORARY DIRECTORS. (a) On or after September 1, 2005, a person who owns land inside the boundaries of the proposed district may petition the Texas Commission on Environmental Quality to appoint as temporary directors the five persons listed in the petition.

(b) The commission shall appoint as temporary directors the persons listed in a petition received by the commission under Subsection (a). If the commission receives more than one petition, the commission shall appoint the directors listed in the first petition the commission receives.

(c) If a temporary director fails to qualify for office, the commission shall appoint a person to fill the vacancy.

(d) Temporary directors serve until the earlier of:

(1) the date directors are elected under Section 8131.023; or

(2) the date this chapter expires under Section 8131.003.

Sec. 8131.022. ORGANIZATIONAL MEETING OF TEMPORARY DIRECTORS. As soon as practicable after all the temporary directors have qualified under Section 49.055, Water Code, the temporary directors shall meet at a location in the district agreeable to a majority of the directors. If a location cannot be agreed upon, the meeting shall be at the Galveston County Courthouse. At the meeting, the temporary directors shall elect officers from among the temporary directors and conduct any other district business.

Sec. 8131.023. CONFIRMATION AND INITIAL DIRECTORS' ELECTION. The temporary directors shall hold an election to confirm the creation of the district and to elect five directors as provided by Section 49.102, Water Code.

Sec. 8131.024. INITIAL ELECTED DIRECTORS; TERMS. The directors elected under Section 8131.023 shall draw lots to determine which two shall serve terms expiring June 1 following the first regularly scheduled election of directors under Section 8131.052 and which three shall serve until June 1 following the second regularly scheduled election of directors.

Sec. 8131.025. EXPIRATION OF SUBCHAPTER. This subchapter expires September 1, 2010.

[Sections 8131.026-8131.050 reserved for expansion]

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 8131.051. DIRECTORS; TERMS. (a) The district is governed by a board of five directors.

(b) Directors serve staggered four-year terms that expire June 1 of even-numbered years.

Sec. 8131.052. ELECTION OF DIRECTORS. On the uniform election date in May of each even-numbered year, the appropriate number of directors shall be elected.

[Sections 8131.053-8131.100 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

Sec. 8131.101. GENERAL POWERS. The district has all of the rights, powers, privileges, authority, functions, and duties provided by the general law of this state, including Chapters 49 and 54, Water Code, applicable to municipal utility districts created under Section 59, Article XVI, Texas Constitution.

Sec. 8131.102. ROAD PROJECTS. (a) To the extent authorized by Section 52, Article III, Texas Constitution, the district may construct, acquire, improve, maintain, or operate macadamized, graveled, or paved roads or turnpikes, or improvements in aid of those roads or turnpikes, inside the district.

(b) A road project must meet all applicable construction standards, zoning and subdivision requirements, and regulatory ordinances of the municipality or county in whose jurisdiction the district is located.

(c) The district may not undertake a road project unless each municipality or county in whose jurisdiction the district is located consents by ordinance or resolution.

Sec. 8131.103. LIMITATION ON USE OF EMINENT DOMAIN. The district may exercise the power of eminent domain outside the district only to acquire an easement necessary for a pipeline that serves the district.

Sec. 8131.104. COMPLIANCE WITH MUNICIPAL CONSENT ORDINANCES OR RESOLUTIONS. Subject to the limitations of Section 54.016, Water Code, the district shall comply with all applicable requirements of any ordinance or resolution adopted by the city council of the City of Texas City, including an ordinance or resolution adopted before September 1, 2005, that consents to the creation of the district or to the inclusion of lands within the district.

[Sections 8131.105-8131.150 reserved for expansion]

SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

Sec. 8131.151. TAX TO REPAY BONDS. The district may impose a tax to pay the principal of or interest on bonds issued under Section 8131.201.

Sec. 8131.152. UTILITY PROPERTY EXEMPT FROM IMPACT FEES AND ASSESSMENTS. The district may not impose an impact fee or assessment on the property, including the equipment, rights-of-way, facilities, or improvements, of:

(1) an electric utility or a power generation company as defined by Section 31.002, Utilities Code;

(2) a gas utility as defined by Section 101.003 or 121.001, Utilities Code;

(3) a telecommunications provider as defined by Section 51.002, Utilities Code; or

(4) a person who provides to the public cable television or advanced telecommunications services.

[Sections 8131.153-8131.200 reserved for expansion]

SUBCHAPTER E. BONDS

Sec. 8131.201. AUTHORITY TO ISSUE BONDS AND OTHER OBLIGATIONS. (a) The district may issue bonds or other obligations as provided by Chapters 49 and 54, Water Code, to finance the construction, maintenance, or operation of projects under Sections 8131.101 and 8131.102.

(b) The district may not issue bonds to finance projects authorized by Section 8131.102 unless the issuance is approved by a vote of a two-thirds majority of the voters of the district voting at an election called for that purpose.

(c) Bonds or other obligations issued or incurred to finance projects authorized by Section 8131.102 may not exceed one-fourth of the assessed value of the real property in the district.

(d) Sections 49.181 and 49.182, Water Code, do not apply to a project undertaken by a district under Section 8131.102 or to bonds issued by the district to finance the project.

SECTION 2. The Galveston County Municipal Utility District No. 53 initially includes all the territory contained in the following area:

TRACT I:

BEING a 299.300-acre (13,037,520 square foot) tract of land out of the W.G. BANK SURVEY, A-36, Galveston County, Texas, being out of Lots 2 through 4 and 6 through 21 of the J.F. DUGAT SUBDIVISION as recorded in Volume 141, Page 37 of the Galveston County Deed Records, being out of the remainder of a 249.2069-acre tract of land conveyed to B.C. Schroeder, Jr., Trustee, as recorded in Volume 1741, Pages 903 and 908 of the Galveston County Deed Records, being out of a 60.0-acre tract of land conveyed to B.C. Schroeder, Jr., Trustee, as recorded under Galveston County Clerk's File No. 8457526, being out of a 10-acre tract of land conveyed to B.C. Schroeder, Jr., Trustee, as recorded under Galveston County Clerk's File No. 8440855 and being more particularly described by metes and bounds as follows with the basis of bearings being the Texas State Plane Coordinate System, South: Central Zone;

BEGINNING at a 5/8-inch iron rod with cap stamped "Weisser Eng. Houston, Tx." set in the Easterly, line of a 51.1-acre tract of land conveyed to Frank Riley as recorded in Volume 1579, Page 114 of the Galveston County Deed Records for the Southwesterly corner of a 23.762-acre tract of land described as "Tract IV" as conveyed to League City Investors, Ltd. as recorded under Galveston County Clerk's File No. 2002045006, for the Northwesterly corner of said. 60.0-acre tract and for the Northwesterly corner of this tract;

THENCE North 87° 06' 54" East, a distance of 2,630.78 feet with the Southerly line of said 23.762-acre tract, with the Southerly line of a 7.396-acre tract of land described as "Tract VI" as conveyed to League City Investors, Ltd. as recorded under Galveston County Clerk's File No. 2002045006, with the Southerly line of a tract of land described as "Tract 3" as conveyed to Dan Mihailovich and Stephen Wormington as recorded under Galveston County Clerk's File No. 2000023039 and with the Southerly line of the Wilken's Family Partners, LP 9.036-acre tract as recorded under Galveston County Clerk's File No. 2002020372 to a 5/8-inch iron rod with cap stamped "Weisser Eng. Houston Tx." set for the Northeasterly corner of this tract;

THENCE South 03° 04' 21" West, a distance of 3,965.57 feet with the Westerly line of Jones Subdivision as recorded in Volume 134, Page 10 of the Galveston County Deed Records to a 5/8-inch iron rod with cap stamped "Weisser Eng. Houston, Tx." set for a Southeasterly corner of this tract;

THENCE South $86^{\circ} 55' 39''$ West, a distance of 1,200.00 feet with the Northerly line of Lot 5 of said J.F. Dugat Subdivision to a 5/8-inch iron rod with cap stamped "Weisser Eng. Houston, Tx." set for an interior corner of this tract;

THENCE South $03^{\circ} 04' 21''$ East, a distance of 180.00 feet with the Westerly line of said Lot 5 to a 5/8-inch iron rod with cap stamped "Weisser Eng. Houston, TX." set for an interior corner of this tract, from which a 1/2-inch iron pipe found bears North $05^{\circ} 49' 47''$ East, a distance of 1.53 feet;

THENCE North $86^{\circ} 55' 39''$ East, a distance of 1,200.00 feet with the Southerly line of said Lot 5 to a 1/2-inch iron pipe found for Northeastly corner of this tract;

THENCE South $03^{\circ} 04' 21''$ East, a distance of '1,049.51 feet with the Westerly line of said Jones Subdivision to a 5/8-inch iron rod with cap stamped " Weisser Eng. Houston, Tx." set for a Southeastly corner of this tract;

THENCE South $86^{\circ} 13' 29''$ West, a distance of 1.88 feet with the Northerly line of the remainder of a 6.75-acre tract of land described as "Tract II" as conveyed to B.C. Schroeder, Jr. as recorded under Galveston County Clerk's File No. 8938252 to a 1-inch iron pipe for an interior corner of this tract;

THENCE South $02^{\circ} 58' 41''$ East, a distance of 572.31 feet with the Westerly line of said 6.75-acre tract to a 1-1/2-inch iron pipe found for the Southeastly corner of this tract;

THENCE South $85^{\circ} 56' 43''$ West, a distance of 790.67 feet with the Northerly line of a tract of land conveyed to Sylvia A. Cantu as recorded under Galveston County Clerk's File No. 2003019644 to a 1-1/4-inch pipe found in the Northeastly bank of Gum Bayou for the most Southwestly corner of this tract;

THENCE in a Northwestly direction with the meanders of the Northeastly bank of Gum Bayou the following bearings and distances:

- North $07^{\circ} 52' 40''$ West, a distance of 230.73 feet to an angle point;
- North $34^{\circ} 56' 52''$ West, a distance of 62.34 feet to an angle point;
- North $15^{\circ} 16' 59''$ West, a distance of 137.48 feet to an angle point;
- North $69^{\circ} 51' 27''$ West, a distance of 129.69 feet to an angle point;
- North $51^{\circ} 21' 01''$ West, a distance of 112.26 feet to an angle' point;
- North $28^{\circ} 39' 42''$ West, a distance of 165.49 feet to an angle point;
- North $11^{\circ} 30' 11''$ West, a distance of 147.82 feet to an angle point;
- North $67^{\circ} 30' 52''$ West, a distance of 372.50 feet to a angle point;
- North $52^{\circ} 59' 20''$ West, a distance of 167.58 feet to an angle point;
- North $83^{\circ} 30' 14''$ West, a distance of 96.30 feet to an angle point;
- South $60^{\circ} 12' 03''$ West, a distance of 234.97 feet to an angle point;
- North $50^{\circ} 49' 04''$ West, a distance of 164.88 feet to an angle point;
- North $01^{\circ} 40' 36''$ West, a distance of 118.20 feet to an angle point;
- North $35^{\circ} 10' 41''$ West, a distance of 161.56 feet to an angle point;
- South $76^{\circ} 07' 56''$ West, a distance of 214.7 feet to an angle point;
- North $10^{\circ} 00' 01''$ East, a distance of 100.00 feet to an angle point;
- North $11^{\circ} 03' 16''$ West, a distance of 226.60 feet to an angle point;
- North $41^{\circ} 23' 18''$ West, a distance of 146.85 feet to an angle point;
- North $78^{\circ} 26' 05''$ West, a distance of 91.92 feet to an angle point;

South 78° 08' 03" West, a distance of 90.99 feet to a 5/8-inch iron rod with cap stamped "Weisser Eng. Houston, Tx." set for the most Westerly Southwesterly corner of this tract;

THENCE North 03° 01' 00" West, a distance of 4,000.08 feet with the Easterly line of an 81.99-acre tract of land conveyed to NationsBank of Texas, N.A. as recorded under Galveston County Clerk's File No. 9746910, with the Easterly line of a 20.387-acre tract of land conveyed to Seymour B. Shwiff and Joseph J. Tramonte as recorded under Galveston County Clerk's File No. 9928141, with the Easterly line of a tract of land conveyed to Tracy D. High as recorded under Galveston County Clerk's File No. 9921239 and with the Easterly line of said 51.1-acre tract TO THE POINT OF BEGINNING and CONTAINING 299.300 acres (13,037,520 square feet) of land.

TRACT II:

BEING a 6.637 acre (289,089 square foot) tract of land out of the J.S. SHERMAN SURVEY, A-181, Galveston County, Texas, being out of Lot L of Jones Subdivision as recorded in Volume 134, Page 10 of the Galveston County Deed Records, being but of a .75 acre tract of land described as "Tract II" conveyed to B.C. Schroeder, Jr. as recorded under Galveston County Clerk's File No. 8938252 and being more particularly described by metes and bounds as follows with the basis of bearings being the Texas State Plane Coordinate System, South Central Zone:

BEGINNING at a 5/8-inch-iron rod with cap stamped "Weisser Eng. Houston, TX." Set in the northerly right-of-way line of F.M. Road No. 517 (90 feet wide) for the southeasterly corner of a tract of land conveyed to Sylvia A. Cantu as recorded under Galveston County Clerk's File No. 2003019644 and for the southwesterly corner of this tract;

THENCE North 02° 58' 41" West, a distance of 1,050.28 feet with the easterly line of said Sylvia A. Cantu tract and with the easterly line of the remainder of a 249.2069 acre tract of land conveyed to B.C. Schroeder, Jr., Trustee, as recorded in Volume 1741, Page 903 of the Galveston County Deed Records to a 1-inch iron pipe found for the northwesterly corner of this tract.;

THENCE North 86° 13' 29" East, a distance of 279.22 feet to a 1 inch iron pipe found for the northeasterly corner of this tract;

THENCE South 03° 01' 14" East, a distance of 1,013.79 feet to a 1 inch iron pipe found in the northerly right-of-way line of said F.M. Road No. 517 for the southeasterly corner of this tract;

"THENCE South 77° 41' 21" West, a distance of 158.70 feet with the northerly right-of-way line of said F.M. Road No. 517 to a 5/8 inch iron rod with cap stamped "Weisser Eng. Houston, Tx." Set for a point-of-curvature;

THENCE in a westerly direction with the northerly right-of-way line of said F.M. Road No. 517 and with a tangent curve to the right having a radius of 1,387.39, a central angle 05° 07' 52", and a length of 124.25 feet and a chord bearing South 80° 15' 17" West, a distance of 124.21 feet to the POINT OF BEGINNING and CONTAINING 6.637 acres

TRACT III:

Lot Five (5) of the J.F. Dugat Subdivision of the Wm. G. Banks Survey, Abstract 36, in Galveston County, Texas, according to the map of said subdivision recorded in Volume 141, Page 37, in the Office of the County Clerk of Galveston County, Texas.

TRACT IV:

BEING a 47.485-acre (2,068.447 square foot) tract of land out of the J. S. SHERMAN SURVEY, A-181, Galveston County, Texas, being out of Lots H, I and J of the JONES SUBDIVISION as recorded in Volume 134, Page 10 of the Galveston County Deed Records, said Lots H, I and J being conveyed to Johnny H. Huynh and Tham T. Nguyen as recorded under Galveston County Clerk's File No. 2001045439 and-being more particularly described by metes and bounds as follows with the basis of bearing being the Texas State Plane Coordinate System, South Central Zone:

BEGINNING at a 5/8-inch iron rod with cap found in the Easterly line of the J.F. Dugat Subdivision as recorded in Volume 141, Page 37 of the Galveston County Deed Records and in the Easterly line of the remainder of a 249.2069-acre tract of land conveyed to B.C. Schroeder, Jr., Trustee, as recorded in Volume 1741, Page 903 of the Galveston County Deed Records for the Southwesterly corner of Lot G of said JONES SUBDIVISION, for the Northwesterly corner of said Lot H and for the Northwesterly corner of this tract;

THENCE North 86 deg. 55 min. 39 sec. East, a distance of 1,213.09 feet with the Southerly line of said Lot G to a 5/8-inch iron rod with cap stamped "Weisser Eng. Houston, Tx." set in the Westerly right-of-way line of F.M. Road No. 3436 (100 feet wide) for the Northeasterly corner of this tract, from which a 1/2-inch iron rod found bears South 78 deg. 26 min. 26 sec. West, a distance of 0.38 feet;

THENCE South 03 deg. 04 min. 39 sec. East, a distance of 1,705.00 feet with the Westerly right-of-way line of said FM. Road No. 3436 to a 5/8-inch iron rod with cap stamped "Weisser Eng. Houston, Tx." set for the Southeasterly corner of this tract;

THENCE South 86 deg. 55 min. 39 sec. West, a distance of 1,213.24 feet over and across said Lot J to a 5/8-inch iron rod with cap stamped "Weisser Eng. Houston, TX." set for the Southwesterly corner of this tract;

THENCE North 03 deg. 04 min. 21 sec. West, a distance of 1,705.00 feet with the Westerly line of said Lots H, I and J and with the Easterly line of said J.F. Dugat Subdivision to the POINT OF BEGINNING and CONTAINING 47.485 acres (2,068,447 square feet) of land.

SECTION 3. (a) The legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published as provided by law, and the notice and a copy of this Act have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished under Section 59, Article XVI, Texas Constitution, and Chapter 313, Government Code.

(b) The governor, one of the required recipients, has submitted the notice and Act to the Texas Commission on Environmental Quality.

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

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

SECTION 4. This Act takes effect September 1, 2005.

The amendment was read.

Senator Jackson moved to concur in the House amendment to **SB 1865**.

The motion prevailed by a viva voce vote.

All Members are deemed to have voted "Yea" on the motion to concur.

SENATE BILL 1330 WITH HOUSE AMENDMENTS

Senator Nelson called **SB 1330** 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 on Third Reading

Amend **SB 1330** on third reading as follows:

(1) In SECTION 1 of the bill, in added Section 161.0052(b), Health and Safety Code (committee printing page 1, line 20), between "vaccine," and "the" insert "and if the person's physician determines that the vaccine is in the person's best interest,".

(2) In SECTION 1 of the bill, in added Section 161.0052(c), Health and Safety Code (committee printing page 2, line 4), between "facility" and the period, insert "and whose physician determines that the vaccine is in the person's best interest".

Floor Amendment No. 2 on Third Reading

Amend Floor Amendment No. 1 by Isett to **SB 1330** on third reading as follows:

(1) On page 1, lines 4-5, strike "the person's physician" and substitute "a physician, or an advanced nurse practitioner or physician assistant on behalf of a physician,".

(2) On page 1, line 9, strike "and whose physician" and substitute "if a physician, or an advanced nurse practitioner or physician assistant on behalf of a physician,".

The amendments were read.

Senator Nelson moved to concur in the House amendments to **SB 1330**.

The motion prevailed by a viva voce vote.

All Members are deemed to have voted "Yea" on the motion to concur.

SENATE BILL 1810 WITH HOUSE AMENDMENT

Senator Shapleigh called **SB 1810** from the President's table for consideration of the House amendment to the bill.

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

Amendment

Amend **SB 1810** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED AN ACT

relating to the dissolution of the Homestead Municipal Utility District, the provision of water supply services to the residents of the district's service area after dissolution, and the rates charged for water service by the City of El Paso.

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

SECTION 1. DEFINITIONS. In this Act:

(1) "City" means the City of El Paso.

(2) "District" means the Homestead Municipal Utility District.

(3) "District board" means the board of directors of the Homestead Municipal Utility District.

(4) "Executive director" means the executive director of the Texas Commission on Environmental Quality.

SECTION 2. TRANSFER OF ASSETS AND LIABILITIES; REQUEST FOR DISSOLUTION ORDER. (a) The district board may transfer to the City of El Paso the district's assets and liabilities in accordance with the district's written request for El Paso Water Utilities to take over the management of its water supply system.

(b) On favorable action of the El Paso Water Utilities Public Service Board, the district board shall notify the executive director and request an order of dissolution.

(c) The district board shall provide the executive director with any information or documentation the executive director requests to monitor the district's progress toward the complete transfer of its assets and liabilities to the city.

SECTION 3. ORDER OF DISSOLUTION; TRANSFER OF ASSETS AND LIABILITIES. (a) On receipt of the notice and request from the city, the executive director shall investigate to verify whether the parties have met all the necessary conditions for the transfer.

(b) After investigation, the executive director shall issue an order of dissolution if the executive director determines:

(1) the district is ready to be dissolved;

(2) all of the district's assets and liabilities are ready to be transferred to the city for incorporation into the city's water system;

(3) the city and the El Paso Water Utilities Public Service Board are prepared to accept the transfer; and

(4) the city council has adopted a resolution accepting the transfer.

(c) In issuing an order of dissolution under Subsection (b) of this section, the executive director shall:

(1) direct the district board to provide the city, the El Paso Water Utilities Public Service Board, and the secretary of state all transfer documents, including all deeds, easements, and bills of sale in the possession of the board, and any other information necessary or appropriate to transfer all district assets and liabilities to the city;

(2) order the district dissolved; and

(3) order that all assets and liabilities of the district be transferred to the city for incorporation into the city's water system.

(d) The consideration and adoption of an order of dissolution under this section is not a contested case under Chapter 2001, Government Code.

(e) The order of dissolution issued under this section is wholly sufficient and effective to accomplish the dissolution of the district and the transfer of its assets and liabilities to the city.

(f) The executive director shall file with the secretary of state and in the deed records of El Paso County a certified copy of the order of dissolution issued under this section together with a certified copy of the resolution of the city council accepting the transfer.

SECTION 4. COLLECTION OF MONEY OWED THE DISTRICT. On or after the date the dissolution order is issued under Section 3 of this Act, the city, through the El Paso Water Utilities Public Service Board, may collect all money owed the district on the date the order is issued including:

- (1) taxes, fees, or charges imposed by the district that were due and owing on the date of the dissolution order issued under Section 3 of this Act; and
- (2) the district's accounts receivable.

SECTION 5. RATES FOR SERVICE. (a) The city, through the El Paso Water Utilities Public Service Board, may charge residents of El Paso County living in the service area formerly served by the district water supply rates that exceed the rates paid by water supply customers who are residents of the city if the higher rates are necessary or appropriate to fully cover the cost of service to the area, as determined by the El Paso Water Utilities Public Service Board.

(b) The water supply rates the city, through the El Paso Water Utilities Public Service Board, charges residents of El Paso County living in the service area formerly served by the district may include:

- (1) an amount necessary to recover:
 - (A) the costs of operation and maintenance of the water supply or improvements serving the area; and
 - (B) debt service, including the cost of loans accepted to improve the water supply system serving the area; and
- (2) a monthly water supply fee, if the district does not have surface water rights or potable water wells.

(c) Section 16.349, Water Code, does not affect the amount of the fee charged under this section.

SECTION 6. EFFECTIVE DATE. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2005.

The amendment was read.

Senator Shapleigh moved to concur in the House amendment to **SB 1810**.

The motion prevailed by a viva voce vote.

All Members are deemed to have voted "Yea" on the motion to concur.

SENATE BILL 945 WITH HOUSE AMENDMENT

Senator Armbrister called **SB 945** from the President's table for consideration of the House amendment to the bill.

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

Floor Amendment No. 1 on Third Reading

Amend **SB 945** on third reading as follows:

1. On page 1, line 24 amend SECTION 1, Subchapter P, Sec. 60.483(a)(2) of the bill by inserting "negotiations of" between the words "with" and "a".

2. On page 2, line 9 amend SECTION 1, Subchapter P, Sec. 60.483(c)(1) of the bill by deleting "discussions or" between the words "contract" and "negotiations".

3. On page 4, line 7 amend SECTION 1, Subchapter P, Sec. 60.484(c)(2) of the bill by deleting "considering conducting business" between the words "is" and "with" and substitute "negotiating a contract".

4. On page 4, line 19 amend SECTION 1, Subchapter P, Sec. 60.484(e) of the bill by deleting "has" between the words "body" and "violated" and substitute "knowingly".

The amendment was read.

Senator Armbrister moved to concur in the House amendment to **SB 945**.

The motion prevailed by a viva voce vote.

All Members are deemed to have voted "Yea" on the motion to concur.

SENATE BILL 1855 WITH HOUSE AMENDMENT

Senator Deuell called **SB 1855** from the President's table for consideration of the House amendment to the bill.

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

Amendment

Amend **SB 1855** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED AN ACT

relating to the creation of the Rockwall County Municipal Utility Districts Nos. 6, 7, 8, and 9; providing authority to impose a tax and issue bonds; granting the power of eminent domain.

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

SECTION 1. Subtitle F, Title 6, Special District Local Laws Code, is amended by adding Chapter 8136 to read as follows:

CHAPTER 8136. ROCKWALL COUNTY MUNICIPAL UTILITY DISTRICTS NOS. 6, 7, 8, and 9 SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8136.001. DEFINITIONS. In this chapter:

(1) "Board" or "boards" means, as appropriate, the board of directors of one or all of the districts.

(2) "Director" means a member of the board.

(3) "District" or "districts" means, as appropriate, one or all of the Rockwall County Municipal Utility Districts Nos. 6, 7, 8, and 9.

Sec. 8136.002. NATURE OF DISTRICT. Each district is a municipal utility district in Rockwall County created under and essential to accomplish the purposes of Section 52, Article III, and Section 59, Article XVI, Texas Constitution.

Sec. 8136.003. CONFIRMATION ELECTION REQUIRED. If the creation of a district is not confirmed at a confirmation election held under Section 8136.023 before September 1, 2007:

- (1) the district is dissolved September 1, 2007, except that:
 - (A) any debts incurred shall be paid;
 - (B) any assets that remain after the payment of debts shall be transferred to Rockwall County; and
 - (C) the organization of the district shall be maintained until all debts are paid and remaining assets are transferred; and
- (2) the provisions of this chapter relating to that district expire September 1, 2010.

Sec. 8136.004. INITIAL DISTRICT TERRITORY. (a) Each district is initially composed of the territory described by Section 2 of the Act creating this chapter.

(b) The boundaries and field notes of each district, as described in Section 2 of the Act creating this chapter, form a closure. A mistake made in the field notes or in copying the field notes in the legislative process does not affect:

- (1) the organization, existence, or validity of the district;
- (2) the right of the district to impose taxes; or
- (3) the legality or operation of the district or the board.

Sec. 8136.005. APPLICABILITY OF OTHER LAW. Except as otherwise provided by this chapter, Chapters 49 and 54, Water Code, apply to the districts.

[Sections 8136.006-8136.020 reserved for expansion]

SUBCHAPTER A1. TEMPORARY PROVISIONS

Sec. 8136.021. TEMPORARY DIRECTORS. (a) The temporary board of each district consists of the following persons:

- (1) Rockwall County Municipal Utility District No. 6:
 - (A) Sherry Kent Skinner;
 - (B) Chris Smith;
 - (C) Jill Thrasher;
 - (D) Kevin B. Tucker; and
 - (E) Berry Watts;
- (2) Rockwall County Municipal Utility District No. 7:
 - (A) Larry Christensen;
 - (B) Martha Ann Cook;
 - (C) Terry Jones;
 - (D) Sandy Sinks; and
 - (E) Michael W. Skinner;
- (3) Rockwall County Municipal Utility District No. 8:
 - (A) David M. Cook, Sr.;
 - (B) Lisa Gheen;
 - (C) Linda Nelson;
 - (D) Charles Sinks II (Chuck); and
 - (E) Karen D. Wilson; and
- (4) Rockwall County Municipal Utility District No. 9:
 - (A) Nicholas Helge;
 - (B) Thaddeus James Parker (Thad);

(C) Jennifer Lynne Clark;

(D) Michael Joseph McCrea, Jr. (Mike); and

(E) Andrea Brandon Roland.

(b) If a temporary director fails to qualify for office, the remaining temporary directors of that district shall appoint a person to fill the vacancy.

(c) Temporary directors serve until the earlier of:

(1) the date directors are elected under Section 8136.023; or

(2) the date the provisions of this chapter relating to that district expire under Section 8136.003.

Sec. 8136.022. ORGANIZATIONAL MEETING OF TEMPORARY DIRECTORS. As soon as practicable after all the temporary directors of a district have qualified under Section 49.055, Water Code, the temporary directors of that district shall meet at a location in the district agreeable to a majority of the directors of that district. If a location cannot be agreed upon, the meeting shall be at the Rockwall County Courthouse. At the meeting, the temporary directors shall elect officers from among the temporary directors and conduct any other district business.

Sec. 8136.023. CONFIRMATION AND INITIAL DIRECTORS' ELECTION. The temporary directors of each district shall hold an election to confirm the creation of the district and to elect five directors as provided by Section 49.102, Water Code.

Sec. 8136.024. INITIAL ELECTED DIRECTORS; TERMS. The directors of each district elected under Section 8136.023 shall draw lots to determine which two shall serve until the first regularly scheduled election of directors under Section 8136.052 and which three shall serve until the second regularly scheduled election of directors.

Sec. 8136.025. EXPIRATION OF SUBCHAPTER. This subchapter expires September 1, 2010.

[Sections 8136.026-8136.050 reserved for expansion]

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 8136.051. DIRECTORS; TERMS. (a) Each district is governed by a board of five directors.

(b) Directors serve staggered four-year terms.

Sec. 8136.052. ELECTION OF DIRECTORS. On the uniform election date in May of each even-numbered year, the appropriate number of directors of each district shall be elected.

[Sections 8136.053-8136.100 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

Sec. 8136.101. GENERAL POWERS. Each district has all of the rights, powers, privileges, authority, functions, and duties provided by the general law of this state, including Chapters 49 and 54, Water Code, applicable to municipal utility districts created under Section 59, Article XVI, Texas Constitution.

Sec. 8136.102. ROAD PROJECTS. (a) To the extent authorized by Section 52, Article III, Texas Constitution, each district may construct, maintain, or operate paved roads or works, facilities, or improvements in aid of those roads, inside the district.

(b) A road project must meet or exceed all applicable construction standards, zoning and subdivision requirements, and regulatory ordinances of each municipality in whose corporate limits or extraterritorial jurisdiction the district is located. If the

district is located outside the extraterritorial jurisdiction of a municipality, a road project must meet all applicable construction standards, zoning and subdivision requirements, and regulatory ordinances of each county in which the district is located.

(c) The district may not undertake a road project unless each municipality in whose corporate limits or extraterritorial jurisdiction the district is located consents by ordinance or resolution. If the district is located outside the extraterritorial jurisdiction of a municipality, the district may not undertake a road project unless each county in which the district is located consents by ordinance or resolution.

Sec. 8136.103. ADDING LAND BY PETITION OF LANDOWNER. Each district may only add land to the district in the manner provided by Section 49.301, Water Code, if a landowner petitions for the addition of land that is:

(1) adjacent to the boundaries of the district; or

(2) separated from the district by public land or right-of-way.

Sec. 8136.104. EMINENT DOMAIN. (a) Each district may exercise the power of eminent domain within the boundaries of the district for all public purposes.

(b) Each district may exercise the power of eminent domain outside the boundaries of the district only for the purpose of constructing, acquiring, operating, repairing, or maintaining water supply lines or sanitary sewer lines.

(c) Each district shall exercise the power of eminent domain in the same manner as required for a county.

[Sections 8136.105-8136.150 reserved for expansion]

SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

Sec. 8136.151. TAX TO REPAY BONDS. Each district may impose a tax to pay the principal of or interest on bonds issued to finance projects under Section 8136.102.

[Sections 8136.152-8136.200 reserved for expansion]

SUBCHAPTER E. BONDS

Sec. 8136.201. AUTHORITY TO ISSUE BONDS AND OTHER OBLIGATIONS. (a) Each district may issue bonds or other obligations as provided by Chapters 49 and 54, Water Code, to finance the construction, maintenance, or operation of projects under Sections 8136.101 and 8136.102.

(b) A district may not issue bonds to finance projects authorized by Section 8136.102 unless the issuance is approved by a vote of a two-thirds majority of the voters of the district voting at an election called for that purpose.

(c) Bonds or other obligations issued or incurred to finance projects authorized by Section 8136.102 may not exceed one-fourth of the assessed value of the real property in the district.

(d) Sections 49.181 and 49.182, Water Code, do not apply to a project undertaken by a district under Section 8136.102 or to bonds issued by the district to finance the project.

