

# SENATE JOURNAL

EIGHTIETH LEGISLATURE — REGULAR SESSION

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AUSTIN, TEXAS

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PROCEEDINGS

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**SIXTY-FOURTH DAY**  
(Thursday, May 17, 2007)

The Senate met at 9:07 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.

The Reverend Dr. Jack Riley, First United Methodist Church, Temple, offered the invocation as follows:

O Thou who are eternal, grant us the grace to live and act with integrity and give those in this Chamber who are assigned the responsibility of guiding our state wisdom to enact laws that guarantee justice for all of our people. We pray this prayer in all the names for God. 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 1764**

On motion of Senator Uresti, Senator Van de Putte will be shown as Co-author of **SB 1764**.

## **CO-SPONSORS OF HOUSE BILL 109**

On motion of Senator Averitt, Senators Hinojosa and Van de Putte will be shown as Co-sponsors of **HB 109**.

## **CO-SPONSOR OF HOUSE BILL 199**

On motion of Senator Whitmire, Senator Van de Putte will be shown as Co-sponsor of **HB 199**.

## **CO-SPONSOR OF HOUSE BILL 472**

On motion of Senator Van de Putte, Senator Estes will be shown as Co-sponsor of **HB 472**.

**CO-SPONSOR OF HOUSE BILL 621**

On motion of Senator Duncan, Senator Zaffirini will be shown as Co-sponsor of **HB 621**.

**CO-SPONSOR OF HOUSE BILL 913**

On motion of Senator Estes, Senator Hinojosa will be shown as Co-sponsor of **HB 913**.

**CO-SPONSOR OF HOUSE BILL 1412**

On motion of Senator Deuell, Senator Van de Putte will be shown as Co-sponsor of **HB 1412**.

**CO-SPONSOR OF HOUSE BILL 1775**

On motion of Senator Zaffirini, Senator Nichols will be shown as Co-sponsor of **HB 1775**.

**CO-SPONSOR OF HOUSE BILL 3024**

On motion of Senator Eltife, Senator Patrick will be shown as Co-sponsor of **HB 3024**.

**CO-SPONSOR OF HOUSE BILL 3191**

On motion of Senator West, Senator Zaffirini will be shown as Co-sponsor of **HB 3191**.

**CO-SPONSOR OF HOUSE BILL 3355**

On motion of Senator Brimer, Senator Shapleigh will be shown as Co-sponsor of **HB 3355**.

**CO-SPONSOR OF HOUSE BILL 3430**

On motion of Senator Hegar, Senator Shapleigh will be shown as Co-sponsor of **HB 3430**.

**CO-SPONSOR OF HOUSE BILL 3900**

On motion of Senator Shapiro, Senator West will be shown as Co-sponsor of **HB 3900**.

**CO-SPONSOR OF HOUSE CONCURRENT RESOLUTION 111**

On motion of Senator Brimer, Senator Van de Putte will be shown as Co-sponsor of **HCR 111**.

**CO-SPONSOR OF HOUSE CONCURRENT RESOLUTION 159**

On motion of Senator Shapleigh, Senator Zaffirini will be shown as Co-sponsor of **HCR 159**.

**MESSAGE FROM THE HOUSE****HOUSE CHAMBER**

Austin, Texas

May 17, 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 129**, Relating to reporting of gifts of cash or a cash equivalent to public officials.

**SB 136**, Relating to the establishment of a community education program concerning Internet safety.

**SB 153**, Relating to the creation of an offense involving the supervision of a vehicle operator holding an instruction permit.

**SB 166**, Relating to a prison diversion progressive sanctions program.

**SB 199**, Relating to certain convictions barring employment at certain facilities serving the elderly or persons with disabilities.  
(Committee Substitute/Amended)

**SB 204**, Relating to certain electronic medical records systems.  
(Committee Substitute/Amended)

**SB 222**, Relating to a security freeze on a consumer file maintained by a consumer reporting agency.  
(Amended)

**SB 247**, Relating to prohibiting the investment of state funds in certain private business entities doing business in Sudan.

**SB 322**, Relating to possession of firearms and ammunition in certain foster homes.

**SB 450**, Relating to enrollment and participation in certain research programs of certain children in foster care.  
(Amended)

**SB 618**, Relating to the jurisdiction of and representation in the county, justice, and small claims courts in civil matters.

**SB 759**, Relating to certain requirements relating to permanency hearings and placement review hearings for children under the care of the Department of Family and Protective Services.  
(Amended)

**SB 765**, Relating to the use of municipal hotel occupancy taxes for the enhancement and upgrading of sports facilities and fields by certain municipalities.  
(Amended)

**SB 924**, Relating to rules and policies adopted by state agencies regarding engineering or architectural errors or omissions.  
(Committee Substitute)

**SB 940**, Relating to multi-jurisdictional library districts.

**SB 1037**, Relating to the prevention of surface water or groundwater pollution from certain evaporation pits.  
(Amended)

**SB 1097**, Relating to the penalties for the offense of criminal trespass.  
(Amended)

**SB 1266**, Relating to pass-through financing and the creation and operation of the transportation reinvestment fund.  
(Amended)

**SB 1424**, Relating to the municipalities authorized to use the other events trust fund to attract certain sporting events.  
(Committee Substitute)

**SB 1519**, Relating to longevity pay for certain state judges and justices.

**SB 1520**, Relating to ad valorem tax lien transfers.  
(Amended)

**SB 1536**, Relating to the issuance of bonds by a municipality for certain improvements on the state highway system; providing authority to impose a tax.

**SB 1627**, Relating to the prosecution of workers' compensation insurance fraud.

**SB 1670**, Relating to certificates of compliance issued by the Railroad Commission of Texas to owners or operators of certain wells subject to the jurisdiction of the commission.  
(Committee Substitute)

**SB 1956**, Relating to assistance for local areas affected by defense restructuring.

Respectfully,

/s/Robert Haney, Chief Clerk  
House of Representatives

### **HOUSE BILLS AND RESOLUTION ON FIRST READING**

The following bills and resolution received from the House were read first time and referred to the committees indicated:

**HB 744** to Committee on Transportation and Homeland Security.

**HB 1287** to Committee on Education.

**HB 1662** to Committee on Business and Commerce.

**HB 2733** to Committee on Finance.

**HB 2734** to Committee on Intergovernmental Relations.

**HB 4015** to Committee on Intergovernmental Relations.

**HJR 6** to Committee on Criminal Justice.

**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 802, SB 814, SB 952, SB 1426, SB 1502, SB 1615, SB 1659, SB 1666, SB 1667, SB 1867, SCR 73, SJR 20.**

**HOUSE CONCURRENT RESOLUTION 23**

The President laid before the Senate the following resolution:

WHEREAS, A Texas star has forever dimmed with the passing of the Honorable Ann Richards, 45th governor of Texas, on September 13, 2006, at the age of 73; and

WHEREAS, Governor Richards once explained a profound lesson she had learned early in life: "that people liked you better if you made them laugh"; it was a truth that Ann Richards never ignored, and her engaging wit and charismatic presence, accompanied by a razor-sharp intellect, made her into a groundbreaking politician; just the second female chief executive in the state's history and the first since the 1930s, Governor Richards achieved prominence on both the state and national levels as a role model and outspoken advocate for women and other underrepresented groups seeking a voice in government affairs; and

WHEREAS, Born Dorothy Ann Willis on September 1, 1933, she was the daughter of Cecil and Ona Willis and grew up in the Waco area, first in the town of Lakeview and later in Waco itself; her abilities as a public speaker and her interest in politics emerged during her years at Waco High School; she became state debate champion during her senior year and took part in Girl's State, a mock-government assembly of Texas female students, at which she was elected lieutenant governor; and

WHEREAS, Governor Richards married while a student at Baylor University, where she earned her degree on a debate scholarship; together with her husband, she raised four children and lived in a succession of cities over the following two decades, including Washington, D.C., Dallas, and Austin, and she went on to earn a teaching certificate and to work as a middle-school educator; she was also active in Democratic party politics, helping found the North Dallas Democratic Women and assisting in several gubernatorial and senate campaigns; her first intensive involvement in government affairs occurred in the early 1970s, when she helped direct the campaign that elected Sarah Weddington to the Texas House of Representatives, and she later served as Ms. Weddington's administrative assistant; and

WHEREAS, Opting to become a candidate herself, Ann Richards was elected to the Travis County Commissioners Court in 1976, becoming its first female member, and she was reelected four years later; in 1982, she sought election as state treasurer and became the first woman to win a statewide office in Texas in 50 years; during her two terms as treasurer, she oversaw the modernization of the department's technological processes, increased state revenue, and proved that a woman could excel in the highest levels of state government; and

WHEREAS, Already a well-known figure in Texas, she stepped into the national spotlight by delivering a rousing keynote address at the 1988 Democratic National Convention in Atlanta; building on this momentum, she entered the Texas governor's race in 1990, and after a hard-fought campaign, she became the state's chief executive, proclaiming her inauguration as "the first day of the new Texas"; and

WHEREAS, In the four years she spent in the Governor's Mansion, Ann Richards undertook a wide range of important initiatives, including changes to school financing, government oversight, insurance regulation, prison construction, and criminal sentencing; moreover, in making appointments to state boards and commissions, she chose a large number of talented women and minorities, following through on her campaign promise to make Texas government more representative of the state's population; and

