

SENATE JOURNAL

EIGHTIETH LEGISLATURE — REGULAR SESSION

AUSTIN, TEXAS

PROCEEDINGS

FIFTY-FIFTH DAY

(Friday, May 4, 2007)

The Senate met at 10:21 a.m. pursuant to adjournment and was called to order by the President.

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

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

Dr. Basheer Khumawala, Professor, University of Houston, offered the invocation as follows:

I begin with the name of God, the most compassionate, the most merciful, and greet you all with the greetings of peace. Please join me in prayer. All glory, praise, and thanks to the creator, the benefactor, and redeemer who opens for all people a way to have a good conscience and a good life. Grant us that we live in unity among diversity as a people of faith, taking pride in human decency, industry, and service. Grant us that we grow in goodness and in wisdom. Grant us that we know our brothers and sisters around the state and around the world and that we work towards establishing a prosperous global community of brotherhood and peace with justice for all. Grant us freedom and protection from all evils and evildoers; evils of terrorism and terrorists; evils of drug abuse, child abuse, sex abuse; evils of greed, crime, and fraud; evils due to prejudices of race, gender, and religion. Our Lord, guide us to the path of righteousness and service to You and through You to serve Your creation. Guide us to be thankful to You, O Lord, for all the bounties You have bestowed on us and help us to make Texas a beautiful, safe, secure, prosperous and a role model state for our nation and for the world. Our Lord, grant us good health, happiness, prosperity, and peace; may our future be always better than our past. Amen.

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

The motion prevailed without objection.

CO-AUTHOR OF SENATE BILL 78

On motion of Senator Shapiro, Senator Harris will be shown as Co-author of **SB 78**.

CO-AUTHOR OF SENATE BILL 1924

On motion of Senator Gallegos, Senator Whitmire will be shown as Co-author of **SB 1924**.

MESSAGES FROM THE GOVERNOR

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

Austin, Texas
May 2, 2007

TO THE SENATE OF THE EIGHTIETH LEGISLATURE, REGULAR SESSION:

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

To be members of the Texas Public Finance Authority for terms to expire as indicated:

To Expire February 1, 2011:

Robert Thomas Roddy, Jr.

San Antonio, Texas

(replacing Marcellus Taylor of Lewisville who resigned)

To Expire February 1, 2013:

Ruth Corry Schiermeyer

Lubbock, Texas

(Ms. Schiermeyer is being reappointed)

D. Joseph Meister

Dallas, Texas

(replacing J. Vaughn Brock of Austin whose term expired)

To be members of the Texas Board of Orthotics and Prosthetics for terms to expire as indicated:

To Expire February 1, 2009:

Kenneth Mueller

Brenham, Texas

(pursuant to SB 287, 78th Legislature, Regular Session)

To Expire February 1, 2013:

Richard Michael Neider

Lubbock, Texas

(reappointment)

Erin Elizabeth Berling

Coppell, Texas

(reappointment)

Respectfully submitted,
/s/Rick Perry
Governor

Austin, Texas
May 3, 2007

TO THE SENATE OF THE EIGHTIETH LEGISLATURE, REGULAR SESSION:

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

To be members of the Finance Commission of Texas for terms to expire as indicated:

To Expire February 1, 2008:

Stanley D. Rosenberg
San Antonio, Texas

(replacing Allan Polunsky of San Antonio who resigned)

To Expire February 1, 2010:

Jonathan Bennett Newton
Houston, Texas

(replacing Hector Delgado of El Paso who resigned)

Respectfully submitted,
/s/Rick Perry
Governor

MESSAGE FROM THE HOUSE

HOUSE CHAMBER
Austin, Texas
May 4, 2007

The Honorable President of the Senate
Senate Chamber
Austin, Texas

Mr. President:

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

THE HOUSE HAS PASSED THE FOLLOWING MEASURES:

HB 12, Relating to the funding, powers, duties, and responsibilities of the Parks and Wildlife Department and the Texas Historical Commission.

HB 485, Relating to the collection and amount of restitution authorized to be collected from persons charged with or convicted of certain misdemeanor offenses.

HB 1188, Relating to the Texas emerging technology fund.

HB 1213, Relating to mutual assistance agreements entered into by certain municipalities and private institutions of higher education for the purpose of enforcing state law and to additional powers, privileges, and immunities of peace officers employed by private institutions of higher education.

HB 1290, Relating to penalties imposed by and the appeal of a decision of the Texas Ethics Commission.

HB 1411, Relating to the unlawful restraint of dogs; providing penalties.

HB 1423, Relating to exemption from application of the Private Security Act of certain peace officers employed by a law enforcement agency.

HB 1495, Relating to a bill of rights for property owners whose property may be acquired by governmental or private entities through the use of eminent domain authority.

HB 1545, Relating to competency to be executed in a capital case.

HB 1561, Relating to the investigation of a firefighter in certain municipalities.

HB 2247, Relating to the cancellation of the voter registration and to the eligibility to vote of persons who are deceased or not citizens of the United States.

HB 3057, Relating to the acquisition of real property for public use.

HB 3068, Relating to the authority and responsibilities of certain political subdivisions in relation to development.

HCR 196, Honoring the Distinguished Graduates of La Marque High School of 2007.

HCR 203, Extending deepest sympathy to the families of the victims of the tragedy at Virginia Tech, and to the students, faculty, and staff of the university.

HJR 6, Proposing a constitutional amendment authorizing the denial of bail to a person who violates certain court orders or conditions of release in a felony or family violence case.

SCR 51, Recognizing the Lubbock Independent School District on the occasion of its 100th anniversary.

SCR 52, Granting the legislature permission to adjourn for more than three days during the period beginning on Wednesday, April 4, 2007, and ending on Tuesday, April 10, 2007.

SCR 54, Commending the members of the Texas Young Lawyers Association for their service to the community.

THE HOUSE HAS TAKEN THE FOLLOWING OTHER ACTION:

HB 899, Vote reconsidered by which the House concurred in Senate amendments prevails by a non-record vote. The House has refused to concur in Senate amendments and requests the appointment of a conference committee.

House Conferees: Smith of Harris - Chair/ Callegari/ Macias/ Escobar/ West

Respectfully,

/s/Robert Haney, Chief Clerk
House of Representatives

GUESTS PRESENTED

Senator Lucio was recognized and introduced to the Senate students from Hanna High School in Brownsville and their Reserve Officers' Training Corps.

The Senate welcomed its guests.

PHYSICIAN OF THE DAY

Senator Zaffirini was recognized and presented Dr. Leonides Cigarroa of Laredo as the Physician of the Day.

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

GUESTS PRESENTED

Senator Deuell was recognized and introduced to the Senate a group of students from Hillside Academy for Excellence in Garland.

The Senate welcomed its guests.

CONCLUSION OF MORNING CALL

The President at 10:34 a.m. announced the conclusion of morning call.

SENATE CONCURRENT RESOLUTION 72

The President laid before the Senate the following resolution:

WHEREAS, The Legislature of the State of Texas is pleased to recognize May 4, 2007, as East End Chamber Day; and

WHEREAS, The City of Houston originated in what is now the East End, at the intersection of Braes and Buffalo Bayous; the area was settled by John Harris in 1826 and is known today as "Old Harrisburg"; and

WHEREAS, The East End is the proud home of the Port of Houston, the nation's foremost port for foreign commerce and one of the largest ports in the world; and

WHEREAS, A top priority of the East End has been to encourage economic vitality within the area; the Houston East End Chamber of Commerce and the Greater East End Management District recently completed a community-based strategic vision plan for the area; the plan provides guidance and funding solutions to enhance the ongoing revitalization and new development in this "Heart of Houston"; and

WHEREAS, The priorities of the East End vision plan are education, image, economic development, parks and neighborhoods, and infrastructure, and the Houston East End Chamber of Commerce and the Greater East End Management District are committed to accomplishing the objectives of this vital plan; now, therefore, be it

RESOLVED, That the 80th Legislature of the State of Texas hereby express its appreciation to the Houston East End Chamber of Commerce for its many contributions to the East End of Houston and extend best wishes to all attending East End Chamber Day; and, be it further

RESOLVED, That a copy of this resolution be prepared for the Houston East End Chamber of Commerce as a memento of this special day.

GALLEGOS

SCR 72 was read.

On motion of Senator Gallegos and by unanimous consent, the resolution was considered immediately and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of the resolution.

GUESTS PRESENTED

Senator Gallegos was recognized and introduced to the Senate members of the Houston East End Chamber of Commerce: Taryn McFarlane, Chair, Board of Directors; Steve Stewart, Chair-elect, Board of Directors; Fred Newhouse, Vice-chair, Fundraising; and Diane Lipton, President; accompanied by Jon Strange, Chair, Strategic Vision Implementation Committee, and other members.

The Senate welcomed its guests.

GUESTS PRESENTED

Senator Seliger was recognized and introduced to the Senate members of the Big Spring High School journalism group: Taylor Parks, Editor-in-Chief; Nathan Booth, Managing Editor; Jake White, Editor-in-Chief of the yearbook; Colin Hunnicutt, Photo Editor; and Casey Moore, Entertainment Editor.

The Senate welcomed its guests.

GUESTS PRESENTED

Senator West was recognized and introduced to the Senate students from Houston Elementary School in Lancaster, accompanied by their teachers and principal.

The Senate welcomed its guests.

SENATE BILL 1087 ON SECOND READING

On motion of Senator Watson and by unanimous consent, the regular order of business was suspended to take up for consideration **SB 1087** at this time on its second reading:

SB 1087, Relating to the exemption from ad valorem taxation of property used by a charitable organization operating certain radio stations.

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

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

SENATE BILL 1087 ON THIRD READING

Senator Watson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 1087** 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.

GUESTS PRESENTED

Senator Uresti was recognized and introduced to the Senate members of the Medina Valley High School University Interscholastic League state tournament team, accompanied by their coaches.

The Senate welcomed its guests.

(Senator Brimer in Chair)**SENATE BILL 2020 ON SECOND READING**

On motion of Senator Seliger and by unanimous consent, the regular order of business was suspended to take up for consideration **SB 2020** at this time on its second reading:

SB 2020, Relating to the creation of the Randall County Municipal Utility District No. 1; 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 engrossment by a viva voce vote.

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

SENATE BILL 2020 ON THIRD READING

Senator Seliger moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 2020** be placed on its third reading and final passage.

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

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

SENATE BILL 2029 ON SECOND READING

On motion of Senator Zaffirini and by unanimous consent, the regular order of business was suspended to take up for consideration **SB 2029** at this time on its second reading:

SB 2029, Relating to the election of directors of the San Patricio County Groundwater Conservation District and to the validation of certain acts of the district.

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

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

SENATE BILL 2029 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 **SB 2029** be placed on its third reading and final passage.

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

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

**COMMITTEE SUBSTITUTE
SENATE BILL 1023 ON SECOND READING**

Senator West moved to suspend the regular order of business to take up for consideration **CSSB 1023** at this time on its second reading:

CSSB 1023, Relating to limiting use of money in the Texas Enterprise Fund to recipients that provide health benefit plans.

The motion prevailed.

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

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

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

Nays: Brimer, Harris, Nelson, Nichols, Shapiro.

**COMMITTEE SUBSTITUTE
SENATE BILL 1023 ON THIRD READING**

Senator West moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1023** be placed on its third reading and final passage.

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

Yeas: Averitt, Carona, Deuell, Duncan, Ellis, Eltife, Estes, Fraser, Gallegos, Hegar, Hinojosa, Jackson, Janek, Lucio, Ogden, Patrick, Seliger, Shapleigh, Uresti, Van de Putte, Watson, Wentworth, West, Whitmire, Williams, Zaffirini.

Nays: Brimer, Harris, Nelson, Nichols, Shapiro.

The bill was read third time and was passed by the following vote: Yeas 26, Nays 5. (Same as previous roll call)

**COMMITTEE SUBSTITUTE
SENATE BILL 1562 ON SECOND READING**

On motion of Senator Hinojosa and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 1562** at this time on its second reading:

CSSB 1562, Relating to animal control officer training.

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

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

**COMMITTEE SUBSTITUTE
SENATE BILL 1562 ON THIRD READING**

Senator Hinojosa moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1562** be placed on its third reading and final passage.

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

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

**COMMITTEE SUBSTITUTE
SENATE BILL 1144 ON SECOND READING**

On motion of Senator Deuell and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 1144** at this time on its second reading:

CSSB 1144, Relating to the reporting requirements for health plans participating in the medical assistance program.

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

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

**COMMITTEE SUBSTITUTE
SENATE BILL 1144 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 **CSSB 1144** be placed on its third reading and final passage.