SECTION 2. Each district initially includes, respectively, the territory contained in the following areas as indicated:

(1) Rockwall County Municipal Utility District No. 6:

BEING a tract of land situated in the S.B. Crabtree Survey, Abstract No. 57, M. Crabtree Survey, Abstract No. 61 and the J. Parker Survey, Abstract No. 178, in the Town of Fate, Rockwall County, Texas, and being part of a tract of land described in a deed to Fate Land, L.P., a Texas Limited Partnership, recorded in Volume 02919, Page 00099 of the Deed Records of Rockwall County, Texas (D.R.R.C.T.), and being all of a called 15.004 acre tract of land described in a deed to Fate Land, L.P., recorded in Volume 02859, Page 00029, D.R.R.C.T., and being more particularly described as follows:

BEGINNING at a point in the east right-of way line of State Highway No. 66 (60' right-of-way) for the southmost corner of 119.39 acre tract of land described as Tract III in a deed to The Crown Hill Trusts, recorded in Volume 1287, Page 187, D.R.R.C.T., from which a 1/2-inch iron rod found is located South 35 degrees 52 minutes 53 seconds West, a distance of 0.98 feet, said point also being the west corner of a tract of land described to the City of Fate, recorded in Volume 83, Page 557, D.R.R.C.T.;

THENCE North 01 degree 48 minutes 07 seconds West, along the east right-of-way line of State Highway No. 66, a distance of 970.81 feet to a point at the southwest corner of a called 1.00 acre tract of land described in a deed to Johnny C. Gibbs and wife Sandra L. Gibbs recorded in Volume 82, Page 85 of said Deed Records;

THENCE North 88 degrees 11 minutes 50 seconds East, along the south line of said Gibbs tract and generally along a fence part-way, a distance of 435.15 feet to a point for the southeast corner of said Gibbs tract;

THENCE North 01 degree 48 minutes 10 seconds West, along the east line of said Gibbs tract, a distance of 100.00 feet to a point for the northeast corner thereof;

THENCE South 88 degrees 11 minutes 50 seconds West, along the north line of said Gibbs tract and generally along a fence part-way, a distance of 435.15 feet to a point in the east right-of-way line of State Highway No. 66 for the northwest corner of said Gibbs tract;

THENCE North 01 degree 48 minutes 07 seconds West, along the east right-of-way line of State Highway No. 66, a distance of 709.10 feet to a point for the beginning of a tangent curve to the right, from which a TxDOT concrete monument is located South 01 degree 48 minutes 07 seconds East, a distance of 1.41 feet;

THENCE Northeasterly, continuing along the east right-of-way line of State Highway No. 66 and along the curve to the right which has a chord that bears North 16 degrees 29 minutes 34 seconds East for 440.72 feet, a central angle of 36 degrees 35 minutes 22 seconds and a radius of 702.00 feet, for an arc distance of 448.30 feet to a point for the end of said curve, from which a TxDOT concrete monument is located South 03 degrees 50 minutes 05 seconds West, a distance of 1.41 feet;

THENCE North 34 degrees 47 minutes 15 seconds East, continuing along the easterly right-of-way line of State Highway No. 66, a distance of 986.53 feet to a point for the beginning of a tangent curve to the left, from which a TxDOT concrete monument is located South 01 degree 40 minutes 43 seconds East, a distance of 1.69 feet;

THENCE Northeasterly, continuing along the easterly right-of-way line of State Highway No. 66 and along the curve to the left which has a chord that bears North 16 degrees 59 minutes 08 seconds East for 486.72 feet, a central angle of 35 degrees 36 minutes 15 seconds and a radius of 796.00 feet, for an arc distance of 494.64 feet to the end of said curve;

THENCE North 00 degrees 49 minutes 00 seconds West, along the east right-of-way line of State Highway No. 66, a distance of 1270.15 feet to a 1/2-inch iron rod found for the northwest corner of said 50.44 acre tract and the southwest corner of Luby Acres, an addition to the Town of Fate according to the plat thereof recorded in Cabinet B, Page 2 of the Map Records of Rockwall County, Texas;

THENCE North 88 degrees 12 minutes 44 seconds East, along the south line of Luby Acres, a distance of 1739.21 feet to the southeast corner of said Luby Acres;

THENCE North 01 degree 11 minutes 30 seconds West, along the west line of said Fate Land tract, and the east line of said Luby Acres, a distance of 750.20 feet to a 1/2-inch iron rod found for the northeast corner of said Luby Acres;

THENCE North 01 degree 20 minutes 58 seconds West, continuing along the west line of said Fate Land tract, a distance of 1327.26 feet to a 1/2-inch iron rod found for the northwest corner thereof;

THENCE North 88 degrees 42 minutes 34 seconds East, along the north line of said Fate Land tract, a distance of 2111.82 feet to a point for the northeast corner of said Fate Land tract;

THENCE South 01 degree 20 minutes 57 seconds East, a distance of 2869.76 feet to a point in the northwest right-of-way of the Union Pacific Railway (100' right-of-way);

THENCE South 46 degrees 07 minutes 06 seconds West, along the northwest right-of-way line of the Union Pacific Railway, a distance of 1290.89 feet to a point for corner;

THENCE North 89 degrees 57 minutes 29 seconds West, a distance of 1167.48 feet to a 5/8-inch iron rod found for corner, said rod being the southeast corner of said 15.004 acre tract;

THENCE South 01 degree 11 minutes 30 seconds East, along the east line of said 119.34 acre tract, a distance of 1101.83 feet to a point in the northwest right-of-way line of the Union Pacific Railway (100' right-of-way) for the southeast corner of said 119.34 acre tract;

THENCE South 46 degrees 07 minutes 06 seconds West, along the northwest line of the Union Pacific Railway, a distance of 2669.57 feet to a 1/2-inch iron rod found for the southeast corner of said City of Fate tract;

THENCE North 01 degree 44 minutes 40 seconds West, along the east line of said City of Fate tract, a distance of 629.85 feet to a 1/2-inch iron rod found for the north corner of said City of Fate tract;

THENCE South 35 degrees 52 minutes 53 seconds West, along the northwest line of said City of Fate tract, a distance of 1037.55 feet to the POINT OF BEGINNING and containing 15,533,075 square feet, or 356.590 acres of land, more or less.

(2) Rockwall County Municipal Utility District No. 7:

BEING a tract of land situated in the S.B. CRABTREE SURVEY, ABSTRACT NO. 57, and the D. THEDFORD SURVEY, ABSTRACT NO. 208, and the J.R. BRISCOE SURVEY, ABSTRACT NO. 42, in the City of Fate, Rockwall County, Texas, and

being all of a called 64.83 acre tract of land described as Tract IV, and all of a called 64.07 acre tract of land described as Tract V in a deed to The Crown Hill Trusts recorded in Volume 1287, Page 187 of the Deed Records of Rockwall County, Texas, and being more particularly described as follows:

BEGINNING at a 5/8-inch iron rod with cap marked "PETITT-RPLS 4087" found in the southwest corner of said 64.83 acres tract and the southeast corner of a called 35.371 acres tract described as South Tract in a deed to Frank C. Slay recorded in Volume 56, Page 93 of said Deed Records, also being a point on the north right-of-way line of Farm-to-Market Road 551;

THENCE North 01 degree 31 minutes 16 seconds West, along the common line between said 64.83 acres tract and Slay tract, a distance of 1,802.86 feet to a 1/2-inch iron rod found for the northeast corner of said Slay tract and the northwest corner of said 64.83 acre tract at a point in the southeasterly right-of-way line of said Interstate Highway No. 30 (variable right-of-way);

THENCE North 43 degrees 59 minutes 58 seconds East, along the southeasterly line of said Interstate 30, a distance of 471.60 feet to a 1/2-inch iron rod found for the west corner of a tract of land as described to Suburban Propane, L.P., recorded in Volume 1101, Page 046, of said Deed Records;

THENCE South 46 degrees 53 minutes 08 seconds East, along the southwest line of said Propane tract, a distance of 147.93 feet to a 1/2-inch iron rod found for the southwest corner of said propane tract;

THENCE North 89 degrees 21 minutes 48 seconds East, along the south line of said Propane tract, a distance of 374.05 feet to a 5/8-inch iron rod found for the southeast corner of said Propane tract;

THENCE North 00 degree 57 minutes 34 second West, along the east line of said Propane tract, a distance of 550.63 feet to a 5/8-inch iron rod found for the northeast corner of said Propane tract at a point on the southeasterly line of said Interstate 30;

THENCE North 43 degrees 59 minutes 58 seconds East, along the southeasterly line of said Interstate 30, a distance of 353.64 feet to a TxDot concrete monument found for corner;

THENCE South 88 degrees 14 minutes 04 seconds East, along a cut-back line in said Interstate Highway No. 30 right-of-way, a distance of 75.37 feet to a 5/8-inch iron rod with cap marked "PETITT-RPLS 4087" found for corner;

THENCE North 41 degrees 40 minutes 56 seconds East, continuing along said cut-back, a distance of 25.20 feet to a 1/2-inch iron rod found in the center of Blackland Road, (undedicated public road);

THENCE South 53 degrees 28 minutes 01 second East, generally along the center of Blackland Road, a distance of 904.64 feet to a 1/2-inch iron rod found for the north corner of a tract of land as described to Macedonia Baptist Church, called 1.04 acres, recorded in Volume 70, Page 224, of said Deed Records;

THENCE South 01 degree 25 minutes 24 seconds East, along the west line of said church tract, a distance of 317.23 feet to a 5/8-inch iron rod with cap marked "PETITT-RPLS 4087" found for the south corner of said church tract;

THENCE North 67 degrees 25 minutes 06 seconds East, along the south line of said church tract, a distance of 306.42 feet to a 5/8-inch iron rod found in the center of said Black land Road for the east corner of said church tract;

THENCE South 52 degrees 54 minutes 18 seconds East, along the northeasterly boundary of said 64.07 acre tract and along generally along the center of Blackland Road, a distance of 669.01 feet to a 5/8-inch iron rod with cap marked "PETITT-RPLS 4087" found for an angle point, from which a 5/8-inch iron rod found is located South 60 degrees 57 minutes 12 seconds West, a distance of 23.88 feet;

THENCE South 45 degrees 33 minutes 23 seconds East, continuing along the northeasterly boundary of said 64.07 acre tract and generally along the center of Blackland Road, a distance of 1,690.88 feet to a 5/8-inch iron rod with cap marked "PETITT-RPLS 4087" found at center of Greenbriar Road (undedicated public road);

THENCE South 45 degrees 21 minutes 04 seconds West, generally along the center of Greenbriar Road, a distance of 775.91 feet to a 5/8-inch iron rod with cap marked "PETITT-RPLS 4087" found for an angle point;

THENCE South 88 degrees 24 minutes 03 seconds West, continuing generally along the center of Greenbriar Road, a distance of 1,421.23 feet to a 5/8-inch iron rod with cap marked "PETITT-RPLS 4087" found in the east line of a called 10.00 acre tract of land described in a deed to Curtis M. Brunson and wife Nelda Brunson recorded in Volume 138, Page 797 of said Deed Records;

THENCE North 01 degree 25 minutes 24 seconds West, along the east line of said Brunson tract, a distance of 2,037.61 feet to a 5/8-inch iron rod with cap marked "PETITT-RPLS 4087" found in the general center of a ditch for corner;

THENCE South 54 degrees 02 minutes 46 seconds West, generally along the center of said ditch and along the north line of said Brunson tract and the north line of a called 4.788 acre tract of land described in a deed to Curtis M. Brunson recorded in Volume 130, page 710 of said Deed Records, a distance of 461.00 feet to an angle point;

THENCE South 30 degrees 55 minutes 20 seconds West, continuing generally along the center of said ditch and along the westerly north line of said 4.788 acre tract, the north line of a called 5.3801 acre tract described in a deed to Todd Winters recorded in Volume 1571, Page 301 of said Deed Records, the north line of a called 5.02 acre tract described in a deed to David W. Wright and wife Linda Wright recorded in Volume 85, Page 144 of said Deed Records, and the north line of a called 4.02 acre tract described in a deed to David W. Wright and wife Linda Wright recorded in Volume 91, Page 442 of said Deed Records, a distance of 1,803.25 feet to a 1/2-inch iron rod found for corner;

THENCE South 00 degrees 25 minutes 35 seconds East, along the west line of said Wright 4.02 acre tract, a distance of 176.50 feet to a 5/8-inch iron rod with cap marked "PETITT-RPLS 4087" found in the north right-of-way line of said F. M. Road 551;

THENCE North 89 degrees 49 minutes 50 seconds West, along the north right-of-way line of F. M. Road 551, a distance of 526.99 feet to the POINT OF BEGINNING and containing 5,653,805 square feet or 129.794 acres of land, more or less.

(3) Rockwall County Municipal Utility District No. 8:

BEING a tract of land situated in the R. B. IRVINE SURVEY, ABSTRACT NO. 120, and the J. HODGES SURVEY, ABSTRACT NO. 103, in the City of Fate, Rockwall County, Texas, and being part of a called 1074.12 acre tract of land as described to Fate Land, LP, recorded in Volume 02919, Page 00099 of the Deed Records of Rockwall County, Texas, and also in County Clerks File No. 00275581, of said Deed Records, and being more particularly described as follows:

BEGINNING at a 5/8-inch iron rod with cap marked "PETITT-RPLS 4087" found for the southwest corner of a 348.201 acres tract of land as described in deed from Fate Land, LP to PRA/Fate Development, Corp., recorded in Volume 02919, Page 00188, Deed Records, Rockwall County, Texas, said rod also being in the approximate center of Ben Payne Road (undedicated public road) intersecting at a point on the north right-of-way line of State Highway No. 66 (60' right-of-way);

THENCE along a curve to the right and being on the north right-of-way line of said State Highway No. 66, which has a chord that bears South 87 degrees 46 minutes 18 seconds West for 64.15 feet, a central angle of 01 degree 57 minutes 18 seconds and a radius of 1880.00 feet, for an arc distance of 64.15 feet to a TxDOT concrete monument found for the end of said curve;

THENCE South 88 degrees 44 minutes 57 seconds West, continuing along the north right-of-way line of State Highway No. 66, a distance of 239.33 feet to a 5/8-inch iron rod with cap marked "PETITT-RPLS 4087" found for the southeast corner of a tract of land described in a deed to Cash Water Supply Corporation recorded in Volume 161, Page 393 of said Deed Records;

THENCE North 01 degree 15 minutes 03 seconds West, along the east line of said Cash tract, a distance of 53.11 feet to a 5/8-inch iron rod with cap marked "PETITT-RPLS 4087" found for the northeast corner of said Cash tract;

THENCE South 88 degrees 44 minutes 57 seconds West, along the north line of said Cash tract and the north line of a called 0.057 acre tract of land described in a deed to North Texas Municipal Water Supply Corporation recorded in Volume 59, Page 19 of said Deed Records, a distance of 100.00 feet to a 5/8-inch iron rod with cap marked "PETITT-RPLS 4087" found for the northwest corner of said North Texas tract;

THENCE South 01 degree 15 minutes 03 seconds East, along the west line of said North Texas tract, a distance of 53.11 feet to a 5/8-inch iron rod with cap marked "PETITT-RPLS 4087" found in the north right-of-way line of State Highway No. 66 for the southwest corner of said North Texas tract;

THENCE South 88 degrees 44 minutes 57 seconds West, along the north right-of-way line of State Highway No. 66, a distance of 643.53 feet to a 5/8-inch iron rod with cap marked "PETITT-RPLS 4087" found for the southeast corner of a called 2.0 acre tract of land described in a deed to Gerald Lindsey Payne recorded in Volume 74, Page 358 of said Deed Records;

THENCE North 01 degree 06 minutes 53 seconds West, along the east line of said Payne tract, passing at a distance of 5.58 feet a 1/2-inch iron rod found, a distance of 422.68 feet to a 5/8-inch iron rod with cap marked "PETITT-RPLS 4087" found for the northeast corner of said Payne tract;

THENCE South 88 degrees 21 minutes 05 seconds West, along the north line of said Payne tract, a distance of 8.33 feet for corner;

THENCE North 01 degree 55 minutes 01 second West, a distance of 100.00 feet to a corner;

THENCE South 88 degrees 21 minutes 05 seconds West, a distance of 100.00 feet for corner;

THENCE North 01 degree 55 minutes 01 second West, a distance of 400.00 feet to a corner;

THENCE South 88 degrees 21 minutes 05 seconds West, a distance of 100.00 feet for corner at a point on the east line of a called 54 acre tract of land described in a deed to William G. A. Stevenson recorded in Volume 162, Page 625, Deed Records, Rockwall County, Texas;

THENCE North 01 degree 55 minutes 01 second West, along the east line of said Stevenson tract, a distance of 736.10 feet to a 5/8-inch iron rod with cap marked "PETITT-RPLS 4087" found for the northeast corner of said Stevenson tract;

THENCE South 88 degrees 46 minutes 28 seconds West, along the north line of said Stevenson tract, a distance of 1856.29 feet to a point in the center of a creek;

THENCE along the center of said creek as follows:

North 00 degrees 35 minutes 20 seconds East, a distance of 647.00 feet ;

North 05 degrees 03 minutes 21 seconds West, a distance of 374.71 feet ;

North 03 degrees 31 minutes 09 seconds East, a distance of 571.38 feet to a corner;

North 44 degrees 54 minutes 58 seconds East, a distance of 279.47 feet to a point on the common north line of said IRVINE SURVEY and the south line of the NORVELL SURVEY, ABSTRACT NO. 170, and also being the southwest corner of a called 231.5198 acres tract of land as described in a deed to Kenneth Baker and Cara L. Baker, husband and wife, recorded in Volume 948, Page 70, of said Deed Records;

THENCE North 89 degrees 22 minutes 49 seconds East, along the common line of said survey's, and the south line of said Baker tract, a distance of 2879.38 feet to a 5/8-inch iron rod with cap marked "PETITT-RPLS 4087" found in the center of a public road known as Ben Payne Road (undedicated right-of-way) for the southeast corner of said Baker tract;

THENCE North 00 degrees 52 minutes 17 seconds West, along the most southerly east line of said Baker tract and along the center of said public road, a distance of 1030.54 feet to a 5/8-inch iron rod with cap marked "PETITT-RPLS 4087" found for the southwest corner of a 1.571 acre tract of land described in a deed to Marjorie Elane Wheeler recorded in Volume 0846, Page 033 of said Deed Records;

THENCE North 89 degrees 05 minutes 33 seconds East, along the south line of said Wheeler tract, the south line of a tract of land described in a deed to Elmer T. Campbell and Reesie W. Campbell recorded in Volume 61, Page 132 of said Deed Records, the south line of tract of land described in a deed to Loretta Cameron recorded in Volume 104, Page 917 of said Deed Records, the south line of a 3.77 acre tract of land described in a deed to Kelli J. Love and Jim C. Love recorded in Volume 1104, Page 132 of said Deed Records and the south line of a called 31.009 acre tract of land described in a deed to Charles R. Noland and wife Janna D. Noland recorded in Volume 531, Page 176 of said Deed Records, and generally along the center of a public road, a distance of 1055.55 feet to a 5/8-inch iron rod with cap marked "PETITT-RPLS 4087" found for the corner at a point on the west line of said PRA/Fate Development tract, and a point on the south line of said Noland tract;

THENCE along the west line of said PRA/Fate Development tract the following courses:

South 02 degrees 08 minutes 40 seconds West, a distance of 102.52 feet to a 5/8-inch iron rod with cap marked "PETITT - RPLS 4087" found for corner;

South 11 degrees 44 minutes 05 seconds East, a distance of 130.00 feet to a 5/8-inch iron rod with cap marked "PETITT - RPLS 4087" found for corner;

South 23 degrees 00 minutes 18 seconds East, a distance of 100.00 feet to a 5/8-inch iron rod with cap marked "PETITT - RPLS 4087" found for corner;

South 36 degrees 28 minutes 24 seconds East, a distance of 260.00 feet to a 5/8-inch iron rod with cap marked "PETITT - RPLS 4087" found for corner;

South 07 degrees 41 minutes 36 seconds East, a distance of 250.00 feet to a 5/8-inch iron rod with cap marked "PETITT - RPLS 4087" found for corner;

South 27 degrees 30 minutes 52 seconds East, a distance of 185.00 feet to a 5/8-inch iron rod with cap marked "PETITT - RPLS 4087" found for corner;

South 00 degrees 27 minutes 43 seconds East, a distance of 125.00 feet to a 5/8-inch iron rod with cap marked "PETITT - RPLS 4087" found for corner;

South 25 degrees 36 minutes 22 seconds East, a distance of 450.00 feet to a 5/8-inch iron rod with cap marked "PETITT - RPLS 4087" found for corner;

South 14 degrees 12 minutes 57 seconds East, a distance of 350.00 feet to a 5/8-inch iron rod with cap marked "PETITT - RPLS 4087" found for corner;

South 22 degrees 45 minutes 44 seconds East, a distance of 270.00 feet to a 5/8-inch iron rod with cap marked "PETITT - RPLS 4087" found for corner;

South 15 degrees 19 minutes 35 seconds East, a distance of 555.00 feet to a 5/8-inch iron rod with cap marked "PETITT - RPLS 4087" found for corner;

South 44 degrees 21 minutes 08 seconds East, a distance of 100.00 feet to a 5/8-inch iron rod with cap marked "PETITT - RPLS 4087" found for corner;

South 13 degrees 19 minutes 35 seconds East, a distance of 49.11 feet to a 5/8-inch iron rod with cap marked "PETITT - RPLS 4087" found for the beginning of a non-tangent curve to the right;

Southwesterly, along said non-tangent curve to the right which has a chord that bears South 83 degrees 25 minutes 03 seconds West for 380.07 feet, a central angle of 10 degrees 38 minutes 17 seconds and a radius of 2050.00 feet, for an arc distance of 380.62 feet to a 5/8-inch iron rod with cap marked "PETITT - RPLS 4087" found for the end of said curve;

South 88 degrees 44 minutes 11 seconds West, a distance of 1573.02 feet to a 5/8-inch iron rod with cap marked "PETITT - RPLS 4087" found for an ell corner on the west line of said PRA/Fate Development tract;

South 01 degree 15 minutes 49 seconds East, along the general center of said Ben Payne Road, a distance of 1660.93 feet to a the POINT OF BEGINNING and containing 11,566,723 square feet or 265.535 acres of land.

(4) Rockwall County Municipal Utility District No. 9:

BEING a tract of land situated in the J. GARDENSHIRE SURVEY, ABSTRACT NO. 95, and the J. MCKINNEY SURVEY, ABSTRACT NO. 151, in the City of Fate, Rockwall County, Texas, and being part of a called 1074.12 acres tract of land as

described in a deed to Fate Land, LP, recorded in Volume 02919, Page 00099 of the Deed Records of Rockwall County, Texas, and being more particularly described as follows:

BEGINNING at a 5/8-inch iron rod with cap marked "PETITT-RPLS 4087" found at the intersection of the west right-of-way line of State Highway No. 66 (60' right-of-way) with the center line of Prince Lane (undedicated public road), said point being the northeast corner of said 1074.12 acres tract and the southeast corner of a tract of land described in a deed to Tommy J. Woods recorded in Volume 899, Page 231 of said Deed Records;

THENCE South 00 degrees 49 minutes 00 seconds East, along the west right-of-way line of State Highway No. 66, a distance of 1642.72 feet to a 5/8-inch iron rod with cap marked "PETITT-RPLS 4087" found for corner;

THENCE South 89 degrees 11 minutes 00 seconds West, a distance of 1660.59 feet to the beginning of a tangent curve to the left;

THENCE Southwesterly, along said tangent curve to the left which has a chord that bears South 53 degrees 38 minutes 35 seconds West for 1743.93 feet, a central angle of 71 degrees 05 minutes 08 seconds and a radius of 1500.00 feet, for an arc distance of 1861.02 feet to a 5/8-inch iron rod with cap marked "PETITT-RPLS 4087" found for the northeast corner of a tract of land as described in a deed to PRA/Fate Development, Corp., recorded in Volume 02919, Page 00188, of said Deed Records;

THENCE South 89 degrees 03 minutes 45 seconds West, along the north line of said PRA/Fate Development tract, a distance of 2420.13 feet to a 5/8-inch iron rod with cap marked "PETITT-RPLS 4087" found for corner at a point on the west line of a called 31.009 acre tract of land described in a deed to Charles R. Noland and wife Janna D. Noland recorded in Volume 531, Page 176 of said Deed Records, said found rod also being the northwest corner of said PRA/Fate Development tract;

THENCE North 01 degree 03 minutes 22 seconds West, along the east line of said Noland tract, a distance of 649.48 feet to a 1-inch iron pipe found in the south line of a called 311.550 acre tract of land described as Tract B in a deed to Jessie Elizabeth Mills and John C. Mills Jr. as Trustees for the Mills Family Trust, for the northeast corner of said Noland tract;

THENCE North 87 degrees 52 minutes 37 seconds East, along the south line of said Mills tract and generally along a fence, a distance of 225.97 feet to a 5/8-inch iron rod with cap marked "PETITT-RPLS 4087" found for the southeast corner of said Mills tract;

THENCE North 00 degrees 46 minutes 11 seconds West, along the east line of said Mills tract, a distance of 666.10 feet to a 5/8-inch iron rod found for the southwest corner of a called 20.00 acre tract of land described in a deed to Otis Cox or Mildred Cox, Trustees or their successors in trust, recorded in Volume 715, Page 118, Deed Records, Rockwall County, Texas;

THENCE North 88 degrees 56 minutes 38 seconds East, along the south line of said 20.00 acre Cox tract and the south line of a called 20.02 acre tract of land described in a deed to Otis Cox or Mildred Cox, Trustees or their successors in trust, Volume 715, Page 121, Deed Records, Rockwall County, Texas, a distance of 1319.97 feet to a 1/2-inch iron rod found for the southeast corner of said 20.02 acre Cox tract;

THENCE North 01 degree 47 minutes 08 seconds West, along the east line of said 20.02 acre Cox tract, a distance of 1328.53 feet to a 1/2-inch iron rod found in the south line of a called 5.076 acre tract of land described in a deed to Nicolas Livaudais and wife Sylvia Livaudais recorded in Volume 1860, Page 157 of said Deed Records for the northeast corner of said 20.02 acre Cox tract;

THENCE North 89 degrees 05 minutes 00 seconds East, along the south line of said Livaudais tract and generally along the center of Prince Lane, a distance of 3978.54 feet to the POINT OF BEGINNING and containing 9,668,333 square feet, or 221.95 acres of land, more or less.

SECTION 3. (a) The legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published as provided by law, and the notice and a copy of this Act have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished under Section 59, Article XVI, Texas Constitution, and Chapter 313, Government Code.

(b) The governor, one of the required recipients, has submitted the notice and Act to the Texas Commission on Environmental Quality.

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

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

SECTION 4. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2005.

The amendment was read.

Senator Deuell moved to concur in the House amendment to **SB 1855**.

The motion prevailed by a viva voce vote.

All Members are deemed to have voted "Yea" on the motion to concur.

SENATE BILL 898 WITH HOUSE AMENDMENT

Senator Carona called **SB 898** from the President's table for consideration of the House amendment to the bill.

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

Floor Amendment No. 1 on Third Reading

Amend **SB 898** on third reading by inserting the following appropriately numbered section and renumbering the subsequent sections of the bill accordingly:

SECTION __. Section 31.01(a), Tax Code, is amended to read as follows:

(a) Except as provided by Subsection (f), the assessor for each taxing unit shall prepare and mail a tax bill to each person in whose name the property is listed on the tax roll and [✕] to the person's authorized agent. The assessor shall mail tax bills by October 1 or as soon thereafter as practicable. The assessor shall mail to the state agency or institution the tax bill for any taxable property owned by the agency or

institution. The agency or institution shall pay the taxes from funds appropriated for payment of the taxes or, if there are none, from funds appropriated for the administration of the agency or institution. The exterior of the tax bill must show the return address of the taxing unit and must contain, in all capital letters, the words "RETURN SERVICE REQUESTED," or another appropriate statement directing the United States Postal Service to return the tax bill if it is not deliverable as addressed.

The amendment was read.

Senator Carona moved to concur in the House amendment to **SB 898**.

The motion prevailed by a viva voce vote.

All Members are deemed to have voted "Yea" on the motion to concur.

SENATE BILL 1792 WITH HOUSE AMENDMENT

Senator Wentworth called **SB 1792** from the President's table for consideration of the House amendment to the bill.

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

Floor Amendment No. 1

Amend **SB 1792** in SECTION 2 of the bill (House committee printing, page 3, line 22, through page 9, line 25) by striking "acre Exhibit" each time that phrase appears and substituting "acre tract of land described as Exhibit".

The amendment was read.

Senator Wentworth moved to concur in the House amendment to **SB 1792**.

The motion prevailed by a viva voce vote.

All Members are deemed to have voted "Yea" on the motion to concur.

SENATE BILL 863 WITH HOUSE AMENDMENT

Senator Van de Putte called **SB 863** from the President's table for consideration of the House amendment to the bill.

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

Amendment

Amend **SB 863** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED AN ACT

relating to the administration of promotional examinations to certain firefighters and police officers who are members of the armed forces on active duty.

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

SECTION 1. Section 143.032(b), Local Government Code, is amended to read as follows:

(b)(1) Each eligible promotional candidate shall be given an identical examination in the presence of the other eligible promotional candidates, except that an eligible promotional candidate who is serving on active military duty outside of this state or in a location that is not within reasonable geographic proximity to the

location where the examination is being administered is entitled to take the examination outside of the presence of and at a different time than the other candidates and may be allowed to take an examination that is not identical to the examination administered to the other candidates.

(2) The commission may adopt rules under Subsection (a) providing for the efficient administration of promotional examinations to eligible promotional candidates who are members of the armed forces serving on active military duty. In adopting the rules, the commission shall ensure that the administration of the examination will not result in unnecessary interference with any ongoing military effort. The rules shall require that:

(A) at the discretion of the administering entity, an examination that is not identical to the examination administered to other eligible promotional candidates may be administered to an eligible promotional candidate who is serving on active military duty; and

(B) if a candidate serving on active military duty takes a promotional examination outside the presence of other candidates and passes the examination, the candidate's name shall be included in the eligibility list of names of promotional candidates who took and passed the examination nearest in time to the time at which the candidate on active military duty took the examination.

SECTION 2. Section 143.028(c), Local Government Code, is amended to read as follows:

(c) If a person is recalled on active military duty for not more than 60 [24] months, the two-year service requirements prescribed by Subsections (a) and (b) do not apply and the person is entitled to have time spent on active military duty considered as duty in the respective fire or police department. [~~If the active military duty exceeds 12 months, the person on return must serve in the department for 90 days before the person is eligible to participate in a promotional examination. This time is considered necessary to bring the person up to date on equipment and techniques.~~]

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

The amendment was read.

Senator Van de Putte moved to concur in the House amendment to **SB 863**.

The motion prevailed by a viva voce vote.

All Members are deemed to have voted "Yea" on the motion to concur.

CONCLUSION OF MORNING CALL

The President at 12:16 p.m. announced the conclusion of morning call.

HOUSE BILL 1428 ON SECOND READING

Senator Seliger moved to suspend the regular order of business to take up for consideration **HB 1428** at this time on its second reading:

HB 1428, Relating to injury leave and related benefits for certain state peace officers injured in the course of performance of duty.

The motion prevailed.

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

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

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

Nays: Staples.

HOUSE BILL 1428 ON THIRD READING

Senator Seliger moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1428** be placed on its third reading and final passage.

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

Nays: Staples.

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

COMMITTEE SUBSTITUTE HOUSE BILL 137 ON SECOND READING

Senator Nelson moved to suspend the regular order of business to take up for consideration **CSHB 137** at this time on its second reading:

CSHB 137, Relating to "Welcome to Texas" signs.

The motion prevailed.

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

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

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

Nays: Shapleigh.

COMMITTEE SUBSTITUTE HOUSE BILL 137 ON THIRD READING

Senator Nelson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 137** be placed on its third reading and final passage.

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

Nays: Shapleigh.

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

HOUSE BILL 719 ON SECOND READING

On motion of Senator West and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 719** at this time on its second reading:

HB 719, Relating to publicizing a list of voters' rights.

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

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

HOUSE BILL 719 ON THIRD READING

Senator West moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 719** be placed on its third reading and final passage.

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

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

HOUSE CONCURRENT RESOLUTION 93 ON SECOND READING

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

HCR 93, Designating Schulenburg the Official Home of the Painted Churches of Texas.

The resolution was read second time and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of the resolution.

(Senator Armbrister in Chair)

MOTION TO PLACE HOUSE BILL 535 ON SECOND READING

Senator Williams moved to suspend the regular order of business to take up for consideration **HB 535** at this time on its second reading:

HB 535, Relating to the offense of using a sound amplification device near a polling place.

Senator Williams withdrew the motion to suspend the regular order of business.

HOUSE BILL 3147 ON SECOND READING

On motion of Senator Van de Putte and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 3147** at this time on its second reading:

HB 3147, Relating to authorizing the Texas Building and Procurement Commission to enter into more favorable lease with option to purchase agreements with regards to certain space currently occupied under lease with option to purchase agreements.

The bill was read second time.

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

Floor Amendment No. 1

Amend **HB 3147** by striking all below the enacting clause and substituting the following:

SECTION 1. Subchapter J, Chapter 2166, Government Code, is amended by adding Sections 2166.454, 2166.4541, and 2166.4542 to read as follows:

Sec. 2166.454. PURCHASING OR OBTAINING MORE FAVORABLE LEASE WITH OPTION TO PURCHASE AGREEMENTS WITH REGARD TO CERTAIN LEASED SPACE. (a) This section and Sections 2166.4541 and 2166.4542 apply only in relation to space currently occupied by a state agency under one of seven lease with an option to purchase agreements:

(1) entered into by the state before December 1994, for the benefit of the Texas Commission on Environmental Quality or its predecessor agency, the office of the attorney general, the successor of the Department of Human Services, the Department of Family and Protective Services, or the Texas Department of Transportation; and

(2) under which the state may acquire title to the space by paying the purchase price remaining under the terms of the agreement on September 1 of an odd-numbered year.