WHEREAS, Her tenure as governor came to an end in 1995, but she remained an important and beloved figure in Texas and throughout the country, and her jokes and insights were on full display during her many speaking engagements; in her professional endeavors, she became a senior advisor to a Washington law firm and worked for Public Strategies, Inc., a public relations and marketing firm; a devoted civic activist, she was involved with charitable institutions such as the Save the Children Federation and helped develop the Ann Richards School for Young Women Leaders, a public school that will open in Austin in 2007 and provide leadership training for young women, including many from economically disadvantaged families; and

WHEREAS, Commenting on the legacy she would leave behind, Governor Richards once stated that "I'd like them to remember me by saying, 'She opened government to everyone'"; that noble principle will certainly be among the hallmarks of this remarkable Texan, as will her efforts to improve the lives of the state's residents; with her endearing humor and magnetic personality, she carried forth these ideals, and her career will stand as an enduring example of inspired public service that had an enormous influence on the State of Texas and far beyond the borders of the Lone Star State; now, therefore, be it

RESOLVED, That the 80th Legislature of the State of Texas hereby pay special tribute to the life of Ann Richards and that deepest condolences be paid to the members of her family: to her four children, Cecile, Daniel, Clark, and Ellen, and their spouses, to her eight grandchildren, and to the many people across the nation she made extremely proud to call Texas home; and, be it further

RESOLVED, That an official copy of this resolution be prepared for the members of her family and that when the Texas House of Representatives and Senate adjourn this day, they do so in memory of Governor Ann Richards.

ELLIS

**HCR 23** was read.

On motion of Senator Ellis and by unanimous consent, the resolution was considered immediately and was adopted by a rising vote of the Senate.

### GUESTS PRESENTED

Senator Ellis was recognized and introduced to the Senate Ellen Richards, daughter of former Texas Governor Ann Richards, accompanied by her husband, Greg Johnson.

The Senate welcomed its guests.

### PHYSICIAN OF THE DAY

Senator Van de Putte was recognized and presented Dr. James Martin of San Antonio as the Physician of the Day.

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

### BILLS AND RESOLUTIONS SIGNED

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

**SB 66, SB 75, SB 99, SB 156, SB 178, SB 242, SB 244, SB 288, SB 291, SB 377, SB 596, SB 600, SB 625, SB 680, SB 744, SB 796, HB 71, HB 75, HB 86, HB 90, HB 184, HB 210, HB 280, HB 290, HB 389, HB 391, HB 421, HB 486, HB 488, HB 505, HB 519, HB 534, HB 606, HB 682, HB 716, HB 872, HB 953, HB 989, HB 1042, HB 1127, HB 1194, HB 1244, HB 1248, HB 1298, HB 1590, HB 1694, HB 1710, HB 1739, HB 1766, HB 1850, HB 1887, HB 1972, HB 2045, HB 2278, HB 2281, HB 2282, HB 2288, HB 2322, HB 2400, HB 2411, HB 2455, HB 2492, HB 2682, HB 2685, HB 2840, HB 2870, HB 3089, HB 3166, HB 3167, HB 3564, HCR 70, HCR 125, HCR 196, HCR 235, HCR 252.**

### GUESTS PRESENTED

Senator Uresti was recognized and introduced to the Senate members of the Kickapoo Traditional Tribe of Texas.

The Senate welcomed its guests.

### HOUSE CONCURRENT RESOLUTION 256

The President laid before the Senate the following resolution:

WHEREAS, The House of Representatives of the State of Texas has returned **SB 903** to the Senate of the State of Texas; and

WHEREAS, Further consideration of the bill by the house is necessary; now, therefore, be it

RESOLVED, by the House of Representative of the State of Texas, the Senate of the State of Texas concurring, That the house hereby respectfully requests that the secretary of the senate be authorized to return Senate Bill No. 903 to the house for further consideration.

BRIMER

**HCR 256** was read.

On motion of Senator Brimer 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.

### CONCLUSION OF MORNING CALL

The President at 9:50 a.m. announced the conclusion of morning call.

### HOUSE BILL 680 ON SECOND READING

On motion of Senator Seliger and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 680** at this time on its second reading:

**HB 680**, Relating to the sale of certain small municipal parks.

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.

**(Senator Eltife in Chair)**

### HOUSE BILL 680 ON THIRD READING

Senator Seliger moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 680** 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 1009 ON SECOND READING

On motion of Senator Lucio and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 1009** at this time on its second reading:

**CSHB 1009**, Relating to the use of state hotel occupancy tax revenue to clean and maintain beaches in certain municipalities.

The bill was read second time.

Senator Hinojosa offered the following amendment to the bill:

#### Floor Amendment No. 1

Amend **CSHB 1009** (Senate committee printing) as follows:

(1) In SECTION 1 of the bill, in amended Section 156.2512(a)(1), Tax Code (page 1, line 21), between "located" and "in", insert "on barrier islands".

(2) In SECTION 1 of the bill, strike amended Section 156.2512(c)(1), Tax Code (page 1, lines 33 through 41), and substitute the following:

(1) "Eligible barrier island [~~general law~~] coastal municipality" means a [~~general law~~] municipality:

(A) [~~that has a population of less than 5,000;~~



~~(B)~~ that borders on the Gulf of Mexico;  
(B) that is located wholly or partly on a barrier island; and  
(C) the boundaries of which are within 30 miles of the United Mexican States or include a portion of a national seashore.

The amendment to **CSHB 1009** was read and was adopted by a viva voce vote.

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

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

**CSHB 1009** as amended was passed to third reading by a viva voce vote.

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

### COMMITTEE SUBSTITUTE HOUSE BILL 1009 ON THIRD READING

Senator Lucio moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 1009** 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 447 ON SECOND READING

On motion of Senator Jackson and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 447** at this time on its second reading:

**CSHB 447**, Relating to contracts by governmental entities and related professional services, to public works performance and payment bonds, and to certain regulations of local authorities.

The bill was read second time.

Senator Jackson offered the following amendment to the bill:

#### Floor Amendment No. 1

Amend **CSHB 447** in Article 3 by adding a new SECTION to read as follows:

SECTION \_\_. Section 60.401, Water Code, is amended by adding Subsection (d) to read as follows:

(d) Chapter 2264, Government Code, does not apply to this subchapter.

The amendment to **CSHB 447** 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 Jackson offered the following amendment to the bill:

**Floor Amendment No. 2**

Amend **CSHB 447** in Article 2 by striking Section 2264.352(b), Government Code (page 13, lines 37-44)

The amendment to **CSHB 447** was read and was adopted by a viva voce vote.

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

Senator Jackson offered the following amendment to the bill:

**Floor Amendment No. 3**

Amend **CSHB 447** by adding a new Section to read as follows:

SECTION \_\_. Section 11.168, Education Code, is amended by adding Subsection (b) to read as follows:

(b) This section does not prohibit the board of trustees of a school district from entering into an agreement with a non-governmental entity for the design, construction or renovation of improvements to real property not owned or leased by the district, if such improvements provide a benefit to real property owned or leased by the district. Benefits to real property owned or leased by the district include, but are not limited to, the design, construction or renovation of highways, roads, streets, sidewalks, cross walks, utilities and drainage improvements which serve or benefit the real property owned or leased by the school district.

The amendment to **CSHB 447** was read and was adopted by a viva voce vote.

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

Senator Jackson offered the following amendment to the bill:

**Floor Amendment No. 4**

Amend **CSHB 447** (Senate committee printing) as follows:

(1) In Section 2.10 of the bill, in added Section 2264.002, Government Code, strike Subdivision (3) (page 4, lines 60-61) and renumber the subsequent subdivisions accordingly.

(2) In Section 2.10 of the bill, strike added Section 2264.005(b), Government Code (page 5, lines 30-33), and substitute:

(b) This chapter does not apply to:

- (1) a public junior college or any other institution of higher education; or
- (2) a university system.

The amendment to **CSHB 447** 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 Jackson offered the following amendment to the bill:

**Floor Amendment No. 5**

Amend **CSHB 447** (Senate committee printing) by adding the following appropriately numbered SECTIONS to Article 2 of the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION 2. \_\_. Section 44.031(b), Education Code, is amended to read as follows:

(b) Except as provided by this subchapter, in determining to whom to award a contract, the district may consider:

- (1) the purchase price;
- (2) the reputation of the vendor and of the vendor's goods or services;
- (3) the quality of the vendor's goods or services;
- (4) the extent to which the goods or services meet the district's needs;
- (5) the vendor's past relationship with the district;
- (6) the impact on the ability of the district to comply with laws and rules relating to historically underutilized businesses;

(7) the total long-term cost to the district to acquire the vendor's goods or services; ~~and~~

(8) whether the vendor provides health care benefits or equivalent health savings benefits to employees; and

(9) any other relevant factor specifically listed in the request for bids or proposals.