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

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

SENATE BILL 1524 ON SECOND READING

On motion of Senator Wentworth and by unanimous consent, the regular order of business was suspended to take up for consideration **SB 1524** at this time on its second reading:

SB 1524, Relating to the protection and preservation of caves in the State of Texas; providing penalties.

The bill was read second time.

Senator Wentworth offered the following committee amendment to the bill:

Committee Amendment No. 1

Amend **SB 1524**, on page 2, line 3, strike "disturb,". On page 2, line 6, strike "disturb or alter" and replace with "deface, mar or harm".

The amendment to **SB 1524** was read and was adopted by a viva voce vote.

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

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

SB 1524 as amended was passed to engrossment by a viva voce vote.

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

SENATE BILL 1524 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 **SB 1524** be placed on its third reading and final passage.

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

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

**COMMITTEE SUBSTITUTE
SENATE BILL 1391 ON SECOND READING**

On motion of Senator Uresti and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 1391** at this time on its second reading:

CSSB 1391, Relating to requirements in certain health benefit plans that certain health care services be obtained in a foreign country.

The bill was read second time.

Senator Shapiro offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSSB 1391**, Senate committee printing, in SECTION 1 of the bill, by striking added Section 1215.004, Insurance Code (page 2, lines 23-31), and substituting the following:

Sec. 1215.004. OUT-OF-COUNTRY CARE PROHIBITED. A health benefit plan issuer may not issue or offer for sale in this state a health benefit plan that requires an enrollee to travel to a foreign country to receive a particular health care service under the health benefit plan.

The amendment to **CSSB 1391** 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 Uresti and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

CSSB 1391 as amended was passed to engrossment by a viva voce vote.

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

**COMMITTEE SUBSTITUTE
SENATE BILL 1391 ON THIRD READING**

Senator Uresti moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1391** be placed on its third reading and final passage.

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

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

COMMITTEE SUBSTITUTE
SENATE BILL 1733 ON SECOND READING

On motion of Senator Gallegos and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 1733** at this time on its second reading:

CSSB 1733, Relating to certain required provisions in lease agreements used for developments that are supported with a low income housing tax credit allocation.

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

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

COMMITTEE SUBSTITUTE
SENATE BILL 1733 ON THIRD READING

Senator Gallegos moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1733** be placed on its third reading and final passage.

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

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

COMMITTEE SUBSTITUTE
SENATE BILL 1833 ON SECOND READING

On motion of Senator Duncan and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 1833** at this time on its second reading:

CSSB 1833, Relating to the administration and powers of the Canadian River Municipal Water Authority.

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

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

COMMITTEE SUBSTITUTE
SENATE BILL 1833 ON THIRD READING

Senator Duncan moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1833** be placed on its third reading and final passage.

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

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

**COMMITTEE SUBSTITUTE
SENATE BILL 1901 ON SECOND READING**

On motion of Senator Van de Putte and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 1901** at this time on its second reading:

CSSB 1901, Relating to the creation of the offense of organized retail theft.

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

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

**COMMITTEE SUBSTITUTE
SENATE BILL 1901 ON THIRD READING**

Senator Van de Putte moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1901** 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 66 ON SECOND READING**

On motion of Senator Watson and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 66** at this time on its second reading:

CSHB 66, Relating to power management software for state agencies.

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 66 ON THIRD READING**

Senator Watson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 66** be placed on its third reading and final passage.

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

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

SENATE BILL 407 ON SECOND READING

Senator Eltife moved to suspend the regular order of business to take up for consideration **SB 407** at this time on its second reading:

SB 407, Relating to the authority of the voters of a municipality or a county to adopt a one-quarter cent sales and use tax in the municipality or county to provide property tax relief.

The motion prevailed by the following vote: Yeas 25, Nays 6.

Yeas: Averitt, Brimer, Carona, Deuell, Duncan, Eltife, Estes, Fraser, Harris, Hegar, Hinojosa, Jackson, Janek, Lucio, Nelson, Nichols, Patrick, Seliger, Shapiro, Van de Putte, Watson, Wentworth, West, Williams, Zaffirini.

Nays: Ellis, Gallegos, Ogden, Shapleigh, Uresti, Whitmire.

The bill was read second time.

Senator Eltife offered the following amendment to the bill:

Floor Amendment No. 1

Amend **SB 407**, at the end of SECTION 1 of the bill (Senate committee printing, page 2, between lines 30 and 31), by inserting the following:

Sec. 326.152. CALCULATION OF MUNICIPAL OR COUNTY ROLLBACK TAX RATE. For a municipality or county in which the voters have approved the imposition of the sales and use tax under this chapter, for an ad valorem tax year that begins on or after the date the sales and use tax takes effect, in the formula for calculating the rollback tax rate of the municipality or county, the officer or employee designated by the governing body of the municipality or the commissioners court of the county to make the calculation shall substitute 1.05 for 1.08.

The amendment to **SB 407** 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 Williams offered the following amendment to the bill:

Floor Amendment No. 2

Amend **SB 407** (Senate committee printing) by adding the following appropriately numbered SECTION to read as follows and renumbering subsequent SECTIONS accordingly:

SECTION __. Notwithstanding any other law, a county that has a population of more than 280,000 and less than 300,000, or a municipality located wholly or partly in such a county, may not hold an election to adopt a tax under Chapter 326, Tax Code, as added by this Act, before January 1, 2008.

The amendment to **SB 407** 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 Eltife and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

SB 407 as amended was passed to engrossment by a viva voce vote.

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

Nays: Ellis, Gallegos, Lucio, Ogden, Shapleigh, Uresti, Whitmire.

SENATE BILL 407 ON THIRD READING

Senator Eltife moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 407** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 25, Nays 6.

Yeas: Averitt, Brimer, Carona, Deuell, Duncan, Eltife, Estes, Fraser, Harris, Hegar, Hinojosa, Jackson, Janek, Lucio, Nelson, Nichols, Patrick, Seliger, Shapiro, Van de Putte, Watson, Wentworth, West, Williams, Zaffirini.

Nays: Ellis, Gallegos, Ogden, Shapleigh, Uresti, Whitmire.

The bill was read third time and was passed by the following vote: Yeas 24, Nays 7.

Yeas: Averitt, Brimer, Carona, Deuell, Duncan, Eltife, Estes, Fraser, Harris, Hegar, Hinojosa, Jackson, Janek, Nelson, Nichols, Patrick, Seliger, Shapiro, Van de Putte, Watson, Wentworth, West, Williams, Zaffirini.

Nays: Ellis, Gallegos, Lucio, Ogden, Shapleigh, Uresti, Whitmire.

**COMMITTEE SUBSTITUTE
SENATE BILL 1951 ON SECOND READING**

On motion of Senator Wentworth and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 1951** at this time on its second reading:

CSSB 1951, Relating to the creation of judicial districts, the creation of the office of district attorney in certain counties, and the election and duties of certain district attorneys in certain counties.

The bill was read second time.

Senator Wentworth offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSSB 1951** (Senate committee printing) as follows:

- (1) In SECTION 2(a) of the bill (page 1, line 22), strike "Effective January 1, 2009,".
- (2) In SECTION 2(c) of the bill (page 1, line 37), strike "Effective January 1, 2009,".
- (3) In SECTION 2 of the bill (page 1, lines 43-44), strike Subsection (d) and reletter the subsequent Subsections accordingly.
- (4) In SECTION 2(f) of the bill (page 1, line 51), strike "January 1, 2009" and substitute "on the effective date of this section".
- (5) In SECTION 3(a) of the bill (page 1, line 52), strike "Effective January 1, 2009,".
- (6) In SECTION 3 of the bill (page 1, lines 57-58), strike Subsection (b) and reletter the subsequent Subsections accordingly.
- (7) In SECTION 3(d) of the bill (page 2, line 2), strike "January 1, 2009" and substitute "on the effective date of this section".

(8) Add new SECTIONS appropriately numbered to read as follows and renumber the subsequent SECTIONS accordingly:

SECTION ____. (a) Subchapter C, Chapter 24, Government Code, is amended by adding Section 24.592 to read as follows:

Sec. 24.592. 448TH JUDICIAL DISTRICT (EL PASO COUNTY). The 448th Judicial District is composed of El Paso County.

(b) The 448th Judicial District is created on the effective date of this section.

SECTION ____. (a) Subchapter C, Chapter 24, Government Code, is amended by adding Section 24.593 to read as follows:

Sec. 24.593. 449TH JUDICIAL DISTRICT (HIDALGO COUNTY). (a) The 449th Judicial District is composed of Hidalgo County.

(b) The 449th District Court shall give preference to juvenile matters.

(b) The 449th Judicial District is created on the effective date of this section.

SECTION ____. (a) Subchapter E, Chapter 24, Government Code, is amended by adding Section 24.908 to read as follows:

Sec. 24.908. EL PASO COUNTY CRIMINAL JUDICIAL DISTRICT NO. 1.

(a) The El Paso County Criminal Judicial District No. 1 is composed of El Paso County.

(b) The El Paso County Criminal District Court No. 1 shall give primary preference to felony drug cases and associated civil cases emanating from those felony drug cases. The criminal district court shall give secondary preference to other criminal cases and associated civil cases emanating from those criminal cases.

(c) The terms of the El Paso County Criminal District Court No. 1 begin on the third Mondays in April and September and the first Mondays in January, July, and November.

(d) The El Paso County Criminal District Court No. 1 shall have a seal similar to the seal of a district court with "El Paso County Criminal District Court No. 1" engraved on the seal.

(b) The El Paso County Criminal Judicial District No. 1 is created on the effective date of this section.

The amendment to **CSSB 1951** was read.

Senator Hegar offered the following amendment to Floor Amendment No. 1:

Floor Amendment No. 2

Amend Floor Amendment No. 1 to **CSSB 1951** as follows:

(1) Strike Sections (1), (2), (3), and (4) (page 1, lines 3-12, Wentworth Floor Amendment No. 1).

(2) Insert the following appropriately numbered sections to the amendment:

() In SECTION 2(a) of the bill, in the introductory language (page 1, line 22, Senate committee printing), strike "Effective January 1, 2009,".

() In SECTION 2(a) of the bill, strike proposed Section 24.567, Government Code (page 1, lines 25 through 27, Senate committee printing), and substitute the following:

Sec. 24.567. 423RD JUDICIAL DISTRICT (BASTROP COUNTY). The 423rd Judicial District is composed of Bastrop County.

() Strike SECTIONS 2(c), (d), (e), and (f) of the bill (page 1, lines 37 through 51, Senate committee printing) and substitute the following:

(c) The 423rd Judicial District is created on the effective date of this section.

The amendment to Floor Amendment No. 1 to **CSSB 1951** was read.

On motion of Senator Wentworth, Floor Amendment No. 2 was tabled by the following vote: Yeas 17, Nays 12.

Yeas: Averitt, Carona, Duncan, Eltife, Estes, Fraser, Gallegos, Harris, Hinojosa, Nelson, Shapiro, Shapleigh, Van de Putte, Watson, Wentworth, Williams, Zaffirini.

Nays: Brimer, Ellis, Hegar, Jackson, Janek, Lucio, Nichols, Ogden, Patrick, Uresti, West, Whitmire.

Absent: Deuell, Seliger.

Senator Hegar offered the following amendment to Floor Amendment No. 1:

Floor Amendment No. 3

Amend Floor Amendment No. 1 to **CSSB 1951** as follows:

(1) Strike Sections (1), (2), (3), and (4) (page 1, lines 3-12, Wentworth Floor Amendment No. 1).

(2) Insert the following appropriately numbered sections to the amendment:

() In SECTION 2(a) of the bill, in the introductory language (page 1, line 22, Senate committee printing), strike "Effective January 1, 2009,".

() Strike SECTIONS 2(b) through (f) of the bill (page 1, lines 37 through 51, Senate committee printing) and substitute the following:

(b) The 423rd Judicial District is created on the effective date of this section.

The amendment to Floor Amendment No. 1 to **CSSB 1951** 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.

Question recurring on the adoption of Floor Amendment No. 1 to **CSSB 1951**, the amendment as amended was adopted by a viva voce vote.

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

Senator Shapiro offered the following amendment to the bill:

Floor Amendment No. 4

Amend **CSSB 1951** (Senate committee printing), in SECTION 3 of the bill (page 1, lines 59-63 and page 2, line 1), by striking Subsection (c) and relettering the following subsection accordingly.

The amendment to **CSSB 1951** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 4.