(b) If the commission determines that it is advantageous to the state, the commission may:

(1) request the Texas Public Finance Authority to issue revenue bonds to finance the purchase of any or all of the space to which this section applies in accordance with Section 2166.4542 and Chapter 1232, if the commission determines that it is more advantageous to the state to purchase the space than to enter into a more favorable lease with an option to purchase agreement under Section 2166.4541 for that space; or

(2) enter into a more favorable lease with an option to purchase agreement with regard to any or all of the space to which this section applies by taking the actions authorized by Section 2166.4541 under the conditions prescribed by Section 2166.4541, if the commission determines that it is more advantageous to the state to enter into a more favorable lease with an option to purchase agreement for that space than to purchase the space under Section 2166.4542 and Chapter 1232.

(c) This section expires September 2, 2008, except that this section is continued in effect after that date for the limited purpose of applying with regard to any transaction authorized by this section and Section 2166.4541 or 2166.4542 that occurs before that date.

Sec. 2166.4541. ENTERING INTO MORE FAVORABLE LEASE WITH OPTION TO PURCHASE AGREEMENTS. (a) Subject to Section 2166.454(b), the commission may issue sale and lease purchase revenue obligations in accordance with this section and use the proceeds of the revenue obligations to:

(1) pay the commission's expenses in connection with issuing the revenue obligations;

(2) purchase any or all of the space described by Section 2166.454(a) according to the terms of the applicable existing lease with an option to purchase agreement or agreements; and

(3) if it is advisable to make capital improvements to the space, pay for making the capital improvements.

(b) The revenue obligations issued under Subsection (a) must be paid in their entirety immediately after issuance by using the proceeds of the concurrent sale of the space by the commission to a third party who agrees to lease the space back to the state with an option to purchase under the following conditions:

(1) the term of the new lease with an option to purchase agreement does not exceed the remaining term on the applicable existing lease with an option to purchase agreement, as of the date on which the transactions described by this section occur; and

(2) the cost to the state under the new lease with an option to purchase agreement is less than the cost to the state under the existing lease with an option to purchase agreement and the difference in cost justifies any costs incurred by the commission and the state in taking actions under this section with regard to the space.

(c) The commission shall obtain the approval of the Bond Review Board before issuing a sale and lease purchase revenue obligation under this section.

(d) Any sale and lease purchase revenue obligations issued by the commission under this section and any lease with an option to purchase agreement entered into under this section must be submitted to the attorney general for review and approval. If the attorney general determines that the obligation or agreement, as applicable, entered into under this section complies with this section, the attorney general shall approve the issuance of the obligation or the agreement, as applicable. On approval by the attorney general, the obligation or agreement, as applicable, is incontestable for any cause.

(e) A sale and lease purchase revenue obligation issued under this section is not a debt of the state or any state agency, is not a pledge of the faith and credit or the taxing power of the state, and may be paid only from the proceeds of the concurrent sale of the space to which the sale and lease purchase revenue obligation relates. A sale and lease purchase revenue obligation issued under this section must contain a statement to that effect.

(f) A lease with an option to purchase agreement entered into under this section must contain a statement that the agreement is not a debt of the state or any state agency and is contingent on continued legislative appropriations for making the lease payments.

(g) This section expires September 2, 2008, except that this section is continued in effect after that date for the limited purpose of applying with regard to any transaction authorized by Section 2166.454 and this section that occurs before that date.

Sec. 2166.4542. PURCHASING CERTAIN LEASED SPACE. (a) Subject to Section 2166.454(b), the commission may purchase any or all of the space described by Section 2166.454(a) in accordance with this section and Chapter 1232.

(b) The commission shall request the Texas Public Finance Authority to issue revenue obligations to finance the purchase price of any or all of the space described by Section 2166.454(a) that the commission elects to purchase under this section. The authority shall issue the revenue obligations in accordance with and subject to all provisions of Chapter 1232 applicable to revenue obligations, including all provisions relating to ensuring that the revenue obligations are paid, except that Section 1232.108(2) does not apply.

(c) The authority shall issue the revenue obligations in amounts sufficient to:

(1) pay the authority's expenses in connection with issuing the revenue obligations;

(2) pay the purchase price of the space described by Section 2166.454(a) included in the request of the commission according to the terms of the applicable existing lease with an option to purchase agreement or agreements; and

(3) if the commission considers it advisable to make capital improvements to the space, pay for making the capital improvements.

(d) At the time that a building is purchased under this section, money specifically appropriated by the legislature to an agency occupying space in the building for lease payments under the applicable lease with an option to purchase agreement, or the money available to and budgeted by the agency for that purpose, shall be transferred to the commission and used by the commission only to make the required lease or rental payments to the authority during the remainder of the state fiscal biennium during which the building was purchased under this section.

(e) This section expires September 2, 2008, except that this section is continued in effect after that date for the limited purpose of applying with regard to any transaction authorized by Section 2166.454 and this section that occurs before that date.

SECTION 2. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect on the 91st day after the last day of the legislative session.

The amendment to **HB 3147** was read and was adopted by a viva voce vote.

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

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

HB 3147 as amended was passed to third reading by a viva voce vote.

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

HOUSE BILL 3147 ON THIRD READING

Senator Van de Putte moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 3147** be placed on its third reading and final passage.

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

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

HOUSE BILL 2420 ON SECOND READING

Senator Lucio moved to suspend the regular order of business to take up for consideration **HB 2420** at this time on its second reading:

HB 2420, Relating to the allocation of federal funds directed to be used to support graduate medical education in connection with the state Medicaid program.

The motion prevailed.

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

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

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

Nays: Brimer, Staples.

HOUSE BILL 2420 ON THIRD READING

Senator Lucio moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2420** be placed on its third reading and final passage.

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

Nays: Brimer, Staples.

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

HOUSE BILL 535 ON SECOND READING

Senator Williams again moved to suspend the regular order of business to take up for consideration **HB 535** at this time on its second reading:

HB 535, Relating to the offense of using a sound amplification device near a polling place.

The motion prevailed.

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

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

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

Nays: Shapleigh.

HOUSE BILL 535 ON THIRD READING

Senator Williams moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 535** be placed on its third reading and final passage.

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

Nays: Shapleigh.

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

HOUSE BILL 1609 ON SECOND READING

On motion of Senator Seliger and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 1609** at this time on its second reading:

HB 1609, Relating to the allowed wastes and exemptions applicable to certain municipal solid waste landfill units in arid areas.

The bill was read second time.

Senator Seliger offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 1609** by adding SECTION 1, SECTION 2, SECTION 3, SECTION 5 and SECTION 6 as follows and renumbering the existing sections appropriately:

SECTION 1. Section 361.0666(a), Health and Safety Code, is amended to read as follows:

(a) An applicant for a permit under this chapter for a new facility that accepts municipal solid wastes may ~~[shall]~~ hold a public meeting in the county in which the proposed facility is to be located. ~~[The meeting must be held before the 45th day after the date the application is filed.]~~

SECTION 2. Section 361.0791(a) and (b), Health and Safety Code, is amended to read as follows:

(a) Notwithstanding other law, the commission may ~~[shall]~~ hold a public meeting on an application for a new hazardous waste management facility in the county in which the proposed hazardous waste management facility is to be located. The commission ~~[, on request of a person affected or as otherwise required by commission rule,]~~ may ~~[shall]~~ hold a public meeting on an application for a Class 3 modification or a major amendment to an existing facility's hazardous waste permit.

(b) Notwithstanding other law, the commission may ~~[shall]~~ hold a public meeting on an application for a new municipal solid waste management facility in the county in which the proposed municipal solid waste management facility is to be located.

SECTION 3. Section 361.082(d), Health and Safety Code, is amended to read as follows:

(d) In addition to the hearing held under this section, the commission may ~~[shall]~~ hold a public meeting and the applicant shall give notice as provided by Section 361.0791.

SECTION 5. Section 361.534, Health and Safety Code, is amended by amending the heading, amending Subsections (a) and (b), and adding new Subsection (c) to read as follows:

Sec. 361.534. Permit Public Meeting ~~[Hearing]~~.

(a) The commission may hold a public meeting on ~~[shall set a hearing to be held not later than the 30th day after the date that the commission receives]~~ an application under this subchapter.

(b) The commission shall hold a public meeting on an application under this subchapter:

(1) on the request of a member of the legislature who represents the general area in which the development is proposed to be located; or

(2) if the executive director determines that there is substantial public interest in the proposed development.

(c) The commission by mail shall notify the applicant of the date, time, and place of the public meeting ~~[hearing not later than the 15th day before the date of the hearing]~~. The commission shall require the applicant to publish notice of the public meeting ~~[hearing]~~ in a newspaper that is generally circulated in each county in which the property proposed for development is located. The published notice must appear at least once a week for the two weeks before the date of the public meeting ~~[hearing]~~.

SECTION 6. The changes in law made by this Act to Health and Safety Code Sections 361.0666(a), 361.0791(a) and (b), 361.082(d), and 361.534 apply only to an application that is filed on or after the effective date of this Act. An application that was filed before the effective date of this Act is governed by the former law, and that law is continued in effect for that purpose.

The amendment to **HB 1609** was read and was adopted by a viva voce vote.

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

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

HB 1609 as amended was passed to third reading by a viva voce vote.

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

HOUSE BILL 1609 ON THIRD READING

Senator Seliger moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1609** be placed on its third reading and final passage.

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

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

HOUSE BILL 1997 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 1997** at this time on its second reading:

HB 1997, Relating to the creation of an appellate judicial system for the Eleventh Court of Appeals 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.

HOUSE BILL 1997 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 1997** be placed on its third reading and final passage.

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

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

HOUSE BILL 283 ON SECOND READING

Senator Zaffirini moved to suspend the regular order of business to take up for consideration **HB 283** at this time on its second reading:

HB 283, Relating to admission, assignment, and conduct of certain public school students.

The motion prevailed.

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

The bill was read second time.

Senator Nelson offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 283** by adding the following appropriately numbered sections and renumbering the sections of the bill accordingly:

SECTION __. Subsection (c), Section 82.002, Family Code, is amended to read as follows:

(c) Any adult may apply for a protective order to protect a child from family violence under Section 71.004(1), (2), or (3). With regard to family violence under Section 71.004(3) where both parties are children 14 years or older, a child may be subject to a protective order as a respondent, provided service of the child and the child's parent, legal guardian, or person having physical custody, care, and supervision of the child is effected by the procedure set out in Section 82.043(f).

SECTION __. Section 82.043, Family Code, is amended by adding Subsection (f) to read as follows:

(f)(1) Service of notice of an application for a protective order in which a child 14 years or older is the respondent under Section 82.002(c) must be served on:

(A) the child named as respondent in the application; and

(B) the child's parent, legal guardian, or any person having physical custody, care, and supervision of the child.

(2) Service of the application must require the persons served to appear before the court at the time set to respond. The court shall require the person having physical custody or control of the child to bring the child to the hearing.

The amendment to **HB 283** was read and was adopted by a viva voce vote.

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

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

HB 283 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: Eltife.

HOUSE BILL 283 ON THIRD READING

Senator Zaffirini moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 283** be placed on its third reading and final passage.

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

Nays: Eltife.

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

HOUSE BILL 1409 ON SECOND READING

Senator Ellis moved to suspend the regular order of business to take up for consideration **HB 1409** at this time on its second reading:

HB 1409, Relating to the authority to change the name of component institutions of The Texas A&M University System.

The motion prevailed.

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

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

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

Nays: Brimer, Deuell.

HOUSE BILL 1409 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 1409** be placed on its third reading and final passage.

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

Yeas: Armbrister, Averitt, Barrientos, Carona, 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.

Nays: Brimer, Deuell.

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

**COMMITTEE SUBSTITUTE
HOUSE BILL 833 ON SECOND READING**

On motion of Senator Ogden and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 833** at this time on its second reading:

CSHB 833, Relating to hours of sale for certain alcoholic beverages in certain areas.

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

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

**COMMITTEE SUBSTITUTE
HOUSE BILL 833 ON THIRD READING**

Senator Ogden moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 833** be placed on its third reading and final passage.

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

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

HOUSE BILL 1186 ON SECOND READING

On motion of Senator West and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 1186** at this time on its second reading:

HB 1186, Relating to testamentary and nontestamentary transfers of property and other benefits and to jurisdiction of courts over certain probate matters.

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

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

HOUSE BILL 1186 ON THIRD READING

Senator West moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1186** be placed on its third reading and final passage.

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

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

HOUSE BILL 904 ON SECOND READING

On motion of Senator Ogden and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 904** at this time on its second reading:

HB 904, Relating to the sentencing of defendants convicted of multiple counts of intoxication assault, improper photography or visual recording, or possession or promotion of child pornography.

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

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

HOUSE BILL 904 ON THIRD READING

Senator Ogden moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 904** be placed on its third reading and final passage.

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

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

COMMITTEE SUBSTITUTE**HOUSE BILL 2145 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 2145** at this time on its second reading:

CSHB 2145, Relating to prohibiting changes in certain prescription drug orders without the approval of the prescribing health care practitioner.

The bill was read second time.

Senator Madla offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSHB 2145**, Senate committee printing, as follows:

(1) After the SECTION of the bill adding Section 1551.2197, Insurance Code, insert a new SECTION, appropriately numbered, to read as follows:

SECTION ____ . Subchapter E, Chapter 1551, Insurance Code, is amended by adding Section 1551.2198 to read as follows:

Sec. 1551.2198. REQUIREMENTS FOR PHARMACY BENEFIT MANAGERS. (a) A pharmacy benefit manager who contracts with the board of trustees to provide prescription drug benefits for a participant in the group benefits program may not use, or contract to use, extrapolation calculations in an audit of a pharmacy.

(b) A pharmacy benefit manager who contracts with the board of trustees to provide prescription drug benefits for a participant in the group benefits program shall comply with the requirements for payment of claims to health care providers adopted under Subchapter J, Chapter 843 and Subchapter C, Chapter 1301.

(2) After the SECTION of the bill adding Section 1575.171, Insurance Code, insert a new SECTION, appropriately numbered, to read as follows:

SECTION ____. Subchapter D, Chapter 1575, Insurance Code, is amended by adding Section 1575.172 to read as follows:

Sec. 1575.172. REQUIREMENTS FOR PHARMACY BENEFIT MANAGERS. (a) A pharmacy benefit manager who contracts with the trustee to provide prescription drug benefits for a participant in the group program may not use, or contract to use, extrapolation calculations in an audit of a pharmacy.

(b) A pharmacy benefit manager who contracts with the trustee to provide prescription drug benefits for a participant in the group program shall comply with the requirements for payment of claims to health care providers adopted under Subchapter J, Chapter 843 and Subchapter C, Chapter 1301.

(3) After the SECTION of the bill adding Section 1579.109, Insurance Code, insert a new SECTION, appropriately numbered, to read as follows:

SECTION ____. Subchapter C, Chapter 1579, Insurance Code, is amended by adding Section 1579.110 to read as follows:

Sec. 1579.110. REQUIREMENTS FOR PHARMACY BENEFIT MANAGERS. (a) A pharmacy benefit manager who contracts with the trustee to provide prescription drug benefits for a participant in the program may not use, or contract to use, extrapolation calculations in an audit of a pharmacy.

(b) A pharmacy benefit manager who contracts with the trustee to provide prescription drug benefits for a participant in the program shall comply with the requirements for payment of claims to health care providers adopted under Subchapter J, Chapter 843 and Subchapter C, Chapter 1301.

(4) After the SECTION of the bill adding Section 1601.156, Insurance Code, insert a new SECTION, appropriately numbered, to read as follows:

SECTION ____. Subchapter D, Chapter 1601, Insurance Code, is amended by adding Section 1601.157 to read as follows:

Sec. 1601.157. REQUIREMENTS FOR PHARMACY BENEFIT MANAGERS. (a) A pharmacy benefit manager who contracts with a system to provide prescription drug benefits for a participant in the uniform program may not use, or contract to use, extrapolation calculations in an audit of a pharmacy.

(b) A pharmacy benefit manager who contracts with a system to provide prescription drug benefits for a participant in the uniform program shall comply with the requirements for payment of claims to health care providers adopted under Subchapter J, Chapter 843 and Subchapter C, Chapter 1301.

(5) Renumber the SECTIONS of the bill appropriately.

The amendment to **CSHB 2145** was read and was adopted by a viva voce vote.

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

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

Floor Amendment No. 2

Amend **CSHB 2145**, Senate committee printing, as follows:

(1) Insert the following new SECTIONS, appropriately numbered:

SECTION _____. Subtitle H, Title 8, Insurance Code, is amended by adding Chapter 1626 to read as follows:

CHAPTER 1626. DRUG INTERCHANGE PROGRAMS WITH CERTAIN GOVERNMENT HEALTH BENEFIT PLANS

Sec. 1626.001. DEFINITIONS. In this chapter:

(1) "Actual cost savings" means, with respect to a proposed drug interchange, the actual amount in dollars a client plan and patient, respectively, will save in net drug costs annually if a drug interchange occurs at the expected dosage, assuming the patient will use the drug for 12 months.

(2) "Board" means the Texas State Board of Pharmacy.

(3) "Class E pharmacy" has the meaning assigned by Section 560.051(f), Occupations Code.

(4) "Clear and conspicuous," as regards a disclosure under this chapter, means a disclosure made in such a size, color, contrast, and location that:

(A) is readily noticeable, readable, and understandable;

(B) is presented in proximity to all information necessary to prevent it from being misleading or deceptive;

(C) is presented in a manner that the information is readily noticeable, readable, and understandable and not obscured in any manner; and

(D) if a print disclosure, appears in a type size, contrast, and location sufficient for a patient or practitioner to read and comprehend the disclosure.

(5) "Client plan" means a health benefit plan provided under Chapter 1551, 1575, 1579, or 1601 for which a Class E pharmacy, under contract, provides or administers pharmacy benefits.

(6) "Currently prescribed drug" means a drug prescribed for a patient that is the subject of a drug interchange solicitation by a Class E pharmacy.

(7) "Drug interchange" means any change from one prescription drug to another that is requested by a Class E pharmacy. The term does not include a drug interchange:

(A) initiated under a drug utilization review;

(B) initiated for patient safety reasons;

(C) required due to market unavailability of the currently prescribed drug;

(D) from a brand drug to a generically or pharmaceutically equivalent drug, as defined by Section 562.001, Occupations Code; or

(E) required because the currently prescribed drug is not covered by the formulary or plan applicable to the patient.

(8) "Drug interchange-related health care costs" means a patient's copayments or deductibles for tests, doctor visits, and other health care services that are incurred in accordance with a treating physician's instructions, and are incurred as a result of:

(A) a drug interchange for the purpose of assessing the continuum of the previous therapy for up to six months following the drug interchange; or

(B) a drug interchange solicitation for the purpose of assessing whether to undertake a proposed drug interchange.

(9) "Drug interchange solicitation" means a communication by a Class E pharmacy to request a drug interchange.

(10) "Generically equivalent" has the meaning assigned by Section 562.001, Occupations Code.

(11) "Manufacturer additional payments" means all manufacturer payments other than manufacturer formulary payments.

(12) "Manufacturer formulary payments" means payments that:

(A) a Class E pharmacy receives from a manufacturer in return for formulary placement or access; or

(B) are characterized as "formulary" or "base" rebates under agreements by the Class E pharmacy with pharmaceutical manufacturers.

(13) "Manufacturer payments" means all compensation a Class E pharmacy receives from a pharmaceutical manufacturer, including rebates, regardless of how categorized, market share incentives, commissions, mail service purchase discounts, administrative or management fees, and any fees received for sales of utilization data to a pharmaceutical manufacturer. The term does not include purchase discounts based on invoiced purchase terms.

(14) "Minimum cost savings" means the minimum dollar amount a client plan and patient, respectively, will save annually if a drug interchange occurred at the expected dosage.

(15) "Net drug cost" means the price a Class E pharmacy charges a client plan or patient for a prescription drug whether that drug is delivered through a retail pharmacy or mail order. The term may include all discounts, rebates, credits, or other payments that lower the cost of the drug, to the extent those payments are provided to the client plan, and may be reduced by manufacturer payments to the extent those payments are provided to the client plan, but may not be reduced by manufacturer payments that are paid to and retained by the Class E pharmacy.

(16) "Patient" means a person whose prescription drug benefit is administered by a Class E pharmacy.

(17) "Practitioner" has the meaning assigned by Section 551.003(34), Occupations Code.

(18) "Proposed drug" means a drug that a Class E pharmacy in its drug interchange solicitation proposes to substitute for a currently prescribed drug.

(19) "Total product revenue" means a Class E pharmacy's net revenue that consists principally of sales of prescription drugs to clients.

Sec. 1626.002. PROHIBITED ACTS. (a) Unless otherwise specifically directed by a client plan with respect to a proposed drug interchange, a Class E pharmacy may not make a drug interchange solicitation under which:

(1) the net drug cost of the proposed drug exceeds that of the currently prescribed drug;

(2) the currently prescribed drug has a generically equivalent drug and the proposed drug does not have a generically equivalent drug, unless the proposed drug has a lower net drug cost than all generically equivalent drugs of the currently prescribed drug; or

(3) the patent protection for the currently prescribed drug is scheduled to expire within six months of the drug interchange solicitation, or the reasonable effect of the proposed drug interchange is to avoid substitution for, or generic competition against, the currently prescribed drug, other than a drug interchange that has the effect of decreasing net drug costs.

(b) A Class E pharmacy may not make any drug interchange that fails to disclose to practitioners and patients, clearly and conspicuously, minimum cost savings or actual cost savings, as well as the difference, if any, in copayments to be made by the patient, or, if there is no effect, the absence of effect on copayments. In making a disclosure, a Class E pharmacy may reasonably rely on information provided by the client plan with respect to eligibility and copayments without regard to applicable deductibles and maximum plan benefits.

(c) A Class E pharmacy may not make any drug interchange solicitation to a patient who, within two years preceding the solicitation, and with respect to the same therapeutic class of drug products involved in the proposed drug interchange, has:

(1) interchanged the patient's drug following a drug interchange solicitation from the Class E pharmacy; or

(2) interchanged the patient's drug following a Class E pharmacy drug interchange solicitation but had the interchange reversed, unless all of the proposed drugs in the current drug interchange solicitation were not among the proposed drugs included in the prior drug interchange solicitation.

Sec. 1626.003. PAYMENT OF DRUG INTERCHANGE RELATED COSTS: DISCLOSURE REQUIREMENTS. (a) A Class E pharmacy shall pay all out-of-pocket costs for drug interchange-related health care costs incurred by a patient by reimbursing the patient for those costs not later than the 30th day after receipt by the pharmacy of a claim form for those costs.

(b) Each Class E pharmacy shall enact and follow a procedure for reimbursing patients for out-of-pocket costs described by Subsection (a) under which the Class E pharmacy shall:

(1) permit patients, practitioners, or treating physicians to request the reimbursement by telephone or in writing; and

(2) on receipt of the request, provide a single-page claim form with instructions to request reimbursement.

(c) For reimbursement requests initiated by patients, the Class E pharmacy may require that the patient's reimbursement claim provide information showing that the patient incurred drug interchange-related health care costs. The patient may satisfy the requirement by providing the physician's or practitioner's notation at a designated place on the claim form or the physician's written order, or through other evidence that shows payment of costs, including costs for copayments or deductibles for tests

or doctor visits incurred as a result of a drug interchange. The Class E pharmacy may not directly or indirectly prevent or discourage patients or physicians from requesting or receiving reimbursement for drug interchange-related health care costs.

(d) The Class E pharmacy's written communications to both practitioners and patients concerning drug interchanges must clearly and conspicuously disclose the pharmacy's policy, consistent with this section, with respect to drug interchange-related health care costs. Telephone communications by the pharmacy with practitioners and patients concerning drug interchanges must communicate the existence of the pharmacy's policies with respect to drug interchange-related health care costs. Communications under this subsection with practitioners, patients, and client plans may not misrepresent, directly or indirectly, the pharmacy's policy with respect to drug interchange-related health care costs.

(e) If drug interchange-related health care costs paid to a patient with respect to any particular interchange exceed \$500, the Class E pharmacy, while complying with the timely reimbursement requirement under Subsection (a), may choose to have a third party chosen by the pharmacy review the costs paid. If a determination is made that the costs were not related to an interchange, this section may not be construed as preventing the pharmacy from pursuing any legal remedies the pharmacy may have against the patient and any other involved party.

Sec. 1626.004. SOLICITATION PROCESS; DISCLOSURE OF PRICING INFORMATION. (a) A Class E pharmacy may not interchange, or obtain an interchange promise for, the prescription drug of any patient without first obtaining the express verifiable authorization of the practitioner who prescribed the currently prescribed drug. Each drug interchange solicitation to a practitioner must:

(1) identify the name and title of the person making the drug interchange solicitation;

(2) state that the Class E pharmacy is soliciting a drug interchange;

(3) identify the minimum cost savings or actual cost savings to be achieved by interchanging to the proposed drug from the currently prescribed drug;

(4) describe under what circumstances the currently prescribed drug will continue to be covered by the client plan, if that is the case;

(5) describe the difference in the applicable copayment, if any, or the absence of any effect on the applicable copayment;

(6) if the pharmacy receives manufacturer payments from a drug manufacturer as a result of the proposed drug interchange or the interchange solicitation that is not reflected in the net drug cost because the manufacturer payments do not inure to the pharmacy's client plan, disclose that the pharmacy receives those payments or potential payments;

(7) disclose the existence of the pharmacy's policy with respect to drug interchange-related health care costs, as described by Section 1626.003; and

(8) disclose any material differences between the currently prescribed drug and the proposed drug regarding side effects or potential effects on patient health and safety.

(b) A Class E pharmacy may not interchange a patient's drug without express verifiable authorization from the practitioner as communicated directly by the practitioner, either in writing or verbally, or by a person who affirms in writing or

verbally that the interchange has been authorized by the practitioner. If the authorization is by a person other than the practitioner and verbal, the Class E pharmacy shall request that person's name and title or position. The Class E pharmacy shall maintain records documenting, with respect to each drug interchange, how the express verifiable authorization was obtained, including the name of the person providing the authorization, whether the authorization was written or verbal, and, if verbal and by a person other than the practitioner, that person's title or position, if provided.

(c) On receipt of authorization under Subsection (b), the Class E pharmacy shall send a written communication to the practitioner confirming the interchange. If the interchange solicitation under Subsection (a) was not in writing, the written confirmation must include the information required by Subsection (a). Regardless of whether the interchange solicitation was in writing, the written confirmation must:

(1) identify the minimum cost savings or actual cost savings resulting from the interchange;

(2) clearly and conspicuously disclose the pharmacy's policy with respect to drug interchange-related health care costs, in accordance with Section 1626.003; and

(3) provide a toll-free telephone number for the prescribing practitioner.

Sec. 1626.005. PATIENT DRUG INTERCHANGE NOTICE. (a) With respect to home delivery prescriptions, not later than the earlier of 24 hours after receipt of an authorization of a drug interchange by the practitioner or dispensing the proposed drug, the Class E pharmacy shall send the patient a written notice and make a telephonic communication advising the patient of the practitioner's approval of the drug interchange.

(b) Following receipt of authorization for a non-home delivery prescription, the pharmacy shall send the patient a written notice that clearly and conspicuously:

(1) states that the pharmacy requested a drug interchange by contacting the patient's practitioner;

(2) states that, following the pharmacy's interchange solicitation, the practitioner approved the drug interchange;

(3) identifies the proposed drug and the currently prescribed drug;

(4) identifies the minimum cost savings or actual cost savings;

(5) describes under what circumstances the currently prescribed drug will continue to be covered by the client plan, if that is the case;

(6) describes any difference in the applicable copayment or the absence of any effect on the applicable copayment;

(7) if the pharmacy receives compensation from a drug manufacturer as a result of the proposed drug interchange or the drug interchange solicitation that is not reflected in the net drug cost because it is compensation that does not inure to the pharmacy's client plan, discloses the fact of that compensation or potential compensation;

(8) discloses the pharmacy's policy with respect to drug interchange-related health care costs, in accordance with Section 1626.003; and

(9) advises the patient that the patient may decline the drug interchange, in which case the patient will receive the currently prescribed drug if the currently prescribed drug remains on the client plan's formulary and the patient is willing to pay any difference in the applicable copayment.

(c) The telephonic communication described by Subsection (a) must:

(1) state that the Class E pharmacy requested a drug interchange by contacting the patient's practitioner;

(2) state that, following the pharmacy's interchange solicitation, the practitioner approved the drug interchange;

(3) advise the patient that further written information about the drug interchange will arrive in the mail; and

(4) provide the pharmacy's toll-free telephone number so that the patient may speak to a customer service representative about the interchange.

(d) A disclosure under Subsection (b) or (c) may not represent that the practitioner initiated the drug interchange.

Sec. 1626.006. REJECTED INTERCHANGES. (a) Unless a currently prescribed drug is no longer on the client plan's formulary or the patient is unwilling to pay any higher applicable copayment or other costs, a Class E pharmacy shall cancel and reverse a drug interchange on written or verbal instructions from a practitioner or patient. The Class E pharmacy shall maintain a toll-free telephone number during business hours to handle telephone calls from patients and practitioners in response to the pharmacy's interchange confirmations, and the customer service standards for those telephone numbers must be equivalent to the pharmacy's other customer service standards.

(b) On cancellation, if the Class E pharmacy has not yet dispensed the proposed drug, the pharmacy on approval of the practitioner shall dispense the currently prescribed drug. If the pharmacy has already dispensed the proposed drug, the pharmacy shall obtain a prescription for and dispense the currently prescribed drug, and may charge the patient only one copayment and shipping and handling fees. Unless otherwise provided by contract with a client plan, the pharmacy shall also bear the expense of shipping the proposed drug back to the pharmacy, either by offset or by reversing and crediting the initial copayment.

(c) Each Class E pharmacy shall provide notice to each client plan that the client plan may request information regarding the costs to the plan resulting from a patient's rejection of a proposed drug interchange. If a patient will exhaust the patient's supply of the currently prescribed drug before a replacement shipment will arrive to the patient, the pharmacy shall arrange for dispensing of an appropriate quantity of replacement medications at a participating network pharmacy at no additional cost to the patient. If a patient reverses an interchange and the Class E pharmacy is unable to obtain approval from the practitioner or a physician covering for the practitioner for the currently prescribed drug, the pharmacy shall take reasonable steps to provide the currently prescribed drug or the proposed drug before the patient exhausts the patient's existing supply.

Sec. 1626.007. ROLE OF ADVISORY COMMITTEE. (a) If a Class E pharmacy uses an advisory committee of health care professionals to assist the pharmacy in establishing drug formularies and determining clinical criteria used by

the pharmacy as a basis for the pharmacy's drug interchange program, the pharmacy may not misrepresent the role of the advisory committee in initiating, reviewing, approving, or endorsing a proposed drug interchange or interchange solicitation. If the pharmacy mentions the advisory committee in any interchange solicitation or communication related to drug interchanges, the pharmacy shall clearly and conspicuously disclose:

(1) the role of the advisory committee in the pharmacy's interchange proposal;

(2) that the interchange being proposed was not initiated by the advisory committee and not initiated due to medical care considerations; and

(3) that the advisory committee did not consider cost issues, if such is the case.

(b) With respect to the operation of the advisory committee, the Class E pharmacy shall provide to each client plan at the plan's expense, unless the client plan contract provides otherwise, on request:

(1) copies of all information provided to the advisory committee; and

(2) copies of all minutes of the advisory committee that include:

(A) the list of attendees at the advisory committee meeting;

(B) the record of all votes to approve or disapprove a drug for a formulary, recommend a therapeutically equivalent drug interchange, or take other action;

(C) a summary of any discussion of material differences between a currently prescribed drug and a proposed drug with respect to side effects or potential effects on patient health and safety; and

(D) a summary of all discussions on each agenda point.

(c) In addition to the requirements under Subsections (a) and (b), the Class E pharmacy shall advise each client plan that the plan may send a representative, at the plan's expense, to attend any advisory committee meeting.

(d) If an advisory committee approves a drug interchange with conditions, the Class E pharmacy shall provide a complete description of those conditions to the practitioner at the time of the interchange solicitation.

Sec. 1626.008. MONITORING OF HEALTH EFFECTS OF DRUG INTERCHANGE. Each Class E pharmacy shall monitor the effects of drug interchanges requested by the pharmacy on the health of patients, and shall report to its advisory committee, if any, not less than quarterly, the results of that monitoring. The monitoring must include a system designed to identify patient and practitioner communications with the pharmacy that concern the efficacy or health effects of a drug interchange, and maintain the information received from those communications in a manner that allows the pharmacy to collect and generate reports on patient and practitioner communications concerning drug interchanges. The pharmacy shall report the results of the monitoring to its advisory committee, if any, not less than quarterly, and the committee shall reasonably consider the results of the monitoring.

Sec. 1626.009. DISCLOSURE TO CLIENT PLANS OF COMPENSATION FROM DRUG MANUFACTURERS. (a) With respect to each client plan that has contracted to receive any manufacturer payments from a Class E pharmacy, for each pharmacy fiscal year during which the client plan receives a manufacturer payment,

the pharmacy shall provide a report for each fiscal quarter and fiscal year. A payment report must provide the information required under Subsection (b). If the precise reported figure is not known by the pharmacy at the time of the report, the pharmacy shall provide its current best estimate of the reported information, and shall provide an update to the reported information to reflect any revision.