SECTION \_\_. Subchapter B, Chapter 44, Education Code, is amended by adding Section 44.0421 to read as follows:

Sec. 44.0421. PREFERENCE FOR VENDORS THAT PROVIDE HEALTH CARE BENEFITS OR EQUIVALENT HEALTH SAVINGS BENEFITS. (a) A school district procuring goods or services shall give preference to goods or services of a vendor that demonstrates that the vendor provides health care benefits or equivalent health savings benefits to the vendor's employees if:

(1) the goods or services meet district specifications regarding quantity and quality; and

(2) the cost of the goods or services does not exceed the cost of similar goods or services produced by a vendor that does not demonstrate that the vendor provides health care benefits or equivalent health savings benefits to the vendor's employees.

(b) A contract awarded to a vendor using the preference under this section must include terms that allow the district to terminate the contract if the vendor at any time during the life of the contract does not continue to provide health care benefits or equivalent health savings benefits at a level comparable to the level the vendor claimed to provide in its demonstration under Subsection (a).

SECTION 2. \_\_. Section 2155.074(b), Government Code, is amended to read as follows:

(b) In determining the best value for the state, the purchase price and whether the goods or services meet specifications are the most important considerations. However, the commission or other state agency may, subject to Subsection (c) and Section 2155.075, consider other relevant factors, including:

- (1) installation costs;
- (2) life cycle costs;
- (3) the quality and reliability of the goods and services;
- (4) the delivery terms;
- (5) indicators of probable vendor performance under the contract such as past vendor performance, the vendor's financial resources and ability to perform, the vendor's experience or demonstrated capability and responsibility, and the vendor's ability to provide reliable maintenance agreements and support;
- (6) the cost of any employee training associated with a purchase;
- (7) the effect of a purchase on agency productivity;
- (8) the vendor's anticipated economic impact to the state or a subdivision of the state, including potential tax revenue and employment;
- (9) whether the vendor provides health care benefits or equivalent health savings benefits to the vendor's employees; and
- (10) ~~(9)~~ other factors relevant to determining the best value for the state in the context of a particular purchase.

SECTION 2. Subchapter H, Chapter 2155, Government Code, is amended by adding Section 2155.452 to read as follows:

Sec. 2155.452. PREFERENCE FOR VENDORS THAT PROVIDE HEALTH CARE BENEFITS OR EQUIVALENT HEALTH SAVINGS BENEFITS. (a) The commission and all state agencies procuring goods or services shall give preference to goods or services of a vendor that demonstrates that the vendor provides health care benefits or equivalent health savings benefits to the vendor's employees if:

- (1) the goods or services meet state specifications regarding quantity and quality; and
- (2) the cost of the goods or services does not exceed the cost of other similar goods or services produced by a vendor that does not demonstrate that the vendor provides health care benefits or equivalent health savings benefits to the vendor's employees.

(b) A contract awarded to a vendor using the preference under this section must include terms that allow the commission or a state agency to terminate the contract if the vendor at any time during the life of the contract does not continue to provide health care benefits or equivalent health savings benefits at a level comparable to the level the vendor claimed to provide in its demonstration under Subsection (a).

SECTION 2. Section 44.0421, Education Code, and Section 2155.452, Government Code, as added by this Act, apply only to a contract for the procurement of goods and services for which the solicitation of bids or proposals, request for proposals, or similar request for offers to provide the goods or services is first published on or after September 1, 2007. A contract for the procurement of goods and services for which the solicitation of bids or proposals, request for proposals, or similar request for offers to provide the goods or services is first published before September 1, 2007, is governed by the law in effect at the time the solicitation or request is published, and that law is continued in effect for that purpose.

The amendment to **CSHB 447** 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 Shapiro offered the following amendment to the bill:

**Floor Amendment No. 6**

Amend **CSHB 447** (Senate committee printing) as follows:

- (1) On page 4, line 44, before the word "This", add "(a)".
- (2) On page 4, between lines 64 and 65, add the following subsection: (b) This chapter does not apply to regional tollway authorities under Chapter 366, Transportation Code.

The amendment to **CSHB 447** 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 Lucio offered the following amendment to the bill:

**Floor Amendment No. 7**

Amend **CSHB 447** (Senate committee printing) by adding the following appropriately numbered section to Article 2 of the bill and renumbering the remaining sections of the article appropriately:

SECTION 2. \_\_. Section 2166.259, Government Code, is amended by amending Subsections (a), (b), (d), and (e) and adding Subsections (b-1), (b-2), and (b-3) to read as follows:

(a) This section applies only in relation to ~~[a contract for]~~ a public works project that will involve a contract or aggregated multiple contracts with ~~[has]~~ an estimated cost of more than \$1 ~~[\$20]~~ million.

(b) The commission shall maintain a small contractor participation assistance program to ensure full opportunity for participation in public works projects by small contractors. The program must include a:

(1) system for the centralized purchase of necessary insurance coverage for the public works project that is required under Subsection (c);

(2) public outreach plan to:

(A) provide public information about the program; and

(B) encourage small contractors to participate in the program;

(3) technical assistance plan to aid small contractors in developing the skills necessary to participate in the program in accordance with Subsection (d); ~~[and]~~

(4) financing assistance plan to provide administrative and other assistance to small contractors in obtaining necessary financing arrangements to make the participation of those contractors possible; and

(5) method developed with guidance from the Texas Department of Insurance to assist small contractors in:

(A) preparing bond application packages for public works projects in a format acceptable to bond underwriters; and

(B) obtaining bonds required to participate in public works projects.

(b-1) The commission shall designate a commission employee to serve as small contractor participation assistance coordinator. In addition to any other responsibilities, the coordinator shall:

(1) administer the small contractor participation assistance program established under this section;

(2) with the assistance of the Texas Department of Insurance, provide to small contractors technical assistance and training related to preparing bond application packages and obtaining bonds; and

(3) with the assistance of the facilities construction and space management division of the commission, provide to small contractors technical assistance related to participation in the program.

(b-2) The small contractor participation assistance coordinator shall submit an annual report describing the activities and progress of the program to the governor, the lieutenant governor, and each member of the legislature.

(b-3) Funding appropriated to the commission for the small contractor participation assistance program may only be used for that program.

(d) A technical assistance plan adopted by the commission must include information on and assistance in:

(1) bid estimation, the bidding process, scheduling, and the understanding of bid documents;

(2) the reading of construction drawings and other analogous documents;

(3) business accounting, bonds, and bond requirements;

(4) negotiation with general contractors; ~~and~~

(5) other technical and administrative matters considered appropriate and necessary given the complexity and scope of the public works project; and

(6) small contractor safety training to ensure compliance with federal jobsite safety standards.

(e) The commission shall ~~may~~ negotiate contracts with persons or firms having expertise and any required license in the areas that must be included in the commission's technical assistance plan to provide the information and assistance.

The amendment to **CSHB 447** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 7.

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

**CSHB 447** as amended was passed to third reading by a viva voce vote.

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

### **COMMITTEE SUBSTITUTE HOUSE BILL 447 ON THIRD READING**

Senator Jackson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 447** 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 479 ON SECOND READING**

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

**CSHB 479**, Relating to the succession of the La Joya Water Supply Corporation by the Tabasco Special Utility District.

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

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

**COMMITTEE SUBSTITUTE  
HOUSE BILL 479 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 **CSHB 479** be placed on its third reading and final passage.

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

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

**SENATE BILL 2054 ON SECOND READING**

On motion of Senator Deuell and by unanimous consent, the regular order of business was suspended to take up for consideration **SB 2054** at this time on its second reading:

**SB 2054**, Relating to the powers and duties of the Parker Creek Municipal Utility District of Rockwall County; providing authority to issue bonds.

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 2054 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 **SB 2054** be placed on its third reading and final passage.

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

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

**HOUSE BILL 342 ON SECOND READING**

On motion of Senator Watson and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 342** at this time on its second reading:

**HB 342**, Relating to concurrent guardianship proceedings in this state and in a foreign jurisdiction.

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

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

#### **HOUSE BILL 342 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 **HB 342** 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 188 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 **CSHB 188** at this time on its second reading:

**CSHB 188**, Relating to the adoption of textbooks and the use of credits for textbooks or other instructional materials in a school district or open-enrollment charter school.

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

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

#### **COMMITTEE SUBSTITUTE HOUSE BILL 188 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 **CSHB 188** 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 413 ON SECOND READING**

Senator Carona moved to suspend the regular order of business to take up for consideration **CSHB 413** at this time on its second reading:

**CSHB 413**, Relating to erecting certain signs on certain rights-of-way; providing penalties.

The motion prevailed.



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

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

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

Nays: Nichols.

#### **COMMITTEE SUBSTITUTE HOUSE BILL 413 ON THIRD READING**

Senator Carona moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 413** be placed on its third reading and final passage.

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

Nays: Nichols.

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

#### **SENATE BILL 2057 ON SECOND READING**

Senator Wentworth moved to suspend the regular order of business to take up for consideration **SB 2057** at this time on its second reading:

**SB 2057**, Relating to recovery of attorney's fees for certain claims arising from the abandonment of hazardous wastes on the claimant's property.

The motion prevailed.

Senators Janek and Patrick asked to be recorded as voting "Nay" on suspension of the regular order of business.

Senator Watson asked to be recorded as "Present-not voting" on suspension of the regular order of business.

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

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

Nays: Janek, Patrick.

Present-not voting: Watson.

#### **SENATE BILL 2057 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 2057** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 2, Present-not voting 1.

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

Nays: Janek, Patrick.

Present-not voting: Watson.