Senator Fraser offered the following amendment to the bill:

Floor Amendment No. 5

Amend **CSSB 1951** by striking SECTION 7 of the bill and substituting the following:

SECTION 7. Section 43.119, Government Code, is amended to read as follows:

Sec. 43.119. 33RD JUDICIAL DISTRICT. The voters of Blanco, Burnet, Llano, and San Saba Counties [~~the 33rd Judicial District~~] elect a district attorney for the 33rd and 424th Judicial Districts.

The amendment to **CSSB 1951** was read and was adopted by a viva voce vote.

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

Senator Duncan offered the following amendment to the bill:

Floor Amendment No. 6

Amend **CSSB 1951** as follows:

(1) In Section 10 of the bill, on page 3, lines 28 and 29 (committee printing), insert "39th," between "38th," and "42nd".

(2) In Section 11 of the bill, on page 3, lines 56 and 57 (committee printing), insert "39th," between "38th," and "42nd,".

DUNCAN
WENTWORTH

The amendment to **CSSB 1951** was read and was adopted by a viva voce vote.

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

Senator Hegar offered the following amendment to the bill:

Floor Amendment No. 7

Amend **CSSB 1951** (Senate committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION __. (a) Section 24.109, Government Code, is amended to read as follows:

Sec. 24.109. 9TH JUDICIAL DISTRICT (MONTGOMERY COUNTY [~~AND WALLER COUNTIES~~]). (a) The 9th Judicial District is composed of Montgomery County [~~and Waller counties~~].

(b) [~~The 9th and 155th district courts have concurrent jurisdiction in Waller County.~~

[~~(e)~~] The terms of the 9th District Court begin[~~:~~

[~~(1) in Montgomery County~~] on the first Monday in January and the first Monday in July[~~; and~~

[~~(2) in Waller County on the first Monday in January and the first Monday in July~~].

(b) Section 24.254(d), Government Code, is repealed.

(c) Subchapter C, Chapter 24, Government Code, is amended by adding Section 24.5995 to read as follows:

Sec. 24.5995. 506TH JUDICIAL DISTRICT (GRIMES AND WALLER COUNTIES). The 506th Judicial District is composed of Grimes and Waller Counties.

(d) The local administrative district judge shall transfer all cases from Waller County that are pending in the 9th District Court on the effective date of this section to the 506th District Court. When a case is transferred as provided by this subsection, all processes, writs, bonds, recognizances, or other obligations issued from the 9th District Court are returnable to the 506th District Court as if originally issued by that court. The obligees on all bonds and recognizances taken in and for the 9th District Court and all witnesses summoned to appear in the 9th District Court are required to appear before the 506th District Court as if originally required to appear before that court.

(e) The 506th Judicial District is created on the effective date of this section.

The amendment to **CSSB 1951** was read.

On motion of Senator Wentworth, Floor Amendment No. 7 was tabled by the following vote: Yeas 20, Nays 9.

Yeas: Averitt, Brimer, Carona, Deuell, Duncan, Estes, Fraser, Gallegos, Harris, Hinojosa, Janek, Lucio, Nelson, Nichols, Shapiro, Shapleigh, Van de Putte, Watson, Wentworth, Zaffirini.

Nays: Ellis, Hegar, Jackson, Ogden, Patrick, Uresti, West, Whitmire, Williams.

Absent: Eltife, Seliger.

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

CSSB 1951 as amended was passed to engrossment by a viva voce vote.

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

GUESTS PRESENTED

Senator Lucio was recognized and introduced to the Senate Joey and Jeff Carona, sons of Senator Carona.

The Senate welcomed its guests.

(Senator Watson in Chair)

COMMITTEE SUBSTITUTE SENATE BILL 130 ON SECOND READING

On motion of Senator West and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 130** at this time on its second reading:

CSSB 130, Relating to conduct that constitutes the offense of endangering a child.

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

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

**COMMITTEE SUBSTITUTE
SENATE BILL 130 ON THIRD READING**

Senator West moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 130** be placed on its third reading and final passage.

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

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

AT EASE

The Presiding Officer at 12:24 p.m. announced the Senate would stand At Ease subject to the call of the Chair.

IN LEGISLATIVE SESSION

The President at 1:28 p.m. called the Senate to order as In Legislative Session.

LEAVE OF ABSENCE

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

PERMISSION TO INTRODUCE BILLS

On motion of Senator Whitmire and by unanimous consent, Senate Rule 7.07(b) was suspended to permit the introduction of the following bills: **SB 2050**, **SB 2051**.

**COMMITTEE SUBSTITUTE
SENATE BILL 1326 ON SECOND READING**

Senator Estes moved to suspend the regular order of business to take up for consideration **CSSB 1326** at this time on its second reading:

CSSB 1326, Relating to the sale by the Brazos River Authority of certain residential and commercial lots in the immediate vicinity of Possum Kingdom Lake to leaseholders of those lots.

The motion prevailed by the following vote: Yeas 25, Nays 3, Present-not voting 1.

Yeas: Brimer, Deuell, Duncan, Ellis, Eltife, Estes, Gallegos, Harris, Hegar, Hinojosa, Jackson, Janek, Lucio, Nelson, Patrick, Seliger, Shapiro, Uresti, Van de Putte, Watson, Wentworth, West, Whitmire, Williams, Zaffirini.

Nays: Averitt, Nichols, Ogden.

Present-not voting: Shapleigh.

Absent: Fraser.

Absent-excused: Carona.

The bill was read second time.

Senator Estes offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSSB 1326** (Senate committee printing) by striking all below the enacting clause and substituting the following:

SECTION 1. Chapter 221, Water Code, is amended by adding Section 221.020 to read as follows:

Sec. 221.020. SALE OF LOTS SUBJECT TO RESIDENTIAL AND COMMERCIAL LEASES. (a) In this section:

(1) "1980 FERC Order Amending License" means the modifying order issued by the Federal Energy Regulatory Commission in 1980 that removed from the project land the lots that were leased by the authority to residential and commercial leaseholders.

(2) "Buffer zone" means the strip of land abutting the lake as identified and defined in the FERC order.

(3) "Commercial leaseholder" means a person who, on or before the effective date of the Act enacting this section, leases a lot in the immediate vicinity of the lake from the authority to sublet for predominantly residential purposes, including a lot:

(A) subject to a lease that commenced on or before January 1, 1983;

(B) located on an island surrounded by water; and

(C) on which residential and other improvements have been constructed.

(4) "FERC order" means the order of the Federal Energy Regulatory Commission issuing a license to the authority for project number 1490-003-Texas.

(5) "Lake" means Possum Kingdom Lake.

(6) "Project land" means the land identified and defined by the FERC order. Except as provided by this section, project land does not include the lots offered for sale under this section to residential and commercial leaseholders.

(7) "Residential leaseholder" means a person who, on or before the effective date of the Act enacting this section, leases a lot in the immediate vicinity of the lake from the authority for residential purposes. The term does not include a person who temporarily leases project land.

(b) A leaseholder may purchase the leased lot as provided by this section.

(c) Not later than the 90th day after the effective date of the Act enacting this section, the authority shall provide to residential and commercial leaseholders a form for an application of intent to purchase the lot subject to the leaseholder's lease. A leaseholder who desires to purchase a lot must submit to the authority a completed application that includes the appraisal required under Subsection (d) and the survey required under Subsection (e). Until February 1, 2008, the authority shall give preference in processing applications to any applicant who receives an ad valorem tax exemption under Section 11.13, Tax Code, for a structure on the applicant's lot. The authority shall accept and process applications in the order in which they are received.

(d) Before September 1, 2017, a lot sold under this section must be sold for not less than the fair market value of the unencumbered fee simple estate with an offset of 10 percent for the value of the leasehold interest. On or after September 1, 2017, a lot sold under this section must be sold for not less than the fair market value of the

unencumbered fee simple estate. The purchaser shall select a disinterested appraiser certified under Chapter 1103, Occupations Code, to determine the fair market value as of January 1 of the year in which the application of intent to purchase is submitted to the authority. The appraiser shall complete the appraisal and send the completed appraisal to the prospective purchaser not later than the 60th day after the date of the appraiser's selection. If an appraisal is disputed, the General Land Office shall review the appraisal for compliance with the most recently published Uniform Standards of Professional Appraisal Practice and for mathematical accuracy. If the authority disputes the fair market value determined by the appraisal, the authority may employ another disinterested appraiser who satisfies the requirements of this subsection to conduct a second appraisal. The second appraisal must be completed and sent to the authority and to the prospective purchaser not later than the 60th day after the date the authority rejects the initial appraisal. If the purchaser rejects the value determined by the second appraiser, the two appraisers shall meet and attempt to reach an agreement on the fair market value not later than the 30th day after the date the purchaser receives the authority's appraisal. If the two appraisers fail to reach agreement on or before the 10th day after the date of the meeting, not later than the 20th day after the date of the meeting the authority shall request that the comptroller appoint a disinterested third appraiser who satisfies the requirements of this subsection to reconcile the two previous appraisals. The third appraiser's report must be completed on or before the 30th day after the date of the third appraiser's appointment, and the fair market value determined by the third appraiser is final and binding on all parties. The appraisal costs must be paid by the person who requests the appraisal, except that the purchaser and the authority shall each pay one-half of the cost of the third appraisal if a third appraisal is necessary. An appraisal may not include consideration of a freeze or other suspension of lease rate increases for the homestead of a person who is 65 years of age or older and may not take into account the value of any improvements constructed on the lot or over the water that are the property of the prospective purchaser. If the closing of the sale of the lot does not occur on or before the 60th day after the date on which the fair market value is agreed to or is determined by the third appraiser, the application of intent to purchase is terminated.

(e) A prospective purchaser of a lot is responsible for:

(1) a survey of the lot that:

(A) is prepared by a licensed state land surveyor or a registered professional land surveyor;

(B) is dated not earlier than the date one year before the effective date of the Act enacting this section, except that a survey dated before that date is considered acceptable if accompanied by an affidavit signed by the leaseholder stating facts that indicate that:

(i) improvements have not been made to the property that would change the submitted survey; and

(ii) the survey would be acceptable to a title company for purposes of issuing a policy of title insurance; and

(C) includes a depiction of the lot that shows the 1,000-foot contour line, project land as it crosses the property, property boundaries, structures on the property, and any roads that cross the property;

(2) all reasonable, normal, customary, and documented closing costs associated with the sale of the lot; and

(3) if applicable, reasonable and necessary costs incurred and documented by the authority for Federal Energy Regulatory Commission approval of the sale of the lot to be purchased under this section.

(f) A lease in effect on the date an application of intent to purchase a lot is submitted under Subsection (c) remains in effect until the sale of the lot is completed or terminated. A lease of the lot expires on the date the sale of the lot is completed.

(g) If a leaseholder decides not to purchase the lot, the leaseholder shall submit a purchase application form waiver and indicate on the form that the leaseholder wishes to continue leasing the lot and to affirm the understanding that the right of a prospective purchaser, transferee, heir, or devisee to purchase the lot must be exercised on transfer of the property to any party not subject to the lease existing on the date of the purchase application form waiver. If the leaseholder of record is a partnership, family trust, or other legal entity other than an individual, the right to purchase a lot must be exercised on a change in the majority ownership of the entity. The waiver shall be memorialized in a written affirmation signed by all parties to the existing lease, or any subsequent lease, and appended as an amendment to the lease. If a leaseholder submits a waiver under this subsection, on the sale of the lot, the fair market value of the lot must be determined as of January 1 of the year in which the property is sold or transferred.

(h) A lot sold under this section is subject to all existing restrictions, including any applicable easements, placed on the lot by the Federal Energy Regulatory Commission under the FERC order, if any, but does not include the terms of the existing lease except as provided by this section.

(i) A residential lot sold under this section may be used only for a single-family residential structure and related facilities and only for normal residential, noncommercial, recreational use and enjoyment.

(j) If applicable, a commercial leaseholder that purchases a lot and sublets the lot for residential use shall comply with Section 94.204, Property Code. A lot subject to a commercial lease that is purchased under this section must continue to be used for the purpose in effect at the time of the purchase unless the lot is subdivided for single-family residential use.

(k) The sale of a lot under this section does not include any buffer zone that abuts the lot and is part of the project land. Subject to approval by the Federal Energy Regulatory Commission, the authority shall grant a person who purchases a lot an easement for use of the buffer zone that abuts the lot. The authority shall retain ownership of the buffer zone and exercise control over the buffer zone consistent with the FERC order. An easement granted to a purchaser must be limited to uses permitted under the terms of the FERC order and the authority's shoreline management plan and must be consistent with the use allowed since the implementation of the buffer zone.