(b) The report must include:

(1) the dollar amount of total product revenue for the reporting period, with respect to the Class E pharmacy's entire client base;

(2) the dollar amount of total drug expenditures for each client plan;

(3) the dollar amount of all manufacturer payments earned by the pharmacy for the reporting period;

(4) the percentage of all manufacturer payments earned by the pharmacy for the reporting period that were manufacturer formulary payments; and

(5) the percentage of all manufacturer payments received by the pharmacy during the reporting period that were manufacturer additional payments.

(c) A manufacturer payment report must present the required information in a clear and conspicuous manner that serves to inform client plans of all manufacturer payments earned by the Class E pharmacy, including client plans that share in manufacturer formulary payments but not manufacturer additional payments.

(d) The Class E pharmacy shall disclose to each client plan or prospective client plan, in advance of executing an initial or renewal contract with the plan:

(1) that the pharmacy solicits and receives manufacturer payments and may pass through those payments to client plans or may retain those payments, depending on contract terms;

(2) the information required under Subsection (b) concerning the most recent fiscal year for which the information is publicly available at the time of the communication under this subsection; and

(3) that the pharmacy must report, quarterly and annually, on manufacturer payments, as required by this section.

Sec. 1626.010. PHARMACY ETHICS. (a) Each Class E pharmacy contracting to provide pharmacy benefits for a client plan shall adopt the code of ethics of the American Pharmacists Association or an analogous code of ethics recognized by the board for its employed pharmacists. The pharmacy shall accept the association's principles of practice for pharmaceutical care or analogous principles recognized by the board as a framework for ongoing evolution of its pharmacy practice. The pharmacy shall provide these documents to all staff pharmacists with any explanations as necessary to make clear to staff pharmacists that the Class E pharmacy is striving to achieve the objectives established by the profession.

(b) The Class E pharmacy shall make available to its employed pharmacists, client plans, and patients copies of those codes of ethics or professional standards, which may be made available in electronic form or on an Internet website.

(c) The Class E pharmacy shall require its pharmacists to comply with all state law requirements governing pharmacists.

(d) The Class E pharmacy shall permit its pharmacists to give good faith professional opinions.

(e) The Class E pharmacy shall require that its pharmacists form an independent professional judgment that a drug interchange would be in a patient's best interest before soliciting a drug interchange.

Sec. 1626.011. ADDITIONAL PRICE TRANSPARENCY REMEDIES. (a) A Class E pharmacy contracting to provide pharmacy benefits for a client plan may not refuse to respond to a request for a proposal or a request for a bid from a client plan on the grounds that the proposal does not use the average wholesale price or prohibits the use of the average wholesale price in pricing terms, and the pharmacy, if asked, shall communicate to each plan that pricing methods other than use of the average wholesale price are available.

(b) The pharmacy may not describe relative prices of drugs by use of symbols or other indirect means without disclosing the price range those symbols represent.

SECTION _____. Section 562.013, Occupations Code, is amended to read as follows:

Sec. 562.013. APPLICABILITY OF SUBCHAPTER. (a) Unless a drug is determined to be generically equivalent to the brand prescribed, drug selection as authorized by this subchapter does not apply to:

- (1) an enteric-coated tablet;
- (2) a controlled release product;
- (3) an injectable suspension, other than an antibiotic;
- (4) a suppository containing active ingredients for which systemic absorption is necessary for therapeutic activity; or
- (5) a different delivery system for aerosol or nebulizer drugs.

(b) This subchapter applies to a drug interchange program described by Chapter 1626, Insurance Code, except to the extent of any conflict with that chapter. In the event of a conflict between Chapter 1626, Insurance Code, and this subchapter, Chapter 1626, Insurance Code, controls.

SECTION _____. This Act applies to a health benefit plan provided under Subtitle H, Title 8, Insurance Code, beginning with the 2005-2006 plan year.

- (2) Strike SECTION 5 (page 2, lines 2-3, senate committee printing).
- (3) Renumber the SECTIONS of the bill accordingly.

The amendment to **CSHB 2145** was read and was adopted by a viva voce vote.

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

Senator Nelson offered the following amendment to the bill:

Floor Amendment No. 3

Amend **CSHB 2145**, Senate committee printing, by adding the following SECTION, appropriately numbered, and renumbering the SECTIONS of the bill accordingly:

SECTION ___. (a) The joint interim committee on pharmacy benefit programs is established to study state contracts on pharmacy benefit programs and to establish guidelines for the continuation of pharmacy benefit management contracts

administered by the Employees Retirement System of Texas, the Teacher Retirement System of Texas, The University of Texas System, and The Texas A&M University System.

(b) The joint interim committee shall be composed of five senators and five members of the house of representatives, as follows:

(1) the chair of the senate finance committee or that person's designee, the chair of the senate health and human services committee or that person's designee, and three senators appointed by the lieutenant governor; and

(2) the chair of the appropriations committee of the house of representatives or that person's designee, the chair of the human services committee of the house of representatives or that person's designee, and three members of the house of representatives appointed by the speaker of the house of representatives.

(c) The lieutenant governor and speaker of the house of representatives shall each designate a co-chair from among the committee members.

(d) The joint interim committee shall meet initially at the joint call of the co-chairs, and the committee shall subsequently hold meetings and public hearings at the call of the co-chairs.

(e) The joint interim committee has all powers and duties provided to special committees by the senate and house of representatives rules of procedure, by Subchapter B, Chapter 301, Government Code, and by policies of the committees on administration.

(f) From the contingent expense fund of the senate and the contingent expense fund of the house of representatives equally, the members of the joint interim committee shall be reimbursed for expenses incurred in carrying out the provisions of this section in accordance with the senate and house of representatives rules of procedure and the policies of the committees on administration. Other necessary expenses of operation shall be paid from the contingent expense fund of the senate and the contingent expense fund of the house of representatives equally.

(g) The joint interim committee shall make a complete written report, including findings and recommendations and drafts of recommended legislation, to the 80th Legislature when it convenes in January 2007.

The amendment to **CSHB 2145** was read and was adopted by a viva voce vote.

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

MOTION TO RECONSIDER VOTE ON FLOOR AMENDMENT NO. 1

Senator Duncan moved to reconsider the vote by which Floor Amendment No. 1 to **CSHB 2145** was adopted.

The motion was lost by the following vote: Yeas 11, Nays 17.

Yeas: Averitt, Brimer, Duncan, Fraser, Jackson, Janek, Shapiro, Staples, Wentworth, West, Williams.

Nays: Armbrister, Barrientos, Carona, Deuell, Ellis, Eltife, Estes, Gallegos, Hinojosa, Lucio, Madla, Nelson, Seliger, Shapleigh, Van de Putte, Whitmire, Zaffirini.

Absent: Harris, Lindsay, Ogden.

Senator Ellis offered the following amendment to the bill:

Floor Amendment No. 4

Amend **CSHB 2145** by adding the following and renumbering the sections accordingly.

SECTION __. Subchapter A, Chapter 554, Occupations Code, is amended by adding Section 554.016 to read as follows:

Sec. 554.016. FREE AND DISCOUNTED DRUG OFFER INFORMATION.

(a) The board shall:

(1) contact pharmaceutical companies to request information on any free or discounted drug offers made by the companies;

(2) on the board's Internet website, post information and create links to other websites on free or discounted drug offers made by pharmaceutical companies; and

(3) notify each person licensed under this subtitle regarding the free and discounted drug information available on the board's Internet website.

(b) Not later than December 1 of each even-numbered year, the board shall file with the presiding officer of each house of the legislature a report on:

(1) the information obtained by the board regarding free and discounted drug offers made by pharmaceutical companies;

(2) the information provided by the board on its Internet website about those offers; and

(3) recommendations for changes to the program or for legislation necessary to increase the success of the program.

SECTION __. (a) As soon as practicable after the date the Texas State Board of Pharmacy posts the information required under Section 554.016, Occupations Code, as added by this Act, the pharmacy board shall notify the Department of State Health Services and the Texas State Board of Medical Examiners of the availability of the information on the pharmacy board's Internet website.

(b) As soon as practicable after the date the Texas State Board of Pharmacy posts the information required under Section 554.016, Occupations Code, as added by this Act, the Department of State Health Services shall notify all city and county health departments, hospital districts, and other governmental health care providers of the free and discounted drug offer information available on the pharmacy board's Internet website.

(c) As soon as practicable after the date the Texas State Board of Pharmacy posts the information required under Section 554.016, Occupations Code, as added by this Act, the Texas State Board of Medical Examiners shall notify all physicians licensed in this state of the free and discounted drug offer information available on the pharmacy board's Internet website.

The amendment to **CSHB 2145** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 4.

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

CSHB 2145 as amended was passed to third reading by the following vote: Yeas 20, Nays 9.

Yeas: Armbrister, Barrientos, Brimer, Carona, Deuell, Ellis, Eltife, Gallegos, Hinojosa, Lindsay, Lucio, Madla, Nelson, Seliger, Shapleigh, Van de Putte, Wentworth, West, Whitmire, Zaffirini.

Nays: Averitt, Duncan, Estes, Fraser, Jackson, Janek, Shapiro, Staples, Williams.

Absent: Harris, Ogden.

HOUSE BILL 960 ON SECOND READING

On motion of Senator Jackson and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 960** at this time on its second reading:

HB 960, Relating to the authority of a political subdivision to regulate construction and renovation of structures owned by certain counties.

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

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

HOUSE BILL 960 ON THIRD READING

Senator Jackson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 960** be placed on its third reading and final passage.

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

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

HOUSE BILL 1763 ON SECOND READING

On motion of Senator Duncan and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 1763** at this time on its second reading:

HB 1763, Relating to the notice, hearing, rulemaking, and permitting procedures for groundwater conservation districts.

The bill was read second time.

Senator Duncan offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 1763** by adding the following sections and renumber accordingly:

SECTION ____ . Section 16.053, Water Code, is amended by amending Subsection (e) and (p) and adding Subsections (p-1), (p-2), (p-3) and (p-4) to read as follows:

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

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

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

(3) identifies:

(A) each source of water supply in the regional water planning area, including information supplied by the executive administrator on the amount of managed available groundwater in accordance with the guidelines provided by the development board under Subsections (d) and (f);

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(p) If a groundwater conservation district files a petition with the development board stating that a conflict requiring resolution may exist between the district's approved ~~certified groundwater conservation district~~ management plan developed under Section 36.1071 and an ~~the~~ approved state regional water plan, the development board shall provide technical assistance to and facilitate coordination between the district and the involved region to resolve the conflict. Not later than the 45th day after the date the groundwater conservation district files a petition with the development board, if the conflict has not been resolved, the district and the involved region shall mediate the conflict. The district and the involved region may seek the assistance of the Center for Public Policy Dispute Resolution at The University of Texas School of Law or an alternative dispute resolution system established under Chapter 152, Civil Practice and Remedies Code, in obtaining a qualified impartial third party to mediate the conflict. The cost of the mediation services must be specified in the agreement between the parties and the Center for Public Policy Dispute Resolution or the alternative dispute resolution system. If the district and the involved region cannot resolve the conflict through mediation remains, the development board shall resolve the conflict not later than the 60th day after the date the mediation is completed as provided by Subsections (p-1) and (p-2).

(p-1) If the development board determines that resolution of the conflict requires a revision of an approved regional water plan, the development board shall suspend the approval of that plan and provide information to the regional water planning group. The regional water planning group shall prepare any revisions to its plan specified by the development board and shall hold, after notice, at least one public hearing at some central location within the regional water planning area. The regional water planning group shall consider all public and development board comments, prepare, revise, and adopt its plan, and submit the revised plan to the development board for approval and inclusion in the state water plan.

(p-2) If the development board determines that resolution of the conflict requires a revision of the district's approved certified groundwater conservation district management plan, the development board shall suspend the certification of that plan and provide information to the district. The groundwater district shall prepare any revisions to its plan based on the information provided specified by the development board and shall hold, after notice, at least one public hearing at some central location within the district. The groundwater district shall consider all public and development board comments, prepare, revise, and adopt its plan, and submit the revised plan to the development board for certification.

(p-3) If the groundwater conservation district disagrees with the decision of the development board under Subsection (p), the district may appeal the decision to a district court in Travis County. Costs for the appeal shall be set by the court hearing the appeal. An appeal under this subsection is by trial de novo.

(p-4) On the request of the involved region or groundwater conservation district, the development board shall include discussion of the conflict and its resolution in the state water plan that the development board provides to the governor, the lieutenant governor, and the speaker of the house of representatives under Section 16.051(e).

SECTION ____ . Section 36.001, Water Code, is amended by striking Subdivision (17) amending and adding Subdivisions (4-a) and (24) through (29) to read as follows:

(4-a) "Federal conservation program" means the Conservation Reserve Program of the United States Department of Agriculture.

~~(17) "Applicant" means a newly confirmed district applying for a loan from the loan fund.~~

(24) "Total aquifer storage" means the total calculated volume of groundwater that an aquifer is capable of producing.

(25) "Managed available groundwater" means the amount of water that may be permitted by a district for beneficial use in accordance with the desired future condition of the aquifer as determined under Section 36.108.

(26) "Recharge" means the amount of water that infiltrates to the water table of an aquifer.

(27) "Inflows" means the amount of water that flows into an aquifer from another formation.

(28) "Discharge" means the amount of water that leaves an aquifer by natural or artificial means.

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

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

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

- (1) providing the most efficient use of groundwater;
- (2) controlling and preventing waste of groundwater;
- (3) controlling and preventing subsidence;
- (4) addressing conjunctive surface water management issues;
- (5) addressing natural resource issues;
- (6) addressing drought conditions; and
- (7) addressing conservation, recharge enhancement, rainwater harvesting, precipitation enhancement, or brush control, where appropriate and cost-effective; and
- (8) addressing in a quantitative manner the desired future conditions of the groundwater resources;

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

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

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

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

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

(3) include estimates of the following:

(A) managed available ~~the existing total usable amount of~~ groundwater in the district based on the desired future condition established under Section 36.108;

(B) the amount of groundwater being used within the district on an annual basis;

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

(D) for each aquifer, the annual volume of water that discharges from the aquifer to springs and any surface water bodies, including lakes, streams, and rivers;

(E) the annual volume of flow into and out of the district within each aquifer and between aquifers in the district, if a groundwater availability model is available;

(F) the projected surface water supply in the district according to the most recently adopted state water plan; and

(G) the projected total demand for water in the district according to the most recently adopted state water plan ~~projected water supply and demand for water within the district; and~~

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

(f) The district shall adopt rules necessary to implement the management plan. Prior to the development of the management plan and its approval under Section 36.1072, the district may not adopt rules other than rules pertaining to the registration and interim permitting of new and existing wells and rules governing spacing and procedure before the district's board; however, the district may not adopt any rules limiting the production of wells, except rules requiring that groundwater produced from a well be put to a non-wasteful, beneficial use a district may accept applications

for permits under Section 36.113, provided the district does not act on any such application until the district's management plan is approved as provided in Section 36.1072.

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

(h) In developing its management plan, the district shall use the groundwater availability modeling information provided by the executive administrator ~~together in conjunction~~ with any available site-specific information that has been provided by the district to the executive administrator for review and comment before being used in the plan [and acceptable to the executive administrator.

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

Sec. 36.1072. TEXAS WATER DEVELOPMENT BOARD REVIEW AND APPROVAL ~~CERTIFICATION~~ OF MANAGEMENT PLAN. (a) A district shall, not later than ~~three~~ two years after the creation of the district or, if the district required confirmation, after the election confirming the district's creation, submit the management plan required under Section 36.1071 to the executive administrator for review and approval certification.

(b) Within 60 days of receipt of a management plan adopted under Section 36.1071, readopted under Subsection (e) or (g) of this section, or amended under Section 36.1073, the executive administrator shall approve certify a management plan if the plan is administratively complete. A management plan is administratively complete when it contains the information required to be submitted under Section 36.1071 (a) and (e).

The executive administrator may determine whether ~~that~~ conditions justify waiver of the requirements under Section 36.1071(e)(4).

(c) Once the executive administrator has approved a determination that a management plan is administratively complete has been made:

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

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

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

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

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

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

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

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

(f) If the executive administrator does not ~~approve~~ ~~certify~~ the management plan, the executive administrator shall provide to the district, in writing, the reasons for the action. Not later than the 180th day after the date a district receives notice that its management plan has not been ~~approved~~ ~~certified~~, the district may submit a revised management plan for review and ~~approval~~ ~~certification~~. The executive administrator's decision may be appealed to the Texas Water Development Board. If the Texas Water Development Board decides not to approve the management plan on appeal, the district may request that the conflict be mediated. The district and the board may seek the assistance of the Center for Public Policy Dispute Resolution at The University of Texas School of Law or an alternative dispute resolution system established under Chapter 152, Civil Practice and Remedies Code, in obtaining a qualified impartial third party to mediate the conflict. The cost of the mediation services must be specified in the agreement between the parties and the Center for Public Policy Dispute Resolution or the alternative dispute resolution system. If the parties do not resolve the conflict through mediation, the ~~The~~ decision of the Texas Water Development Board ~~not on whether to approve~~ ~~certify~~ the management plan may not be appealed to a district court in Travis County. Costs for the appeal shall be set by the court hearing the appeal. An appeal under this subsection is by trial de novo. The commission shall not take enforcement action against a district under Subchapter I until the later of the expiration of the 180-day period, ~~or~~ the date the Texas Water Development Board has taken final action withholding ~~approval~~ ~~certification~~ of a revised management plan, the date the mediation is completed, or the date a final judgment upholding the board's decision is entered by a district court. An enforcement action may not be taken against a district by the commission or the state auditor under Subchapter I because the district's management plan and the approved regional water plan are in conflict while the parties are attempting to resolve the conflict before the development board, in mediation, or in court. Rules of the district continue in full force and effect until all appeals under this subsection have been exhausted and the final judgment is adverse to the district.

(g) In this subsection, "development board" means the Texas Water Development Board. A person with a legally defined interest in groundwater in a district or the regional water planning group may file a petition with the ~~development~~ board stating that a conflict requiring resolution may exist between the district's ~~approved~~ ~~certified~~ ~~groundwater conservation district~~ management plan developed under Section 36.1071 and the state water plan. If a conflict exists, the ~~development~~ board shall provide technical assistance to and facilitate coordination between the involved person or regional water planning group and the district to resolve the conflict. Not later than the 45th day after the date the person or the regional water planning group files a petition with the development board, if the conflict has not been resolved, the district and the involved person or regional planning group may mediate the conflict. The district and the involved person or regional planning group may seek

the assistance of the Center for Public Policy Dispute Resolution at The University of Texas School of Law or an alternative dispute resolution system established under Chapter 152, Civil Practice and Remedies Code, in obtaining a qualified impartial third party to mediate the conflict. The cost of the mediation services must be specified in the agreement between the parties and the Center for Public Policy Dispute Resolution or the alternative dispute resolution system. If the district and the involved person or regional planning group cannot resolve the conflict through mediation remains, the development board shall resolve the conflict not later than the 60th day after the date the mediation is completed. The development board action under this provision may be consolidated, at the option of the board, with related action under Section 16.053(p). If the development board determines that resolution of the conflict requires a revision of the approved certified groundwater conservation district management plan, the development board shall suspend the certification of the plan and provide information to the district. The district shall prepare any revisions to the plan based on the information provided specified by the development board and shall hold, after notice, at least one public hearing at some central location within the district. The district shall consider all public and development board comments, prepare, revise, and adopt its plan, and submit the revised plan to the development board for approval certification. On the request of the district or the regional water planning group, the development board shall include discussion of the conflict and its resolution in the state water plan that the development board provides to the governor, the lieutenant governor, and the speaker of the house of representatives under Section 16.051(e). If the groundwater conservation district disagrees with the decision of the development board under this subsection, the district may appeal the decision to a district court in Travis County. Costs for the appeal shall be set by the court hearing the appeal. An appeal under this subsection is by trial de novo.

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

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

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

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

~~(a)~~(b) If two or more districts are located within the boundaries of the same management area, each district shall prepare a comprehensive management plan as required by Section 36.1071 covering that district's respective territory. On completion and approval certification of the plan as required by Section 36.1072, each district shall forward a copy of the new or revised management plan to the other districts in the management area. The boards of the districts shall consider the plans individually and shall compare them to other management plans then in force in the management area.

~~(b)(c)~~ The board of directors of The presiding officer, or their designee, of each district located in whole or in part in the management area shall meet at least annually to conduct ~~may, by resolution, call for~~ joint planning with the other districts in the management area and to review the management plans and accomplishments for the management area. In reviewing the management plans, the districts ~~boards~~ shall consider:

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

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

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

(4) the degree to which each management plan achieves the desired future conditions established during the joint planning process.

(d) Not later than five years after the effective date of this subsection and every five years thereafter, During the joint planning process, the districts shall consider groundwater availability models and other data or information for the management area and shall establish desired future conditions for the relevant aquifers within the management area. In establishing the desired future conditions of the aquifers under this section, the districts shall consider uses or conditions of an aquifer within the management area that differ substantially from one geographic area to another. The districts may establish different desired future conditions for:

(1) each aquifer, subdivision of an aquifer, or geologic strata located in whole or in part within the boundaries of the management area; or

(2) each geographic area overlying an aquifer in whole or in part or subdivision of an aquifer within the boundaries of the management area.

(d-1) The desired future conditions established under Subsection (d) must be adopted by two-thirds vote of the district representatives present at a meeting.

(1) at which at least two-thirds of the districts located in whole or in part in the management area have a voting representative in attendance; and

(2) for which all districts located in whole or in part in the management area provide public notice in accordance with Chapter 551, Government Code.

(d-2) Each district in the management area shall ensure that its management plan contains goals and objectives consistent with achieving the desired future conditions of the relevant aquifers as adopted during the joint planning process.

(e) If a joint meeting of the boards of directors is called, the meeting must be under this section must be held in accordance with Chapter 551, Government Code. Each district shall comply with Chapter 552, Government Code. Notice of the meeting shall be given in accordance with the requirements for notice of district board of directors meetings under that Act.

~~(d)~~(f) A district or person with a legally defined interest in the groundwater within the management area may file [with good cause] a petition with the commission requesting an inquiry if the petitioner district adopted a resolution calling for joint planning and the other a district or districts refused to join in the planning

process or the process failed to result in adequate planning, including the establishment of reasonable future desired conditions of the aquifers, and the petition provides evidence that:

(1) ~~another~~ a district in the groundwater management area has failed to adopt rules;

(2) the rules adopted by a district are not designed to achieve the desired future condition of the groundwater resources in the groundwater management area established during the joint planning process;

(3) the groundwater in the management area is not adequately protected by the rules adopted by ~~another~~ a district; or

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

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

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

(2) select a review panel as provided in Subsection ~~(f)~~(h).

~~(f)~~(h) If the petition is not dismissed under Subsection ~~(e)~~(g), the commission shall appoint a review panel consisting of a chairman and four other members. A director or general manager of a district located outside the groundwater management area that is the subject of the petition may be appointed to the review panel.

The commission may not appoint more than two members of the review panel from any one district. The commission also shall appoint a disinterested person to serve as a nonvoting recording secretary for the review panel. The recording secretary may be an employee of the commission. The recording secretary shall record and document the proceedings of the panel.

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

~~(h)~~(j) In its report, the review panel shall include:

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

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

(3) any other information the panel considers appropriate.

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

(l) A person with a legally defined interest in the groundwater in the groundwater management area, a district in or adjacent to the groundwater management area, or a regional water planning group for a region in the groundwater management area may file a petition with the development board appealing the approval of the desired future

conditions of the groundwater resources established under this section. The petition must provide evidence that the districts did not establish a reasonable desired future condition of the groundwater resources in the groundwater management area.

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

(n) The districts shall prepare a revised plan in accordance with development board recommendations and hold, after notice, at least one public hearing at a central location in the groundwater management area. After consideration of all public and development board comments, the districts shall revise the conditions and submit it to the development board for review.

~~(j)~~(o) The districts shall submit the conditions established under this section to the executive administrator. The executive administrator shall provide each district and regional water planning group located wholly or partly in the management area with the managed available groundwater in the management area based upon the desired future condition of the groundwater resources established under this section.

(p) Districts located within the same groundwater management areas or in adjacent management areas may contract to jointly conduct studies or research, or to construct projects, under terms and conditions that the districts consider beneficial. These joint efforts may include studies of groundwater availability and quality, aquifer modeling, and the interaction of groundwater and surface water; educational programs; the purchase and sharing of equipment; and the implementation of projects to make groundwater available, including aquifer recharge, brush control, weather modification, desalination, regionalization, and treatment or conveyance facilities. The districts may contract under their existing authorizations including those of Chapter 791, Government Code, if their contracting authority is not limited by Sections 791.011(c)(2) and (d)(3) and Section 791.014, Government Code.

SECTION __. Section 36.109, Water Code, is amended to read as follows:

Sec. 36.109. COLLECTION OF INFORMATION. A district may collect any information the board deems necessary, including information regarding the use of groundwater, water conservation, and the practicability of recharging a groundwater reservoir. At the request of the executive administrator, the district shall provide any data collected by the district in a format acceptable to the executive administrator.

SECTION __. Subchapter D, Chapter 36, Water Code, is amended by adding Section 36.1132 to read as follows:

Sec. 36.1132. PERMITS BASED ON MANAGED AVAILABLE GROUNDWATER. A district, to the extent possible, shall issue permits up to the point that the total volume of groundwater permitted equals the managed available groundwater, if administratively complete permit applications are submitted to the district.

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

Sec. 36.3011. FAILURE OF A DISTRICT TO CONDUCT JOINT PLANNING.

~~(a) If the board of a district within a common management area fails to forward a copy of its new or revised certified management plan under Section 36.108, the commission shall take appropriate action under Section 36.303.~~

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

~~(1) a district in the joint planning area has failed to submit its plan to the executive administrator;~~

~~(2) a district has failed to adopt rules;~~

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

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

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

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

SECTION __. Subsection (a), Section 36.304, Water Code, is amended to read as follows:

(a) The commission may dissolve a district that:

~~(1) is not operational, as determined under Section 36.302; and~~

~~(2) has no outstanding bonded indebtedness.~~

SECTION __. Subsection (a) and (b), Section 36.116, Water Code is amended as follows:

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

(1) the spacing of water wells by:

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

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

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

(2) the production of groundwater by:

(A) setting production limits on wells;

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

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

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

(E) managed depletion; or

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

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

SECTION __. Section 9.017, Water Code, is repealed.

The amendment to **HB 1763** was read and was adopted by a viva voce vote.

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

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

HB 1763 as amended was passed to third reading by a viva voce vote.

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

HOUSE BILL 1763 ON THIRD READING

Senator Duncan moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1763** be placed on its third reading and final passage.

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

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

COMMITTEE SUBSTITUTE

HOUSE BILL 1038 ON SECOND READING

On motion of Senator Brimer and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 1038** at this time on its second reading:

CSHB 1038, Relating to certain reduced fees for a license to carry a concealed handgun.

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

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

**COMMITTEE SUBSTITUTE
HOUSE BILL 1038 ON THIRD READING**

Senator Brimer moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 1038** be placed on its third reading and final passage.

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

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

(Senator Carona in Chair)

**SENATE RULE 5.14(a) SUSPENDED
(Intent Calendar)**

On motion of Senator Whitmire and by unanimous consent, Senate Rule 5.14(a), requiring bills to be posted on the Intent Calendar by 3:00 p.m., was suspended and the time was extended to 5:00 p.m. today for the Tuesday, May 24, 2005, Intent Calendar.

HOUSE BILL 268 ON SECOND READING

On motion of Senator Hinojosa and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 268** at this time on its second reading:

HB 268, Relating to the qualifications and appointment of counsel for indigent defendants in capital cases.

The bill was read second time.

Senator Hinojosa offered the following committee amendment to the bill:

Committee Amendment No. 1

Amend **HB 268** (engrossed version) as follows:

(1) In SECTION 1 of the bill, in proposed Subsection (c), Section 2, Article 11.071, Code of Criminal Procedure, on page 1, lines 11-12, strike "that meets the requirements of Subsection (d)(2)" and substitute "from the list of qualified attorneys maintained by the Task Force on Indigent Defense under Subsection (d)(3)".

(2) In SECTION 1 of the bill, in proposed Subsection (c), Section 2, Article 11.071, Code of Criminal Procedure, strike the language between "The assisting attorney" on page 1, line 15, and "Subsection (d)(2)(E) or (F)" on page 1, line 17, and substitute "is not subject to the guidelines applicable to an attorney appointed as lead counsel under".

(3) In SECTION 1 of the bill, strike proposed Subsection (d)(1), Section 2, Article 11.071, Code of Criminal Procedure, on page 1, line 22, to page 2, line 3, and substitute the following:

(d)(1) The Task Force on Indigent Defense may ~~[court of criminal appeals shall]~~ adopt discretionary guidelines ~~[rules]~~ for the appointment of attorneys as counsel under this section and may consider the guidelines in determining whether an attorney

is qualified for an appointment [the convicting court may appoint an attorney as counsel under this section only if the appointment is approved by the court of criminal appeals in any manner provided by those rules]. The Task Force on Indigent Defense:

(A) may not adopt mandatory standards for the appointment of attorneys under this section; and

(B) shall determine whether an attorney is qualified for an appointment on a case-by-case basis.

(4) In SECTION 1 of the bill, in proposed Subdivision (2), Subsection (d), Section 2, Article 11.071, Code of Criminal Procedure, on page 2, line 4, strike "standards must require" and substitute "discretionary guidelines may include".

(5) In SECTION 1 of the bill, in proposed Paragraph (D), Subdivision (2), Subsection (d), Section 2, Article 11.071, Code of Criminal Procedure, on page 2, line 15, strike "criminal" and substitute "capital".

(6) In SECTION 2 of the bill, in proposed Paragraph (D), Subdivision (2), Subsection (d), Article 26.052, Code of Criminal Procedure, on page 4, line 6, strike "criminal" and substitute "capital".

(7) In SECTION 2 of the bill, in proposed Paragraph (D), Subdivision (3), Subsection (d), Article 26.052, Code of Criminal Procedure, on page 5, line 13, strike "criminal" and substitute "capital".

(8) Strike SECTIONS 3 and 4 of the bill on page 6, lines 9-25, and substitute the following:

SECTION 3. The Task Force on Indigent Defense shall prepare the list of qualified attorneys required by Section 2(d), Article 11.071, Code of Criminal Procedure, as amended by this Act, not later than March 1, 2006.

(9) Renumber subsequent SECTIONS of the bill accordingly.

The amendment to **HB 268** was read and was adopted by a viva voce vote.

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

Senator Hinojosa offered the following committee amendment to the bill:

Committee Amendment No. 2

Amend **HB 268** (engrossed version) in SECTION 2 of the bill, in amended Subsection (d), Article 26.052, Code of Criminal Procedure, as follows:

(1) In proposed Paragraph (F), Subdivision (2), on page 4, lines 10-11, strike "[~~a significant number of felony cases~~]" and substitute "a significant number of felony cases".

(2) In proposed Subparagraph (iii), Paragraph (G), Subdivision (2), on page 4, lines 23-24, strike "homicide [death penalty]" and substitute "death penalty".

(3) In proposed Paragraph (F), Subdivision (3), on page 5, lines 19-21, strike the language between "including" and the period and substitute "at least one capital felony case".

The amendment to **HB 268** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Committee Amendment No. 2.

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

HB 268 as amended was passed to third reading by a viva voce vote.

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

HOUSE BILL 268 ON THIRD READING

Senator Hinojosa moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 268** be placed on its third reading and final passage.

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

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

HOUSE BILL 1558 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 1558** at this time on its second reading:

HB 1558, Relating to an alternative method of satisfying certain licensing and program participation requirements for assisted living facilities.

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

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

HOUSE BILL 1558 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 1558** be placed on its third reading and final passage.

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

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

HOUSE BILL 3525 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 3525** at this time on its second reading:

HB 3525, Relating to the creation, administration, powers, duties, functions, operations, and financing of the Parker County Special Utility District; providing authority to 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.

HOUSE BILL 3525 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 3525** be placed on its third reading and final passage.

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

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

**COMMITTEE SUBSTITUTE
HOUSE BILL 1044 ON SECOND READING**

Senator Williams moved to suspend the regular order of business to take up for consideration **CSHB 1044** at this time on its second reading:

CSHB 1044, Relating to an optional procedure for the issuance of a permit by a certain county for the movement of oversize or overweight vehicles.

The motion prevailed by the following vote: Yeas 24, Nays 1.

Nays: Lindsay.

Absent: Armbrister, Duncan, Fraser, Jackson, Ogden, West.

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

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

Nays: Lindsay.

**COMMITTEE SUBSTITUTE
HOUSE BILL 1044 ON THIRD READING**

Senator Williams moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 1044** be placed on its third reading and final passage.

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

Nays: Lindsay.

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

HOUSE BILL 1577 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 1577** at this time on its second reading:

HB 1577, Relating to the provision of health care services by a physician assistant during a disaster.

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

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

HOUSE BILL 1577 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 1577** be placed on its third reading and final passage.

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

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

HOUSE BILL 1863 ON SECOND READING

On motion of Senator Van de Putte and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 1863** at this time on its second reading:

HB 1863, Relating to the termination of a campaign treasurer appointment.

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

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

HOUSE BILL 1863 ON THIRD READING

Senator Van de Putte moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1863** be placed on its third reading and final passage.

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

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

HOUSE BILL 628 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 628** at this time on its second reading:

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

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

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

HOUSE BILL 628 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 628** be placed on its third reading and final passage.