The bill was read third time and was passed by the following vote: Yeas 28, Nays 2, Present-not voting 1. (Same as previous roll call)

### **HOUSE BILL 2625 ON SECOND READING**

Senator Hegar moved to suspend the regular order of business to take up for consideration **HB 2625** at this time on its second reading:

**HB 2625**, Relating to the determination of prevailing wage rates in Texas counties.

The motion prevailed by the following vote: Yeas 23, Nays 5.

Yeas: Brimer, Carona, Deuell, Ellis, Eltife, Estes, Fraser, Harris, Hegar, Hinojosa, Janek, Lucio, Nelson, Nichols, Patrick, Shapleigh, Uresti, Van de Putte, Watson, Wentworth, West, Whitmire, Zaffirini.

Nays: Duncan, Jackson, Seliger, Shapiro, Williams.

Absent: Averitt, Gallegos, Ogden.

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

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

Nays: Duncan, Jackson, Seliger, Shapiro, Williams.

Absent: Averitt, Gallegos, Ogden.

### **HOUSE BILL 2625 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 **HB 2625** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 23, Nays 5.

Yeas: Brimer, Carona, Deuell, Ellis, Eltife, Estes, Fraser, Harris, Hegar, Hinojosa, Janek, Lucio, Nelson, Nichols, Patrick, Shapleigh, Uresti, Van de Putte, Watson, Wentworth, West, Whitmire, Zaffirini.

Nays: Duncan, Jackson, Seliger, Shapiro, Williams.

Absent: Averitt, Gallegos, Ogden.

The bill was read third time and was passed by the following vote: Yeas 23, Nays 5. (Same as previous roll call)

**(President in Chair)****HOUSE BILL 693 ON SECOND READING**

On motion of Senator Carona and by unanimous consent, Senate Rule 5.14(a) and the regular order of business were suspended to take up for consideration **HB 693** at this time on its second reading:

**HB 693**, Relating to the form of "Welcome to Texas" signs along certain highways.

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

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

**HOUSE BILL 693 ON THIRD READING**

Senator Carona moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 693** be placed on its third reading and final passage.

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

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

**HOUSE BILL 2163 ON SECOND READING**

On motion of Senator Carona and by unanimous consent, Senate Rule 5.14(a) and the regular order of business were suspended to take up for consideration **HB 2163** at this time on its second reading:

**HB 2163**, Relating to the definition of automotive wrecking and salvage yard.

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

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

**HOUSE BILL 2163 ON THIRD READING**

Senator Carona moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2163** be placed on its third reading and final passage.

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

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

**HOUSE BILL 2546 ON SECOND READING**

On motion of Senator Carona and by unanimous consent, Senate Rule 5.14(a) and the regular order of business were suspended to take up for consideration **HB 2546** at this time on its second reading:

**HB 2546**, Relating to the sale of ammonium nitrate; creating an offense.

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

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

#### **HOUSE BILL 2546 ON THIRD READING**

Senator Carona moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2546** be placed on its third reading and final passage.

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

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

#### **HOUSE BILL 3601 ON SECOND READING**

On motion of Senator Carona and by unanimous consent, Senate Rule 5.14(a) and the regular order of business were suspended to take up for consideration **HB 3601** at this time on its second reading:

**HB 3601**, Relating to the conduct of certain contested cases involving the sale or lease of motor vehicles.

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

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

#### **HOUSE BILL 3601 ON THIRD READING**

Senator Carona moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 3601** be placed on its third reading and final passage.

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

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

**(Senator Watson in Chair)**

#### **HOUSE BILL 654 ON SECOND READING**

On motion of Senator Fraser and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 654** at this time on its second reading:

**HB 654**, Relating to a pilot project to develop and operate a crisis stabilization unit on Kerrville State Hospital grounds.

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

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

**HOUSE BILL 654 ON THIRD READING**

Senator Fraser moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 654** be placed on its third reading and final passage.

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

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

**HOUSE BILL 1230 ON SECOND READING**

On motion of Senator Zaffirini and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 1230** at this time on its second reading:

**HB 1230**, Relating to services provided to youth with disabilities transitioning from school-oriented living to post-schooling activities, services for adults, and community living.

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

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

**HOUSE BILL 1230 ON THIRD READING**

Senator Zaffirini moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1230** be placed on its third reading and final passage.

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

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

**HOUSE BILL 1652 ON SECOND READING**

On motion of Senator Fraser and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 1652** at this time on its second reading:

**HB 1652**, Relating to the provision of forms for personal financial statements filed with the Texas Ethics Commission.

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

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

**HOUSE BILL 1652 ON THIRD READING**

Senator Fraser moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1652** 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 Williams was recognized and introduced to the Senate family members of those who were killed in the Beaumont West Brook High School bus crash.

The Senate welcomed its guests.

## COMMITTEE SUBSTITUTE HOUSE BILL 463 ON SECOND READING

On motion of Senator Carona and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 463** at this time on its second reading:

**CSHB 463**, Relating to the regulation of air conditioning and refrigeration contracting; providing an administrative penalty.

The bill was read second time.

Senator Carona offered the following amendment to the bill:

### Floor Amendment No. 1

Amend **CSHB 463** (Senate committee report) as follows:

(1) Strike SECTION 2 of the bill (page 1, lines 24 through 33) and renumber remaining SECTIONS accordingly.

(2) In SECTION 7 of the bill, in added Section 1302.502, Occupations Code (page 2, line 17), strike "commission" and substitute "executive director".

(3) In SECTION 7 of the bill, in added Subsection (a), Section 1302.506, Occupations Code (page 2, line 39), strike "10th" and substitute "21st".

(4) In Subsection (b), SECTION 9, of the bill (page 2, lines 66 and 67), strike "Section 1302.062, Occupations Code, as amended by this Act, and".

The amendment to **CSHB 463** 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 Carona and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

**CSHB 463** as amended was passed to third reading by a viva voce vote.

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

## COMMITTEE SUBSTITUTE HOUSE BILL 463 ON THIRD READING

Senator Carona moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 463** be placed on its third reading and final passage.

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

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

**HOUSE BILL 587 ON SECOND READING**

On motion of Senator Hinojosa and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 587** at this time on its second reading:

**HB 587**, Relating to the recording of certain information by the clerk of a court.

The bill was read second time.

Senator Hinojosa offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **HB 587** (Senate committee printing) by adding the following appropriately numbered SECTION and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Article 20.02, Code of Criminal Procedure, is amended by adding Subsection (h) to read as follows:

(h) A subpoena or summons relating to a grand jury proceeding or investigation must be kept secret to the extent and for as long as necessary to prevent the unauthorized disclosure of a matter before the grand jury. This subsection may not be construed to limit a disclosure permitted by Subsection (c), (d), or (e).

The amendment to **HB 587** 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 Hinojosa and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

**HB 587** as amended was passed to third reading by a viva voce vote.

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

**HOUSE BILL 587 ON THIRD READING**

Senator Hinojosa moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 587** 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 1412 ON SECOND READING**

On motion of Senator Deuell and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 1412** at this time on its second reading:

**CSHB 1412**, Relating to the regional emergency medical dispatch resource centers program.

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 1412 ON THIRD READING**

Senator Deuell moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 1412** 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 1355 ON SECOND READING**

On motion of Senator Shapleigh and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 1355** at this time on its second reading:

**CSHB 1355**, Relating to dog attacks on persons; creating an offense.

The bill was read second time.

Senator Shapleigh offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **CSHB 1355** (Senate committee printing) in SECTION 6 of the bill, following proposed Subsection (f), Section 822.006, Health and Safety Code (page 2, between lines 35 and 36), by inserting the following appropriately lettered subsection:

( ) It is an affirmative defense to prosecution under Section 822.005(a) that, at the time of the conduct charged, the person and the dog are participating in an organized dog show or event sponsored by a nationally recognized or state-recognized kennel club.

The amendment to **CSHB 1355** 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 Estes offered the following amendment to the bill:

**Floor Amendment No. 2**

Amend **CSHB 1355** (Senate committee printing) in SECTION 6 of the bill, following proposed Subsection (f), Section 822.006, Health and Safety Code (page 2, between lines 35 and 36), by inserting the following appropriately lettered subsection:

( ) It is an affirmative defense to prosecution under Section 822.005(a) that, at the time of the conduct charged, the person and the dog are engaged in:

(1) a lawful hunting activity; or

(2) a farming or ranching activity, including herding livestock, typically performed by a working dog on a farm or ranch.



The amendment to **CSHB 1355** was read and was adopted by a viva voce vote.

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

Senator Estes offered the following amendment to the bill:

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

Amend **CSHB 1355** (Senate committee printing) in SECTION 6 of the bill, following proposed Subsection (f), Section 822.006, Health and Safety Code (page 2, between lines 35 and 36), by inserting the following appropriately lettered subsection:

( ) It is a defense to prosecution under Section 822.005(a) that, at the time of the conduct charged, the person's dog was on a leash and the person:

(1) was in immediate control of the dog; or

(2) if the person was not in control of the dog, the person was making immediate and reasonable attempts to regain control of the dog.

The amendment to **CSHB 1355** was read and was adopted by a viva voce vote.