(l) Except as provided by this subsection, the owner of a lot sold under this section shall pay the authority any reasonable fees set by the authority for any services the authority provides. The board shall set the fees annually when it adopts the operating budget for the authority. The owner of a lot is not obligated to accept or pay for services from the authority that are provided by another public or private entity.

(m) If an existing road on land owned by the authority connects a county road to a lot sold under this section, the authority may not deny a person access to that road. The authority does not have a duty to maintain any road.

(n) A purchaser of a lot under this section shall comply with:

(1) the authority's "Shoreline Management Plan and Customer Guide," and any amendments to that document to the extent the plan applies to the buffer zone and any other land retained by the authority;

(2) the applicable rules, regulations, and orders of the Federal Energy Regulatory Commission;

(3) the authority's "Regulations for Governance for Brazos River Authority Lakes and Associated Lands," as published on the authority's Internet website; and

(4) other rules and regulations adopted by the authority regarding conduct on and use of the lake or land owned by the authority.

(o) To maintain the quality of the lake's water and of the environment in the lake's vicinity, a person who purchases a lot under this section agrees to:

(1) obtain the written consent of the authority before altering the natural drainage of the terrain within the project land or buffer zone;

(2) comply with any local, state, or federal laws related to water quality or the environment, including laws governing toxic wastes and hazardous substances;

(3) pay the cost of obtaining any Federal Energy Regulatory Commission approvals required for improvements not present on the lot on the date sold that are the property of the purchaser and on project land; and

(4) connect to and use, at the lot owner's expense, any wastewater treatment system that becomes available to lot owners and lessees, not later than 24 months after the system becomes available.

(p) A leaseholder who purchases a lot under this section may not remove or disturb, or cause or permit to be removed or disturbed, any historical, archaeological, architectural, or other cultural artifact, relic, remains, or object of antiquity. If such an item is discovered on the lot, the lot owner shall immediately notify the authority and protect the site and the item from further disturbance until the authority gives written clearance to proceed.

(q) A leaseholder who purchases a lot under this section agrees that the water level in the lake varies and that the authority is not responsible for keeping the lake full.

(r) The authority reserves the right to modify Morris Sheppard (Possum Kingdom) Dam so that the water surface elevation of the lake is raised from 1,000 feet above mean sea level to 1,015 feet above mean sea level. The authority is not responsible or liable for any personal injury or damage to a lot or improvements on the lot caused by the resultant increase in the water level or caused by natural flooding.

(s) The authority reserves the right of ingress and egress for a person authorized by the authority, including an authority agent or employee, over and across a lot purchased under this section for all reasonable purposes of the authority, including the construction of any roads, drainage facilities, and power, water, gas, and other utility

mains and lines that the authority considers necessary. The authority agrees to repair, or compensate the lot owner for, any damage it causes under this subsection and to compensate the lot owner for any property it takes under this subsection.

(t) The authority reserves its interest in all oil, gas, and other minerals in and under the real property sold under this section.

(u) The authority shall use a portion of the proceeds from the sale of a lot under this section to bring to fruition plans for the development and operation of a public use campground, including sites to accommodate large recreational vehicles, within a park in close proximity to the east side of the lake. The park must preserve the area's natural landscape, be named in honor of John Graves, and serve as a gateway to the John Graves Scenic Riverway section of the Brazos River downstream from the lake. The remainder of the proceeds may be used for any authority purpose.

(v) If the owner of a lot sold under this section does not comply with this section, the authority may seek any available legal remedy.

(w) The following laws do not apply to the sale of a lot under this section:

(1) Chapters 232 and 272, Local Government Code;

(2) Section 49.226, Water Code; and

(3) Section 221.013, Water Code.

(x) In the event of a dispute arising under this section between the authority and a person who purchases a lot under this section, the prevailing party is entitled to recover court costs and any reasonable attorney's fees.

(y) A provision that applies to the purchaser of a lot under this section applies to any subsequent owner of the lot.

SECTION 2. Section 221.020, Water Code, as added by this Act, prevails to the extent that it conflicts with any other state law.

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, 2007.

The amendment to **CSSB 1326** was read.

Senator Jackson offered the following amendment to Floor Amendment No. 1:

Floor Amendment No. 2

Amend Floor Amendment No. 1 to **CSSB 1326**, in SECTION 1 of the bill, in proposed Section 221.020, Water Code, (page 8, lines 25 thru line 2), by striking Subsection (u) of the section and substituting the following:

(u) The authority shall remit to the comptroller the proceeds from the sale of a lot under this section for deposit to the credit of the general revenue fund.

The amendment to Floor Amendment No. 1 to **CSSB 1326** was read.

Senator Jackson withdrew Floor Amendment No. 2.

Question recurring on the adoption of Floor Amendment No. 1 to **CSSB 1326**, the amendment was adopted by the following vote: Yeas 24, Nays 4, Present-not voting 1.

Yeas: Brimer, Deuell, Duncan, Ellis, Eltife, Estes, Gallegos, Harris, Hegar, Hinojosa, Jackson, Lucio, Nelson, Patrick, Seliger, Shapiro, Uresti, Van de Putte, Watson, Wentworth, West, Whitmire, Williams, Zaffirini.

Nays: Averitt, Janek, Nichols, Ogden.

Present-not voting: Shapleigh.

Absent: Fraser.

Absent-excused: Carona.

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

CSSB 1326 as amended was passed to engrossment by a viva voce vote.

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

Nays: Averitt, Nichols, Ogden.

Absent-excused: Carona.

COMMITTEE SUBSTITUTE SENATE BILL 1326 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 **CSSB 1326** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 25, Nays 3, Present-not voting 1.

Yeas: Brimer, Deuell, Duncan, Ellis, Eltife, Estes, Gallegos, Harris, Hegar, Hinojosa, Jackson, Janek, Lucio, Nelson, Patrick, Seliger, Shapiro, Uresti, Van de Putte, Watson, Wentworth, West, Whitmire, Williams, Zaffirini.

Nays: Averitt, Nichols, Ogden.

Present-not voting: Shapleigh.

Absent: Fraser.

Absent-excused: Carona.

The bill was read third time and was passed by the following vote: Yeas 23, Nays 5, Present-not voting 1.

Yeas: Brimer, Deuell, Duncan, Ellis, Eltife, Estes, Gallegos, Harris, Hinojosa, Jackson, Janek, Lucio, Nelson, Seliger, Shapiro, Uresti, Van de Putte, Watson, Wentworth, West, Whitmire, Williams, Zaffirini.

Nays: Averitt, Hegar, Nichols, Ogden, Patrick.

Present-not voting: Shapleigh.

Absent: Fraser.

Absent-excused: Carona.

BILLS AND RESOLUTIONS SIGNED

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

SB 44, SB 370, SB 671, SB 699, SB 1106, SB 1470, HB 11, HB 189, HB 1840, HB 1892, HB 2105, HB 2252, HB 2296, HCR 9, HCR 10, HCR 123, HCR 160, HCR 168, HCR 171, HCR 174, HCR 175, HCR 178, HCR 179, HCR 182, HCR 183, HCR 185, HCR 188, HCR 230.

**COMMITTEE SUBSTITUTE
SENATE BILL 1101 ON SECOND READING**

Senator Duncan moved to suspend the regular order of business to take up for consideration **CSSB 1101** at this time on its second reading:

CSSB 1101, Relating to the reporting and disclosure of financial arrangements between referring health care providers and diagnostic imaging providers; providing penalties.

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

Yeas: Averitt, Brimer, Duncan, Ellis, Estes, Gallegos, Hegar, Hinojosa, Jackson, Janek, Nelson, Ogden, Seliger, Shapiro, Shapleigh, Watson, Wentworth, West, Whitmire, Williams, Zaffirini.

Nays: Deuell, Eltife, Harris, Lucio, Nichols, Patrick, Uresti, Van de Putte.

Absent: Fraser.

Absent-excused: Carona.

The bill was read second time.

Senator Duncan offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSSB 1101** (Senate committee printing) in SECTION 1 of the bill, following added Section 113.002, Occupations Code (page 1, after line 63), by inserting the following new Section 113.003:

Sec. 113.003. EXPIRATION. This chapter expires September 1, 2009.

The amendment to **CSSB 1101** was read and was adopted by a viva voce vote.

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

Absent-excused: Carona.

Senator Duncan offered the following amendment to the bill:

Floor Amendment No. 2

Amend **CSSB 1101** (Senate committee printing) in SECTION 1 of the bill, by striking added Subsection (c), Section 113.051, Occupations Code (page 2, lines 18 through 27) and relettering the subsequent subsection of Section 113.051 accordingly.

The amendment to **CSSB 1101** was read and was adopted by a viva voce vote.

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

Absent-excused: Carona.

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

CSSB 1101 as amended was passed to engrossment by a viva voce vote.

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

Nays: Deuell, Eltife, Harris, Lucio, Nichols, Uresti, Van de Putte.

Absent-excused: Carona.

(Senator Brimer in Chair)

**MOTION TO PLACE
COMMITTEE SUBSTITUTE
SENATE BILL 2031 ON SECOND READING**

Senator Ogden moved to suspend the regular order of business to take up for consideration **CSSB 2031** at this time on its second reading:

CSSB 2031, Relating to requiring legislative consent or approval of the settlement or compromise of a claim or action against the state that will involve state expenditures exceeding a certain amount.

Senator Ogden withdrew the motion to suspend the regular order of business.

**COMMITTEE SUBSTITUTE
SENATE BILL 1341 ON SECOND READING**

On motion of Senator Hegar and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 1341** at this time on its second reading:

CSSB 1341, Relating to the management of groundwater in the area regulated by the Edwards Aquifer Authority and to the operations and oversight of the Edwards Aquifer Authority.

The bill was read second time.

Senator Hegar offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSSB 1341** (Senate committee printing) as follows:

(1) In SECTION 2 of the bill, in amended Section 1.14, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, strike Subsection (c) of the section (page 1, lines 49 through 57) and substitute the following:

(c) Except as provided by Subsections [~~(c)~~] (f)[;] and (h) of this section and Section 1.26 of this article, for the period beginning January 1, 2008, the amount of permitted withdrawals from the aquifer may not exceed or be less than 572,000

[400,000] acre-feet of water for each calendar year, which is the sum of all regular permits issued or for which an application was filed and issuance was pending action by the authority as of January 1, 2005.

(2) In SECTION 6 of the bill, in proposed Section 1.26(a), Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993 (page 3, line 3), strike "in a manner".

(3) In SECTION 6 of the bill, in proposed Section 1.26(d), Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993 (page 4, line 1), strike "allow" and substitute "require".

(4) In SECTION 6 of the bill, in proposed Section 1.26(e), Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993 (page 4, line 4), strike "allow" and substitute "require".

(5) In SECTION 6 of the bill, in proposed Section 1.26A(a), Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, between "shall" and "develop" (page 4, line 26), insert "cooperatively".

(6) In SECTION 6 of the bill, in proposed Section 1.26A(b), Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993 (page 4, line 36), strike "use its best efforts to".

(7) In SECTION 6 of the bill, in proposed Section 1.26A(c), Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993 (page 4, line 45), strike "use its best efforts to".

(8) In SECTION 6 of the bill, in proposed Section 1.26A(c), Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, between "program document" and "as outlined" (page 4, line 50), insert "that may be in the form of a habitat conservation plan used in issuance of an incidental take permit".

The amendment to **CSSB 1341** was read and was adopted by a viva voce vote.

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

Absent-excused: Carona.

Senator Hegar offered the following amendment to the bill:

Floor Amendment No. 2

Amend **CSSB 1341** (Senate committee printing) by inserting the following appropriately numbered SECTION and renumbering subsequent SECTIONS accordingly:

SECTION ____ . Article 1, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, is amended by adding Section 1.085 to read as follows:

Sec. 1.085. LIMITATION ON POWERS. (a) This section applies only to a water well:

(1) that is located:

(A) outside the territory regulated by the authority; and

(B) in a county containing land that is in the territory regulated by the

authority;

(2) that serves as a public water supply to customers in at least four counties, provided that a majority of those counties contain land in the territory regulated by the authority; and

(3) for which the public water system plan review submittal form was received by the commission before the effective date of the Act enacting this section.

(b) Notwithstanding any other law, a water well to which this section applies is exempt from the rules imposed by any groundwater conservation district regarding well spacing or the production or transport of water from the well.

The amendment to **CSSB 1341** was read and was adopted by a viva voce vote.

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

Absent-excused: Carona.

Senator Uresti offered the following amendment to the bill:

Floor Amendment No. 3

Amend **CSSB 1341** (Senate committee printing) in SECTION 6 of the bill, in added Subsection (a), Section 1.26, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, as follows:

(1) At the end of Subdivision (3) (page 3, line 17), strike "; and" and substitute "; [~~and~~]".