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

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

HOUSE BILL 839 ON SECOND READING

On motion of Senator Williams and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 839** at this time on its second reading:

HB 839, Relating to the disposition of certain obscene material and child pornography.

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

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

HOUSE BILL 839 ON THIRD READING

Senator Williams moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 839** be placed on its third reading and final passage.

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

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

HOUSE BILL 813 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 813** at this time on its second reading:

HB 813, Relating to the creation of the Union Valley Ranch 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.

HOUSE BILL 813 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 813** be placed on its third reading and final passage.

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

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

HOUSE BILL 1708 ON SECOND READING

On motion of Senator Wentworth and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 1708** at this time on its second reading:

HB 1708, Relating to the applicability of state ethics laws to and indemnification of directors of regional mobility authorities; providing penalties.

The bill was read second time.

Senator Wentworth offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 1708** by striking SECTION 2 of the bill (committee report, page 1, line 59, through page 2, line 4) and substituting the following:

SECTION 2. Section 370.258, Transportation Code, is amended by adding Subsection (e) to read as follows:

(e) If an officer or director who has been indemnified by an authority under Subsection (a) is subsequently convicted of an offense involving the conduct for which the officer or director was indemnified, the officer or director is liable to the authority for the amount of indemnification paid, with interest at the legal rate for interest on a judgment from the date the indemnification was paid.

The amendment to **HB 1708** was read and was adopted by a viva voce vote.

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

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

HB 1708 as amended was passed to third reading by a viva voce vote.

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

HOUSE BILL 1708 ON THIRD READING

Senator Wentworth moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1708** be placed on its third reading and final passage.

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

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

HOUSE BILL 2619 ON SECOND READING

On motion of Senator Zaffirini and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 2619** at this time on its second reading:

HB 2619, Relating to a program by the Office of Rural Community Affairs to assist rural areas with the establishment of emergency services districts.

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

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

HOUSE BILL 2619 ON THIRD READING

Senator Zaffirini moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2619** be placed on its third reading and final passage.

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

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

HOUSE BILL 1474 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 1474** at this time on its second reading:

HB 1474, Relating to certain information contained in records about members, retirees, annuitants, or beneficiaries of the Texas County and District Retirement System.

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

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

HOUSE BILL 1474 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 1474** be placed on its third reading and final passage.

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

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

HOUSE BILL 2678 ON SECOND READING

On motion of Senator Seliger and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 2678** at this time on its second reading:

HB 2678, Relating to the use of certain information to underwrite professional liability insurance for physicians and health care providers.

The bill was read second time.

Senator Seliger, on behalf of Senator Armbrister, offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 2678** (Senate committee printing) by inserting the following appropriately numbered SECTION and renumbering SECTIONS of the bill appropriately:

SECTION _____. Section 3, Article 5.15-1, Insurance Code, is amended to read as follows:

Sec. 3. Rates shall be made in accordance with the following provisions:

(a) Consideration shall be given to past and prospective loss and expense experience for all professional liability insurance for physicians and health care providers written in this state, unless the department [~~State Board of Insurance~~] shall find that the group or risk to be insured is not of sufficient size to be deemed credible,

in which event, past and prospective loss and expense experience for all professional liability insurance for physicians and health care providers written outside this state shall also be considered, to a reasonable margin for underwriting profit and contingencies, to investment income, to dividends or savings allowed or returned by insurers to their policyholders or members.

(b) The department [~~State Board of Insurance~~] shall consider the impact of risk management courses taken by physicians and health care providers in this state in approving rates under this article.

(c) For the establishment of rates, risks may be grouped by classifications, by rating schedules, or by any other reasonable methods. Classification rates may be modified to produce rates for individual risks in accordance with rating plans which establish standards for measuring variations in hazards or expense provisions, or both. Those standards may measure any difference among risks that can be demonstrated to have a probable effect upon losses or expenses.

(d) Rates shall be reasonable and shall not be excessive or inadequate, as defined in this subsection, nor shall they be unfairly discriminatory. No rate shall be held to be excessive unless the rate is unreasonably high for the insurance coverage provided [~~and a reasonable degree of competition does not exist in the area with respect to the classification to which the rate is applicable~~]. No rate shall be held to be inadequate unless the rate is unreasonably low for the insurance coverage provided and is insufficient to sustain projected losses and expenses; or unless the rate is unreasonably low for the insurance coverage provided and the use of the rate has or, if continued, will have the effect of destroying competition or creating a monopoly.

The amendment to **HB 2678** was read and was adopted by a viva voce vote.

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

Senator Seliger, on behalf of Senator Armbrister, offered the following amendment to the bill:

Floor Amendment No. 2

Amend **HB 2678** by inserting the following appropriately numbered SECTION and renumbering SECTIONS of the bill appropriately:

SECTION __. Article 5.15-1, Insurance Code, is amended by adding Section 13 to read as follows:

Sec. 13. USE IN UNDERWRITING OF CERTAIN INFORMATION RELATED TO LAWSUITS; REFUND. (a) Notwithstanding any other provision of this code, an insurer may not consider for the purpose of setting premiums for a particular physician's or health care provider's professional liability insurance a lawsuit filed against the physician or provider if:

(1) the lawsuit was dismissed by the claimant or nonsuited; and

(2) no payment was made to the claimant under a settlement agreement.

(b) An insurer that, in setting premiums for a physician's or health care provider's professional liability insurance, considers a lawsuit filed against the physician or provider shall refund to the physician or provider any increase in premiums paid by the physician or provider that is attributable to that lawsuit if the

lawsuit is dismissed by the claimant or nonsuited without payment to the claimant under a settlement agreement. The insurer shall issue the refund on or before the 30th day after the date the insurer receives written evidence that the lawsuit was dismissed or nonsuited without payment to the claimant under a settlement agreement.

(c) This section does not prohibit an insurer from considering and using aggregate historical loss and expense experience applicable generally to a classification of physicians' or health care providers' professional liability insurance to set rates for that classification to the extent authorized by Article 5.13-2 of this code. Notwithstanding Section 4(c), Article 5.13-2, of this code, an insurer may not assign a physician or health care provider to a particular classification based on a factor described by Subsection (a) of this section.

The amendment to **HB 2678** was read and was adopted by a viva voce vote.

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

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

HB 2678 as amended was passed to third reading by a viva voce vote.

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

HOUSE BILL 2678 ON THIRD READING

Senator Seliger moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2678** be placed on its third reading and final passage.

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

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

HOUSE BILL 1480 ON SECOND READING

On motion of Senator Staples and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 1480** at this time on its second reading:

HB 1480, Relating to the issuance of special license plates to benefit certain programs.

The bill was read second time.

Senator Fraser offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 1480** by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. (a) Section 504.3135, Transportation Code, is amended to read as follows:

Sec. 504.3135. OPERATION IRAQI FREEDOM. The department shall issue without charge specialty license plates for persons who served in the United States armed forces and participated in Operation Iraqi Freedom [~~on or after November 8, 2002, or on or before May 1, 2003~~]. License plates issued under this section must include the words "Operation Iraqi Freedom."

(b) The change in law made by this section applies only to a registration period beginning on or after the effective date of this Act.

The amendment to **HB 1480** was read and was adopted by a viva voce vote.

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

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

HB 1480 as amended was passed to third reading by a viva voce vote.

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

HOUSE BILL 1480 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 **HB 1480** be placed on its third reading and final passage.

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

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

BILLS SIGNED

The Presiding Officer, Senator Carona in Chair, announced the signing of the following enrolled bills in the presence of the Senate after the captions had been read:

SB 255, SB 310, SB 396, SB 555, SB 579, SB 611, SB 619, SB 665, SB 690, SB 709, SB 792, SB 804, SB 812, SB 828, SB 839, SB 883, SB 884, SB 885, SB 887, SB 889, SB 891, SB 1017, SB 1018, SB 1026, SB 1032, SB 1193, SB 1203, SB 1258, SB 1354, SB 1424, SB 1425, SB 1434, SB 1435, SB 1437, SB 1469, SB 1480, SB 1485.

HOUSE BILL 3485 ON SECOND READING

On motion of Senator Lucio and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 3485** at this time on its second reading:

HB 3485, Relating to the establishment of criminal law hearing officers in Cameron County.

The bill was read second time.

Senator Lucio offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 3485** (Senate committee printing) as follows:

(1) In SECTION 1 of the bill, in proposed Subsection (a), Section 54.1352, Government Code (page 1, line 18), between "may appoint" and "criminal law", insert "not more than two".

(2) In SECTION 1 of the bill, at the end of proposed Subdivision (3), Section 54.1353, Government Code (page 1, line 36), strike "and".

(3) In SECTION 1 of the bill, following proposed Subdivision (3), Section 54.1353, Government Code (page 1, between lines 36 and 37), insert the following new Subdivision (4) and renumber the subsequent subdivision of that section accordingly:

(4) be a licensed attorney with at least four years experience;

The amendment to **HB 3485** was read and was adopted by a viva voce vote.

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

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

HB 3485 as amended was passed to third reading by a viva voce vote.

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

HOUSE BILL 3485 ON THIRD READING

Senator Lucio moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 3485** be placed on its third reading and final passage.

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

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

HOUSE BILL 2337 ON SECOND READING

Senator Staples moved to suspend the regular order of business to take up for consideration **HB 2337** at this time on its second reading:

HB 2337, Relating to the use of information provided by an applicant for a driver's license or personal identification certificate in an image verification system.

The motion prevailed.

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

The bill was read second time.

Senator Staples offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 2337** as follows:

(1) In SECTION 2 of the bill, in amended Section 502.1715(b), Transportation Code (Senate committee printing, page 1, line 20), strike "Before August 31, 2007 [~~2005~~], fees" and substitute "Fees [~~Before August 31, 2005, fees~~]".

(2) In SECTION 2 of the bill, in amended Section 502.1715(b), Transportation Code (Senate committee printing, page 1, line 22), strike "The" and substitute "Subject to appropriations, the".

(3) In SECTION 2 of the bill, in amended Section 502.1715(c), Transportation Code (Senate committee printing, page 1, line 37), strike "On or after August 31, 2007 [~~2005~~], fees" and substitute "Fees [~~On or after August 31, 2005~~]".

(4) Add the following SECTION to the bill and renumber subsequent sections accordingly:

SECTION __. EFFECT OF ACT. (a) The amendments to Section 502.1715, Transportation Code of this Act prevail over any other Act of the 79th Legislature, Regular Session, 2005, regardless of the relative dates of enactment.

The amendment to **HB 2337** was read and was adopted by a viva voce vote.

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

Senator Staples moved to postpone further consideration of **HB 2337** to a time certain of 4:00 p.m. today.

Senator Staples withdrew the motion to postpone further consideration of **HB 2337**.

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

HB 2337 as amended was passed to third reading by a viva voce vote.

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

Nays: Barrientos, Ellis, Gallegos, Shapleigh, Williams, Zaffirini.

SENATE RULE 11.13 SUSPENDED (Consideration of Bills in Committees)

On motion of Senator Staples and by unanimous consent, Senate Rule 11.13 was suspended to grant the conference committees on **SB 5** and **HB 7** permission to meet while the Senate is meeting today.

COMMITTEE SUBSTITUTE HOUSE BILL 1208 ON SECOND READING

On motion of Senator Ogden and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 1208** at this time on its second reading:

CSHB 1208, Relating to a limitation on the use of eminent domain by certain conservation and reclamation districts.

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

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

**COMMITTEE SUBSTITUTE
HOUSE BILL 1208 ON THIRD READING**

Senator Ogden moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 1208** be placed on its third reading and final passage.

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

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

**COMMITTEE SUBSTITUTE
HOUSE BILL 1690 ON SECOND READING**

On motion of Senator West and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 1690** at this time on its second reading:

CSHB 1690, Relating to common nuisance.

The bill was read second time.

Senator West offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSHB 1690** as follows:

(1) In amended Section 125.0015(a), Civil Practice and Remedies Code, strike "knowingly tolerates" and substitute "knowingly fails to make reasonable attempts to abate".

(2) In amended Section 125.0015(b), Civil Practice and Remedies Code, strike "the person:" and substitute "the person [?:".

(3) In amended Section 125.0015(b), Civil Practice and Remedies Code, strike "(1) [~~knowingly~~]" and substitute "[~~(1) knowingly~~]".

(4) In amended Section 125.0015(b), Civil Practice and Remedies Code, strike "knowingly tolerates" and substitute "knowingly fails to make reasonable attempts to abate".

(5) In amended Section 125.0015(b), Civil Practice and Remedies Code, strike "~~19.03, Penal Code~~]; and" and substitute "~~19.03, Penal Code; and~~".

(6) In amended Section 125.0015(b), Civil Practice and Remedies Code, strike "(2) has failed to make reasonable attempts to abate such acts." and substitute "[~~(2) has failed to make reasonable attempts to abate such acts~~]."

(7) In amended Section 125.004(a), Civil Practice and Remedies Code, strike "knowingly tolerated" and substitute "knowingly failed to make reasonable attempts to abate".

(8) In added Section 125.004(d), Civil Practice and Remedies Code, strike "tolerated the activity" and substitute "failed to make reasonable attempts to abate the activity".

(9) In amended Section 125.044(b)(1), Civil Practice and Remedies Code, strike "knowingly tolerated" and substitute "knowingly failed to make reasonable attempts to abate".

(10) In added Section 125.044(b)(3), Civil Practice and Remedies Code, strike "tolerated the activity" and substitute "failed to make reasonable attempts to abate the activity".

The amendment to **CSHB 1690** was read and was adopted by a viva voce vote.

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

Senator West offered the following amendment to the bill:

Floor Amendment No. 2

Amend **CSHB 1690** (Senate committee printing) as follows:

(1) Strike the recital to SECTION 3 of the bill (page 2, lines 21-22) and substitute the following:

Section 125.002, Civil Practice and Remedies Code, is amended by amending Subsection (b) and adding Subsection (h) to read as follows:

(2) At the end of SECTION 3 of the bill (page 2, between lines 32 and 33), insert the following:

(h) A person who may bring a suit under Section 125.0015 shall consider, among other factors, whether the property owner, the owner's authorized representative, or the operator or occupant of the business, dwelling, or other place where the criminal acts occurred:

(1) promptly notifies the appropriate governmental entity or the entity's law enforcement agency of the occurrence of criminal acts on the property;

(2) cooperates with the governmental entity's law enforcement investigation of criminal acts occurring at the property; and

(3) takes reasonable steps suggested by the governmental entity to help abate or reduce criminal violations at the location.

The amendment to **CSHB 1690** was read and was adopted by a viva voce vote.

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

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

CSHB 1690 as amended was passed to third reading by a viva voce vote.

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

COMMITTEE SUBSTITUTE HOUSE BILL 1690 ON THIRD READING

Senator West moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 1690** be placed on its third reading and final passage.

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

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

HOUSE BILL 1209 ON SECOND READING

On motion of Senator Ogden and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 1209** at this time on its second reading:

HB 1209, Relating to using county election precincts for any election held on the November uniform election date.

The bill was read second time.

Senator Jackson offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 1209** (Senate committee printing) as follows:

(1) In SECTION 1 of the bill, on page 1, line 22, between "any other election" and "held on", insert the following:

of a political subdivision not located in a county with a population of more than 3.3 million or a county adjacent to a county with a population of more than 3.3 million

(2) In SECTION 2 of the bill, on page 1, line 28, between "participating political subdivisions" and "shall use", insert the following:

not located in a county with a population of more than 3.3 million or a county adjacent to a county with a population of more than 3.3 million

(3) In SECTION 3 of the bill, on page 1, line 48, between "a political subdivision" and "holds an election", insert the following:

not located in a county with a population of more than 3.3 million or a county adjacent to a county with a population of more than 3.3 million

The amendment to **HB 1209** was read and was adopted by a viva voce vote.

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

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

HB 1209 as amended was passed to third reading by a viva voce vote.

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

HOUSE BILL 1209 ON THIRD READING

Senator Ogden moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1209** be placed on its third reading and final passage.

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

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

**COMMITTEE SUBSTITUTE
HOUSE BILL 2423 ON SECOND READING**

On motion of Senator Armbrister and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 2423** at this time on its second reading:

CSHB 2423, Relating to the consideration of historic or existing use in the regulation of pumping and discrimination by a groundwater conservation district against landowners whose land is enrolled or participating in a federal conservation program.

The bill was read second time.

Senator Armbrister offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSHB 2423** (Senate committee printing) as follows:

(1) In the recital to SECTION 3 of the bill (page 1, line 34), strike "(h) through (l)" and substitute "(h) - (m)".

(2) In SECTION 3 of the bill, immediately following added Section 36.113(l), Water Code (page 2, between lines 44 and 45), insert the following:

(m) A district that requires an applicant to pay, at the time a historic or existing use permit application is filed, a fee based on the amount of groundwater requested in the application shall refund to the applicant, if the district grants a permit for an amount of groundwater less than the amount requested, the difference between the fee paid for the requested amount of groundwater and the fee required for the amount of groundwater authorized for use by the permit granted by the district.

(3) Between SECTIONS 3 and 4 of the bill (page 2, between lines 44 and 45), insert the following appropriately numbered SECTION and renumber subsequent SECTIONS of the bill accordingly:

SECTION __. Amend Subchapter D, Chapter 36, Water Code, by adding Section 36.1135 to read as follows:

Sec. 36.1135. CERTAIN HISTORIC AND EXISTING USE PERMITS. (a) A district shall grant an application for a historic or existing use permit filed not later than January 1, 2004, in accordance with rules enacted not later than December 1, 2003, that authorize the issuance of a permit for an existing or historic use, and for which a hearing report was prepared by the presiding officer of the district and considered in a public hearing not later than June 1, 2005.

(b) The district shall issue a permit for an application granted under Subsection (a) authorizing the production of groundwater for the amount and on the terms recommended by the hearing report, as amended on the record during the public hearing on the application.

(c) A district may not reduce the amount of water authorized for use by a permit issued in accordance with this section unless the total amount of groundwater authorized for use by historic and existing use permits exceeds the total calculated volume of groundwater that the relevant aquifer or groundwater management zone is capable of producing based on the best available scientific data.

(d) If the conditions of Subsection (c) are satisfied, the district may implement a pro rata reduction of the amount of groundwater production authorized by each historic and existing use permit so that the total groundwater production authorized by all of the historic and existing use permits does not exceed the total calculated volume of groundwater that the aquifer or groundwater management zone is capable of producing if the pro rata reduction is:

- (1) approved by the Texas Water Development Board; and
- (2) based on the best available scientific data.

(e) An amendment to a permit issued in accordance with this section is not subject to well spacing requirements, production limits, or other applicable requirements unless the amendment increases the volume of groundwater authorized for use by the permit, in which case the requirement or limit applies only to the increased amount of groundwater authorized for use by the permit amendment.

(f) This section does not apply to a district located in a single county whose boundaries were expanded by the legislature on or after January 1, 2003, and whose boundaries are not coextensive with the county in which the district is located.

The amendment to **CSHB 2423** was read and was adopted by a viva voce vote.

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

Senator Armbrister offered the following amendment to the bill:

Floor Amendment No. 2

Amend **CSHB 2423** (committee report) on page 2, line 65 beginning with ";" and replacing it with ".", and by striking lines 66 and 67 in their entirety.

The amendment to **CSHB 2423** was read and was adopted by a viva voce vote.

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

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

CSHB 2423 as amended was passed to third reading by a viva voce vote.

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

COMMITTEE SUBSTITUTE HOUSE BILL 2423 ON THIRD READING

Senator Armbrister moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 2423** be placed on its third reading and final passage.

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

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

HOUSE BILL 2080 ON SECOND READING

On motion of Senator Fraser and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 2080** at this time on its second reading:

HB 2080, Relating to the ad valorem tax status of a license to occupy a dwelling unit in a tax-exempt retirement community.

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

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

HOUSE BILL 2080 ON THIRD READING

Senator Fraser moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2080** be placed on its third reading and final passage.

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

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

HOUSE BILL 541 ON SECOND READING

On motion of Senator Jackson and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 541** at this time on its second reading:

HB 541, Relating to the types of nonprofit organizations that may conduct raffles.

The bill was read second time.

Senator Jackson offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 541** by inserting the following appropriately numbered SECTIONS and renumbering subsequent SECTIONS accordingly:

SECTION __. Section 2002.056, Occupations Code, is amended by amending Subsection (b) and adding Subsection (b-1) to read as follows:

(b) Except as provided by Subsections (b-1) and [Subsection] (c), the value of a prize offered or awarded at a raffle that is purchased by the organization or for which the organization provides any consideration may not exceed \$50,000.

(b-1) The value of a residential dwelling offered or awarded as a prize at a raffle that is purchased by the organization or for which the organization provides any consideration may not exceed \$250,000.

SECTION __. The change in law made by this Act to Section 2002.056, Occupations Code, applies to a raffle conducted under Chapter 2002, Occupations Code, only if the prizes are awarded on or after the effective date of this Act. A raffle for which the prizes are awarded before the effective date of this Act is covered by the

law in effect when the prizes were awarded, and the former law is continued in effect for purposes of any criminal liability arising under that law before the effective date of this Act.

The amendment to **HB 541** was read and was adopted by a viva voce vote.

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

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

HB 541 as amended was passed to third reading by a viva voce vote.

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

HOUSE BILL 541 ON THIRD READING

Senator Jackson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 541** be placed on its third reading and final passage.

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

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

HOUSE BILL 1855 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 1855** at this time on its second reading:

HB 1855, Relating to the deletion of certain electronic records concerning a customer who issues a check; providing a civil penalty.

The bill was read second time.

Senator Ellis offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 1855** (Senate committee printing) as follows:

(1) Immediately following SECTION 1 of the bill (page 1, between lines 41 and 42), insert the following:

SECTION 2. Section 20.034(a), Business & Commerce Code, is amended to read as follows:

(a) On written request sent by certified mail that includes proper identification provided by a consumer [~~and a copy of a valid police report, investigative report, or complaint made under Section 32.51, Penal Code~~], a consumer reporting agency shall place a security freeze on a consumer's consumer file not later than the fifth business day after the date the agency receives the request.

SECTION 3. Section 20.0385, Business & Commerce Code, is amended to read as follows:

Sec. 20.0385. APPLICABILITY OF SECURITY ALERT AND SECURITY FREEZE. (a) The requirement under this chapter to place a security alert or security freeze on a consumer file does not apply to:

(1) a check service or fraud prevention service company that issues consumer reports:

(A) to prevent or investigate fraud; or

(B) for purposes of approving or processing negotiable instruments, electronic funds transfers, or similar methods of payment; or

(2) a deposit account information service company that issues consumer reports related to account closures caused by fraud, substantial overdrafts, automated teller machine abuses, or similar negative information regarding a consumer to an inquiring financial institution for use by the financial institution only in reviewing a consumer request for a deposit account with that institution.

(b) The requirement under this chapter to place a security freeze on a consumer file does not apply to a consumer reporting agency that:

(1) acts only to resell credit information by assembling and merging information contained in a database of another consumer reporting agency or multiple consumer reporting agencies; and

(2) does not maintain a permanent database of credit information from which new consumer reports are produced.

SECTION 4. Section 20.04, Business & Commerce Code, is amended to read as follows:

Sec. 20.04. CHARGES FOR CERTAIN DISCLOSURES OR SERVICES. (a) Except as provided by Subsection (b), a consumer reporting agency may impose a reasonable charge on a consumer for the disclosure of information pertaining to the consumer or for placing a security freeze on a consumer file, temporarily lifting a security freeze for a designated period or for an identified requester, or removing a security freeze in accordance with this chapter. The amount of the charge for the disclosure of information pertaining to the consumer may not exceed \$8. The amount of the charge for placing a security freeze on a consumer file, temporarily lifting a security freeze for a designated period, or removing a security freeze may not exceed \$10 per request. The amount of the charge for temporarily lifting a security freeze for an identified requester may not exceed \$12 per request. On January 1 of each year, a consumer reporting agency may increase the charge for disclosure to a consumer or for placing, temporarily lifting, or removing a security freeze. The increase, if any, must be based proportionally on changes to the Consumer Price Index for All Urban Consumers as determined by the United States Department of Labor with fractional changes rounded to the nearest 50 cents.

(b) A consumer reporting agency may not charge a fee for:

(1) a request by a consumer for a copy of the consumer's file:

(A) made not later than the 60th day after the date on which adverse action is taken against the consumer; or

(B) made on the expiration of a 45-day security alert;

(2) notification of the deletion of information that is found to be inaccurate or can no longer be verified sent to a person designated by the consumer, as prescribed by Section 611 of the Fair Credit Reporting Act (15 U.S.C. Section 1681i), as amended;

(3) a set of instructions for understanding the information presented on the consumer report;

(4) a toll-free telephone number that consumers may call to obtain additional assistance concerning the consumer report or to request a security alert; ~~or~~

(5) a request for a security alert made by a consumer; or

(6) the placement, temporary lifting, or removal of a security freeze at the request of a consumer who has submitted to the consumer reporting agency a copy of a valid police report, investigative report, or complaint involving the alleged commission of an offense under Section 32.51, Penal Code.

SECTION 5. Section 20.037(e), Business & Commerce Code, is repealed.

SECTION 6. The changes in law made by Sections 2, 3, 4, and 5 of this Act apply only to a request for placement, removal, or temporary lifting of a security freeze on a consumer file that is made on or after the effective date of this Act. A request for placement, removal, or temporary lifting of a security freeze on a consumer file that is made before the effective date of this Act is governed by the law in effect on the date the request was made, and the former law is continued in effect for that purpose.

(2) Renumber existing SECTION 2 of the bill (page 1, line 42) as SECTION 7.

The amendment to **HB 1855** was read and was adopted by a viva voce vote.

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

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

HB 1855 as amended was passed to third reading by a viva voce vote.

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

HOUSE BILL 1855 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 1855** be placed on its third reading and final passage.

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

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

(Senator Brimer in Chair)

HOUSE BILL 1318 ON SECOND READING

On motion of Senator Jackson and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 1318** at this time on its second reading:

HB 1318, Relating to the state providing grave markers for certain members of the state military forces.

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

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

HOUSE BILL 1318 ON THIRD READING

Senator Jackson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1318** be placed on its third reading and final passage.

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

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

VOTE RECONSIDERED ON COMMITTEE SUBSTITUTE HOUSE BILL 2423

On motion of Senator Armbrister and by unanimous consent, the vote by which **CSHB 2423** was finally passed was reconsidered:

CSHB 2423, Relating to the consideration of historic or existing use in the regulation of pumping and discrimination by a groundwater conservation district against landowners whose land is enrolled or participating in a federal conservation program.

Question — Shall **CSHB 2423** be finally passed?

Senator Barrientos offered the following amendment to the bill:

Floor Amendment No. 1 on Third Reading

Amend **CSHB 2423** on third reading by adding the following SECTIONS and renumbering subsequent SECTIONS accordingly:

SECTION ____. Subsection (d), Section 36.205, Water Code, is amended to read as follows:

(d) The [~~Barton Springs Edwards Aquifer Conservation District, the~~] Lone Star Groundwater Conservation District[;] and the Guadalupe County Groundwater Conservation District may not charge production fees for an annual period greater than \$1 per acre-foot for water used for agricultural use or 17 cents per thousand gallons for water used for any other purpose. [~~The Barton Springs Edwards Aquifer Conservation District may assess a water use fee against a specific municipality in an amount not to exceed 60 percent of the total funding of the district received from water use fees assessed against that municipality and other nonexempt users in the district.] This subsection shall take precedence over all prior enactments.~~

SECTION ____. Section 2, Chapter 429, Acts of the 70th Legislature, Regular Session, 1987, is amended by amending Subsection (f)(2) and adding Subsections (g) and (h) to read as follows:

(2) The board may assess the City of Austin, as a water use fee, each year an amount not to exceed 60 [~~40~~] percent of the total funding that [~~of~~] the district expects to receive for the next fiscal year [~~received~~] from water use fees assessed

against Austin and other nonexempt users. For purposes of computing water use fees under this subsection, the district shall estimate the amount of permitted pumpage for the next fiscal year by considering various factors including historical growth rates, future growth rates, the amount of permitted pumpage, historical permitted pumpage, and any pending applications for permitted pumpage. The district shall use the estimated amount of permitted pumpage and its water use fee rate to compute the water use fee to be assessed against the City of Austin for the district's next fiscal year. The district shall compute the water use fee assessed against the City of Austin at a rate of 17 cents per thousand gallons for the total amount of water permitted for any nonagricultural purpose, regardless of the rate actually imposed on or remitted by the permittee.

(g) Except as provided by this subsection, the board may not charge an annual production fee of more than \$1 per acre-foot for water permitted for agricultural use or 17 cents per thousand gallons for water permitted for any other purpose. For a permit first issued after September 1, 2005, or a permit first issued after September 9, 2004, and renewed after September 1, 2005, the board may charge an annual production fee of not more than 35 cents per thousand gallons for the amount of water permitted under the permit as issued or renewed if the water is permitted for any purpose other than agricultural use. For a permit that is materially amended after September 1, 2005, the board may charge an annual production fee of not more than 35 cents per thousand gallons for only the additional amount of water authorized by the material amendment if the water is permitted for any purpose other than agricultural use. For a permit first issued on or before September 9, 2004, that is renewed without material amendment after September 1, 2005, the board may not charge an annual production fee of more than 17 cents per thousand gallons for the amount of water permitted under the permit as renewed if the water is permitted for any purpose other than agricultural use. The board may adopt a differential rate structure for the nonagricultural production fees described by this subsection to promote alternatives to the exclusive use of groundwater resources.

(h) A material amendment under Subsection (g) of this section is an amendment to a permit that increases the amount of water permitted by more than 10 percent in one fiscal year or by more than 25 percent in any three-year period. The renewal on or after September 1, 2005, of a permit that was issued on or before September 9, 2004, is considered to be a material amendment for purposes of Subsection (g) of this section if the permit as renewed increases the amount of water permitted by an amount that exceeds the limits specified by this subsection.

SECTION ____ . The legislature finds that the Barton Springs-Edwards Aquifer Conservation District benefits the sustainable use of groundwater by promoting, through fee and permitting mechanisms, alternatives to the exclusive use of groundwater resources, including the conjunctive use of groundwater and surface water resources.

The amendment to **CSHB 2423** was read and was adopted by a viva voce vote.

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

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

CSHB 2423 as amended was again finally passed by the following vote: Yeas 31, Nays 0.

BILLS AND RESOLUTIONS SIGNED

The Presiding Officer, Senator Brimer in Chair, announced the signing of the following enrolled bills and resolutions in the presence of the Senate after the captions had been read:

SB 1518, SB 1555, SB 1587, SB 1713, SB 1786, SB 1799, SB 1806, SB 1813, SB 1847, SB 1848, SB 1851, SCR 2, SCR 6, SCR 8, SCR 9, SCR 22, HB 26, HB 202, HB 214, HB 304, HB 380, HB 479, HB 492, HB 550, HB 705, HB 773, HB 877, HB 976, HB 1036, HB 1165, HB 1239, HB 1316, HB 1331, HB 1528, HB 3265, HCR 174, HCR 175, HCR 176, HCR 177, HCR 178, HCR 179, HB 812, HB 1141, HB 1262, HB 1382, HB 1587, HB 1901, HB 2025, HB 2037, HB 2079, HB 2174, HB 2322, HB 2336, HB 2374, HB 2410, HB 2451, HB 2685, HB 3486, HB 3517, HJR 6, HCR 180, HCR 181, HCR 182, HCR 183, HCR 184, HCR 197, HCR 198, HCR 199, HCR 200, HCR 206.

HOUSE BILL 2223 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 2223** at this time on its second reading:

HB 2223, Relating to the making of a notation on and the processing of a forged check by a financial institution.

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

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

HOUSE BILL 2223 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 2223** be placed on its third reading and final passage.

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

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

HOUSE BILL 1346 ON SECOND READING

On motion of Senator Ogden and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 1346** at this time on its second reading:

HB 1346, Relating to the creation of the CLL Municipal Utility District No. 1; 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.

HOUSE BILL 1346 ON THIRD READING

Senator Ogden moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1346** be placed on its third reading and final passage.

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

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

HOUSE BILL 1252 ON SECOND READING

On motion of Senator Zaffirini and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 1252** at this time on its second reading:

HB 1252, Relating to providing services for persons with chronic kidney disease under the medical assistance program.

The bill was read second time.

Senator Zaffirini offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 1252** (Senate committee printing) as follows:

(1) Strike the recital to SECTION 1 of the bill (page 1, lines 11 through 12) and substitute "Section 533.009, Government Code, is amended by amending Subsection (a) and adding Subsection (f) to read as follows:".

(2) In SECTION 1 of the bill, immediately following amended Section 533.009(a), Government Code (page 1, between lines 21 and 22), insert the following:

(f) If a managed care organization implements a special disease management program to manage chronic kidney disease and its medical complications as provided by Subsection (a) and the managed care organization develops a program to provide screening for and diagnosis and treatment of chronic kidney disease and its medical complications to recipients under the organization's managed care plan, the program for screening, diagnosis, and treatment must use generally recognized clinical practice guidelines and laboratory assessments that identify chronic kidney disease on the basis of impaired kidney function or the presence of kidney damage.

(3) In SECTION 3 of the bill, in added Subsection (a), Section 32.069, Human Resources Code (page 1, line 39), strike "(a)".