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

Senator Estes offered the following amendment to the bill:

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

Amend **CSHB 1355** (Senate committee printing, page 1, lines 51 through 53) in SECTION 5 of the bill, by striking proposed Subsection (b), Section 822.005, Health and Safety Code, and substituting the following:

(b) An offense under this section is a Class A misdemeanor.

The amendment to **CSHB 1355** was read and failed of adoption by the following vote: Yeas 9, Nays 20.

Yeas: Averitt, Carona, Eltife, Estes, Fraser, Jackson, Lucio, Patrick, Wentworth.

Nays: Brimer, Deuell, Ellis, Harris, Hegar, Hinojosa, Janek, Nelson, Nichols, Ogden, Seliger, Shapiro, Shapleigh, Uresti, Van de Putte, Watson, West, Whitmire, Williams, Zaffirini.

Absent: Duncan, Gallegos.

Senator Estes offered the following amendment to the bill:

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

Amend **CSHB 1355** (Senate committee printing) as follows:

(1) Strike the recital to SECTION 3 of the bill (page 1 lines 20 and 21) and substitute the following:

Section 822.001, Health and Safety Code, is amended by adding Subdivisions (3), (4), and (5) to read as follows:

(2) In SECTION 3 of the bill (page 1, lines 22 and 23), strike proposed Subdivision (3), Section 822.001, Health and Safety Code, and substitute the following:

(3) "Dangerous dog" has the meaning assigned by Section 822.041, except the term does not include a dog described by Section 822.041(2)(B).

(4) "Dog," "owner," and "secure enclosure" have the meanings assigned by Section 822.041.

(2) In SECTION 3 of the bill (page 1, line 24), strike "(4) "Secure"" and substitute "(5) "Secure"".

The amendment to **CSHB 1355** was read and failed of adoption by the following vote: Yeas 3, Nays 24.

Yeas: Estes, Fraser, Patrick.

Nays: Averitt, Brimer, Carona, Deuell, Ellis, Eltife, Harris, Hegar, Hinojosa, Jackson, Lucio, Nelson, Nichols, Ogden, Seliger, Shapiro, Shapleigh, Uresti, Van de Putte, Watson, West, Whitmire, Williams, Zaffirini.

Absent: Duncan, Gallegos, Janek, Wentworth.

Senator Estes offered the following amendment to the bill:

### **Floor Amendment No. 6**

Amend **CSHB 1355** (Senate committee printing) in SECTION 5 of the bill, in proposed Subdivision (2), Subsection (a), Section 822.005, Health and Safety Code (page 1, line 50), by striking "Section 822.001" and substituting "Section 1.07, Penal Code".

The amendment to **CSHB 1355** was read.

Senator Estes withdrew Floor Amendment No. 6.

Senator Estes offered the following amendment to the bill:

### **Floor Amendment No. 7**

Amend **CSHB 1355** (Senate committee printing) as follows:

(1) In SECTION 6 of the bill, in proposed Section 822.007, Health and Safety Code (page 2, line 36), between "DOGS." and "This subchapter", insert "(a)".

(2) In SECTION 6 of the bill, in proposed Section 822.007, Health and Safety Code (page 2, between lines 38 and 39), insert the following new Subsection (b):

(b) Section 822.005 does not apply in a county or municipality that does not have a leash law.

The amendment to **CSHB 1355** was read and failed of adoption by the following vote: Yeas 4, Nays 23.

Yeas: Averitt, Estes, Fraser, Patrick.

Nays: Carona, Deuell, Ellis, Eltife, Harris, Hegar, Hinojosa, Jackson, Janek, Lucio, Nelson, Nichols, Ogden, Seliger, Shapiro, Shapleigh, Uresti, Van de Putte, Watson, West, Whitmire, Williams, Zaffirini.

Absent: Brimer, Duncan, Gallegos, Wentworth.

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

**CSHB 1355** as amended was passed to third reading by a viva voce vote.

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

**COMMITTEE SUBSTITUTE  
HOUSE BILL 1355 ON THIRD READING**

Senator Shapleigh moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 1355** be placed on its third reading and final passage.

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

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

**HOUSE BILL 1610 ON SECOND READING**

Senator Whitmire moved to suspend the regular order of business to take up for consideration **HB 1610** at this time on its second reading:

**HB 1610**, Relating to the requirement that a judge release on community supervision certain defendants convicted of certain state jail felonies.

The motion prevailed.

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

The bill was read second time.

Senator Williams offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **HB 1610** (Senate committee printing) as follows:

(1) In SECTION 1 of the bill, in amended Section 15(a)(1), Article 42.12, Code of Criminal Procedure (page 1, line 17), strike "or 12.44(a)".

(2) In SECTION 1 of the bill, in amended Section 15(a)(1), Article 42.12, Code of Criminal Procedure (page 1, line 21), between "Penal Code," and "in which event", insert "or unless the conviction resulted from an adjudication of the guilt of a defendant previously placed on deferred adjudication community supervision for the offense,".

The amendment to **HB 1610** 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 Whitmire and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

**HB 1610** as amended was passed to third reading by a viva voce vote.

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

Nays: Patrick.

**HOUSE BILL 1610 ON THIRD READING**

Senator Whitmire moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1610** be placed on its third reading and final passage.

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

Nays: Patrick.

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

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

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

**COMMITTEE SUBSTITUTE  
HOUSE BILL 1720 ON SECOND READING**

Senator Ogden moved to suspend the regular order of business to take up for consideration **CSHB 1720** at this time on its second reading:

**CSHB 1720**, Relating to the counties eligible to create a county assistance district that may impose a sales and use tax.

The motion prevailed.

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

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

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

Nays: Ellis, Shapleigh.

**COMMITTEE SUBSTITUTE  
HOUSE BILL 1720 ON THIRD READING**

Senator Ogden moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 1720** be placed on its third reading and final passage.

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

Yeas: Averitt, Brimer, Carona, Deuell, Duncan, 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: Ellis, Shapleigh.

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

**COMMITTEE SUBSTITUTE  
HOUSE BILL 323 ON SECOND READING**

On motion of Senator Lucio and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 323** at this time on its second reading:

**CSHB 323**, Relating to three-point seat belts on buses that transport schoolchildren.

The bill was read second time.

Senator Lucio offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **CSHB 323** by adding new SECTIONS 3 and 4, and renumbering the following SECTION accordingly:

SECTION 3. Chapter 34, Education Code, is amended by adding Section 34.012 to read as follows:

Sec. 34.012. THREE-POINT SEAT BELT INSTRUCTION; INFORMATION CLEARINGHOUSE. (a) The State Board of Education shall develop and make available to each school district a program of instruction in the proper use of a three-point seat belt.

(b) The State Board of Education shall serve as a clearinghouse of best practices for school districts seeking the most efficient and sensible information regarding school bus safety, including possible compliance with Section 547.701 of the Transportation Code using school buses originally purchased without seat belts.

SECTION 4. At any time before the dates prescribed in SECTION 1 of this Act, a school district may, by its own initiative and at its own expense, adapt any or all of its existing bus fleet with a three-point seat belt.

The amendment to **CSHB 323** 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 Lucio offered the following amendment to the bill:

**Floor Amendment No. 2**

Amend **CSHB 323** (Senate committee report printing) by adding the following Section and renumbering the subsequent Sections accordingly:

SECTION \_\_. Liability cannot be imposed under section 547.701(e) for buses not equipped with a three-point seat belt for each passenger if the buses are purchased before September 1, 2010, or operated by or contracted for use by a school district before September 1, 2014. A claim that arises with regard to three-point seat belts on a bus purchased, operated by or contracted for use by a school district before these dates is governed by the law in effect on the date the bus was purchased, operated or contracted for, and the former law is continued in effect for that purpose.

The amendment to **CSHB 323** was read.

Senator Lucio offered the following amendment to Floor Amendment No. 2:

**Floor Amendment No. 3**

Amend Floor Amendment No. 2 to **CSHB 323** (page 1, line 8) by deleting "or operated by".

The amendment to Floor Amendment No. 2 to **CSHB 323** 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. 2 to **CSHB 323**, 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. 2 as amended.

Senator Zaffirini offered the following amendment to the bill:

**Floor Amendment No. 4**

Amend **CSHB 323** (Senate committee printing) as follows:

(1) In the introductory language to SECTION 3 of the bill (page 1, line 30), strike "Section" and substitute "Sections 34.012 and".

(2) In SECTION 3 of the bill, after the introductory language (page 1, between lines 30 and 31), insert:

Sec. 34.013. BUS SEAT BELT POLICY. A school district shall require a student riding a bus operated by or contracted for operation by the district to wear a seat belt if the bus is equipped with seat belts for all passengers on the bus. A school district may implement a disciplinary policy to enforce the use of seat belts by students.

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The amendment to **CSHB 323** 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 Patrick offered the following amendment to the bill:

**Floor Amendment No. 5**

Amend **CSHB 323** in SECTION 2 of the bill, in proposed Subsection (e)(2), Section 547.701, Transportation Code (Senate committee printing, page 1, line 27), by striking "2014" and substituting "2011".

The amendment to **CSHB 323** 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 Patrick offered the following amendment to the bill:

**Floor Amendment No. 6**

Amend **CSHB 323** (Senate committee printing) as follows:

(1) In the introductory language to SECTION 3 of the bill (page 1, line 30), strike "Section 34.013" and substitute "Sections 34.013 and 34.014".