(2) At the end of Paragraph (E), Subdivision (4), between "law" and the period (page 3, line 26), insert the following:
; and

(5) allow irrigation use to continue in order to permit the user to complete the irrigation of a crop in progress

The amendment to **CSSB 1341** was read and was adopted by a viva voce vote.

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

Absent-excused: Carona.

Senator Averitt offered the following amendment to the bill:

Floor Amendment No. 4

Amend **CSSB 1341** (Senate committee printing) by adding the following sentence on page 5, after line 53:

"The members of the initial steering committee listed in Section (1), Subsections (A), (F), (G), (H) and (K) shall each contribute five hundred thousand dollars (\$500,000) to fund the initial stages of the recovery implementation program process until federal, state or other funds become available."

The amendment to **CSSB 1341** was read and was adopted by a viva voce vote.

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

Absent-excused: Carona.

Senator Wentworth offered the following amendment to the bill:

Floor Amendment No. 5

Amend **CSSB 1341** (Senate committee printing) in SECTION 6 of the bill, in proposed Section 1.26A, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, by striking Subsection (k) of that section (page 6, lines 28 through 37) and substituting the following:

(k) The initial recommendations of the Edwards Aquifer area expert science subcommittee must be completed and submitted to the steering committee and other stakeholders not later than December 31, 2008, and should include an evaluation:

(1) of the option of designating a separate San Marcos pool, of how such a designation would affect existing pools, and of the need for an additional well to measure the San Marcos pool, if designated;

(2) of the necessity to maintain minimum springflows, including a specific review of the necessity to maintain a flow to protect the federally threatened and endangered species; and

(3) as to whether adjustments in the trigger levels for the San Marcos Springs flow for the San Antonio pool should be made.

The amendment to **CSSB 1341** was read and was adopted by a viva voce vote.

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

Absent-excused: Carona.

Senator Hinojosa offered the following amendment to the bill:

Floor Amendment No. 6

Amend **CSSB 1341** (Senate committee printing) on page 8, at the end of line 30 by inserting "This section does not apply to suits brought pursuant to Section 1.45, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993."

(President in Chair)

The amendment to **CSSB 1341** was read and was adopted by a viva voce vote.

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

Absent-excused: Carona.

Senator Uresti offered the following amendment to the bill:

Floor Amendment No. 7

Amend **CSSB 1341** (Senate committee printing) by adding the following appropriately numbered SECTION and renumbering the subsequent SECTIONS of the bill accordingly:

SECTION __. Section 1.34, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, is amended by amending Subsection (c) and adding Subsections (d), (e), (f), and (g) to read as follows:

(c) Subject to the limitations provided by Subsections (d), (e), (f), and (g) of this section, a ~~[A]~~ permit holder may lease, sell, or otherwise transfer ownership of permitted water rights.

(d) The ~~[-but a]~~ holder of an initial regular ~~[a]~~ permit for irrigation use may ~~[not]~~ lease, sell, or otherwise transfer ownership of not more than 50 percent of the irrigation rights initially permitted. Except as provided by Subsections (e), (f), and (g) of this section, the permit holder's ~~[The user's]~~ remaining irrigation water rights must be used in accordance with the original initial regular permit and must pass with transfer of the irrigated land. Irrigation rights initially permitted based on land irrigated from the applicant's well that were not owned by the applicant are appurtenant to land owned by the applicant and irrigated by the applicant's well.

(e) The place of use of the remaining irrigation water rights under Subsection (d) of this section may be temporarily transferred to another place of use owned by the permit holder. If the irrigated land to which the water rights are appurtenant is sold or the ownership of the land is otherwise transferred, the transfer of the irrigation water rights is immediately voided by operation of law and the rights revert back by operation of law to the irrigated land.

(f) The place of use of the remaining irrigation water rights under Subsection (d) of this section may be temporarily transferred for irrigation purposes for a term not to exceed 10 years to another place of use owned by a third party. If the irrigated land to which the water rights are appurtenant is sold or the ownership of the land is otherwise transferred, the person to whom the ownership of the land is transferred takes the land subject to that temporary transfer of irrigation water rights.

(g) If the irrigated land identified as the place of use in the initial regular permit originally issued for irrigation purposes is developed as evidenced by actual physical alteration of the land such that it is no longer reasonably capable of being irrigated, the permit holder may apply to the authority to convert the remaining irrigation water rights under Subsection (d) of this section so as to be transferable.

The amendment to **CSSB 1341** was read.

Senator Uresti offered the following amendment to Floor Amendment No. 7:

Floor Amendment No. 8

Amend Floor Amendment No. 7 to **CSSB 1341** as follows:

- 1) On page 1, line 24 insert "or leased" between "owned" and "by"; and
- 2) On page 2, line 4 24 insert "or leased" between "owned" and "by".

The amendment to Floor Amendment No. 7 to **CSSB 1341** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 8 except as follows:

Absent-excused: Carona.

Question recurring on the adoption of Floor Amendment No. 7 to **CSSB 1341**, the amendment as amended was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 7 as amended except as follows:

Absent-excused: Carona.

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

CSSB 1341 as amended was passed to engrossment by a viva voce vote.

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

Absent-excused: Carona.

**COMMITTEE SUBSTITUTE
SENATE BILL 1341 ON THIRD READING**

Senator Hegar moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1341** be placed on its third reading and final passage.

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

Absent-excused: Carona.

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

MESSAGE FROM THE HOUSE

HOUSE CHAMBER
Austin, Texas
May 4, 2007

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 199, In memory of Charlotte Ragsdale of Dallas.

SB 123, Relating to excepting from required disclosure under the public information law certain personal information maintained by a municipality that pertains to a minor.

SB 1041, Relating to the creation of the Los Fresnos Municipal Utility District No. 2 of Cameron County; providing authority to impose a tax and issue bonds; granting the power of eminent domain.

SB 1077, Relating to performance audits of certain regional transportation authorities.

SB 1089, Relating to the authority of certain development corporations to spend tax revenue on certain mass transit-related facilities.

SB 1236, Relating to the powers and duties of the Starr County Hospital District of Starr County, Texas.

SB 1500, Relating to designating the Donor Education, Awareness, and Registry Program of Texas as the Glenda Dawson Donate Life-Texas Registry.

Respectfully,

/s/Robert Haney, Chief Clerk
House of Representatives

CONGRATULATIONS EXTENDED

The President, on behalf of the Senate, extended congratulations to Senator Ogden on the birth of his grandson, Buchanan.

COMMITTEE SUBSTITUTE SENATE BILL 1951 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 **CSSB 1951** be placed on its third reading and final passage:

CSSB 1951, Relating to the creation of judicial districts, the creation of the office of district attorney in certain counties, and the election and duties of certain district attorneys in certain counties.

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

Absent-excused: Carona.

The bill was read third time.

Senator Shapiro offered the following amendment to the bill:

Floor Amendment No. 1 on Third Reading

Amend **CSSB 1951** on third reading (Senate committee printing) as follows:

(1) In SECTION 3(a) of the bill (page 1, line 52), after "(a)" insert "Effective January 1, 2009,".

(2) In SECTION 3(d) of the bill (page 2, line 2), strike "on the effective date of this section" and substitute "Effective January 1, 2009,".

The amendment to **CSSB 1951** 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: Carona.

Senator Hegar offered the following amendment to the bill:

Floor Amendment No. 2 on Third Reading

Amend **CSSB 1951** on third reading by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. (a) Subchapter C, Chapter 24, Government Code, is amended by adding Section 24.5995 to read as follows:

Sec. 24.5995. 506TH JUDICIAL DISTRICT (GRIMES AND WALLER COUNTIES). The 506th Judicial District is composed of Grimes and Waller Counties.

(b) The local administrative district judge shall transfer all cases from Waller County that are pending in the 9th District Court to the 506th District Court on the date the 506th District Court is created.

(c) When a case is transferred as provided by Subsection (b) of this section, all processes, writs, bonds, recognizances, or other obligations issued from the 9th District Court are returnable to the 506th District Court as if originally issued by that court. The obligees on all bonds and recognizances taken in and for the 9th District Court and all witnesses summoned to appear in the 9th District Court are required to appear before the 506th District Court as if originally required to appear before that court.

(d) The 506th Judicial District is created on the date the Office of Court Administration certifies to the comptroller and commissioner's courts of Grimes and Waller Counties that the office has determined that the current five-year average population per court for the district courts that serve Grimes and Waller Counties and are in existence as of January 1, 2007, is greater than the current statewide five-year average population per district court.

The amendment to **CSSB 1951** 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 Third Reading except as follows:

Absent-excused: Carona.

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

CSSB 1951 as again amended was finally passed by the following vote: Yeas 30, Nays 0.

Absent-excused: Carona.

COMMITTEE SUBSTITUTE SENATE BILL 101 ON SECOND READING

Senator Shapiro moved to suspend the regular order of business to take up for consideration **CSSB 101** at this time on its second reading:

CSSB 101, Relating to limitations on the automatic admission of undergraduate students to general academic teaching institutions.

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 West offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSSB 101** (Senate committee printing) as follows:

(1) In SECTION 1 of the bill, in amended Section 51.803, Education Code (page 3, between lines 14 and 15), insert the following new Subsection (j):

(j) This section expires August 31, 2015.

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

SECTION _____. Effective September 1, 2015, Subchapter U, Chapter 51, Education Code, is amended by adding Section 51.8035 to read as follows:

Sec. 51.8035. AUTOMATIC ADMISSION: ALL INSTITUTIONS. (a) Each general academic teaching institution shall admit an applicant for admission to the institution as an undergraduate student if the applicant graduated with a grade point average in the top 10 percent of the student's high school graduating class in one of the two school years preceding the academic year for which the applicant is applying for admission and the applicant graduated from a public or private high school in this state accredited by a generally recognized accrediting organization or from a high school operated by the United States Department of Defense. To qualify for admission under this section, an applicant must submit an application before the expiration of any application filing deadline established by the institution and, if the applicant graduated from a high school operated by the United States Department of Defense, must be a Texas resident under Section 54.052 or be entitled to pay tuition fees at the rate provided for Texas residents under Section 54.058(d) for the term or semester to which admitted.

(b) After admitting an applicant under this section, the institution shall review the applicant's record and any other factor the institution considers appropriate to determine whether the applicant may require additional preparation for college-level work or would benefit from inclusion in a retention program. The institution may require a student so identified to enroll during the summer immediately after the student is admitted under this section to participate in appropriate enrichment courses and orientation programs. This section does not prohibit a student who is not determined to need additional preparation for college-level work from enrolling, if the student chooses, during the summer immediately after the student is admitted under this section.

The amendment to **CSSB 101** was read.

Senator Nelson offered the following amendment to Floor Amendment No. 1:

Floor Amendment No. 2

Amend Floor Amendment No. 1 to **CSSB 101** (Senate committee printing) as follows:

SECTION 1. Delete page 1, line 3 through page 2, line 15.

SECTION 2. Section 28.0252(b), Education Code, is amended to read as follows:

(b) If the commissioner develops a standard method under this section, a school district shall use the standard method to compute a student's high school grade point average~~], and the student's grade point average computed in that manner shall be used in determining the student's eligibility for automatic college admission under Section 51.803].~~

SECTION 3. Section 33.007(b), Education Code, is amended to read as follows:

(b) During the first school year a student is enrolled in a high school or at the high school level in an open-enrollment charter school, and again during a student's senior year, a counselor shall provide information about higher education to the student and the student's parent or guardian. The information must include information regarding:

- (1) the importance of higher education;
- (2) the advantages of completing the recommended or advanced high school program adopted under Section 28.025(a);
- (3) the disadvantages of taking courses to prepare for a high school equivalency examination relative to the benefits of taking courses leading to a high school diploma;
- (4) financial aid eligibility;
- (5) instruction on how to apply for federal financial aid;
- (6) the center for financial aid information established under Section 61.0776;

~~[(7) the automatic admission of certain students to general academic teaching institutions as provided by Section 51.803;] and~~

(7) ~~[(8)]~~ the eligibility and academic performance requirements for the TEXAS Grant as provided by Subchapter M, Chapter 56~~[as added by Chapter 1590, Acts of the 76th Legislature, Regular Session, 1999].~~

SECTION 4. Section 51.4032, Education Code, as added by Chapter 694, Acts of the 79th Legislature, Regular Session, 2005, is amended to read as follows:

Sec. 51.4032. ANNUAL REPORT OF PARTICIPATION IN HIGHER EDUCATION. Not later than July 31 of each year and in the form prescribed by the coordinating board, each general academic teaching institution and medical and dental unit as defined in Section 61.003 shall provide to the Texas Higher Education Coordinating Board a report describing the composition of the institution's entering class of students. The report must include a demographic breakdown of the class, including a breakdown by race, ethnicity, and economic status. ~~[A report submitted by a general academic teaching institution or medical and dental unit as defined in Section 61.003 must include separate demographic breakdowns of the students admitted under Sections 51.803, 51.804, and 51.805.]~~

SECTION 5. The heading to Section 51.805, Education Code, is amended to read as follows:

Sec. 51.805. UNDERGRADUATE ~~[OTHER]~~ ADMISSIONS.