(4) In SECTION 3 of the bill, strike added Subsections (b) and (c), Section 32.069, Human Resources Code (page 1, line 48, through page 2, line 3).

(5) In SECTION 4 of the bill (page 2, line 8), between "program" and the period, insert "or between the commission and a managed care organization under the medical assistance program, as applicable".

The amendment to **HB 1252** was read and was adopted by a viva voce vote.

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

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

HB 1252 as amended was passed to third reading by a viva voce vote.

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

HOUSE BILL 1252 ON THIRD READING

Senator Zaffirini moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1252** be placed on its third reading and final passage.

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

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

HOUSE BILL 1232 ON SECOND READING

On motion of Senator Van de Putte and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 1232** at this time on its second reading:

HB 1232, Relating to the payment of certain expenses of a public project financed by certificates of obligation.

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

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

HOUSE BILL 1232 ON THIRD READING

Senator Van de Putte moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1232** be placed on its third reading and final passage.

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

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

HOUSE BILL 2510 ON SECOND READING

On motion of Senator Jackson and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 2510** at this time on its second reading:

HB 2510, Relating to the regulation of on-site sewage disposal systems and the maintenance of those systems; imposing administrative and criminal penalties.

The bill was read second time.

Senator Estes offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 2510** by striking SECTION 1 of the bill (Senate committee printing page 1, lines 12-53) and substituting the following:

SECTION 1. Section 366.0515, Health and Safety Code, is amended by amending Subsections (a) and (g) and adding Subsections (h), (i), (j), (k), and (l) to read as follows:

(a) An authorized agent or the commission may not condition a permit or the approval of a permit for an on-site sewage disposal system using aerobic treatment for a single-family residence ~~[located in a county with a population of less than 40,000]~~ on the system's owner contracting for the maintenance of the system.

(g) The owner of a single-family residence ~~[located in a county with a population of less than 40,000]~~ shall maintain the system:

(1) directly in accordance with information provided by the installer of the system under Subsection (f); or

(2) through a maintenance contract.

(h) A maintenance company that maintains a system for a single-family residence under a contract as provided by Subsection (g)(2) shall:

(1) inspect the system at intervals specified by the authorized agent or the commission;

(2) submit a report on each inspection to the authorized agent or commission; and

(3) provide a copy of each report submitted under Subdivision (2) to the system's owner.

(i) A maintenance company that violates Subsection (h) is subject to an administrative penalty. The commission may recover the penalty in a proceeding conducted as provided by Subchapter C, Chapter 7, Water Code, or the authorized agent may recover the penalty in a proceeding conducted under an order or resolution of the agent. Notwithstanding Section 7.052, Water Code, the amount of the penalty for the first violation of Subsection (h) is \$200, and the amount of the penalty for each subsequent violation is \$500.

(j) If a maintenance company violates Subsection (h) three or more times, the commission, in the manner provided by Subchapter G, Chapter 7, Water Code, may revoke the license or registration of the maintenance company or any person employed by the maintenance company issued under:

(1) Section 26.0301, Water Code;

(2) Chapter 37, Water Code; or

(3) Section 366.071 of this code.

(k) A person must be certified by the manufacturer of an on-site sewage disposal system using aerobic treatment to maintain the system under a maintenance contract with the owner of the system or to provide training to the owner in maintenance of the system. A manufacturer may not unreasonably withhold certification and, except as otherwise provided by this subsection, must offer the certification to persons who are not employees of the manufacturer on the same terms as the manufacturer offers the certification to the manufacturer's employees. To be certified by a manufacturer, a person who is not an employee must:

(1) successfully complete a course approved by the commission that provides up to 32 hours of training in maintenance of on-site sewage disposal systems using aerobic treatment;

(2) be employed by a maintenance company at least one employee of which holds a license as:

(A) an installer, if the commission recognizes only one level of installer; or

(B) the highest level of installer recognized by the commission, if the commission recognizes more than one level of installer;

(3) meet all of the manufacturer's criteria and requirements for entering into a business relationship; and

(4) satisfactorily complete any other reasonable requirements imposed by the manufacturer for certification.

(l) Subsection (k) does not allow the commission or an authorized agent to dictate to the manufacturer of on-site sewage disposal systems using aerobic treatment the person who is authorized to maintain the systems or to provide training in maintenance of the systems in a particular area. That subsection merely facilitates the expansion of the pool of persons who are qualified to maintain or to provide training in maintenance of those systems and protects the rights of owners and manufacturers of those systems. [If the owner elects to maintain the system directly, the owner must obtain training in system maintenance from the authorized agent or the installer.]

The amendment to **HB 2510** was read and was adopted by a viva voce vote.

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

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

HB 2510 as amended was passed to third reading by a viva voce vote.

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

HOUSE BILL 2510 ON THIRD READING

Senator Jackson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2510** be placed on its third reading and final passage.

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

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

HOUSE BILL 2569 ON SECOND READING

On motion of Senator Williams and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 2569** at this time on its second reading:

HB 2569, Relating to the office of district attorney for the 253rd Judicial District and to the creation of the office of district attorney for the 344th Judicial 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.

HOUSE BILL 2569 ON THIRD READING

Senator Williams moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2569** be placed on its third reading and final passage.

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

The bill was read third time.

Senator Williams offered the following amendment to the bill:

Floor Amendment No. 1 on Third Reading

Amend **HB 2569** (Senate committee printing) on third reading, in SECTION 1 of the bill, by striking amended Section 43.170(b), Government Code (page 1, lines 19 through 28), and substituting the following:

(b) The Commissioners Court [~~commissioners court~~] of Liberty County [~~one or more of the counties comprising the district~~] may supplement the state salary of the district attorney. The supplemental compensation may not exceed \$5,000 a year. [~~The Commissioners Court of Chambers County shall pay 40 percent of any supplemental compensation, and the Commissioners Court of Liberty County shall pay 60 percent.~~] The supplemental compensation must be paid from the officers' salary fund of the county. If the officers' salary fund of a county is not adequate, the commissioners court may transfer the necessary amount from the general fund of the county.

The amendment to **HB 2569** was read and was adopted by a viva voce vote.

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

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

HB 2569 as amended was finally passed by the following vote: Yeas 31, Nays 0.

HOUSE BILL 2390 ON SECOND READING

On motion of Senator Carona and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 2390** at this time on its second reading:

HB 2390, Relating to the establishment of an employee welfare benefit plan by certain private educational institutions.

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

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

HOUSE BILL 2390 ON THIRD READING

Senator Carona moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2390** be placed on its third reading and final passage.

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

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

HOUSE BILL 873 ON SECOND READING

On motion of Senator Lucio and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 873** at this time on its second reading:

HB 873, Relating to regulation by a property owners' association of certain displays on property in a residential subdivision.

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

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

HOUSE BILL 873 ON THIRD READING

Senator Lucio moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 873** be placed on its third reading and final passage.

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

The bill was read third time.

Senator Lucio offered the following amendment to the bill:

Floor Amendment No. 1 on Third Reading

Amend **HB 873** on third reading by striking all text below the enacting clause and substituting the following:

SECTION 1. Chapter 202, Property Code, is amended by adding Section 202.009 to read as follows:

Sec. 202.009. REGULATION OF DISPLAY OF POLITICAL SIGNS. (a) A property owner's association may not enforce or adopt a restrictive covenant that prohibits a property owner from displaying on the owner's property one or more signs advertising a political candidate or ballot item for an election.

The amendment to **HB 873** was read and was adopted by a viva voce vote.

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

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

HB 873 as amended was finally passed by the following vote: Yeas 31, Nays 0.

HOUSE BILL 2382 ON SECOND READING

On motion of Senator Staples and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 2382** at this time on its second reading:

HB 2382, Relating to training requirements for certain chief appraisers of appraisal districts.

The bill was read second time.

Senator Staples offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 2382**, SECTION 1, Section 1151.164, Occupations Code (Senate committee printing page 1, lines 46-48) by striking subsection (c) and substituting the following:

(c) The training program implemented by the board under this section must be provided by the board or by a provider approved by the board. The board shall identify no less than two providers before the board may finally approve a provider under this section.

The amendment to **HB 2382** was read and was adopted by a viva voce vote.

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

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

HB 2382 as amended was passed to third reading by a viva voce vote.

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

HOUSE BILL 2382 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 **HB 2382** be placed on its third reading and final passage.

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

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

**COMMITTEE SUBSTITUTE
HOUSE BILL 2653 ON SECOND READING**

On motion of Senator Barrientos and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 2653** at this time on its second reading:

CSHB 2653, Relating to the use of tax increment financing to pay certain costs associated with certain transportation or transit projects.

The bill was read second time.

Senator Barrientos offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSHB 2653**, on page 1, line 42, between "zone" and the period, by inserting the following:

"or to acquire or reimburse acquisition costs of real property outside the zone for right-of-way or easements necessary to construct public rights-of-way or infrastructure that benefits the zone."

The amendment to **CSHB 2653** was read and was adopted by a viva voce vote.

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

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

CSHB 2653 as amended was passed to third reading by a viva voce vote.

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

**COMMITTEE SUBSTITUTE
HOUSE BILL 2653 ON THIRD READING**

Senator Barrientos moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 2653** be placed on its third reading and final passage.

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

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

**COMMITTEE SUBSTITUTE
HOUSE BILL 495 ON SECOND READING**

On motion of Senator Fraser and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 495** at this time on its second reading:

CSHB 495, Relating to the student enrollment required for the operation of Texas A&M University–Central Texas as an independent general academic teaching institution.

The bill was read second time.

Senator Fraser offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSHB 495** (Senate committee printing) by striking SECTION 1 in its entirety and replacing with the following new SECTION 1:

SECTION 1. Section 87.861(d), Education Code, is amended to read as follows:

(d) Notwithstanding any other provision of this subchapter, Texas A&M University–Central Texas may not operate as a general academic teaching institution until the Texas Higher Education Coordinating Board certifies that enrollment at the Tarleton State University System Center–Central Texas in Killeen has reached an enrollment equivalent of 1,000 [~~2,500~~] full-time students for one semester.

The amendment to **CSHB 495** was read and was adopted by a viva voce vote.

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

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

CSHB 495 as amended was passed to third reading by a viva voce vote.

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

COMMITTEE SUBSTITUTE HOUSE BILL 495 ON THIRD READING

Senator Fraser moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 495** be placed on its third reading and final passage.

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

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

HOUSE BILL 2604 ON SECOND READING

Senator Van de Putte moved to suspend the regular order of business to take up for consideration **HB 2604** at this time on its second reading:

HB 2604, Relating to preferences for veterans in state-funded job training or employment assistance programs and services.

The motion prevailed.

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

The bill was read second time.

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

Floor Amendment No. 1

Amend **HB 2604** by adding the following appropriately numbered Sections to the bill and renumbering subsequent Sections as appropriate:

SECTION __. Section 434.007, Government Code, is amended to read as follows:

Sec. 434.007. DUTIES. (a) The commission shall:

- (1) compile federal, state, and local laws enacted to benefit members of the armed forces, veterans, and their families and dependents;
- (2) collect information relating to services and facilities available to veterans;
- (3) cooperate with veterans service agencies in the state;
- (4) inform members and veterans of the armed forces, their families and dependents, and military and civilian authorities about the existence or availability of:
 - (A) educational training and retraining facilities;
 - (B) health, medical, rehabilitation, and housing services and facilities;

- (C) employment and reemployment services;
 - (D) provisions of federal, state, and local law affording rights, privileges, and benefits to members and veterans of the armed forces and their families and dependents; and
 - (E) other similar, related, or appropriate matters;
- (5) assist veterans and their families and dependents in presenting, proving, and establishing claims, privileges, rights, and benefits they may have under federal, state, or local law;
- (6) cooperate with all government and private agencies securing services or benefits to veterans and their families and dependents;
- (7) investigate, and if possible correct, abuses or exploitation of veterans or their families or dependents, and recommend necessary legislation for full correction;
- (8) coordinate the services and activities of state departments and divisions having services and resources affecting veterans or their families or dependents; ~~and~~
- (9) provide training and certification of veterans county service officers and assistant veterans county service officers in accordance with Section 434.038; and
- (10) operate programs in this state to enhance the employment opportunities of veterans of the armed forces of the United States, including the employment program funded under 38 U.S.C. Chapters 41 and 42.

(b) The programs described by Subsection (a)(10) must exclusively enhance the employment opportunities of eligible veterans, and the services provided under those programs must be provided by state employees. A state employee providing services under Subsection (a)(10) may only provide services to veterans.

SECTION __. Subsection (b), Section 302.021, Labor Code, is amended to read as follows:

(b) In addition to the programs consolidated under the authority of the commission under Subsection (a), the commission shall administer:

~~(1) [programs in this state to enhance the employment opportunities of veterans of the armed services of the United States, including the employment program funded under Chapters 41 and 42, Title 38, United States Code;~~

~~(2)~~ child-care services provided under Chapter 44, Human Resources Code; and

(2) [(3)] programs established in this state through federal funding to conduct full service career development centers and school-to-work transition services.

SECTION __. Subsection (g), Section 302.062, Labor Code, is amended to read as follows:

(g) Block grant funding under this section does not apply to:

- (1) the work and family policies program under Chapter 81;
- (2) a program under the skills development fund created under Chapter 303;
- (3) the job counseling program for displaced homemakers under Chapter 304;
- (4) the Communities In Schools program under Subchapter E, Chapter 33, Education Code, to the extent that funds are available to the commission for that program;
- (5) the reintegration of offenders program under Chapter 306;

- (6) apprenticeship programs under Chapter 133, Education Code;
- (7) the continuity of care program under Section 501.095, Government Code;
- (8) employment programs under Chapter 31, Human Resources Code;
- (9) the senior citizens employment program under Chapter 101, Human Resources Code;
- (10) the programs described by Section 302.021(b)(2) [~~302.021(b)(3)~~];
- (11) the community service program under the National and Community Service Act of 1990 (42 U.S.C. Section 12501 et seq.);
- (12) the trade adjustment assistance program under Part 2, Subchapter II, Trade Act of 1974 (19 U.S.C. Section 2271 et seq.);
- (13) the programs to enhance the employment opportunities of veterans; and
- (14) the functions of the State Occupational Information Coordinating Committee.

SECTION __. (a) Not later than October 1, 2005, the Texas Veterans Commission and the Texas Workforce Commission shall establish a transition team to transfer the veterans employment programs from the Texas Workforce Commission to the Texas Veterans Commission. The transition team shall consist of a commissioner and an employee of each agency and representatives from other agencies that the veterans commission and workforce commission determine are necessary to accomplish the transition of the veterans employment programs.

(b) The Texas Veterans Commission and the Texas Workforce Commission shall enter into a memorandum of understanding to transfer the veterans employment programs of the Texas Workforce Commission to the Texas Veterans Commission. The memorandum of understanding must provide for the transfer of all powers, duties, obligations, rights, contracts, leases, records, employees, real or personal property, and unspent and unobligated appropriations and other funds of the Texas Workforce Commission that are necessary to accomplish the transfer of the veterans employment programs under this Act to the Texas Veterans Commission. The transition shall be completed not later than October 1, 2006.

(c) The transfer of the veterans employment programs from the Texas Workforce Commission to the Texas Veterans Commission does not affect the validity of a right, privilege, or obligation accrued, a contract or acquisition made, any liability incurred, a permit or license issued, a penalty, forfeiture, or punishment assessed, a rule adopted, a proceeding, investigation, or remedy begun, a decision made, or other action taken by the Texas Workforce Commission in connection with the veterans employment programs.

(d) All rules, policies, procedures, and decisions of the Texas Workforce Commission relating to the veterans employment programs transferred to the Texas Veterans Commission by this Act are continued in effect as rules, policies, procedures, and decisions of the Texas Veterans Commission until superseded by a rule or other appropriate action of the Texas Veterans Commission.

(e) Until the date the veterans employment programs are transferred to the Texas Veterans Commission as provided by this Act, the Texas Workforce Commission shall continue to exercise the powers and perform the duties relating to the veterans employment programs assigned to the Texas Workforce Commission under the law as

it existed immediately before the effective date of this Act or, if applicable, as modified by another Act of the 79th Legislature that becomes law, and the former law is continued in effect for that purpose.

The amendment to **HB 2604** was read and was adopted by a viva voce vote.

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

Nays: Fraser.

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

HB 2604 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: Brimer, Deuell, Nelson.

HOUSE BILL 2604 ON THIRD READING

Senator Van de Putte moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2604** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 3.

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

Nays: Brimer, Deuell, Nelson.

The bill was read third time and was passed by the following vote: Yeas 28, Nays 3. (Same as previous roll call)

HOUSE BILL 2371 ON SECOND READING

Senator Madla moved to suspend the regular order of business to take up for consideration **HB 2371** at this time on its second reading:

HB 2371, Relating to the use of acupuncturists as health care providers under certain health benefit plans.

The motion prevailed.

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

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

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

Nays: Brimer, Deuell, Duncan, Staples.

HOUSE BILL 2371 ON THIRD READING

Senator Madla moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2371** be placed on its third reading and final passage.

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

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

Nays: Brimer, Deuell, Duncan, Staples.

The bill was read third time and was passed by the following vote: Yeas 27, Nays 4. (Same as previous roll call)

HOUSE BILL 914 ON SECOND READING

On motion of Senator Williams and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 914** at this time on its second reading:

HB 914, Relating to disclosure of certain business or financial relationships with certain local government officers; providing criminal penalties.

The bill was read second time.

Senator Williams offered the following committee amendment to the bill:

Committee Amendment No. 1

Amend **HB 914** (House engrossed printing), in SECTION 1 of the bill, in added Chapter 176, Local Government Code, by striking Section 176.010 (page 8, lines 17-27, and page 9, lines 1-5) and renumbering Section 176.011 of the chapter accordingly.

The amendment to **HB 914** was read and was adopted by a viva voce vote.

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

Senator Williams offered the following committee amendment to the bill:

Committee Amendment No. 2

Amend **HB 914** (House engrossed printing), in SECTION 1 of the bill, in added Section 176.003(a)(2)(B), Local Government Code, between "gifts" and "that" (page 3, line 11), by inserting "other than gifts of food, lodging, transportation, or entertainment accepted as a guest,".

The amendment to **HB 914** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Committee Amendment No. 2.

Senator Lindsay offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 914** (House committee printing) as follows:

(1) In SECTION 1 of the bill, at the end of the heading to proposed Chapter 176, Local Government Code (page 1, line 26), after "OFFICERS", add "; PROVIDING PUBLIC ACCESS TO CERTAIN INFORMATION".

(2) In SECTION 1 of the bill, in proposed Section 176.009, Local Government Code (page 4, line 18), between "INTERNET." and "A local", insert "(a)".

(3) In SECTION 1 of the bill, between proposed Sections 176.009 and 176.010, Local Government Code (page 4, between lines 21 and 22), insert the following:

(b) This subsection applies only to a county with a population of 800,000 or more or a municipality with a population of 500,000 or more. A county or municipality shall provide, on the Internet website maintained by the county or municipality, access to each report of political contributions and expenditures filed under Chapter 254, Election Code, by a member of the commissioners court of the county or the governing body of the municipality in relation to that office as soon as practicable after the officer files the report.

The amendment to **HB 914** was read and was adopted by a viva voce vote.

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

Senator Ellis offered the following amendment to the bill:

Floor Amendment No. 2

Amend **HB 914** as follows:

(1) Between Sections 1 and 2 of the bill (Senate committee report, page 4, between lines 40 and 41), insert the following new sections, appropriately numbered:

SECTION __. Section 11.064, Education Code, as added by Chapter 249, Acts of the 78th Legislature, Regular Session, 2003, is redesignated as Subchapter C-1, Chapter 11, Education Code, and amended to read as follows:

SUBCHAPTER C-1. FILING OF FINANCIAL STATEMENT BY TRUSTEES

Sec. 11.101. [~~11.064. FILING OF~~] FINANCIAL STATEMENT REQUIRED IN DISTRICTS WITH ENROLLMENT OF AT LEAST 5,000 STUDENTS. A trustee of an independent school district with an enrollment of at least 5,000 students shall file the financial statement required of state officers under Subchapter B, Chapter 572, Government Code, with:

- (1) the board of trustees of the district; and
- (2) the Texas Ethics Commission.

Sec. 11.102. FILING OF FINANCIAL STATEMENT REQUIRED BY BOARD RESOLUTION [BY TRUSTEE]. (a) The board of trustees of an independent school district, other than a district to which Section 11.101 applies, may by resolution adopted by majority vote [~~may~~] require each member of the board to file the financial statement required of state officers under Subchapter B, Chapter 572, Government Code, with:

- (1) the board of trustees; and
- (2) the Texas Ethics Commission.

(b) ~~[(a-1)]~~ Not later than the 15th day after the date a board of trustees adopts a resolution under Subsection (a), the board shall deliver a certified copy of the resolution to the Texas Ethics Commission.

(c) ~~[(a-2)]~~ A resolution adopted under Subsection (a) applies beginning on January 1 of the second year following the year in which the resolution is adopted. A member of a board of trustees that has adopted a resolution under Subsection (a) is not required to include, in a financial disclosure statement under this section, financial activity occurring before January 1 of the year following the year in which the resolution is adopted.

Sec. 11.103. FINANCIAL STATEMENT REQUIRED ON ORDER OF COMMISSIONER. (a) ~~[(a-3)]~~ The commissioner by order shall require the members of the board of trustees of an independent school district, other than a district to which Section 11.101 applies, to file the financial statement required of state officers under Subchapter B, Chapter 572, Government Code, ~~[in the same manner as the members of a board of trustees that have adopted a resolution under Subsection (a)]~~ if the commissioner determines that:

(1) a board member has failed to comply with filing and recusal requirements applicable to the member under Chapter 171, Local Government Code;

(2) the district financial accounting practices are not adequate to safeguard state and district funds; or

(3) the district has not met a standard set by the commissioner in the financial accountability rating system under Subchapter I, Chapter 39.

(b) ~~[(a-4)]~~ The commissioner may require filing financial statements under Subsection (a) ~~[(a-3)]~~ covering not more than three fiscal years and beginning on January 1 of the second year following the date of the commissioner's order. A member of a board of trustees subject to an order issued under Subsection (a) ~~[(a-3)]~~ is not required to include, in a financial disclosure statement subject to this section, financial activity occurring before January 1 of the year following the year in which the order is issued.

(c) The commissioner may renew the requirement to file a financial statement if the commissioner determines that a condition described by Subsection (a) ~~[(a-3)]~~ continues to exist.

Sec. 11.104. APPLICABILITY OF GOVERNMENT CODE. ~~[(b)]~~ Subchapter B, Chapter 572, Government Code:

(1) applies to a trustee subject to this subchapter ~~[section]~~ as if the trustee were a state officer; and

(2) governs the contents, timeliness of filing, and public inspection of a statement filed under this subchapter ~~[section]~~.

Sec. 11.105. OFFENSE. (a) ~~[(a)]~~ A trustee serving in a school district to which Section 11.101 applies, a district that has adopted a resolution under Section 11.102, [Subsection (a)] or a district that is subject to an order issued under Section 11.103 [Subsection (a-3)] commits an offense if the trustee fails to file the statement required by Section 11.101, 11.102, or 11.103, as applicable ~~[the resolution or order]~~.

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

SECTION __. Section 11.101, Education Code, as added by this Act, applies beginning January 1, 2007. A trustee subject to Section 11.101, Education Code, as added by this Act, is not required to include financial activity occurring before January 1, 2006, in a financial disclosure statement required under Section 11.101, Education Code, as added by this Act.

(2) Between Sections 3 and 4 of the bill (Senate committee report, page 4, between lines 51 and 52), insert the following new section, appropriately numbered:

SECTION __. Section 11.064, Education Code, as amended by this Act, applies beginning January 1, 2007. A trustee subject to Section 11.064, Education Code, as amended by this Act, is not required to include financial activity occurring before January 1, 2006, in a financial disclosure statement under that section.

(3) Renumber the sections of the bill accordingly.

ELLIS
WENTWORTH

The amendment to **HB 914** was read and failed of adoption by the following vote: Yeas 6, Nays 21.

Yeas: Barrientos, Ellis, Shapleigh, Van de Putte, Wentworth, Zaffirini.

Nays: Armbrister, Averitt, Brimer, Carona, Deuell, Eltife, Estes, Fraser, Gallegos, Harris, Hinojosa, Jackson, Lindsay, Lucio, Madla, Nelson, Seliger, Staples, West, Whitmire, Williams.

Absent: Duncan, Janek, Ogden, Shapiro.

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

Floor Amendment No. 3

Amend **HB 914** (Senate committee printing) in SECTION 1 of the bill, in added Section 176.001(3), Local Government Code (page 1, line 33), between "school district," and "or other political subdivision", by inserting "junior college district,".

The amendment to **HB 914** was read and was adopted by a viva voce vote.

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

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

Floor Amendment No. 4

Amend **HB 914** (Senate committee printing), following SECTION 1 of the bill (page 4, between lines 40 and 41) by inserting the following new SECTIONS, appropriately numbered, and renumbering subsequent SECTIONS of the bill accordingly:

SECTION __. Chapter 144, Election Code, is amended by adding Section 144.0021 to read as follows:

Sec. 144.0021. CANDIDACY FOR OTHER OFFICE. If an elected officer subject to this chapter becomes a candidate, by announcing an intention to be a candidate or by filing an application for a place on the ballot, for any elected office

other than an office covered by this chapter, the announcement or candidacy constitutes an automatic resignation of the office held, and the vacancy created shall be filled as provided by applicable law.

SECTION __. Section 253.004, Election Code, is amended by adding Subsection (a-1) to read as follows:

(a-1) Funds collected or held by a political committee established in connection with a candidacy for an elected office covered by Chapter 144 may not be expended for any other purpose. This subsection does not apply to a charitable contribution.

The amendment was read.

POINT OF ORDER

Senator Williams raised a point of order that Floor Amendment No. 4 was not germane to the body of the bill.

Senator Van de Putte withdrew Floor Amendment No. 4.

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

HB 914 as amended was passed to third reading by a viva voce vote.

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

HOUSE BILL 914 ON THIRD READING

Senator Williams moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 914** be placed on its third reading and final passage.

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

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

LEAVE OF ABSENCE

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

COMMITTEE SUBSTITUTE HOUSE BILL 2680 ON SECOND READING

On motion of Senator Nelson and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 2680** at this time on its second reading:

CSHB 2680, Relating to services provided by health care practitioners to charities and liability insurance for those practitioners.

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: Van de Putte.

**COMMITTEE SUBSTITUTE
HOUSE BILL 2680 ON THIRD READING**

Senator Nelson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 2680** be placed on its third reading and final passage.

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

Absent-excused: Van de Putte.

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

AT EASE

The Presiding Officer, Senator Brimer in Chair, at 5:51 p.m. announced the Senate would stand At Ease subject to the call of the Chair.

IN LEGISLATIVE SESSION

Senator Brimer at 6:15 p.m. called the Senate to order as In Legislative Session.

**VOTES RECONSIDERED ON
COMMITTEE SUBSTITUTE HOUSE BILL 2423**

On motion of Senator Armbrister and by unanimous consent, the vote by which **CSHB 2423** was again finally passed was reconsidered:

CSHB 2423, Relating to the consideration of historic or existing use in the regulation of pumping and discrimination by a groundwater conservation district against landowners whose land is enrolled or participating in a federal conservation program.

Question — Shall **CSHB 2423** be finally passed?

On motion of Senator Barrientos and by unanimous consent, the vote by which Floor Amendment No. 1 on Third Reading was adopted was reconsidered.

Question — Shall Floor Amendment No. 1 on Third Reading to **CSHB 2423** be adopted?

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

CSHB 2423 was again finally passed by the following vote: Yeas 30, Nays 0.

Absent-excused: Van de Putte.

HOUSE BILL 3016 ON SECOND READING

Senator Staples moved to suspend the regular order of business to take up for consideration **HB 3016** at this time on its second reading:

HB 3016, Relating to the determination of the market value of certain drug supplies for ad valorem property tax purposes.

The motion prevailed.

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

The bill was read second time.

Senator Staples offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 3016** by striking all below the enacting clause and substituting the following:

SECTION 1. Section 23.12, Tax Code, is amended by adding Subsection (h) to read as follows:

(h) In this subsection, "drug supplies held in surplus" means drugs, as defined by Section 431.002(14), Health and Safety Code, that are owned by a person who holds a wholesale drug distributor license under Chapter 431, Health and Safety Code, other than a pharmaceutical drug manufacturer, retail pharmacy, or chain pharmacy, and that are held for less than 60 days for use in responding to terrorist attack, bioterrorism event, and catastrophic man-made or natural disasters, but only that percentage of the owner's inventory necessary to treat victims of terrorist attack, bioterrorism event, or catastrophic man-made or natural disasters by attending physicians or other emergency health care personnel. In determining the market value of drug supplies held in surplus, the chief appraiser shall exclude as economic obsolescence from the market value the value attributable to drug supplies held in surplus that exceed the amount of drugs held for normal market purposes. For rendition purposes, in calculating the number of days drug supplies held in surplus are held in an inventory, the owner shall quantify the average number of days of the owner's day-to-day working inventory (cycle stock) that the owner holds to meet normal customer demand and shall subtract that number of days from the average number of days the owner holds the owner's total drug inventory. When the owner renders the owner's total drug inventory, the owner shall include information sufficient to establish the validity of the owner's calculations under this subsection. Notwithstanding any other provision of this subsection, the percentage of an owner's drug supplies held in surplus inventory may not exceed 10 percent of the owner's total inventory of drugs as defined by Section 431.002(14), Health and Safety Code.

SECTION 2. This Act takes effect January 1, 2006.

The amendment to **HB 3016** was read and was adopted by the following vote: Yeas 21, Nays 9.

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

Nays: Barrientos, Deuell, Gallegos, Hinojosa, Lucio, Madla, Shapleigh, West, Zaffirini.

Absent-excused: Van de Putte.

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

HB 3016 as amended was passed to third reading by a viva voce vote.

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

Nays: Barrientos, Deuell, Gallegos, Shapleigh.

Absent-excused: Van de Putte.

HOUSE BILL 984 ON SECOND READING

Senator Duncan moved to suspend the regular order of business to take up for consideration **HB 984** at this time on its second reading:

HB 984, Relating to the care of elementary and secondary school students with diabetes.

The motion prevailed.

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

The bill was read second time.

Senator Nelson offered the following committee amendment to the bill:

Committee Amendment No. 1

Amend **HB 984** by striking proposed Section 168.009, Health and Safety Code, on page 8, lines 16 through 22 and replacing with the following:

Sec. 168.009. IMMUNITY FROM DISCIPLINARY ACTION OR LIABILITY.

(a) A school employee may not be subject to any disciplinary proceeding, as defined by Section 22.0512(b), Education Code, resulting from an action taken in compliance with this subchapter. The requirements of this subchapter are considered to involve the employee's judgment and discretion and are not considered ministerial acts for purposes of immunity from liability under Section 22.0511, Education Code. Nothing in the subchapter shall be considered to limit the immunity from liability afforded under Section 22.0511, Education Code.

The amendment to **HB 984** was read and was adopted by a viva voce vote.

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

Absent-excused: Van de Putte.

Senator Nelson offered the following committee amendment to the bill:

Committee Amendment No. 2

Amend **HB 984**, on page 7, line 8, by striking "policy" and replacing with "procedure".

The amendment to **HB 984** was read and was adopted by a viva voce vote.

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

Absent-excused: Van de Putte.

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

HB 984 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: Staples.

Absent-excused: Van de Putte.

HOUSE BILL 984 ON THIRD READING

Senator Duncan moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 984** be placed on its third reading and final passage.

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

Nays: Staples.

Absent-excused: Van de Putte.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 1. (Same as previous roll call)

HOUSE BILL 1830 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 1830** at this time on its second reading:

HB 1830, Relating to the notice provided for the establishment of municipal management districts.

The bill was read second time.

Senator Ellis offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 1830** by adding a new Subsection (e), Section 313.006, Government Code (page 1, between lines 32-33), to read as follows:

(e) For purposes of this Section, "person" shall not include a member of the legislature, the Texas Senate, or the Texas House of Representatives.

The amendment to **HB 1830** 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: Van de Putte.

Senator Ellis offered the following amendment to the bill:

Floor Amendment No. 2

Amend **HB 1830** by adding the following sections to the bill to be numbered appropriately to read as follows and by renumbering the other sections of the bill accordingly:

SECTION __. Subtitle C, Title 4, Special District Local Laws Code, is amended by adding Chapter 3836 to read as follows:

CHAPTER 3836. INTERNATIONAL MANAGEMENT DISTRICT
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 3836.001. DEFINITIONS. In this chapter:

(1) "Board" means the board of directors of the district.

(2) "District" means the International Management District.

Sec. 3836.002. INTERNATIONAL MANAGEMENT DISTRICT. The International Management District is a special district created under Section 59, Article XVI, Texas Constitution.

Sec. 3836.003. PURPOSE; DECLARATION OF INTENT. (a) The creation of the district is essential to accomplish the purposes of Sections 52 and 52-a, Article III, and Section 59, Article XVI, Texas Constitution, and other public purposes stated in this chapter. By creating the district and in authorizing the City of Houston, Harris County, and other political subdivisions to contract with the district, the legislature has established a program to accomplish the public purposes set out in Section 52-a, Article III, Texas Constitution.