(2) In SECTION 3 of the bill, immediately after proposed Section 34.013, Transportation Code (page 1, between lines 44 and 45), insert:

Sec. 34.014. REPORTING OF BUS ACCIDENTS. (a) In this section, "bus" means a bus operated by or contracted for use by a school district to transport schoolchildren.

(b) A school district shall report annually to the Texas Education Agency the number of accidents in which the district's buses are involved. The agency by rule shall determine the information to be reported, including:

(1) the type of bus involved in the accident;

(2) whether the bus was equipped with seat belts;

(3) the number of students and adults involved in the accident;

(4) the number and types of injuries sustained by bus passengers in the accident; and

(5) whether the injured passengers were wearing seat belts at the time of the accident.

(c) The Texas Education Agency shall publish the reports received under this section on its Internet website.

The amendment to **CSHB 323** 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.

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

**CSHB 323** as amended was passed to third reading by a viva voce vote.

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

**COMMITTEE SUBSTITUTE  
HOUSE BILL 323 ON THIRD READING**

Senator Lucio moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 323** 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 2144 ON SECOND READING**

On motion of Senator Williams and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 2144** at this time on its second reading:

**CSHB 2144**, Relating to the regulation of the practice of public accountancy by certain out-of-state license holders.

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 2144 ON THIRD READING**

Senator Williams moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 2144** 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 1090 ON SECOND READING**

Senator Jackson moved to suspend the regular order of business to take up for consideration **CSHB 1090** at this time on its second reading:

**CSHB 1090**, Relating to the establishment of a program by the Department of Agriculture to make grants to encourage the construction of facilities that generate electric energy with certain types of agricultural residues, waste, debris, or crops.

The motion prevailed.

Senators Eltife, Gallegos, and Patrick asked to be recorded as voting "Nay" on suspension of the regular order of business.

The bill was read second time.

Senator Nichols offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **CSHB 1090**, on page 1, line 47, between "unused cull trees," and "thinnings," by inserting "pre-commercial" and amend Section 22.002(5)(iii) (page 1, line 63 through page 2, line 1) to read as follows:

"(iii) forest wood waste or urban wood waste; and"

The amendment to **CSHB 1090** 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 Nichols offered the following amendment to the bill:

**Floor Amendment No. 2**

Amend **CSHB 1090**, in Section 1 of the bill, amend Section 22.007 (page 4, line 45) to read as follows:



"Sec. 22.007. RULES AND STUDY. (a) The commissioner, in consultation with the Public Utility Commission of Texas and the Texas Commission on Environmental Quality, shall adopt rules to implement this chapter.

(b) The commissioner, in consultation with the Public Utility Commission, Texas Forest Service, and other interested parties, shall conduct a study of the impact of the agricultural biomass and landfill diversion incentive program on existing forest products manufacturing facilities in the state. The study shall consider the potential impact of the program for each year the program remains in effect on:

(1) the supply of forest wood products to manufacturing facilities and, considering individually each area or region that supplies a particular manufacturing facility, whether the incentives are likely to divert forest wood products from manufacturing use to electric generation use;

(2) the cost and availability of qualified agricultural biomass currently used to generate electricity by existing manufacturing facilities;

(3) the cost of electricity generated by biomass compared to the cost of electricity generated by other fuels; and

(4) any other factors the commissioner deems relevant.

(c) Not later than January 1, 2009, the commissioner shall issue a report and make recommendations for changes in the program to mitigate any adverse impact on the forest products manufacturing industry. The commissioner shall send a copy of the report to the Governor, Lieutenant Governor, Speaker of the House of Representatives, and each member of the Legislature."

The amendment to **CSHB 1090** was read.

Senator Jackson moved to table Floor Amendment No. 2.

The motion to table was lost by the following vote: Yeas 11, Nays 12, Present-not voting 2.

Yeas: Averitt, Brimer, Carona, Estes, Harris, Hinojosa, Jackson, Lucio, Nelson, Shapiro, Watson.

Nays: Ellis, Eltife, Fraser, Gallegos, Hegar, Nichols, Shapleigh, Uresti, Van de Putte, West, Whitmire, Zaffirini.

Present-not voting: Deuell, Williams.

Absent: Duncan, Janek, Ogden, Patrick, Seliger, Wentworth.

Question recurring on the adoption of Floor Amendment No. 2 to **CSHB 1090**, the amendment 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 Jackson and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

**CSHB 1090** as amended was passed to third reading by a viva voce vote.

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

Nays: Eltife, Gallegos, Patrick.

**COMMITTEE SUBSTITUTE  
HOUSE BILL 1090 ON THIRD READING**

Senator Jackson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 1090** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 3.

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

Nays: Eltife, Gallegos, Patrick.

The bill was read third time and was passed by the following vote: Yeas 28, Nays 3. (Same as previous roll call)

**COMMITTEE SUBSTITUTE  
SENATE BILL 1640 ON SECOND READING**

On motion of Senator Williams and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 1640** at this time on its second reading:

**CSSB 1640**, Relating to the student loan program administered by the Texas Higher Education Coordinating Board; authorizing the issuance of bonds.

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 1640 ON THIRD READING**

Senator Williams moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1640** 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 3827 ON SECOND READING**

On motion of Senator Hinojosa, on behalf of Senator Zaffirini, and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 3827** at this time on its second reading:

**CSHB 3827**, Relating to the authority of the governing board of a junior college district to hold an open or closed meeting by telephone conference call.

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 3827 ON THIRD READING**

Senator Hinojosa, on behalf of 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 **CSHB 3827** be placed on its third reading and final passage.

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

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

**HOUSE BILL 3158 ON SECOND READING**

On motion of Senator Williams and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 3158** at this time on its second reading:

**HB 3158**, Relating to the name, powers, and board of directors of the Chambers County-Cedar Bayou Navigation District.

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

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

**HOUSE BILL 3158 ON THIRD READING**

Senator Williams moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 3158** be placed on its third reading and final passage.

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

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

**HOUSE BILL 662 ON SECOND READING**

On motion of Senator Ellis and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 662** at this time on its second reading:

**HB 662**, Relating to the coordination and improvement of certain programs and services for the prevention of and early intervention in child abuse and neglect.

The bill was read second time.

Senator Uresti offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **HB 662** by adding the following appropriately numbered SECTIONS and renumbering the SECTIONS of the bill accordingly:

SECTION \_\_. Section 40.105, Human Resources Code, is amended by amending Subsection (a) and adding Subsection (e) to read as follows:

(a) The child abuse and neglect prevention trust fund account is an account in the general revenue fund. Money in the trust fund is dedicated to child abuse prevention programs.

(e) All marriage license fees and other fees collected for and deposited in the trust fund and interest earned on the trust fund balance shall be appropriated each biennium only to the operating fund for primary child abuse prevention programs.

SECTION \_\_. Section 40.105(e), Human Resources Code, as added by this Act, takes effect September 1, 2010.

The amendment to **HB 662** was read and was adopted by a viva voce vote.

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

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

**HB 662** as amended was passed to third reading by a viva voce vote.

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

#### **HOUSE BILL 662 ON THIRD READING**

Senator Ellis moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 662** be placed on its third reading and final passage.

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

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

#### **HOUSE BILL 3074 ON SECOND READING**

Senator Uresti moved to suspend the regular order of business to take up for consideration **HB 3074** at this time on its second reading:

**HB 3074**, Relating to advertising of entities that contract with local workforce development boards.

The motion prevailed.

Senators Patrick and Van de Putte asked to be recorded as voting "Nay" on suspension of the regular order of business.

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

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

Nays: Patrick, Van de Putte.

#### **HOUSE BILL 3074 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 **HB 3074** be placed on its third reading and final passage.

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

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

Nays: Patrick, Van de Putte.

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

**COMMITTEE SUBSTITUTE  
SENATE BILL 961 ON SECOND READING**

Senator Shapleigh moved to suspend the regular order of business to take up for consideration **CSSB 961** at this time on its second reading:

**CSSB 961**, Relating to an allotment under the Foundation School Program for certain students who are military dependents.

The motion prevailed.

Senators Nichols and Patrick asked to be recorded as voting "Nay" on suspension of the regular order of business.

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

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

Nays: Nichols, Patrick.

**COMMITTEE SUBSTITUTE  
SENATE BILL 961 ON THIRD READING**

Senator Shapleigh moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 961** be placed on its third reading and final passage.

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

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

Nays: Nichols, Patrick.

The bill was read third time.

Senator Shapleigh offered the following amendment to the bill:

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

Amend **CSSB 961** on third reading (Senate committee printing) by striking all below the enacting clause and substituting the following:

SECTION 1. Section 42.152, Education Code, is amended by adding Subsections (s), (s-1), (s-2), and (s-3) to read as follows:

(s) In addition to the allotment provided under Subsection (a), a school district is entitled to an annual allotment equal to \$650:

(1) for each student in average daily attendance who has a parent or guardian who is serving on active duty in a combat zone as a member of the armed forces of the United States; and

(2) for each student in average daily attendance who:

(A) has a parent or guardian serving on active duty as a member of the armed forces of the United States; and

(B) has transferred to a campus in the district during the school year as a result of a change in residence because of an action taken under the Defense Base Closure and Realignment Act of 1990 (10 U.S.C. Section 2687).