SECTION 6. Sections 51.805(a) and (b), Education Code, are amended to read as follows:

(a) ~~[A graduating student who does not qualify for admission under Section 51.803 or 51.804 may apply to any general academic teaching institution.]~~

~~[(b) The general academic teaching institution, after admitting students under Sections 51.803 and 51.804, shall admit other applicants for admission as undergraduate students.]~~ It is the intent of the legislature that all institutions of higher education pursue academic excellence by considering students' academic achievements in decisions related to admissions.

(b) Because of changing demographic trends, diversity, and population increases in the state, each general academic teaching institution shall also consider all of, any of, or a combination of the following socioeconomic indicators or factors in making first-time freshman admissions decisions:

- (1) the applicant's academic record;
- (2) the socioeconomic background of the applicant, including the percentage by which the applicant's family is above or below any recognized measure of poverty, the applicant's household income, and the applicant's parents' level of education;
- (3) whether the applicant would be the first generation of the applicant's family to attend or graduate from an institution of higher education;
- (4) whether the applicant has bilingual proficiency;
- (5) the financial status of the applicant's school district;
- (6) the performance level of the applicant's school as determined by the school accountability criteria used by the Texas Education Agency;
- (7) the applicant's responsibilities while attending school, including whether the applicant has been employed, whether the applicant has helped to raise children, or other similar factors;
- (8) the applicant's region of residence;
- (9) whether the applicant is a resident of a rural or urban area or a resident of a central city or suburban area in the state;
- (10) the applicant's performance on standardized tests;
- (11) the applicant's performance on standardized tests in comparison with that of other students from similar socioeconomic backgrounds;
- (12) whether the applicant attended any school while the school was under a court-ordered desegregation plan;
- (13) the applicant's involvement in community activities;
- (14) the applicant's extracurricular activities;
- (15) the applicant's commitment to a particular field of study;
- (16) the applicant's personal interview;
- (17) the applicant's admission to a comparable accredited out-of-state institution; and
- (18) any other consideration the institution considers necessary to accomplish the institution's stated mission.

SECTION 7. Section 51.842(a), Education Code, is amended to read as follows:

(a) A graduate or professional program of a general academic teaching institution or medical or dental unit may consider the following factors in making an admissions or scholarship decision for admissions into or competitive scholarships for the graduate or professional program:

- (1) an applicant's academic record as a high school student and undergraduate student;
- (2) the socioeconomic background of the applicant while the applicant attended elementary and secondary school and was an undergraduate student, including any change in that background;

(3) whether the applicant would be the first generation of the applicant's family to attend or graduate from an undergraduate program or from a graduate or professional program;

(4) whether the applicant has multilingual proficiency;

(5) the applicant's responsibilities while attending elementary and secondary school and as an undergraduate student, including whether the applicant was employed, whether the applicant helped to raise children, and other similar factors;

(6) to achieve geographic diversity, the applicant's region of residence at the time of application and, if the applicant graduated from a public high school in this state within the preceding 20 years, the region in which the applicant's school district is located;

(7) the applicant's involvement in community activities;

(8) the applicant's demonstrated commitment to a particular field of study;

(9) for admission into a professional program, the current comparative availability of members of that profession in the applicant's region of residence while the applicant attended elementary and secondary school;

~~[(10) whether the applicant was automatically admitted to a general academic teaching institution as an undergraduate student under Section 51.803;]~~ and

(10) ~~[(11)]~~ the applicant's personal interview.

SECTION 8. Sections 28.026, 51.803, 51.804, and 51.8045, Education Code, are repealed.

SECTION 9. Sections 1-8 take effect September 1, 2009.

The amendment to Floor Amendment No. 1 to **CSSB 101** was read.

On motion of Senator West, Floor Amendment No. 2 was tabled by the following vote: Yeas 18, Nays 12.

Yeas: Averitt, Deuell, Duncan, Ellis, Eltife, Gallegos, Hegar, Hinojosa, Lucio, Nichols, Shapiro, Shapleigh, Uresti, Van de Putte, Watson, West, Whitmire, Zaffirini.

Nays: Brimer, Estes, Fraser, Harris, Jackson, Janek, Nelson, Ogden, Patrick, Seliger, Wentworth, Williams.

Absent-excused: Carona.

Question recurring on the adoption of Floor Amendment No. 1 to **CSSB 101**, the amendment was adopted by the following vote: Yeas 21, Nays 9.

Yeas: Deuell, Duncan, Ellis, Eltife, Estes, Fraser, Gallegos, Hegar, Hinojosa, Lucio, Nichols, Ogden, Seliger, Shapiro, Shapleigh, Uresti, Van de Putte, Watson, West, Whitmire, Zaffirini.

Nays: Averitt, Brimer, Harris, Jackson, Janek, Nelson, Patrick, Wentworth, Williams.

Absent-excused: Carona.

Senator Seliger offered the following amendment to the bill:

Floor Amendment No. 3

Amend **CSSB 101** (Senate committee printing) by striking all below the enacting clause and substituting the following:

SECTION 1. Section 28.0252(b), Education Code, is amended to read as follows:

(b) If the commissioner develops a standard method under this section, a school district shall use the standard method to compute a student's high school grade point average[~~and the student's grade point average computed in that manner shall be used in determining the student's eligibility for automatic college admission under Section 51.803~~].

SECTION 2. Section 33.007(b), Education Code, is amended to read as follows:

(b) During the first school year a student is enrolled in a high school or at the high school level in an open-enrollment charter school, and again during a student's senior year, a counselor shall provide information about higher education to the student and the student's parent or guardian. The information must include information regarding:

- (1) the importance of higher education;
- (2) the advantages of completing the recommended or advanced high school program adopted under Section 28.025(a);
- (3) the disadvantages of taking courses to prepare for a high school equivalency examination relative to the benefits of taking courses leading to a high school diploma;
- (4) financial aid eligibility;
- (5) instruction on how to apply for federal financial aid;
- (6) the center for financial aid information established under Section 61.0776;

~~[(7) the automatic admission of certain students to general academic teaching institutions as provided by Section 51.803;] and~~

~~(7) [(8)] the eligibility and academic performance requirements for the TEXAS Grant as provided by Subchapter M, Chapter 56[~~as added by Chapter 1590, Acts of the 76th Legislature, Regular Session, 1999~~].~~

SECTION 3. Section 51.4032, Education Code, as added by Chapter 694, Acts of the 79th Legislature, Regular Session, 2005, is amended to read as follows:

Sec. 51.4032. ANNUAL REPORT OF PARTICIPATION IN HIGHER EDUCATION. Not later than July 31 of each year and in the form prescribed by the coordinating board, each general academic teaching institution and medical and dental unit as defined in Section 61.003 shall provide to the Texas Higher Education Coordinating Board a report describing the composition of the institution's entering class of students. The report must include a demographic breakdown of the class, including a breakdown by race, ethnicity, and economic status. ~~[A report submitted by a general academic teaching institution or medical and dental unit as defined in Section 61.003 must include separate demographic breakdowns of the students admitted under Sections 51.803, 51.804, and 51.805.]~~

SECTION 4. The heading to Section 51.805, Education Code, is amended to read as follows:

Sec. 51.805. UNDERGRADUATE ~~[OTHER]~~ ADMISSIONS.

SECTION 5. Sections 51.805(a) and (b), Education Code, are amended to read as follows:

(a) ~~[A graduating student who does not qualify for admission under Section 51.803 or 51.804 may apply to any general academic teaching institution.~~

~~[(b) The general academic teaching institution, after admitting students under Sections 51.803 and 51.804, shall admit other applicants for admission as undergraduate students.]~~ It is the intent of the legislature that all institutions of higher education pursue academic excellence by considering students' academic achievements in decisions related to admissions.

(b) Because of changing demographic trends, diversity, and population increases in the state, each general academic teaching institution shall also consider all of, any of, or a combination of the following socioeconomic indicators or factors in making first-time freshman admissions decisions:

- (1) the applicant's academic record;
- (2) the socioeconomic background of the applicant, including the percentage by which the applicant's family is above or below any recognized measure of poverty, the applicant's household income, and the applicant's parents' level of education;
- (3) whether the applicant would be the first generation of the applicant's family to attend or graduate from an institution of higher education;
- (4) whether the applicant has bilingual proficiency;
- (5) the financial status of the applicant's school district;
- (6) the performance level of the applicant's school as determined by the school accountability criteria used by the Texas Education Agency;
- (7) the applicant's responsibilities while attending school, including whether the applicant has been employed, whether the applicant has helped to raise children, or other similar factors;
- (8) the applicant's region of residence;
- (9) whether the applicant is a resident of a rural or urban area or a resident of a central city or suburban area in the state;
- (10) the applicant's performance on standardized tests;
- (11) the applicant's performance on standardized tests in comparison with that of other students from similar socioeconomic backgrounds;
- (12) whether the applicant attended any school while the school was under a court-ordered desegregation plan;
- (13) the applicant's involvement in community activities;
- (14) the applicant's extracurricular activities;
- (15) the applicant's commitment to a particular field of study;
- (16) the applicant's personal interview;
- (17) the applicant's admission to a comparable accredited out-of-state institution; and
- (18) any other consideration the institution considers necessary to accomplish the institution's stated mission.

SECTION 6. Section 51.842(a), Education Code, is amended to read as follows:

(a) A graduate or professional program of a general academic teaching institution or medical or dental unit may consider the following factors in making an admissions or scholarship decision for admissions into or competitive scholarships for the graduate or professional program:

(1) an applicant's academic record as a high school student and undergraduate student;

(2) the socioeconomic background of the applicant while the applicant attended elementary and secondary school and was an undergraduate student, including any change in that background;

(3) whether the applicant would be the first generation of the applicant's family to attend or graduate from an undergraduate program or from a graduate or professional program;

(4) whether the applicant has multilingual proficiency;

(5) the applicant's responsibilities while attending elementary and secondary school and as an undergraduate student, including whether the applicant was employed, whether the applicant helped to raise children, and other similar factors;

(6) to achieve geographic diversity, the applicant's region of residence at the time of application and, if the applicant graduated from a public high school in this state within the preceding 20 years, the region in which the applicant's school district is located;

(7) the applicant's involvement in community activities;

(8) the applicant's demonstrated commitment to a particular field of study;

(9) for admission into a professional program, the current comparative availability of members of that profession in the applicant's region of residence while the applicant attended elementary and secondary school;

~~[(10) whether the applicant was automatically admitted to a general academic teaching institution as an undergraduate student under Section 51.803;]~~ and

(10) ~~[(11)]~~ the applicant's personal interview.

SECTION 7. Sections 28.026, 51.803, 51.804, and 51.8045, Education Code, are repealed.

SECTION 8. The change in law made by this Act applies beginning with admissions to a general academic teaching institution for the 2008-2009 academic year. Admissions for an academic period preceding that academic year are covered by the law in effect immediately before the effective date of this Act, and the prior law is continued in effect for that purpose.

SECTION 9. This Act takes effect September 1, 2007.

The amendment to **CSSB 101** was read and failed of adoption by the following vote: Yeas 12, Nays 17.

Yeas: Brimer, Estes, Fraser, Harris, Jackson, Janek, Nelson, Patrick, Seliger, Shapiro, Wentworth, Williams.

Nays: Averitt, Deuell, Duncan, Ellis, Eltife, Gallegos, Hinojosa, Lucio, Nichols, Ogden, Shapleigh, Uresti, Van de Putte, Watson, West, Whitmire, Zaffirini.

Absent: Hegar.

Absent-excused: Carona.

Senator Patrick offered the following amendment to the bill:

Floor Amendment No. 4

Amend **CSSB 101** (Senate committee printing) in SECTION ONE as follows:

1. On page 2, line 25, strike: "and".
2. On page 2, line 28, replace "._" with "; and".
3. On page 2, line 29, insert the following:

(4) restrict the enrollment of nonresidents to no more than 4 percent of the freshman class.

The amendment to **CSSB 101** was read and failed of adoption by the following vote: Yeas 11, Nays 15.