(b) The creation of the district is necessary to promote, develop, encourage, and maintain employment, commerce, transportation, housing, tourism, recreation, the arts, entertainment, economic development, safety, and the public welfare in the area of the district.

(c) This chapter and the creation of the district may not be interpreted to relieve Harris County or the City of Houston from providing the level of services provided as of the effective date of this Act, to the area in the district. The district is created to supplement and not to supplant the county or municipal services provided in the area in the district.

Sec. 3836.004. FINDINGS OF BENEFIT AND PUBLIC PURPOSE. (a) The district is created to serve a public use and benefit.

(b) All land and other property included in the district will benefit from the improvements and services to be provided by the district under powers conferred by Sections 52 and 52-a, Article III, and Section 59, Article XVI, Texas Constitution, and other powers granted under this chapter.

(c) The creation of the district is in the public interest and is essential to:

(1) further the public purposes of developing and diversifying the economy of the state;

(2) eliminate unemployment and underemployment; and

(3) develop or expand transportation and commerce.

(d) The district will:

(1) promote the health, safety, and general welfare of residents, employers, employees, visitors, and consumers in the district, and of the public;

(2) provide needed funding for the district to preserve, maintain, and enhance the economic health and vitality of the district territory as a community and business center; and

(3) promote the health, safety, welfare, and enjoyment of the public by providing pedestrian ways and by landscaping and developing certain areas in the district, which are necessary for the restoration, preservation, and enhancement of scenic beauty.

(e) Pedestrian ways along or across a street, whether at grade or above or below the surface, and street lighting, street landscaping, and street art objects are parts of and necessary components of a street and are considered to be a street or road improvement.

(f) The district will not act as the agent or instrumentality of any private interest even though the district will benefit many private interests as well as the public.

Sec. 3836.005. DISTRICT TERRITORY. (a) The district is composed of the territory described by Section – enacting this chapter, as that territory may have been modified under:

(1) Subchapter J, Chapter 49, Water Code; or

(2) other law.

(b) The boundaries and field notes of the district contained in Section – enacting this chapter form a closure. A mistake in the field notes or in copying the field notes in the legislative process does not in any way affect the district's:

(1) organization, existence, or validity;

(2) right to issue any type of bond for a purpose for which the district is created or to pay the principal of and interest on the bond;

(3) right to impose or collect an assessment or tax; or

(4) legality or operation.

Sec. 3836.006. ELIGIBILITY FOR INCLUSION IN SPECIAL ZONES. All or any part of the area of the district is eligible to be included in:

(1) a tax increment reinvestment zone created by a municipality under Chapter 311, Tax Code;

(2) a tax abatement reinvestment zone created by a municipality under Chapter 312, Tax Code; or

(3) an enterprise zone created by a municipality under Chapter 2303, Government Code.

Sec. 3836.007. APPLICABILITY OF MUNICIPAL MANAGEMENT DISTRICTS LAW. Except as otherwise provided by this chapter, Chapter 375, Local Government Code, applies to the district.

Sec. 3836.008. LIBERAL CONSTRUCTION OF CHAPTER. This chapter shall be liberally construed in conformity with the findings and purposes stated in this chapter.

[Sections 3836.009-3836.050 reserved for expansion]

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 3836.051. BOARD OF DIRECTORS; TERMS. (a) The district is governed by a board of nine voting directors who serve staggered terms of four years, with four or five directors' terms expiring June 1 of each odd-numbered year.

(b) The board by resolution may change the number of voting directors on the board, but only if the board determines that the change is in the best interest of the district. The board may not consist of fewer than five or more than 15 voting directors.

Sec. 3836.052. APPOINTMENT OF DIRECTORS. The mayor and members of the governing body of the City of Houston shall appoint voting directors from persons recommended by the board. A person is appointed if a majority of the members of the governing body, including the mayor, vote to appoint that person.

Sec. 3836.053. NONVOTING DIRECTORS. (a) The following persons serve as nonvoting directors:

(1) the directors of the following departments of the City of Houston or a person designated by that director:

- (A) parks and recreation;
- (B) planning and development;
- (C) public works; and
- (D) civic center; and

(2) the City of Houston's chief of police.

(b) If a department described by Subsection (a) is consolidated, renamed, or changed, the board may appoint a director of the consolidated, renamed, or changed department as a nonvoting director. If a department described by Subsection (a) is abolished, the board may appoint a representative of another department that performs duties comparable to those performed by the abolished department.

Sec. 3836.054. QUORUM. For purposes of determining whether a quorum of the board is present, the following are not counted:

(1) a board position vacant for any reason, including death, resignation, or disqualification;

(2) a director who is abstaining from participation in a vote because of a conflict of interest; or

(3) a nonvoting director.

Sec. 3836.055. INITIAL VOTING DIRECTORS. (a) The initial board consists of the following voting directors:

<u>Pos. No.</u>	<u>Name of Director</u>
<u>1</u>	<u>Adrian K. Collins</u>
<u>2</u>	<u>Toni Franklin</u>
<u>3</u>	<u>Vican Tan</u>
<u>4</u>	<u>Bill Wong</u>
<u>5</u>	<u>Helene Le</u>
<u>6</u>	<u>Wea H. Lee</u>
<u>7</u>	<u>D. W. Tan</u>
<u>8</u>	<u>Michael Caomy Nguyen</u>
<u>9</u>	<u>Daniel Hrna</u>

(b) Of the initial voting directors, the terms of directors appointed for positions 1 through 5 expire June 1, 2007, and the terms of directors appointed for positions 6 through 9 expire June 1, 2009.

(c) Section 3836.052 does not apply to this section.

(d) This section expires September 1, 2010.

[Sections 3836.056-3836.100 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

Sec. 3836.101. EXERCISE OF POWERS OF DEVELOPMENT CORPORATION. The district may exercise the powers of a corporation created under Section 4B, Development Corporation Act of 1979 (Article 5190.6, Vernon's Texas Civil Statutes), including the power to own, operate, acquire, construct, lease, improve, and maintain projects described by that section.

Sec. 3836.102. NONPROFIT CORPORATION. (a) The board by resolution may authorize the creation of a nonprofit corporation to assist and act for the district in implementing a project or providing a service authorized by this chapter.

(b) The nonprofit corporation:

(1) has each power of and is considered for purposes of this chapter to be a local government corporation created under Chapter 431, Transportation Code; and

(2) may implement any project and provide any service authorized by this chapter.

(c) The board shall appoint the board of directors of the nonprofit corporation. The board of directors of the nonprofit corporation shall serve in the same manner as the board of directors of a local government corporation created under Chapter 431, Transportation Code, except that a board member is not required to reside in the district.

Sec. 3836.103. AGREEMENTS; GRANTS. (a) The district may make an agreement with or accept a gift, grant, or loan from any person.

(b) The implementation of a project is a governmental function or service for the purposes of Chapter 791, Government Code.

Sec. 3836.104. AUTHORITY TO CONTRACT FOR LAW ENFORCEMENT. To protect the public interest, the district may contract with a qualified party, including Harris County or the City of Houston, to provide law enforcement services in the district for a fee.

Sec. 3836.105. APPROVAL BY CITY OF HOUSTON. (a) Except as provided by Subsection (c), the district must obtain the approval of the City of Houston's governing body for:

(1) the issuance of bonds for an improvement project;

(2) the plans and specifications of an improvement project financed by the bonds; and

(3) the plans and specifications of an improvement project related to the use of land owned by the City of Houston, an easement granted by the City of Houston, or a right-of-way of a street, road, or highway.

(b) The approval obtained under Subsection (a) for the issuance of bonds must be a resolution by the City of Houston. The approval obtained under Subsection (a) for plans and specifications must be a permit issued by the City of Houston.

(c) If the district obtains the approval of the City of Houston's governing body of a capital improvements budget for a period not to exceed five years, the district may finance the capital improvements and issue bonds specified in the budget without further approval from the City of Houston.

Sec. 3836.106. MEMBERSHIP IN CHARITABLE ORGANIZATIONS. The district may join and pay dues to an organization that:

(1) enjoys tax-exempt status under Section 501(c)(3), (4), or (6), Internal Revenue Code of 1986; and

(2) performs a service or provides an activity consistent with the furtherance of a district purpose.

Sec. 3836.107. ECONOMIC DEVELOPMENT PROGRAMS AND OTHER POWERS RELATED TO PLANNING AND DEVELOPMENT. (a) The district may establish and provide for the administration of one or more programs to promote state or local economic development and to stimulate business and commercial activity in the district, including programs to:

- (1) make loans and grants of public money; and
- (2) provide district personnel and services.

(b) The district has all of the powers of a municipality under Chapter 380, Local Government Code.

Sec. 3836.108. NO EMINENT DOMAIN. The district may not exercise the power of eminent domain.

Sec. 3836.109. NOTICE OF LAW ESTABLISHING DISTRICT. (a) The district by mail shall provide notification of the creation of the district to each person who owns real property in the district, according to the most recent certified tax appraisal roll for the county in which the real property is owned. The notice, properly addressed with postage paid, must be deposited with the United States Postal Service not later than the 90th day after the effective date of the Act enacting this chapter.

(b) The notice is sufficient if it contains a statement of the general purpose and substance of this chapter. Notice of the particular form of this chapter or the terms used in this chapter is not required.

(c) The district is not required to mail notice to a person who owns real property in the district if the property cannot be subject to an assessment under this chapter.

(d) This section expires September 1, 2007.

[Sections 3836.110-3836.150 reserved for expansion]

SUBCHAPTER D. FINANCIAL PROVISIONS

Sec. 3836.151. DISBURSEMENTS AND TRANSFERS OF MONEY. The board by resolution shall establish the number of directors' signatures and the procedure required for a disbursement or transfer of the district's money.

Sec. 3836.152. MONEY USED FOR IMPROVEMENTS OR SERVICES. The district may acquire, construct, finance, operate, or maintain any improvement or service authorized under this chapter or Chapter 375, Local Government Code, using any money available to the district.

Sec. 3836.153. PETITION REQUIRED FOR FINANCING SERVICES AND IMPROVEMENTS WITH ASSESSMENTS. (a) The board may not finance a service or improvement project with assessments under this chapter unless a written petition requesting that service or improvement has been filed with the board.

(b) A petition requesting a project financed by assessment must be signed by:

(1) the owners of a majority of the assessed value of real property in the district subject to assessment according to the most recent certified tax appraisal roll for Harris County; or

(2) at least 50 owners of real property in the district, if more than 50 persons own real property in the district according to the most recent certified tax appraisal roll for Harris County.

Sec. 3836.154. METHOD OF NOTICE FOR HEARING. (a) The district shall mail the notice required by Section 375.115(c), Local Government Code, by certified or first class United States mail. The board shall determine the type of notice required based on whether adequate notice is provided by the method.

(b) If the district uses first class mail to provide the notice, the district must also publish the notice in a newspaper of general circulation in the district not later than the 20th day before the date of the event for which notice was provided.

Sec. 3836.155. ASSESSMENTS; LIENS FOR ASSESSMENTS. (a) The board by resolution may impose and collect an assessment for any purpose authorized by this chapter.

(b) An assessment, a reassessment, or an assessment resulting from an addition to or correction of the assessment roll by the district, penalties and interest on an assessment or reassessment, an expense of collection, and reasonable attorney's fees incurred by the district:

(1) are a first and prior lien against the property assessed;

(2) are superior to any other lien or claim other than a lien or claim for county, school district, or municipal ad valorem taxes; and

(3) are the personal liability of and a charge against the owners of the property even if the owners are not named in the assessment proceedings.

(c) The lien is effective from the date of the board's resolution imposing the assessment until the date the assessment is paid. The board may enforce the lien in the same manner that the board may enforce an ad valorem tax lien against real property.

(d) The board may make a correction to or deletion from the assessment roll that does not increase the amount of assessment of any parcel of land without providing notice and holding a hearing in the manner required for additional assessments.

Sec. 3836.156. LIMITATION ON AMOUNT OF CERTAIN ASSESSMENTS. An assessment based on the taxable value of real property may not exceed 12 cents per \$100 of assessed valuation of taxable property in the district, according to the most recent certified tax appraisal roll for Harris County.

Sec. 3836.157. UTILITY PROPERTY EXEMPT FROM IMPACT FEES AND ASSESSMENTS. The district may not impose an impact fee or assessment on the property, including the equipment, rights-of-way, facilities, or improvements, of:

(1) an electric utility or a power generation company as defined by Section 31.002, Utilities Code;

(2) a gas utility as defined by Section 101.003 or 121.001, Utilities Code;

(3) a telecommunications provider as defined by Section 51.002, Utilities Code; or

(4) a person who provides to the public cable television or advanced telecommunications services.

Sec. 3836.158. AD VALOREM TAX. (a) If authorized at an election held in accordance with Section 3836.161, the district may impose an annual ad valorem tax on taxable property in the district for any purpose, including to:

(1) maintain and operate the district;

(2) construct or acquire improvements; or

(3) provide a service.

(b) The board shall determine the tax rate. The rate may not exceed the rate approved at the election.

Sec. 3836.159. BONDS AND OTHER OBLIGATIONS. (a) The district may issue bonds or other obligations payable wholly or partly from taxes, assessments, impact fees, revenue, grants, or other money of the district, or any combination of those sources of money, to pay for any authorized purpose of the district.

(b) The district may issue a bond or other obligation in the form of a bond, note, certificate of participation or other instrument evidencing a proportionate interest in payments to be made by the district, or other type of obligation.

Sec. 3836.160. TAXES FOR BONDS AND OTHER OBLIGATIONS. At the time bonds or other obligations payable wholly or partly from ad valorem taxes are issued:

(1) the board shall impose a continuing direct annual ad valorem tax, without limit as to rate or amount, for each year that all or part of the bonds are outstanding; and

(2) the district annually shall impose the continuing direct ad valorem tax on all taxable property in the district in an amount sufficient to:

(A) pay the interest on the bonds or other obligations as the interest becomes due;

(B) create a sinking fund for the payment of the principal of the bonds or other obligations when due or the redemption price at any earlier required redemption date; and

(C) pay the expenses of imposing the taxes.

Sec. 3836.161. TAX AND BOND ELECTIONS. (a) The district shall hold an election in the manner provided by Subchapter L, Chapter 375, Local Government Code, to obtain voter approval before the district imposes an ad valorem tax or issues bonds payable from ad valorem taxes. The proposition for an election approving an ad valorem tax must specify the maximum tax rate authorized.

(b) Section 375.243, Local Government Code, does not apply to the district.

Sec. 3836.162. CITY OF HOUSTON NOT REQUIRED TO PAY DISTRICT OBLIGATIONS. Except as provided by Section 375.263, Local Government Code, the City of Houston is not required to pay a bond, note, or other obligation of the district.

Sec. 3836.163. COMPETITIVE BIDDING. Section 375.221, Local Government Code, applies to the district only for a contract that has a value greater than \$25,000.

Sec. 3836.164. TAX AND ASSESSMENT ABATEMENTS. The district may grant in the manner authorized by Chapter 312, Tax Code, an abatement for a tax or assessment owed to the district.

[Sections 3836.165-3836.200 reserved for expansion]

SUBCHAPTER E. DISSOLUTION

Sec. 3836.201. DISSOLUTION OF DISTRICT WITH OUTSTANDING DEBT. (a) The board may dissolve the district regardless of whether the district has debt. Section 375.264, Local Government Code, does not apply to the district.

(b) If the district has debt when it is dissolved, the district shall remain in existence solely for the purpose of discharging its debts. The dissolution is effective when all debts have been discharged.

SECTION __. As of the effective date of this Act, the International Management District includes all territory contained in the following described area:

Beginning at the intersection of the South Right of Way of Bellaire Boulevard and the East Right of Way of Beltway 8,

Thence South along the East Right of Way of Beltway 8 to the South Right of Way of Highway 59, and at that intersection, crossing the Right of Way of Beltway 8 to the North Right of Way of Highway 59 following Southwest to the North Right of Way of West Bellfort,

Thence West along the North Right of Way of West Bellfort to the East Right of Way of Landsbury,

Thence North along the East Right of Way of Landsbury to the South Right of Way of Stancliff,

Thence East along the South Right of Way of Stancliff to the West Right of Way of Wilcrest,

Thence North along the West Right of Way of Wilcrest to the South Right of Way of South Street,

Thence West along the South Right of Way of South Street to the West Right of Way of Leawood Boulevard,

Thence North along the West Right of Way of Leawood Boulevard to the South Right of Way of Bissonnet,

Thence West along the South Right of Way of Bissonnet for a distance of 2,085 to the North East Corner of a 2.02 acre parcel, (Utility Eastment)

Thence South for a distance of 2,203 feet along the East line of a 2.02 acre parcel,

Thence West along a drainage easement for a total distance of 5,960 feet crossing the 2.02 acre parcel following the South line of a 2.02 acre parcel crossing the Right of Way of Grove Glen; then continuing west along the South line of a .82 acre parcel; then continuing west along the South line of a .13 acre parcel; crossing the Right of Way of Kirkwood, then continuing west along the South line of a 1.3 acre parcel; crossing the Right of Way of Keegan Road; then continuing west along the South line of a 1.13 acre parcel; crossing the Right of Way of Cook Road; then continuing west along the South line of a .77 acre parcel to the East Right of Way of Huntington Place,

Thence South along the East Right of Way of Huntington Place to the West Right of Way of Dairy Ashford,

Thence North along the West Right of Way of Dairy Ashford to the North Right of Way of Beechnut,

Thence East along the North Right of Way of Beechnut to the West Right of Way of Wilcrest,

Thence North along the West Right of Way of Wilcrest to the South Right of Way of Stroud,

Thence West along the South Right of Way of Stroud to the East Right of Way of Baneway,

Thence South along the East Right of Way of Baneway to the South Right of Way of Sandstone,

Thence West along the South Right of Way of Sandstone to the West Right of Way of Bellglen,

Thence North along the West Right of Way of Bellglen to the South Right of Way of Stroud,

Thence West along the South Right of Way of Stroud to the East Right of Way of Kirkwood,

Thence South along the East Right of Way of Kirkwood for a distance of 134 feet,

Thence West crossing the Right of Way of Kirkwood following the South Right of Way of Stroud to the East Right of Way of Jetty,

Thence South along the East Right of Way of Jetty for a distance of 134 feet,

Thence West crossing the Right of Way of Jetty following the South Right of Way of Sharpview to the East Right of Way of Cook Road,

Thence South along the East Right of Way of Cook Road for a distance of 447 feet,

Thence West crossing the Right of Way of Cook Road following the South Right of Way of Sandstone to the West Right of Way of Crownwest,

Thence North along the West Right of Way of Crownwest to the South Right of Way of Sharpview,

Thence West along the South Right of Way of Sharpview as it turns until it reaches the West Right of Way of Treewater,

Thence North along the West Right of Way of Treewater to the South Right of Way of Sharpview,

Thence West along the South Right of Way of Sharpview to the East Right of Way of Valvwind,

Thence South along the East Right of Way of Valvwind to the South Right of Way of Wispwind,

Thence West along the South Right of Way of Wispwind to the West Right of Way of Dairy Ashford,

Thence North along the West Right of Way of Dairy Ashford to the South Right of Way of Leader,

Thence West along the South Right of Way of Leader to the West Right of Way of Synott,

Thence North along the West Right of Way of Synott to the South Right of Way of Bellaire Boulevard,

Thence West along the South Right of Way of Bellaire Boulevard to the West line of the City of Houston City Limits,

Thence North for a distance of 1,264 feet along the West line of the City of Houston City Limits to the Northwest Corner of a 23.7 acre parcel,

Thence East following the North line of a 23.7 acre parcel crossing the Right of Way of Synott following the North Right of Way of Clarewood to the West line of a 2.1 acre parcel,

Thence North for a distance of 30 feet along the West line of a 2.1 acre parcel to the Northwest corner of said 2.1 acre parcel,

Thence East for a distance of 9,174 feet following the North line of a 2.1 acre parcel, crossing the Right of Way of Dairy Ashford, then continuing east along the North line of a 3.05 acre parcel, crossing the Right of Way of Cook Road, then continuing east along the North line of a 4.03 acre parcel, then continuing east along North line of a 6.27 acre parcel, crossing the Right of Way of Kirkwood, then continuing east along the North line of a 6.77 acre parcel, then continuing east along the North line of a .51 acre parcel, crossing the Right of Way of Belle Park, then continuing east along the North line of a .77 acre parcel to the East right of Way of Brays Bayou,

Thence Southeast along the North Right of Way of Brays Bayou until it crosses the Right of Way of Bellaire Boulevard to the South Right of Way of Bellaire Boulevard,

Thence East along the South Right of Way of Bellaire Boulevard to the East Right of Way of Beltway 8, to the Point of Beginning.

SAVE AND EXCEPT the following parcel, identified by its Harris County Appraisal District account number: 1107380000001 Res B Blk 2 Westhampton Place. Clarewood to the West line of a 2.1 acre parcel,

Thence North for a distance of 30 feet along the West line of a 2.1 acre parcel to the Northwest corner of said 2.1 acre parcel,

Thence East for a distance of 9,174 feet following the North line of a 2.1 acre parcel, crossing the Right of Way of Dairy Ashford, then continuing east along the North line of a 3.05 acre parcel, crossing the Right of Way of Cook Road, then continuing east along the North line of a 4.03 acre parcel, then continuing east along North line of a 6.27 acre parcel, crossing the Right of Way of Kirkwood, then continuing east along the North line of a 6.77 acre parcel, then continuing east along the North line of a .51 acre parcel, crossing the Right of Way of Belle Park, then continuing east along the North line of a .77 acre parcel to the East right of Way of Brays Bayou,

Thence Southeast along the North Right of Way of Brays Bayou until it crosses the Right of Way of Bellaire Boulevard to the South Right of Way of Bellaire Boulevard,

Thence East along the South Right of Way of Bellaire Boulevard to the East Right of Way of Beltway 8, to the Point of Beginning.

SECTION __. A petition filed under Section 3836.153, Special District Local Laws Code, as added by this Act, may be dated before the effective date of this Act.

SECTION __. The legislature finds that:

(1) proper and legal notice of the intention to introduce the preceding three sections, setting forth the general substance of these sections, has been published as provided by law, and the notice and a copy of these sections have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished by the constitution and laws of this state, including the governor, who has submitted the notice and Act to the Texas Commission on Environmental Quality;

(2) the Texas Commission on Environmental Quality has filed its recommendations relating to this Act with the governor, lieutenant governor, and speaker of the house of representatives within the required time;

(3) the general law relating to consent by political subdivisions to the creation of districts with conservation, reclamation, and road powers and the inclusion of land in those districts has been complied with; and

(4) all requirements of the constitution and laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of these sections have been fulfilled and accomplished.

The amendment to **HB 1830** 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: Van de Putte.

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

HB 1830 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: Van de Putte.

HOUSE BILL 1830 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 1830** be placed on its third reading and final passage.

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

Absent-excused: Van de Putte.

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

HOUSE BILL 1403 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 1403** at this time on its second reading:

HB 1403, Relating to the board of port commissioners of the Port of Beaumont Navigation District of Jefferson 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: Van de Putte.

HOUSE BILL 1403 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 1403** be placed on its third reading and final passage.

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

Absent-excused: Van de Putte.

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

MESSAGE FROM THE HOUSE

HOUSE CHAMBER

Austin, Texas

May 23, 2005

The Honorable President of the Senate
Senate Chamber
Austin, Texas

Mr. President:

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

THE HOUSE HAS PASSED THE FOLLOWING MEASURES:

SB 11, Relating to security in public schools.

(Amended)

SB 335, Relating to the recording of electronic documents.

SB 408, Relating to the continuation, administration, and operations of the Public Utility Commission of Texas.

(Committee Substitute/Amended)

SB 409, Relating to the continuation and functions of the Office of Public Utility Counsel.

(Committee Substitute/Amended)

SB 410, Relating to the continuation and functions of the Texas State Board of Pharmacy; providing administrative penalties.

(Amended)

SB 411, Relating to the regulation of barbers and cosmetologists by the Texas Department of Licensing and Regulation and the abolition of the State Board of Barber Examiners and the Texas Cosmetology Commission.

(Committee Substitute/Amended)

SB 563, Relating to the prevention of Medicaid fraud; providing penalties.

(Committee Substitute/Amended)

SB 743, Relating to independent organizations in ERCOT and their regulation and certification by the Public Utility Commission of Texas; providing an administrative penalty.

(Committee Substitute/Amended)

SB 872, Relating to a study regarding the impact of niche hospitals on other general hospitals and to certain reports and disclosure requirements regarding niche hospitals.

(Amended)

SB 1176, Relating to systems and programs administered by the Employees Retirement System of Texas.
(Committee Substitute/Amended)

SB 1378, Relating to the certification of certain nonprofit hospitals and hospital systems for limited liability.

SB 1458, Relating to the adoption of a uniform commercial building code for use in municipalities in the state.
(Committee Substitute/Amended)

SB 1605, Relating to the creation and re-creation of funds and accounts in the state treasury, the dedication and rededication of revenue, and the exemption of unappropriated money from use for general governmental purposes.
(Committee Substitute/Amended)

SB 1830, Relating to the continuation of the quality assurance fee applicable to intermediate care facilities for persons with mental retardation.
(Amended)

Respectfully,

/s/Robert Haney, Chief Clerk
House of Representatives

HOUSE BILL 2337 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 **HB 2337** be placed on its third reading and final passage:

HB 2337, Relating to the use of information provided by an applicant for a driver's license or personal identification certificate in an image verification system.

The motion prevailed by the following vote: Yeas 25, Nays 5.

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

Nays: Barrientos, Gallegos, Shapleigh, Williams, Zaffirini.

Absent-excused: Van de Putte.

The bill was read third time.

Senator Staples offered the following amendment to the bill:

Floor Amendment No. 1 on Third Reading

Amend **HB 2337** on third reading in Section 521.059(c) on page 3, line 8 by inserting the following between "section" and "to":
"only to the extent allowed by Chapter 730, Transportation Code."

The amendment to **HB 2337** was read and was adopted by a viva voce vote.

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

Absent-excused: Van de Putte.

Senator Shapleigh offered the following amendment to the bill:

Floor Amendment No. 2 on Third Reading

Amend **HB 2337** on third reading as follows:

In section 4 of HB 2337, proposed section 521.059, Transportation Code, (committee printing on page 2, lines 1-7), strike proposed subsection (c), and substitute the following:

(c) The Department shall use the image verification system established under this section to aid other law enforcement agencies in establishing the identity of a victim of a disaster or crime that a local law enforcement agency is unable to establish.

Senator Shapleigh withdrew Floor Amendment No. 2 on Third Reading.

Senator Staples offered the following amendment to the bill:

Floor Amendment No. 3 on Third Reading

Amend **HB 2337** (Senate committee printing) on third reading in Section 4 of the bill, in added Section 521.059, Transportation Code (page 2, between lines 7 and 8) by adding a new Subsection (d) to read as follows:

(d) The department shall provide a statistical report annually to the legislature describing the rate of error presented in the image verification system, including the rate of incorrect matching of facial images, categorized by race. This subsection expires September 1, 2010.

The amendment to **HB 2337** was read and was adopted by a viva voce vote.

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

Absent-excused: Van de Putte.

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

HB 2337 as again amended was finally passed by the following vote: Yeas 27, Nays 3.

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

Nays: Shapleigh, Williams, Zaffirini.

Absent-excused: Van de Putte.

HOUSE BILL 3195 ON SECOND READING

On motion of Senator Seliger and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 3195** at this time on its second reading:

HB 3195, Relating to combined municipal sales tax ballot propositions.

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: Van de Putte.

HOUSE BILL 3195 ON THIRD READING

Senator Seliger moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 3195** be placed on its third reading and final passage.

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

Absent-excused: Van de Putte.

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

HOUSE BILL 2593 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 2593** at this time on its second reading:

HB 2593, Relating to the TexasOnline project, the TexasOnline Authority, and related powers and fees.

The bill was read second time.

Senator Eltife offered the following committee amendment to the bill:

Committee Amendment No. 1

Amend **HB 2593** (engrossed) as follows:

In Section 6, add a new subsection (d) to Sec. 2054.2591 to read as follows:

(d) No fee may be charged to a person authorized to file electronically under Section 195.003, Local Government Code, for filing, recording, access to or electronic copies of a real property record subject to the provisions of Chapter 195, Local Government Code, except as provided in Sections 195.006 or 195.007, Local Government Code.

The amendment to **HB 2593** was read and was adopted by a viva voce vote.

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

Absent-excused: Van de Putte.

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

HB 2593 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: Van de Putte.

HOUSE BILL 2593 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 2593** be placed on its third reading and final passage.

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

Absent-excused: Van de Putte.

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

(Senator Armbrister in Chair)

(President in Chair)

**NOTICE GIVEN FOR
LOCAL AND UNCONTESTED CALENDAR**

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

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

On motion of Senator Shapiro and by unanimous consent, Senate Rule 11.18(a) was suspended in order that the Committee on Education might consider **HB 2330** tomorrow.

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

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

MOTION TO ADJOURN

On motion of Senator Armbrister and by unanimous consent, the Senate at 7:46 p.m. agreed to adjourn, upon conclusion of the Local and Uncontested Calendar Session, until 10:00 a.m. tomorrow.

**CONFERENCE COMMITTEE REPORT ON
SENATE BILL 1103**

Senator Eltife submitted the following Conference Committee Report:

Austin, Texas
May 20, 2005

Honorable David Dewhurst
President of the Senate

Honorable Tom Craddick
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **SB 1103** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

ELTIFE
ARMBRISTER
LINDSAY
MADLA
STAPLES

On the part of the Senate

HUGHES
WEST
FARABEE
CRABB
CROWNOVER

On the part of the House

A BILL TO BE ENTITLED
AN ACT

relating to the powers and duties of the General Land Office and the disposition of certain unsurveyed public school land.

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

SECTION 1. Subchapter E, Chapter 51, Natural Resources Code, is amended to read as follows:

SUBCHAPTER E. SALE AND LEASE OF VACANCIES

Sec. 51.171. PURPOSE; APPLICATION OF OTHER LAW. (a) This subchapter controls the purchase and lease of vacant land and the authority of the commissioner and the board to:

- (1) determine whether a vacancy exists; and
- (2) sell and lease vacant land.

(b) To the extent a provision of this subchapter conflicts with another law relating to vacant land or Chapter 2001, Government Code, this subchapter controls.

~~[(c) Chapter 2001, Government Code, does not apply to a proceeding under this subchapter.]~~

Sec. 51.172. DEFINITIONS. In this subchapter:

(1) "Administratively complete" means a vacancy application that complies with Section 51.176 and any rule adopted by the commissioner regarding the filing of a vacancy application.

(1-a) "Applicant" means any person, including a good-faith claimant, who files a vacancy [an] application [to purchase or lease a vacancy].

(1-b) "Application commencement date" means:

(A) the date, as designated in the commissioner's notice to the applicant required by Section 51.177(b); or

(B) the date, as designated in the commissioner's notice to the applicant required by Section 51.177(d), indicating that any deficiency in the vacancy application has been resolved.

(2) "Good-faith claimant" means a person who, on the application commencement date:

(A) occupies or uses or has previously occupied or used, or whose predecessors in interest in the land claimed to be vacant have occupied or used, the land or any interest in the land ~~[a vacancy]~~ for any purposes, including occupying or using:

(i) the surface or mineral estate for any purposes, including ~~[other than]~~ exploring for or removing oil, gas, sulphur, or other minerals and geothermal resources from the land;

(ii) an easement or right-of-way; or

(iii) a mineral royalty or leasehold interest; ~~[vacancy; and]~~

(B) has had, or whose predecessors in interest have had, the land claimed to be vacant ~~[vacancy]~~ enclosed or within definite boundaries recognized in the community and in possession under a chain of title for a period of at least 10 years with a good-faith belief that the land ~~[vacancy]~~ was included within the boundaries of a survey or surveys that were previously titled, awarded, or sold under circumstances that would have vested title in the land ~~[vacancy]~~ if the land ~~[vacancy]~~ were actually located within the boundaries of the survey or surveys;

(C) is the owner of land:

(i) that adjoins the land claimed to be vacant; and

(ii) for which no vacancy application has been previously filed; or

(D) holds title under a person described by Paragraph (A), (B), or (C) or is entitled to a distributive share of a title acquired under an application filed by a person described by Paragraph (A), (B), or (C).

(3) "Interest" means any right or title in or to real property, including a surface, subsurface, or mineral estate. "Interest" includes a right or title described as follows:

(A) a fee simple title;

(B) a determinable fee or other leasehold or mineral interest created under a conveyance instrument, including a mineral lease;

(C) a mineral royalty, nonparticipating royalty, or overriding royalty interest described by Section 51.194(c);

(D) a life estate;

(E) a remainder or reversionary interest; or

(F) a secured interest under a lien ~~["Interested person" means a person, excluding a good faith claimant or an applicant, who has a present legal interest in the surface or mineral estate of the land claimed to be vacant].~~

(4) "Necessary party" means:

(A) an applicant or ~~[, interested person, and]~~ good-faith claimant whose present legal interest in the surface or mineral estate of the land claimed to be vacant may be adversely affected by a vacancy determination;

(B) a person who asserts a right to or who claims an interest in land claimed to be vacant;

(C) a person who asserts a right to or who claims an interest in land claimed to be vacant or in land adjoining land claimed to be vacant as shown in the records of the land office or the county records, including tax records, of any county in which all or part of the land claimed to be vacant is located;

(D) a person whose name appears in the records described by Paragraph (C); or

(E) an attorney ad litem appointed under Section 51.180.