(s-1) Notwithstanding any other provision of this section, a school district may use funds allotted to the district under Subsection (s) only to provide supplemental programs and services described by Subsection (c) for students described by Subsection (s) who are enrolled in the district.

(s-2) The amount appropriated for allotments under Subsection (s) may not exceed \$9.9 million in a school year. If the total amount of allotments to which districts are entitled under Subsection (s) for a school year exceeds the amount appropriated for allotments under that subsection, the commissioner shall reduce each district's allotment under that subsection proportionately.

(s-3) Subsections (s), (s-1), (s-2), and this subsection expire September 1, 2012.

SECTION 2. This Act takes effect September 1, 2007.

The amendment to **CSSB 961** was read and was adopted by a viva voce vote.

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

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

**CSSB 961** as amended was finally passed by the following vote: Yeas 29, Nays 2.

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

Nays: Nichols, Patrick.

**COMMITTEE SUBSTITUTE  
HOUSE BILL 1634 ON SECOND READING**

On motion of Senator Deuell and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 1634** at this time on its second reading:

**CSHB 1634**, Relating to incentives for the film, television, and multimedia production industries.

The bill was read second time.

Senator Deuell offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **CSHB 1634** (Senate committee printing) as follows:

(1) Strike the recital to SECTION 6 of the bill (page 2, lines 47-48) and substitute "Sections 485.024 and 485.025, Government Code, are amended to read as follows:".

(2) In SECTION 6 of the bill, at the end of Subsection (b), Section 485.024, Government Code (page 2, between lines 66 and 67), insert the following:

Sec. 485.025. ADDITIONAL GRANT FOR UNDERUSED AREAS. In addition to the grant calculated under Section 485.024, a production company that spends at least 25 percent of a moving image project's [~~filmed entertainment's~~] filming days in an underused area is eligible for an additional grant in an amount equal to 1.25 [~~five~~] percent of the total amount of the production company's in-state spending for the moving image project [~~wages paid to Texas residents for the filmed entertainment~~].

The amendment to **CSHB 1634** was read and was adopted by a viva voce vote.

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

Senator Deuell, on behalf of Senator Watson, offered the following amendment to the bill:

**Floor Amendment No. 2**

Amend **CSHB 1634** (Senate committee printing) as follows:

(1) In SECTION 2 of the bill (page 1, lines 28 and 29), between "national or multistate commercial" and ".", insert ", or digital interactive media production".

(2) In SECTION 2 of the bill (page 1, lines 32 and 33), between "television production company," and "or film and television production company.", insert "digital interactive media production company,".

(3) In SECTION 6 of the bill, (page 2, lines 57 and 58), between "commercials" and "[(2) \$750,000].", insert "; or (4) \$250,000 for a digital interactive media production".

The amendment to **CSHB 1634** was read and was adopted by a viva voce vote.

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

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

**CSHB 1634** as amended was passed to third reading by a viva voce vote.

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

**COMMITTEE SUBSTITUTE  
HOUSE BILL 1634 ON THIRD READING**

Senator Deuell moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 1634** be placed on its third reading and final passage.

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

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

**HOUSE JOINT RESOLUTION 69 ON SECOND READING**

On motion of Senator Seliger and by unanimous consent, the regular order of business was suspended to take up for consideration **HJR 69** at this time on its second reading:

**HJR 69**, Proposing a constitutional amendment to abolish the constitutional authority for the office of inspector of hides and animals.

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

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

**HOUSE JOINT RESOLUTION 69 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 **HJR 69** be placed on its third reading and final passage.

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

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

**HOUSE BILL 312 ON SECOND READING**

On motion of Senator Whitmire and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 312** at this time on its second reading:

**HB 312**, Relating to the burden of proof in a community supervision revocation hearing regarding a defendant's ability to make certain court-ordered payments.

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

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

**HOUSE BILL 312 ON THIRD READING**

Senator Whitmire moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 312** be placed on its third reading and final passage.

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

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



**HOUSE BILL 2056 ON SECOND READING**

On motion of Senator Whitmire and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 2056** at this time on its second reading:

**HB 2056**, Relating to providing a civil penalty for a violation of the Antiquities Code of Texas.

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

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

**HOUSE BILL 2056 ON THIRD READING**

Senator Whitmire moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2056** be placed on its third reading and final passage.

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

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

**HOUSE BILL 2611 ON SECOND READING**

On motion of Senator Whitmire and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 2611** at this time on its second reading:

**HB 2611**, Relating to the eligibility of certain inmates of the Texas Department of Criminal Justice for medically recommended intensive supervision.

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

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

**HOUSE BILL 2611 ON THIRD READING**

Senator Whitmire moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2611** 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.

**(President in Chair)**

**RECESS**

On motion of Senator Whitmire, the Senate at 12:59 p.m. recessed until 1:30 p.m. today.

**AFTER RECESS**

The Senate met at 1:47 p.m. and was called to order by Senator Brimer.

**COMMITTEE SUBSTITUTE  
HOUSE BILL 2345 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 2345** at this time on its second reading:

**CSHB 2345**, Relating to the creation of the Texas Organic Agricultural Industry Advisory Board.

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 2345 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 2345** be placed on its third reading and final passage.

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

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

**HOUSE BILL 3322 ON SECOND READING**

On motion of Senator Watson and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 3322** at this time on its second reading:

**HB 3322**, Relating to a plan-to-plan transfer of certain assets from the TexaSaver 457 plan administered by the Employees Retirement System of Texas to a 457 plan created by an institution of higher education.

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

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

**HOUSE BILL 3322 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 **HB 3322** 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 536 ON SECOND READING**

On motion of Senator Wentworth and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 536** at this time on its second reading:

**CSHB 536**, Relating to the consent required for a municipality to annex a water or sewer district.

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

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

**COMMITTEE SUBSTITUTE  
HOUSE BILL 536 ON THIRD READING**

Senator Wentworth moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 536** be placed on its third reading and final passage.

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

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

**HOUSE BILL 2735 ON SECOND READING**

On motion of Senator Harris and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 2735** at this time on its second reading:

**HB 2735**, Relating to lobbying expenditures that are made jointly.

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

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

**HOUSE BILL 2735 ON THIRD READING**

Senator Harris moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2735** 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 3505 ON SECOND READING**

On motion of Senator West and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 3505** at this time on its second reading:

**CSHB 3505**, Relating to requirements for judicial training on issues regarding family violence, sexual assault, and child abuse and neglect.

The bill was read second time.

Senator Watson offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **CSHB 3505**, SECTION 2, by striking "and" (page 2, line 16) and substituting "or".

The amendment to **CSHB 3505** 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 West and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

**CSHB 3505** as amended was passed to third reading by a viva voce vote.

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

**COMMITTEE SUBSTITUTE  
HOUSE BILL 3505 ON THIRD READING**

Senator West moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 3505** be placed on its third reading and final passage.

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

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

**HOUSE BILL 44 ON SECOND READING**

Senator Uresti moved to suspend the regular order of business to take up for consideration **HB 44** at this time on its second reading:

**HB 44**, Relating to the restoration of good conduct time forfeited during a term of imprisonment.

The motion prevailed.

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

The bill was read second time.

Senator Shapiro offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **HB 44** (Senate committee printing) in SECTION 1 of the bill, in amended Subsection (a), Section 498.004, Government Code (page 1, line 19), between "under this subsection" and the period, by inserting "unless the inmate is serving a sentence for an offense listed in Section 508.149(a)".

The amendment to **HB 44** 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.

**HB 44** as amended was passed to third reading by a viva voce vote.

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

Nays: Patrick.

#### **HOUSE BILL 44 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 **HB 44** be placed on its third reading and final passage.

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

Nays: Patrick.

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

#### **HOUSE BILL 2931 ON SECOND READING**

Senator Van de Putte, on behalf of Senator Zaffirini, moved to suspend the regular order of business to take up for consideration **HB 2931** at this time on its second reading:

**HB 2931**, Relating to required notice of and a lien resulting from damage to a fence.

The motion prevailed.

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

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

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

Nays: Nichols.

#### **HOUSE BILL 2931 ON THIRD READING**

Senator Van de Putte, on behalf of Senator Zaffirini, moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2931** be placed on its third reading and final passage.

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

Nays: Nichols.

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

**HOUSE BILL 1579 ON SECOND READING**

On motion of Senator Deuell and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 1579** at this time on its second reading:

**HB 1579**, Relating to reimbursement for health care services provided at certain times to persons enrolled in the Medicaid managed care program.

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

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

**HOUSE BILL 1579 ON THIRD READING**

Senator Deuell moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1579** 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 3900 ON SECOND READING**

On motion of Senator Shapiro and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 3900** at this time on its second reading:

**CSHB 3900**, Relating to the Texas tomorrow fund II prepaid tuition unit undergraduate education program.

The bill was read second time.

Senator Shapiro offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **CSHB 3900** as follows:

(1) In Section 54.766, Education Code, as added by SECTION 1 of the bill, add the following at the end of Subsection (a):

The board and the board of regents of The University of Texas System may contract for the board of regents to manage and invest the assets of the fund, and for that purpose the board may delegate its duties under this section to the board of regents.