Yeas: Brimer, Deuell, Eltife, Jackson, Janek, Nelson, Nichols, Ogden, Patrick, Seliger, Williams.

Nays: Averitt, Ellis, Estes, Fraser, Gallegos, Harris, Hinojosa, Shapiro, Shapleigh, Uresti, Van de Putte, Watson, Wentworth, West, Zaffirini.

Absent: Duncan, Hegar, Lucio, Whitmire.

Absent-excused: Carona.

Senator Ogden offered the following amendment to the bill:

Floor Amendment No. 5

Amend **CSSB 101** (Senate committee printing) as follows:

(1) In SECTION 1 of the bill, in added Subsection (d), Section 51.803, Education Code (page 2, lines 19 through 22), strike added Subdivision (d)(1) and renumber the remaining subdivisions accordingly.

(2) Add the following appropriately numbered SECTIONS to the bill and renumber the remaining SECTIONS of the bill accordingly:

SECTION __. Subchapter D, Chapter 54, Education Code, is amended by adding Section 54.202 to read as follows:

Sec. 54.202. TOP 10 PERCENT HIGH SCHOOL GRADUATES. (a) This section only applies to a person who qualifies for automatic admission under Section 51.803(a).

(b) Each general academic teaching institution shall exempt a person to whom this section applies from the payment of tuition and special course fees, lab fees, and student teaching fees.

(c) The exemption from tuition under Subsection (b) does not apply to designated tuition charged under Section 54.0513.

(d) In order to continue to receive an exemption under this section after the person has received an exemption under this section for two or more academic years or the equivalent, a person must:

(1) enroll for a full course load for an undergraduate student, as determined by the coordinating board, in an undergraduate degree or certificate program at a general academic teaching institution; and

(2) have a cumulative grade point average of at least 2.5 on a four-point scale or the equivalent on all coursework previously attempted at institutions of higher education, if the person is enrolled in any academic year after the person's second academic year.

(e) The legislature shall account in the General Appropriations Act for the exemptions authorized by Subsection (b) in a way that provides a corresponding increase in the general revenue funds appropriated to the institution.

(f) The legislature may appropriate money to the Texas Higher Education Coordinating Board to be used to reimburse general academic teaching institutions for reducing as provided by this subsection the amount of designated tuition charged under Section 54.0513 to persons receiving exemptions from tuition and fees under Subsection (b). Based on the amount of appropriations under this subsection available for each academic year, the coordinating board shall estimate the amount by which the designated tuition charged under Section 54.0513 to each person who receives an exemption from tuition and fees under Subsection (b) in that academic year may be reduced from the amount that the applicable institution would otherwise charge the person. The coordinating board shall distribute the amount of appropriations under this subsection available for the academic year to general academic teaching institutions in proportion to the number of semester credit hours for which the coordinating board estimates students will receive exemptions under Subsection (b) in that academic year at each institution. Each general academic teaching institution that receives money under this section shall reduce the amount of designated tuition charged to each student who receives an exemption under Subsection (b) by the amount determined by the coordinating board for that academic year.

SECTION __. The change in law made by this Act in adding Section 54.202, Education Code, applies beginning with tuition, fees, and other charges for the 2008 fall semester. Tuition, fees, and other charges for a term or semester before the 2008 fall semester are covered by the law in effect immediately before the effective date of this Act, and the former law is continued in effect for that purpose.

The amendment to **CSSB 101** was read.

POINT OF ORDER

Senator Wentworth raised a point of order that Floor Amendment No. 5 was not germane to the body of the bill.

POINT OF ORDER WITHDRAWN

Senator Wentworth withdrew the point of order.

Question — Shall Floor Amendment No. 5 to **CSSB 101** be adopted?

Senator Ogden offered the following amendment to Floor Amendment No. 5:

Floor Amendment No. 6

Amend Floor Amendment No. 5 to **CSSB 101** by striking proposed Section 54.202(a), Education Code, (page 1, lines 12-14) and substitute the following therefor:

Sec. 54.202. TOP 10 PERCENT HIGH SCHOOL GRADUATES. (a) This section applies to a person who was admitted and enrolled under the automatic admission provisions of Section 51.803(c).

The amendment to Floor Amendment No. 5 to **CSSB 101** was read and was adopted by the following vote: Yeas 27, Nays 3.

Yeas: Averitt, Deuell, Duncan, Ellis, Eltife, Estes, Fraser, Gallegos, Harris, Hegar, Hinojosa, Jackson, Janek, Lucio, Nelson, Nichols, Ogden, Patrick, Shapiro, Shapleigh, Uresti, Van de Putte, Watson, West, Whitmire, Williams, Zaffirini.

Nays: Brimer, Seliger, Wentworth.

Absent-excused: Carona.

Question recurring on the adoption of Floor Amendment No. 5 to **CSSB 101**, the amendment as amended was adopted by the following vote: Yeas 26, Nays 4.

Yeas: Averitt, Deuell, Duncan, Ellis, Eltife, Estes, Fraser, Gallegos, Harris, Hegar, Hinojosa, Jackson, Janek, Lucio, Nelson, Nichols, Ogden, Patrick, Shapiro, Shapleigh, Uresti, Van de Putte, Watson, West, Whitmire, Zaffirini.

Nays: Brimer, Seliger, Wentworth, Williams.

Absent-excused: Carona.

Senator Patrick offered the following amendment to the bill:

Floor Amendment No. 7

Amend **CSSB 101** (Senate committee printing) in SECTION ONE, by inserting the following at the end of page 3, line 25:

§51.810. SUNSET. This Subchapter expires on January 1, 2011.

The amendment to **CSSB 101** was read and failed of adoption by the following vote: Yeas 10, Nays 20.

Yeas: Brimer, Fraser, Harris, Jackson, Janek, Nelson, Patrick, Seliger, Wentworth, Williams.

Nays: Averitt, Deuell, Duncan, Ellis, Eltife, Estes, Gallegos, Hegar, Hinojosa, Lucio, Nichols, Ogden, Shapiro, Shapleigh, Uresti, Van de Putte, Watson, West, Whitmire, Zaffirini.

Absent-excused: Carona.

Senator Williams offered the following amendment to the bill:

Floor Amendment No. 8

Amend **CSSB 101** in SECTION 1 of the bill, in amended Section 51.803, Education Code (Senate committee printing, page 2, between lines 15 and 16), by inserting the following new subsection and relettering subsequent subsections of amended Section 51.803 accordingly:

(d) For any academic year in which a general academic teaching institution elects to offer admission to applicants under Subsection (c), the institution may not charge tuition under Section 54.0513, or under any other law granting the institution or its governing board discretion to set the tuition rate, at a rate that exceeds the rate in effect for the preceding academic year.

The amendment to **CSSB 101** was read.

Senator Shapiro moved to table Floor Amendment No. 8 to **CSSB 101**.

The motion to table was lost by the following vote: Yeas 8, Nays 20.

Yeas: Averitt, Deuell, Estes, Hegar, Lucio, Nichols, Ogden, Shapiro.

Nays: Brimer, Ellis, Eltife, Fraser, Gallegos, Harris, Hinojosa, Jackson, Nelson, Patrick, Seliger, Shapleigh, Uresti, Van de Putte, Watson, Wentworth, West, Whitmire, Williams, Zaffirni.

Absent: Duncan, Janek.

Absent-excused: Carona.

Question recurring on the adoption of Floor Amendment No. 8 to **CSSB 101**, Senator Williams withdrew Floor Amendment No. 8.

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

CSSB 101 as amended was passed to engrossment by a viva voce vote.

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

Absent-excused: Carona.

COMMITTEE SUBSTITUTE SENATE BILL 101 ON THIRD READING

Senator Shapiro moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 101** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 2.

Yeas: Averitt, Deuell, Duncan, Ellis, Eltife, Estes, Fraser, Gallegos, Harris, Hegar, Hinojosa, Jackson, Janek, Lucio, Nelson, Nichols, Ogden, Patrick, Seliger, Shapiro, Uresti, Van de Putte, Watson, Wentworth, West, Whitmire, Williams, Zaffirini.

Nays: Brimer, Shapleigh.

Absent-excused: Carona.

The bill was read third time and was passed by the following vote: Yeas 28, Nays 2. (Same as previous roll call)

REMARKS ORDERED PRINTED

On motion of Senator Shapiro and by unanimous consent, the remarks by Senators Ogden and Shapiro regarding Floor Amendment No. 5 to **CSSB 101** were ordered reduced to writing and printed in the *Senate Journal*.

The remarks were printed in an addendum to this day's journal.

REASON FOR VOTE

Senator Brimer submitted the following reason for vote on **CSSB 101**:

This bill changed with the added cost. I do not support the bill as amended.

BRIMER

REASON FOR VOTE

Senator Zaffirini submitted the following reason for vote on **CSSB 101**:

I cast a "Yea" vote on motions related to **CSSB 101**, relating to limitations on the automatic admission of undergraduate students to general academic teaching institutions, because this Top Ten Percent Protection Plan significantly will increase diversity and access to higher education. The bill includes additional financial aid and intensive outreach, recruiting, and education efforts that will enhance accessibility and affordability of higher education in my district and statewide.

ZAFFIRINI

SENATE BILL 426 WITH HOUSE AMENDMENT

Senator West called **SB 426** 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 426** (House committee printing) as follows:

(1) In the recital to SECTION 1 of the bill (page 1, line 8), strike "Subsection (j)" and substitute "Subsections (e), (h), and (j)".

(2) In SECTION 1 of the bill, between the recital to the section and amended Section 11.182(j), Tax Code (page 1, between lines 8 and 9), insert the following:

(e) Notwithstanding ~~[In addition to meeting the applicable requirements of Subsections (b), [and] (c), and (j), an organization is entitled to [receive] an exemption under Subsection (b) for improved real property that the organization owns or controls and that is [includes a housing project constructed after December 31, 2001, and] financed with qualified 501(c)(3) bonds issued under Section 145 of the Internal Revenue Code of 1986, tax-exempt private activity bonds subject to volume cap, or low-income housing tax credits if [;] the organization [must]:~~

(1) meets the requirements of Subsections (b)(1) and (2);

(2) owns or controls [control] 100 percent of the interest in:

(A) the general partner of the [if the project is owned by a] limited partnership that owns the property, if applicable; or

(B) the entity that owns the property;

(3) complies [(2) comply] with all rules of and laws administered by the Texas Department of Housing and Community Affairs applicable to community housing development organizations; [and]

(4) submits [(3) submit] annually to the Texas Department of Housing and Community Affairs and to the governing body of each taxing unit for which the project receives an exemption for the housing project evidence demonstrating that the organization spent an amount equal to at least 90 percent of the project's cash flow in

the preceding fiscal year as determined by the audit required by Subsection (g), for eligible persons in the county in which the property is located, on social, educational, or economic development services, capital improvement projects, or rent reduction; and

(5) applied for an exemption under this section for the property before January 1, 2004.

(h) Subsections (d) and (e)(4) [~~(e)(3)~~] do not apply to property owned by an organization if:

(1) the entity that provided the financing for the acquisition or construction of the property:

(A) requires the organization to make payments in lieu of taxes to the school district in which the property is located; or

(B) restricts the amount of rent the organization may charge for dwelling units on the property; or

(2) the organization has entered into an agreement with each taxing unit for which the property receives an exemption to spend in each tax year for the purposes provided by Subsection (d) or (e)(4) [~~(e)(3)~~] an amount equal to the total amount of taxes imposed on the property in the tax year preceding the year in which the organization acquired the property.

The amendment was read.

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

The motion prevailed without objection.

The President asked if there were any motions to instruct the conference committee on **SB 426** before appointment.

There were no motions offered.

The President announced the appointment of the following conferees on the part of the Senate: Senators West, Chair; Wentworth, Nichols, Patrick, and Ellis.

SENATE BILL 593 WITH HOUSE AMENDMENT

Senator Wentworth called **SB 593** 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 593** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED AN ACT

relating to providing notice to certain beneficiaries under a decedent's will.

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

SECTION 1. Section 128A, Texas Probate Code, is amended to read as follows:

Sec. 128A. NOTICE TO CERTAIN BENEFICIARIES ~~[ENTITIES]~~ AFTER PROBATE OF WILL. (a) In this section, "beneficiary" means a person, entity, state, governmental agency of the state, charitable organization, or trust entitled to receive real or personal property under the terms of a decedent's will, to be determined for purposes of this section with the assumption that each person who is alive on the date of the decedent's death survives any period required to receive the bequest as specified by the terms of the will.