(5) "Survey report" means a written report of a survey conducted by a licensed state land surveyor or a county surveyor of the county in which a majority of the land claimed to be vacant is located.

(6) "Vacancy" means an area of unsurveyed public school land that:

(A) is not in conflict on the ground with land previously titled, awarded, or sold;

(B) has not been listed on the records of the land office as public school land; and

(C) was not, on the application commencement date [~~of filing of an application~~]:

(i) subject to an earlier subsisting application; [~~or~~]

(ii) subject to a vacancy application denied with prejudice;

(iii) the subject of pending litigation relating to state ownership or possession of the land; or

(iv) subject to a previous vacancy application that has been finally adjudicated by the commissioner or a court of this state or the United States.

(7) "Vacancy application" means a form submitted to the commissioner by an applicant to:

(A) initiate a determination by the commissioner whether land claimed to be vacant is vacant;

(B) purchase vacant land; or

(C) lease vacant land.

Sec. 51.173. DISPOSITION OF VACANT LAND. (a) Vacant and unsurveyed public school land shall be located, sold, and leased under this subchapter, except:

(1) submerged lands within tidewater limits;

(2) all islands, flats, and emergent lands within tidewater limits;

(3) natural lakes; and

(4) riverbeds, including channels and islands in riverbeds, above tidewater limits.

(b) This subchapter does not alter or diminish the public domain status of the surface estate of riverbeds and channels and islands in riverbeds that are located above tidewater limits.

Sec. 51.174. GENERAL POWERS AND DUTIES OF COMMISSIONER. (a) The commissioner may:

(1) delegate responsibility for implementing this subchapter; [~~and~~]

(2) perform any other act necessary to administer and implement the purposes of this subchapter, including entering into a contract with a private party to provide the notices required under this subchapter; and

(3) terminate without prejudice a vacancy application if an applicant fails to comply with this subchapter or a rule adopted under this subchapter.

(b) The commissioner may grant an extension of time to comply with a requirement under this subchapter. For each application, the commissioner may grant not more than a total of 30 days in extensions of time to comply with one or more

requirements of this subchapter, excluding any extensions of time related to the survey report under this subchapter. The commissioner may grant not more than 90 days in extensions of time to comply with a requirement related to the survey report under this subchapter.

(c) The commissioner shall adopt rules necessary and convenient to administer this subchapter.

(d) ~~(e)~~ The commissioner shall advise the board relating to the market value of the surface, ~~and~~ mineral, and leasehold estates of vacant land.

Sec. 51.175. GENERAL POWERS AND DUTIES OF BOARD. (a) The board shall set the terms and conditions for each sale and lease of a vacancy.

(b) The board shall adopt rules governing the terms and conditions for the sale and lease of a vacancy. The rules shall be adopted and amended as necessary to be consistent with real property law of this state and other applicable law.

(c) The board may adopt rules governing mineral classification, royalty reservations, and awards of royalty reservations and preferential rights to an applicant or to a good-faith claimant in addition to the provisions prescribed by this subchapter.

Sec. 51.176. VACANCY APPLICATION; FILING. (a) To purchase or lease land claimed to be vacant, a person must file a vacancy ~~an~~ application on a form prescribed by the commissioner. A completed application must include:

(1) a description of ~~[describe]~~ the land ~~[that is]~~ claimed to be vacant that is sufficient to locate the land on the ground;

(2) a written statement indicating ~~[state]~~ whether the applicant seeks to purchase the land ~~[that is]~~ claimed to be vacant or obtain a mineral lease on the land or both purchase the land and obtain a mineral lease on the land;

(3) a list, in a format prescribed by the commissioner, containing ~~[state]~~ the name and last known mailing address of each necessary party whose name appears in the records described by Section 51.172(4)(C) ~~[person who, from facts known to the applicant, asserts a present legal interest in the land claimed to be vacant]~~;

(4) an affidavit executed by the applicant affirming that the applicant conducted a diligent search of all the records described by Section 51.172(4)(C) in preparing the list required by Subdivision (3);

(5) if applicable, a statement of ~~[state]~~ the basis for and ~~[provide]~~ documentary proof for an assertion of good-faith-claimant status;

(6) at the applicant's discretion:

(A) a survey report; or

(B) an abstract of title to any land that adjoins the land claimed to be vacant; and

(7) ~~[(5) provide]~~ any other information required by the commissioner.

(b) The applicant must file the original and a duplicate copy of the vacancy application with the county clerk ~~[surveyor]~~ of each ~~[the]~~ county in which all or part of the land claimed to be vacant is located. ~~[If the county does not have a county surveyor, the application must be filed with the county clerk.]~~

(c) The ~~[county surveyor or]~~ county clerk~~[-as applicable,]~~ shall mark the exact date and hour of filing on the original and a duplicate copy of the vacancy application and shall return a marked copy to the person filing the application. The original shall

be recorded in a book kept for that purpose separate from the deed or real property records. The failure to record a vacancy ~~an~~ application as provided by this subsection does not affect the validity of the application filing.

(d) Not later than the fifth day after the date an applicant files the vacancy application with the county clerk, the applicant shall file a duplicate copy of the marked copy received from the county clerk with the county surveyor of each county in which all or part of the land claimed to be vacant is located if that county has a county surveyor.

(e) Priority among vacancy applications covering the same land claimed to be vacant is determined by the earliest time of filing indicated by the date and hour marked on the application by the ~~county surveyor or~~ county clerk.

(f) ~~(e)~~ The applicant shall submit to ~~file with~~ the commissioner two duplicate copies of the marked copy that has been file-stamped by the county clerk ~~the duplicate copy of the application with the county official's mark indicating the time of filing~~ not later than the 30th day after the date the vacancy application is filed with the county ~~surveyor or~~ clerk. The commissioner shall mark the date the two duplicate copies are received on each copy, assign a file number to the vacancy application, and return a marked duplicate copy containing the file number to the applicant ~~[If the 30th day after the date of filing falls on a Saturday, Sunday, or state or federal holiday, the application may be filed on the next regular business day following the 30th day].~~

(g) The applicant shall include a filing fee set by the commissioner in an amount of not less than \$100.

Sec. 51.177. PROCESSING VACANCY APPLICATION. (a) Not later than the 45th day after the date the applicant files the duplicate copies with the commissioner as provided by Section 51.176(f), the commissioner shall:

(1) determine whether the vacancy application is administratively complete; and

(2) provide to the applicant the notice required by this section.

(b) If the commissioner determines that the vacancy application is administratively complete, the commissioner shall provide written notice to the applicant that:

(1) informs the applicant that the application is administratively complete;

(2) states the application commencement date; and

(3) states the amount of any deposit required under Section 51.178 and the date by which the applicant must pay the deposit.

(c) If the commissioner determines that the vacancy application is not administratively complete, the commissioner shall provide written notice to the applicant that:

(1) informs the applicant that the application is not administratively complete;

(2) provides a list of any deficiencies the applicant must resolve; and

(3) states a reasonable period of not more than 30 days from the date of the notice to resolve any listed deficiencies.

(d) Not later than the 30th day after the date provided under Subsection (c)(3) to resolve any deficiencies, the commissioner shall determine whether the vacancy application is administratively complete. If the commissioner determines that the vacancy application is administratively complete, the commissioner shall provide the notice required by Subsection (b). If the commissioner determines that the vacancy application is not administratively complete, the commissioner shall:

(1) dismiss the application without prejudice; and

(2) provide written notice to the applicant informing the applicant that the application is not administratively complete and is dismissed without prejudice. ~~[The commissioner shall mark the date of filing on the application and assign a file number to the application.~~

~~[(b) The commissioner shall accept an application filed in compliance with this subchapter and shall notify the applicant on acceptance of the application.~~

~~[(c) The commissioner may reject an application and shall notify the applicant of the rejection if the application:~~

~~[(1) has material omissions;~~

~~[(2) does not describe the land claimed to be vacant adequately for the land to be located on the ground; or~~

~~[(3) describes as vacant land that has been finally adjudicated in a court of this state or of the United States not to be vacant.~~

~~[(d) A rejected application is terminated. No further action is taken on the application, and the land office file is closed.~~

~~[Sec. 51.178. APPLICATION FOR AND DETERMINATION OF GOOD FAITH CLAIMANT STATUS. (a) A person may apply for good faith claimant status not later than the 90th day after:~~

~~[(1) the date of a final order by the commissioner finding that a vacancy exists; or~~

~~[(2) the date of final judgment by a court that a vacancy exists, if the commissioner does not find that a vacancy exists.~~

~~[(b) The application must include certified copies of applicable county records supporting the good faith claimant's status.~~

~~[(c) The commissioner shall, after expiration of the period prescribed by Subsection (a)(2), declare whether a person is a good faith claimant. The commissioner may consider documents filed in support of the person's good faith claimant status and any other relevant information. The commissioner may conduct an investigation under Section 51.185 as necessary to make a determination on the application. The commissioner has sole discretion to declare a person a good faith claimant, and a person is not otherwise entitled to a declaration of good faith claimant status. A declaration of the commissioner under this subsection is not a final order and may not be appealed, except as provided by Section 51.187.~~

~~[(d) A declaration of good faith claimant status grants a preferential right to the claimant to purchase or lease the land as provided by this subchapter. The declaration does not confer any other rights.~~

~~[Sec. 51.179. IDENTIFICATION OF AND NOTICE TO NECESSARY PARTIES. (a) The applicant shall identify each necessary party by the name and last known address of each owner or claimant of land or any interest in land or of a lease on, adjoining, overlapping, or including the land claimed to be vacant as can be determined from the records of the land office and the county clerk's office.~~

~~[(b) The applicant shall provide each necessary party with the notice of the commissioner's acceptance of the application, a copy of the application, and a continuance for future notices form not later than the 90th day after the date the applicant receives the notice of the commissioner's acceptance of the application.~~

~~[(c) Except as provided by this subsection, a necessary party is not entitled to subsequent notices required by this subchapter unless the party requests subsequent notices. The commissioner shall notify a necessary party of a final order issued under Section 51.186.~~

~~[(d) Not later than the 30th day after the date the notices are mailed under Subsection (b), the applicant must publish the notice of the commissioner's acceptance of the application in each newspaper of general circulation in the county and the general area in which the land is located for a period determined by the commissioner. The published notice must contain a description of the land claimed to be vacant.]~~

Sec. 51.178 [51.180]. DEPOSIT. (a) The commissioner may recover from the applicant state funds expended in evaluating and investigating the application, providing notice, preparing a survey, appointing an attorney ad litem, [the investigation] and conducting hearings [conducted] under this subchapter.

(b) The ~~[Not later than the 30th day after the date notice is published as required by Section 51.179, the]~~ commissioner shall shall [may] require the applicant to submit a deposit~~[- If required, the applicant must make a deposit]~~ in an amount sufficient to pay the reasonable costs [of any survey and investigation required] under Subsection (a) [this subchapter] not later than the 30th day after the application commencement date [the commissioner notifies the applicant].

(c) If the amount deposited is insufficient, the commissioner shall require [may make a written request for] a reasonably necessary supplemental deposit. If a supplemental deposit is required, the applicant must make the deposit not later than the 30th day after the date the commissioner requests the supplemental deposit.

~~(d) [The commissioner and applicant may agree to alternative payment methods to recover state funds expended in the investigation and hearings conducted under this subchapter.~~

~~[(e)]~~ An applicant may not challenge or appeal the amount of the required deposits, and the applicant's refusal or failure to make the required deposits in the period prescribed by this section terminates the application without prejudice.

Sec. 51.179 [51.181]. DISPOSITION OF DEPOSITS. (a) The commissioner shall deposit all initial and supplemental deposits received under this subchapter to the credit of a separate trust account in the state treasury. The comptroller, on the commissioner's order, shall make disbursements from that account for purposes authorized by this subchapter.

(b) After proceedings on a vacancy [am] application are concluded and all expenditures authorized under this subchapter are paid, the commissioner shall provide to the applicant a complete statement of all deposits and expenditures and shall remit to the applicant any balance remaining from the deposit or supplemental deposits made by the applicant.

Sec. 51.180. ATTORNEY AD LITEM. (a) The applicant must provide evidence to the commissioner to establish the applicant's ownership of all interests in the land surrounding the land claimed to be vacant.

(b) If the applicant fails to provide sufficient evidence, as determined by the commissioner, the commissioner shall, not later than the 30th day after the application commencement date, appoint an attorney ad litem to:

- (1) identify all necessary parties; and
- (2) represent the interests of any necessary party identified under Section 51.176(a)(3) that has not been located.

Sec. 51.181. NOTICE TO NECESSARY PARTIES. (a) Not later than the 30th day after the application commencement date, the commissioner shall provide to each necessary party a written notice that:

- (1) informs the necessary party that a vacancy application has been filed;
- (2) states the application commencement date; and
- (3) includes:
 - (A) a copy of the vacancy application and any attachments; and
 - (B) a form for requesting subsequent notices regarding the application.

(b) If the attorney ad litem is unable to identify each necessary party, the applicant shall provide notice required under this section by publication in the same manner prescribed by the Texas Rules of Civil Procedure.

(c) Except as provided by Subsection (d), a necessary party is not entitled to notices subsequent to the notice provided under Subsection (a) unless the party requests subsequent notices.

(d) The commissioner shall notify each necessary party of a final order issued under Section 51.188.

Sec. 51.182. FILING OF EXCEPTIONS TO APPLICATION. (a) Not later than the 60th day after the date of the commissioner's notice under Section 51.181(a), a necessary party may file an exception to the vacancy application, any documentation attached to the application, or any other documents or public records that may be used by the commissioner to make a determination.

(b) A necessary party must:

- (1) file an exception with the land office; and
- (2) provide a copy of the filing to each necessary party that requested subsequent notice as provided by Section 51.181.

Sec. 51.183. INVESTIGATION. (a) The commissioner shall conduct an investigation of the vacancy application.

(b) The investigation shall include:

- (1) an evaluation of the vacancy application;
- (2) a determination that the vacancy application was filed as provided by Section 51.176; and

(3) a review of public records at the land office relating to the land claimed to be vacant.

(c) The investigation may include a review of:

(1) any survey conducted by a licensed state land surveyor or by the county surveyor of a county in which all or part of the land claimed to be vacant is located; or

(2) any documents or public records necessary to determine whether a vacancy exists, including a review of public records relating to the land claimed to be vacant at:

(A) the state archives; or

(B) any county in which all or part of the land claimed to be vacant is located.

(d) An investigation may include a survey requested by the commissioner under Section 51.184 or a surveyor's report as provided by Section 51.185.

(e) The commissioner shall record the names of the persons consulted, the documents and surveys reviewed, and the relevant law and other materials used in the investigation.

Sec. 51.184 [~~51.182~~]. COMMISSIONER'S SURVEY. (a) To investigate a vacancy application under Section 51.183, the commissioner may require a survey. If the commissioner requires a survey, the [The] commissioner shall [may] appoint a licensed state land surveyor who is not associated with the vacancy application to prepare a report as provided by Section 51.185[~~, or the county surveyor of the county in which the land claimed to be vacant or part of that land is located, to investigate the applicant's claim~~]. The commissioner may limit the scope of the work performed by the surveyor.

(b) A necessary party may observe a survey conducted under this section. A survey will not be delayed to accommodate a necessary party who provides notice to the commissioner that the party intends to observe the surveyor conducting the survey.

(c) The commissioner shall mail a notice of intention to survey to each necessary party not later than the 30th day before the date the surveyor begins work. The notice must contain:

(1) the proposed starting date of the survey;

(2) [~~and~~] the name, address, and telephone number of the surveyor; and

(3) a statement informing the necessary party that any necessary party may observe the field work of the surveyor conducting the survey.

(d) [~~e~~] The fees and expenses paid for the survey are the same as those provided by law. If the fees and expenses are not provided by law, the commissioner shall contract for fees and expenses reasonably necessary for the scope of the required work. Contracts under this subsection:

(1) must include hourly rates, categories of reimbursable expenses, and an estimated completion date; and

(2) may include other expenses the commissioner considers reasonable.

(e) The commissioner shall adopt rules regarding the removal of an appointed surveyor on the grounds of bias, prejudice, or conflict. The rules must permit the commissioner to remove an appointed surveyor on the commissioner's own motion or on the motion of a necessary party [~~(d) The appointment of a surveyor is not required. The commissioner may rely on:~~

~~[(1) any survey conducted by a licensed state land surveyor or a county surveyor of the county in which the land claimed to be vacant or a part of that land is located; and~~

~~[(2) any documents or public records required to determine whether a vacancy exists].~~

Sec. 51.185 ~~[51.183]~~. SURVEYOR'S REPORT. (a) Not later than the 120th day after the date a surveyor is appointed under Section 51.184 ~~[51.182]~~, the surveyor shall file a written report of the survey, the field notes describing the land and the lines and corners surveyed, a plat depicting the results of the survey, and any other information required by the commissioner. The commissioner may extend the time for filing the report as reasonably necessary.

(b) The survey report must also contain:

(1) the name and last known mailing [post office] address of:

(A) each person who has possession of the land described in the vacancy application; and

(B) [of] each person determined by the surveyor to have an [a present legal] interest in the land; and

(2) all abstract numbers associated with surveys of land adjoining the land claimed to be vacant.

Sec. 51.186 ~~[51.184]~~. COMPLETION OF SURVEY. (a) The commissioner shall serve a true copy of the survey report filed by the surveyor on each necessary party, including those named in the survey report, by certified mail, return receipt requested, not later than the 30th ~~[10th]~~ business day after the date the survey report is filed with the land office.

(b) Any necessary party may file exceptions to the surveyor's report not later than the 30th day after the date the survey report is mailed to the necessary party by the commissioner [notice of completion is received. If the commissioner does not appoint a surveyor, a necessary party may file exceptions to a survey report filed by the applicant during a period established by the commissioner]. Any exceptions must be filed with the land office and a copy must be sent by the party filing the exception to each necessary party who has requested subsequent notice under Section 51.181.

Sec. 51.187 ~~[51.185]~~. HEARING ~~[INVESTIGATION]~~. (a) If the commissioner has not issued a final order with a finding of "Not Vacant Land" on or before the first anniversary of the application commencement date, the [The] commissioner shall order [conduct an investigation of the applicant's claim that a vacancy exists. The commissioner may conduct] a hearing to determine if a vacancy exists. A hearing under this subchapter:

(1) shall be held not later than the 60th day after the date the hearing is ordered;

(2) shall be conducted as [is not] a contested case hearing [and is not] subject to Chapter 2001, Government Code; and

(3) may be waived by written agreement of all necessary parties and the commissioner. [The commissioner is not required to grant any hearings under this subchapter.]

(b) Not later than the 30th day after the date a hearing is ordered under Subsection (a), [The commissioner shall determine the scope of any hearings to investigate an application for good faith claimant status and an application to purchase or lease vacant land. If the commissioner grants a hearing,] the commissioner shall provide [timely] notice of the [time and place of the] hearing date to [necessary parties and shall provide] each necessary party [an opportunity to be heard. Any other procedural rights, including the right to examine or cross examine witnesses, may be granted in the sole discretion of the commissioner].

(c) Not later than the 60th day after the date of the hearing, the commissioner shall enter a final order as provided by Section 51.188. [The commissioner may consult with any land office employee, including the chief surveyor, or a relevant expert during the investigation.

~~[(d) The commissioner shall record the names of the persons consulted, the documents and surveys reviewed, and the relevant law and other materials used in the investigation.]~~

Sec. 51.188 ~~[51.186]~~. COMMISSIONER'S FINAL ORDER. (a) At any time during or after an investigation of or hearing regarding a vacancy application, the commissioner may determine that land claimed to be vacant is not vacant and issue a final order with a finding of "Not Vacant Land."

(b) After a hearing conducted under Section 51.187, the commissioner shall issue a final order with a finding of "Not Vacant Land" or issue an order finding [If the commissioner concludes that the land claimed to be vacant is not in conflict with land previously titled, awarded, or sold by the state, the commissioner may determine that] a vacancy exists. Not later than the 15th day after the date the final order is issued, the [The] commissioner shall notify each necessary party of the final order by providing [mailing] each party a copy of the [vacancy determination. The vacancy determination is a] final order [of the commissioner and may be appealed as provided by Section 51.187].

(c) ~~(b)~~ A final order finding a vacancy exists [determination order] must contain:

(1) a finding by the commissioner that the land claimed to be vacant is unsurveyed public school land that is not in conflict with land previously titled, awarded, or sold by the state as established by:

(A) clear and convincing proof for an application to which an exception has been filed as provided by Section 51.182; or

(B) a preponderance of the evidence for an application to which no exceptions have been filed as provided by Section 51.182;

(2) the [a] field note description used to determine the vacancy, which must be [of the land determined to be vacant that is] sufficient to locate the land on the ground;

(3) ~~(2)~~ an accurate plat of the land that is:

(A) consistent with the field notes; and

(B) prepared by a [county surveyor or] licensed state land surveyor or a county surveyor of the county in which a majority of vacant land is located; and

(4) ~~(3)~~ any other matters required by law or as the commissioner considers appropriate.

~~(d) [(e)]~~ In determining the boundaries and size of a vacancy, the commissioner is not restricted to a description of the land claimed to be vacant that is provided by the applicant, the surveyor, or any other person. The commissioner shall adopt the description of a vacancy that best describes the land found to be vacant ~~[vacancy]~~ and that is consistent with the investigation under this subchapter.

(e) The commissioner shall attach to the commissioner's final order a document entitled "Notice of Claim of Vacancy." The commissioner shall prescribe the contents of the notice. The commissioner shall file the notice with the county clerk and any county surveyor of each county in which all or part of the vacancy is located ~~[(d) If the commissioner determines that the land claimed to be vacant is not vacant, the commissioner shall endorse the file with the finding "Not Vacant Land" and shall notify each necessary party of the determination. A finding of "Not Vacant Land" is conclusive with respect to land described in the application. A finding of "Not Vacant Land" under this subsection is a final order of the commissioner and may be appealed as provided by Section 51.187].~~

Sec. 51.189 [51.187]. APPEAL. (a) A final order with a finding of "Not Vacant Land" under Section 51.188 may not be appealed. The final order is conclusive regarding the land described in the vacancy application or the land investigated by the commissioner as a result of the vacancy application.

(b) A final order finding a vacancy exists is subject to appeal by a necessary party that has standing to appeal under Section 51.192. The district court in the county in which a majority of the vacant land is located has jurisdiction of an appeal under this subchapter. A necessary party [person] must file an appeal not later than the 30th [90th] day after the date the commissioner's final order is issued [under Section 51.186]. All necessary parties must be provided notice of an appeal under this section by the party filing the appeal.

(c) A person whose predecessor in title was bound by the outcome of an appeal is bound to the same extent the predecessor in title would be bound if the predecessor in title continued to hold title. ~~[(b) The district court, in its discretion, may allow an interested person who did not receive notice of a proceeding under this subchapter to file an appeal after the expiration of the 90-day period prescribed by Subsection (a).~~

~~[(e) If the commissioner has not issued a final order under Section 51.186 on or before the first anniversary of the date the application was accepted under Section 51.177(b), the applicant may file an action in district court to determine whether a vacancy exists. The filing of an action under this subsection terminates the application with the land office.]~~

Sec. 51.190 [51.188]. SCOPE OF REVIEW. In an appeal of [The district court shall conduct a de novo review of] the commissioner's final order determining that a vacancy exists, the district court shall conduct a trial de novo [does or does not exist].

Sec. 51.191 [51.189]. ISSUES REVIEWABLE. The court may review the commissioner's declaration of good-faith-claimant status only in conjunction with a review of a final order determining that a vacancy exists.

Sec. 51.192 [51.190]. STANDING TO APPEAL. A person may appeal the commissioner's final order determining that a vacancy exists if the person:

- (1) is a necessary party ~~[an applicant];~~

(2) has a present legal interest in the surface or mineral estate at the time a vacancy ~~an~~ application is filed; or

(3) acquires a legal interest before the date of the commissioner's final order.

Sec. 51.193. APPLICATION FOR AND DETERMINATION OF GOOD-FAITH-CLAIMANT STATUS. (a) A necessary party may apply for good-faith-claimant status not later than the 90th day after the date the commissioner issues a final order finding that a vacancy exists.

(b) The application must include certified copies of the applicable county records supporting the good-faith claimant's status.

(c) Not later than the 120th day after the date the commissioner issues a final order finding that a vacancy exists, the commissioner shall declare whether a necessary party is a good-faith claimant.

(d) A person who is denied good-faith-claimant status may:

(1) request a hearing by the commissioner; or

(2) appeal the denial as part of any appeal of a final order finding that a vacancy exists.

(e) If the commissioner grants a hearing, the commissioner shall:

(1) determine the scope of the hearing;

(2) provide timely notice of the time and place of the hearing to each necessary party; and

(3) provide each necessary party an opportunity to be heard.

(f) A declaration of good-faith-claimant status grants a preferential right to the claimant to purchase or lease the land or an interest in the land as provided by Section 51.194. The declaration does not confer any other rights.

Sec. 51.194 [51.194]. PREFERENTIAL RIGHT OF GOOD-FAITH CLAIMANT. (a) A good-faith claimant who has been notified by the commissioner that a vacancy exists under this subchapter has a preferential right to purchase or lease the interest claimed in the land before the land was declared vacant [vacancy]. The preferential right may be exercised after a final judicial determination or after the commissioner's final order and the period for filing an appeal has expired. If a [the] good-faith claimant does not apply to purchase or lease the interest [land] before the later of the 121st day after the date the commissioner's order becomes final or the 60th day after the date of the final judicial determination of an appeal under this subchapter [the preferential right may be exercised], then the good-faith claimant's preferential right expires.

(b) A [The] good-faith claimant may purchase or lease the vacancy by submitting a written application to the board.

(c) A [The] good-faith claimant that owns a separate surface interest, a contractual right to a mineral or leasehold interest, a leasehold interest, or a royalty interest in the land occupied or used that is found to be part of or to include a vacancy is entitled to purchase or lease that same interest in the portion of the land determined to be [that is] vacant[:

(1) at the price and under the conditions set by the board[;

(2) subject to the royalty reservations provided by the board;] and

(3) in accordance with the law in effect on the date the application is filed.

(d) If the interest purchased under Subsection (c) is less than a permanent interest, then:

(1) the interest purchased is limited to the duration of a deed, contract, instrument, or lease in existence before the filing of the vacancy application and subject to a division of the amount of the royalty between the state and the existing royalty owners, provided that the state retains at least one-half of the amount of the royalty interest; and

(2) the interest and any remaining mineral interest, including all executory rights, vest with the state at the expiration of the deed, contract, instrument, or lease.

Sec. 51.195 ~~[51.192]~~. PURCHASE OR LEASE BY APPLICANT. (a) If no good-faith claimant exists or if no good-faith claimant exercises a preferential right within the applicable period, the applicant has a preferential right to purchase or lease the land determined to be vacant on or before the 60th day ~~[for 30 days]~~ after the date:

(1) the commissioner determines ~~[a determination]~~ that no good-faith claimant exists; or

(2) [the expiration of] the period for a good-faith claimant to exercise ~~[exercising]~~ a preferential right to purchase or lease the land determined to be vacant expires.

(b) If a good-faith claimant exercises the claimant's preferential right in the land determined to be vacant, the applicant has a preferential right to either:

(1) an award by the board of a perpetual 1/32 nonparticipating royalty of the full mineral interest of the vacancy; or

(2) a preferential right to purchase or lease any remaining interest in the land determined to be vacant.

(c) If a lease described by Section 51.194(d)(1) exists on the land determined to be vacant, the applicant's 1/32 nonparticipating royalty interest, as described by Subsection (b)(1), shall be taken from the state's royalty interest as reserved under Section 51.194(d)(1) for the duration of the lease, provided that the applicant's share for the duration of the lease may never equal more than the interest retained by the state.

(d) An applicant who exercises a preferential right under Subsection (a) or (b)(2) may purchase or lease the land or an interest in the land:

(1) at the price set by the board;

(2) subject to the royalty reservations provided by the board; and

(3) in accordance with the law in effect on the date the application is filed.

~~[The board shall award an applicant, other than a good faith claimant, a perpetual nonparticipating royalty of:~~

~~[(1) not less than 1/32 or more than 1/16 of the value of oil, gas, and sulphur; and~~

~~[(2) one percent of the value of all geothermal and other minerals produced.]~~

SECTION 2. (a) Except as provided by Subsection (b) of this section, Subchapter E, Chapter 51, Natural Resources Code, as amended by this Act, applies only to a vacancy application filed on or after the effective date of this Act. A vacancy

application filed before the effective date of this Act is governed by the law in effect when the vacancy application was filed, and the former law continues in effect for that purpose.

(b) Section 51.188, Natural Resources Code, as renumbered from Section 51.186, Natural Resources Code, and amended by this Act, applies to a vacancy application filed before the effective date of this Act and for which no appeal has been filed as of the effective date of this Act.

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 Conference Committee Report on **SB 1103** was filed with the Secretary of the Senate.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 261

Senator Wentworth submitted the following Conference Committee Report:

Austin, Texas
May 23, 2005

Honorable David Dewhurst
President of the Senate

Honorable Tom Craddick
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **HB 261** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

WENTWORTH
DUNCAN
HINOJOSA
WEST

GOODMAN
DUTTON
CASTRO
NIXON
STRAMA

On the part of the Senate

On the part of the House

The Conference Committee Report on **HB 261** was filed with the Secretary of the Senate.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 1077

Senator Wentworth submitted the following Conference Committee Report:

Austin, Texas
May 23, 2005

Honorable David Dewhurst
President of the Senate

Honorable Tom Craddick
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **HB 1077** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

WENTWORTH
AVERITT
HARRIS

CRABB
R. COOK
DESHOTEL
P. KING
TALTON

On the part of the Senate

On the part of the House

The Conference Committee Report on **HB 1077** was filed with the Secretary of the Senate.

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 1820

Senator Eltife submitted the following Conference Committee Report:

Austin, Texas
May 23, 2005

Honorable David Dewhurst
President of the Senate

Honorable Tom Craddick
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **HB 1820** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

ELTIFE
ELLIS
NELSON
JACKSON
WHITMIRE

OTTO
TALTON
VO
A. ALLEN
BLAKE

On the part of the Senate

On the part of the House

The Conference Committee Report on **HB 1820** was filed with the Secretary of the Senate.

RESOLUTIONS OF RECOGNITION

The following resolutions were adopted by the Senate:

Memorial Resolutions

SR 982 by Barrientos, In memory of Simon Y. Rodriguez of Austin.

SR 984 by Williams, In memory of Fred Lee Maciel of Spring.

Welcome and Congratulatory Resolutions

SR 981 by Hinojosa, Recognizing Harry R. Gillespie of Vicksburg, Mississippi, on the occasion of his 100th birthday.

SR 983 by Barrientos, Recognizing Aaron Polanco on the occasion of his graduation from the United States Naval Academy.

SR 986 by Wentworth, Commending Cliff Hill of New Braunfels for his service to his country.

SR 999 by Brimer, Recognizing Robert Parten of Tarrant County on the occasion of his retirement.

HCR 131 (Madla), Honoring the Friends of Monahans Sandhills State Park for its efforts to promote and sustain this important geological treasure throughout the past half-century.

HCR 159 (Staples), Welcoming the World Congress on Information Technology to Austin in May 2006.

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

HCR 211 (Shapiro), Congratulating Addison police officer Brad Freis on his selection to carry the torch for the 2005 Special Olympics World Winter Games in Japan.

Official Designation Resolutions

SR 988 by Harris, Recognizing May 2005 as Elder Abuse Prevention Month.

HCR 6 (Nelson), Designating January 17, 2006, as 112th Cavalry Day on the 60th anniversary of the group's deactivation.

RECESS

On motion of Senator Armbrister, the Senate at 7:48 p.m. recessed until 8:00 a.m. tomorrow for the Local and Uncontested Calendar Session.

APPENDIX

COMMITTEE REPORTS

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

May 23, 2005

INTERNATIONAL RELATIONS AND TRADE — **HB 925** (Amended)

BUSINESS AND COMMERCE — **CSHB 1146**, **HB 2421**

GOVERNMENT ORGANIZATION — **HB 2932**

INTERGOVERNMENTAL RELATIONS — **HB 3071**

EDUCATION — **CSHB 1172, HB 1687, HB 1826, HB 2806**

TRANSPORTATION AND HOMELAND SECURITY — **CSHB 120, HB 504, CSHB 988, HB 1137, HB 1481, HB 2422, HB 2647, CSHB 2652, HB 2704, HB 3041, CSHB 3115**

FINANCE — **CSHB 2233, CSHB 3540**

TRANSPORTATION AND HOMELAND SECURITY — **HJR 54, HJR 79, HB 1546**

FINANCE — **HB 880, CSHB 1771, CSHB 1867, CSHB 2217, CSHB 2753, CSHB 3001**

EDUCATION — **CSHB 1412, CSHB 2212**

NATURAL RESOURCES — **HB 1047, HB 2815, HB 3477, HB 3568, HB 3576**

TRANSPORTATION AND HOMELAND SECURITY — **HB 649 (Amended), HB 183, CSHB 599, HB 600, HB 1885, CSHB 2894**

SENT TO GOVERNOR

May 23, 2005

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