(b) Except as provided by Subsection (d) of this section, not later than the 60th day after the date of an order admitting a decedent's will to probate, the personal representative of the decedent's estate, including an independent executor or independent administrator, shall give notice that complies with Subsection (c) of this section to each beneficiary named in the will whose identity and address are known to the personal representative or, through reasonable diligence, can be ascertained. If, after the 60th day after the date of the order, the personal representative becomes aware of the identity and address of a beneficiary who was not given notice on or before the 60th day, the personal representative shall give the notice as soon as possible after becoming aware of that information.

(c) Notwithstanding the requirement under Subsection (b) of this section that the personal representative give the notice to the beneficiary, the personal representative shall give the notice with respect to a beneficiary described by this subsection as follows:

(1) if the beneficiary is a trust, to the trustee, unless the personal representative is the trustee, in which case the personal representative shall give the notice to the person or class of persons first eligible to receive the trust income, to be determined for purposes of this subdivision as if the trust were in existence on the date of the decedent's death;

(2) if the beneficiary has a court-appointed guardian or conservator, to that guardian or conservator;

(3) if the beneficiary is a minor for whom no guardian or conservator has been appointed, to a parent of the minor; and

(4) if the beneficiary is a charity that for any reason cannot be notified, to the attorney general.

(d) A personal representative is not required to give the notice otherwise required by this section to a beneficiary:

(1) who made an appearance in the proceeding with respect to the decedent's estate before the will was admitted to probate;

(2) who received a copy of the will that was admitted to probate and waived the right to receive the notice in an instrument that:

(A) acknowledges the receipt of the copy of the will;

(B) is signed by the beneficiary; and

(C) is filed with the court; or

(3) whose only benefit under the will is cash in the amount of \$1,000 or less.

(e) The notice required by this section must:

(1) state:

(A) the name and address of the beneficiary to whom the notice is given or, for a beneficiary described by Subsection (c) of this section, the name and address of the beneficiary for whom the notice is given and of the person to whom the notice is given;

(B) the decedent's name;

(C) that the decedent's will has been admitted to probate;

(D) that the beneficiary to whom or for whom the notice is given is named as a beneficiary in the will; and

(E) the personal representative's name and contact information; and

(2) contain as attachments a copy of the will admitted to probate and the order admitting the will to probate.

(f) The notice required by this section must be sent by registered or certified mail, return receipt requested.

(g) Not later than the 90th day after the date of an order admitting a will to probate, the personal representative shall file with the clerk of the court in which the decedent's estate is pending a sworn affidavit of the personal representative, or a certificate signed by the personal representative's attorney, stating:

(1) for each beneficiary to whom notice was required to be given under this section, the name and address of the beneficiary to whom the personal representative gave the notice or, for a beneficiary described by Subsection (c) of this section, the name and address of the beneficiary and of the person to whom the notice was given;

(2) the name and address of each beneficiary who filed a waiver of the notice;

(3) the name of each beneficiary whose identity or address could not be ascertained despite the personal representative's exercise of reasonable diligence; and

(4) any other information necessary to explain the personal representative's inability to give the notice to or for any beneficiary as required by this section.

(h) The affidavit or certificate required by Subsection (g) of this section may be included with any pleading or other document filed with the clerk of the court, including the inventory, appraisal, and list of claims or an application for an extension of the deadline to file the inventory, appraisal, and list of claims, provided that the pleading or other document with which the affidavit or certificate is included is filed not later than the date the affidavit or certificate is required to be filed as provided by Subsection (g) of this section. ~~[If the address of the entity can be ascertained with reasonable diligence, an applicant under Section 81 of this code shall give the state, a governmental agency of the state, or a charitable organization notice that the entity is named as a devisee in a written will, a written will not produced, or a nuncupative will that has been admitted to probate.]~~

~~[(b) The notice required by Subsection (a) of this section must be given not later than the 30th day after the date of the probate of the will.]~~

~~[(c) The notice must be in writing and state the county in which the will was admitted to probate. A copy of the application and the order admitting the will to probate and, if the application is for probate of a written will, a copy of the will must be attached to the notice.]~~

~~[(d) An entity entitled to notice under Subsection (a) of this section must be notified by registered or certified mail, return receipt requested.]~~

~~[(c) The applicant must file a copy of the notice with the court in which the will was admitted to probate.]~~

SECTION 2. The heading to Section 128B, Texas Probate Code, is amended to read as follows:

Sec. 128B. NOTICE TO HEIRS ON APPLICATION TO PROBATE ~~[WHEN]~~ WILL ~~[PROBATED]~~ AFTER FOUR YEARS.

SECTION 3. Section 149C(a), Texas Probate Code, is amended to read as follows:

(a) The county court, as that term is defined by Section 3 of this code, on its own motion or on motion of any interested person, after the independent executor has been cited by personal service to answer at a time and place fixed in the notice, may remove an independent executor when:

(1) the independent executor fails to return within ninety days after qualification, unless such time is extended by order of the court, an inventory of the property of the estate and list of claims that have come to the independent executor's ~~[his]~~ knowledge;

(2) sufficient grounds appear to support belief that the independent executor ~~[he]~~ has misapplied or embezzled, or that the independent executor ~~[he]~~ is about to misapply or embezzle, all or any part of the property committed to the independent executor's ~~[his]~~ care;

(3) the independent executor ~~[he]~~ fails to make an accounting which is required by law to be made;

(4) the independent executor ~~[he]~~ fails to timely file the affidavit or certificate ~~[notice]~~ required by Section 128A of this code;

(5) the independent executor ~~[he]~~ is proved to have been guilty of gross misconduct or gross mismanagement in the performance of the independent executor's ~~[his]~~ duties; or

(6) the independent executor ~~[he]~~ becomes an incapacitated person, or is sentenced to the penitentiary, or from any other cause becomes legally incapacitated from properly performing the independent executor's ~~[his]~~ fiduciary duties.

SECTION 4. Section 222(b), Texas Probate Code, is amended to read as follows:

(b) With Notice. The court may remove a personal representative on its own motion, or on the complaint of any interested person, after the personal representative has been cited by personal service to answer at a time and place fixed in the notice, when:

(1) Sufficient grounds appear to support belief that the personal representative ~~[he]~~ has misapplied, embezzled, or removed from the state, or that the personal representative ~~[he]~~ is about to misapply, embezzle, or remove from the state, all or any part of the property committed to the personal representative's ~~[his]~~ care;

(2) The personal representative ~~[He]~~ fails to return any account which is required by law to be made;

(3) The personal representative ~~[He]~~ fails to obey any proper order of the court having jurisdiction with respect to the performance of the personal representative's ~~[his]~~ duties;

(4) The personal representative [He] is proved to have been guilty of gross misconduct, or mismanagement in the performance of the personal representative's [his] duties;

(5) The personal representative [He] becomes an incapacitated person, or is sentenced to the penitentiary, or from any other cause becomes incapable of properly performing the duties of the personal representative's [his] trust;

(6) As executor or administrator, the personal representative [he] fails to make a final settlement within three years after the grant of letters, unless the time be extended by the court upon a showing of sufficient cause supported by oath; or

(7) As executor or administrator, the personal representative [he] fails to timely file the affidavit or certificate [notice] required by Section 128A of this code.

SECTION 5. The changes in law made by this Act apply only to the estate of a decedent who dies on or after the effective date of this Act. The estate of a decedent who dies before the effective date of this Act is governed by the law in effect on the date of the decedent's death, and the former law is continued in effect for that purpose.

SECTION 6. This Act takes effect September 1, 2007.

The amendment was read.

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

The motion prevailed without objection.

The President asked if there were any motions to instruct the conference committee on **SB 593** before appointment.

There were no motions offered.

The President announced the appointment of the following conferees on the part of the Senate: Senators Wentworth, Chair; Hinojosa, Carona, Watson, and Duncan.

MESSAGES FROM THE GOVERNOR

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

Austin, Texas

May 4, 2007

TO THE SENATE OF THE EIGHTIETH LEGISLATURE, REGULAR SESSION:

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

To be a member of the Texas Woman's University Board of Regents for a term to expire February 1, 2013:

Cecilia May Moreno, Ed.D.

Laredo, Texas

(replacing Therese Bevers, M.D., of Houston whose term expired)

To be a member of the Upper Colorado River Authority Board of Directors for a term to expire February 1, 2009:

William Ray Hood

Robert Lee, Texas

(Mr. Hood is replacing Jack Brewer of Robert Lee who is deceased)

To be members of the Angelina and Neches River Authority Board of Directors for terms to expire September 5, 2011:

Greg James

Nacogdoches, Texas

(replacing James Raney of Nacogdoches whose term expired)

Louis Alan Bronaugh

Lufkin, Texas

(replacing Carl Ray Polk, Jr., of Lufkin whose term expired)

Respectfully submitted,

/s/Rick Perry

Governor

MESSAGE FROM THE HOUSE

HOUSE CHAMBER

Austin, Texas

May 4, 2007

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 1447, Relating to the investment authority of the Teacher Retirement System of Texas.

SB 1461, Relating to certain matters regarding a clean coal project, including contracting authority and indemnification requirements, liability, representation of a state agency by the attorney general, and monitoring of sequestered carbon dioxide.
(Committee Substitute)

SB 1463, Relating to the authority of certain counties to impose a hotel occupancy tax.
(Amended)

SB 1673, Relating to the period after which a preconstruction permit issued or renewed by the Texas Commission on Environmental Quality under the Texas Clean Air Act is subject to review.
(Committee Substitute)

SB 1694, Relating to fraud investigations and criminal offenses involving the Medicaid program; providing criminal penalties.

SB 1752, Relating to the election, powers, and duties of the members of the board of directors of the Midland County Hospital District.

SB 1832, Relating to the billing of anatomic pathology services; providing penalties.

Respectfully,

/s/Robert Haney, Chief Clerk
House of Representatives

**SENATE RULES SUSPENDED
(Posting Rules)**

On motion of Senator Zaffirini and by unanimous consent, Senate Rule 11.10(a) and Senate Rule 11.18(a) were suspended in order that the Subcommittee on Higher Education might meet and consider the following bills today at her desk:

SB 420, SB 1400, SB 1803, HB 125, HB 741, HB 902, HB 1187.

**SENATE RULES SUSPENDED
(Posting Rules)**

On motion of Senator Fraser and by unanimous consent, Senate Rule 11.10(a) and Senate Rule 11.18(a) were suspended in order that the Committee on Business and Commerce might meet and consider **SB 753** today at his desk.

RESOLUTIONS OF RECOGNITION

The following resolutions were adopted by the Senate:

Memorial Resolution

SR 974 by Ellis, In memory of James Tinsley of Houston.

Congratulatory Resolutions

SR 953 by Uresti, Recognizing the students from Medina Valley High School who are participating in the State Academic Tournament.

SR 969 by Nichols, Commending the Walden Emergency Management Action Team-Community Emergency Response Team for its contributions to its community.

SR 971 by Hegar, Recognizing the Oak Hill Cemetery Association of Bastrop County on the occasion of its 100th anniversary.

SR 972 by Nelson, Recognizing Marie Harrison for her service to her community.

SR 973 by Nelson, Recognizing Carolyn Pierel on the occasion of her retirement from the Argyle Independent School District.

ADJOURNMENT

On motion of Senator Whitmire, the Senate at 5:42 p.m. adjourned until 1:30 p.m. Monday, May 7, 2007.

APPENDIX

COMMITTEE REPORTS

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

May 4, 2007

INTERGOVERNMENTAL RELATIONS — **CSSB 919, CSSB 1498**

NATURAL RESOURCES — **CSSB 1693**

HEALTH AND HUMAN SERVICES — **CSHB 246, CSHB 416, CSHB 1396, CSHB 2683, CSHB 2685, CSSB 1095, CSSB 1481, CSSB 1866**

JURISPRUDENCE — **CSHB 776, CSHB 2967, SB 2028** (Amended)

BUSINESS AND COMMERCE — **CSHB 73, CSHB 1070, CSHB 1530, SB 544, CSSB 508, CSSB 1308, CSSB 1465, CSSB 1484**

FINANCE — **CSSB 49, CSSB 1638**

STATE AFFAIRS — **HB 1244, HB 1590, HB 2400, HB 2492**

INTERGOVERNMENTAL RELATIONS — **CSSB 1212**

CRIMINAL JUSTICE — **SB 230, CSSB 1083, HB 184, HB 488, HB 872, HB 953, HB 1042, HB 1610, HB 1766, HB 1887**

STATE AFFAIRS — **CSHB 3392**

FINANCE — **CSSJR 17**

HEALTH AND HUMAN SERVICES — **HB 1739**

INTERGOVERNMENTAL RELATIONS — **CSSB 2003, CSSB 2004**