(2) In Subsection (b), Section 54.766, Education Code, as added by SECTION 1 of the bill, strike "The board shall contract with one or more private professional investment managers" and substitute "If the board does not contract with the board of regents of The University of Texas System under Subsection (a) to manage and invest the assets of the fund, the board shall contract with one or more private professional investment managers".

The amendment to **CSHB 3900** 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 Shapiro and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

**CSHB 3900** as amended was passed to third reading by a viva voce vote.

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

**COMMITTEE SUBSTITUTE  
HOUSE BILL 3900 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 **CSHB 3900** 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.

**VOTES RECONSIDERED ON  
COMMITTEE SUBSTITUTE HOUSE BILL 323**

On motion of Senator Lucio and by unanimous consent, the vote by which **CSHB 323** was finally passed was reconsidered:

**CSHB 323**, Relating to three-point seat belts on buses that transport schoolchildren.

Question — Shall **CSHB 323** be finally passed?

On motion of Senator Lucio and by unanimous consent, the vote by which **CSHB 323** was passed to third reading was reconsidered.

Question — Shall **CSHB 323** be passed to third reading?

On motion of Senator Lucio and by unanimous consent, the vote by which Floor Amendment No. 2 as amended was adopted was reconsidered.

Question — Shall Floor Amendment No. 2 as amended to **CSHB 323** be adopted?

Senator Lucio withdrew Floor Amendment No. 2.

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

**CSHB 323** as amended was again 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 323 ON THIRD READING**

Senator Lucio again moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 323** 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 again passed by the following vote: Yeas 31, Nays 0.

**COMMITTEE SUBSTITUTE  
HOUSE BILL 41 ON SECOND READING**

Senator Seliger moved to suspend the regular order of business to take up for consideration **CSHB 41** at this time on its second reading:

**CSHB 41**, Relating to the confidentiality of home address information of certain federal judges and state judges and their spouses.

The motion prevailed.

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

The bill was read second time.

Senator Uresti offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **CSHB 41** by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Subchapter D, Chapter 161, Human Resources Code, is amended by adding Section 161.075 to read as follows:

Sec. 161.075. IMMUNITY FOR AREA AGENCIES ON AGING AND AGENCY EMPLOYEES AND VOLUNTEERS. (a) In this section:

(1) "Area agency on aging" means an agency described by 42 U.S.C. Section 3002(17) and through which the department ensures the implementation of services and volunteer opportunities for older persons in this state as provided by Section 161.071(5)(A).

(2) "Texas nonprofit organization" means a nonprofit corporation:

(A) that is organized under the Texas Non-Profit Corporation Act (Article 1396-1.01 et seq., Vernon's Texas Civil Statutes); and

(B) the funding of which is managed by an organization that is exempt from federal income tax under Section 501(a) of the Internal Revenue Code of 1986 by being listed as an exempt organization in Section 501(c)(3) of that code.

(3) "Volunteer" means a person who:

(A) renders services for or on behalf of an area agency on aging under the supervision of an area agency on aging employee; and

(B) does not receive compensation that exceeds the authorized expenses the person incurs in performing those services.

(b) An area agency on aging that conducts an election on behalf of a Texas nonprofit organization is not civilly or criminally liable for any act or omission, including an act or omission relating to verifying the qualifications of candidates and determining and reporting election results, that relates to a duty or responsibility with respect to conducting the election if the agency acted in good faith and within the scope of the agency's authority.



(c) An area agency on aging employee or volunteer who performs an act related to the conduct of an election described by Subsection (b) is not civilly or criminally liable for the act or any omission that relates to a duty or responsibility with respect to conducting the election if the person acted in good faith and within the scope of the person's authority.

SECTION \_\_\_\_\_. The change in law made by this Act with respect to the civil liability of an area agency on aging or an employee or volunteer of the agency applies only to a cause of action that accrues on or after the effective date of this Act. A cause of action that accrued before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION \_\_\_\_\_. The change in law made by this Act with respect to the criminal liability of an area agency on aging or an employee or volunteer of the agency applies only to an offense committed on or after the effective date of this Act. For purposes of this section, an offense is committed before the effective date of this Act if any element of the offense occurs before that date. An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose.

SECTION \_\_\_\_\_. Section 161.075, Human Resources Code, as added by this Act, is an exercise of authority under Section 66(c), Article III, Texas Constitution, and takes effect only if this Act receives a vote of three-fifths of all the members elected to each house, as provided by Subsection (e) of that section.

The amendment to **CSHB 41** was read and was adopted by a viva voce vote.

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

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

**CSHB 41** as amended was passed to third reading by a viva voce vote.

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

Nays: Patrick.

### **COMMITTEE SUBSTITUTE HOUSE BILL 41 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 **CSHB 41** be placed on its third reading and final passage.

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

Nays: Patrick.

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

**HOUSE BILL 3778 REREFERRED**

Senator Ogden submitted a Motion In Writing requesting that **HB 3778** be withdrawn from the Committee on Health and Human Services and rereferred to the Committee on Finance.

The Motion In Writing prevailed without objection.

**HOUSE BILL 1010 ON SECOND READING**

Senator Janek moved to suspend the regular order of business to take up for consideration **HB 1010** at this time on its second reading:

**HB 1010**, Relating to the appraisal for ad valorem tax purposes of property located in more than one appraisal district and to the boundaries of an appraisal district.

The motion prevailed.

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

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

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

Nays: Hegar.

**HOUSE BILL 1010 ON THIRD READING**

Senator Janek moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1010** be placed on its third reading and final passage.

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

Nays: Hegar.

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

**SENATE BILL 1318 WITH HOUSE AMENDMENTS**

Senator Janek called **SB 1318** from the President's table for consideration of the House amendments to the bill.

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

**Floor Amendment No. 1**

Amend **SB 1318** (House committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering existing SECTIONS accordingly:

SECTION \_\_\_\_\_. Section 247.069, Health and Safety Code, is amended to read as follows:

Sec. 247.069. CONSUMER CHOICE FOR ASSISTED LIVING IN COMMUNITY CARE PROGRAMS. The community based alternatives program and the residential care programs, which provide an assisted living option to consumers, shall provide a consumer the opportunity to choose an assisted living facility that meets the department's licensing standards relating to facility construction without regard to the number of units in the facility, if[-

~~[(1)] consumers are advised of all other community care options[- and~~

~~[(2)] the facility;~~

~~(A) has never been licensed by the department as anything other than an assisted living facility;~~

~~(B) is not physically connected to a skilled nursing facility;~~

~~(C) was constructed before September 1, 2005; and~~

~~(D) otherwise meets all other community care program standards].~~

### Floor Amendment No. 1 on Third Reading

Amend **SB 1318** on third reading by adding the following SECTIONS, appropriately numbered, and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Section 142.009(c), Health and Safety Code, is amended to read as follows:

(c) The department or its authorized representative shall investigate each complaint received regarding the provision of home health, hospice, or personal assistance services, including any allegation of abuse, neglect, or exploitation of a child under the age of 18, and may, as a part of the investigation:

(1) conduct an unannounced survey of a place of business, including an inspection of medical and personnel records, if the department has reasonable cause to believe that the place of business is in violation of this chapter or a rule adopted under this chapter;

(2) conduct an interview with a recipient of home health, hospice, or personal assistance services, which may be conducted in the recipient's home if the recipient consents;

(3) conduct an interview with a family member of a recipient of home health, hospice, or personal assistance services who is deceased or other person who may have knowledge of the care received by the deceased recipient of the home health, hospice, or personal assistance services; or

(4) interview a physician or other health care practitioner, including a member of the personnel of a home and community support services agency, who cares for a recipient of home health, hospice, or personal assistance services.

SECTION \_\_\_\_\_. Section 253.001(4), Health and Safety Code, is amended to read as follows:

(4) "Facility" means:

(A) a facility licensed by the department; ~~or~~

(B) an adult foster care provider that contracts with the department; or

(C) a home and community support services agency licensed by the department under Chapter 142.

SECTION \_\_\_\_\_. Section 253.008, Health and Safety Code, is amended to read as follows:

Sec. 253.008. VERIFICATION OF EMPLOYABILITY. (a) Before a facility[~~an agency licensed under Chapter 142,~~] or a person exempt from licensing under Section 142.003(a)(19) may hire an employee, the facility[~~agency,~~] or person shall search the employee misconduct registry under this chapter and the nurse aide registry maintained under the Omnibus Budget Reconciliation Act of 1987 (Pub. L. No. 100-203) to determine whether the applicant for employment is designated in either registry as having abused, neglected, or exploited a resident or consumer of a facility or an individual receiving services from a facility [~~an agency licensed under Chapter 142~~] or from a person exempt from licensing under Section 142.003(a)(19).

(b) A facility[~~agency licensed under Chapter 142,~~] or a person exempt from licensing under Section 142.003(a)(19) may not employ a person who is listed in either registry as having abused, neglected, or exploited a resident or consumer of a facility or an individual receiving services from a facility [~~an agency licensed under Chapter 142~~] or from a person exempt from licensing under Section 142.003(a)(19).

SECTION \_\_\_\_\_. Section 253.009(a), Health and Safety Code, is amended to read as follows:

(a) Each facility[~~each agency licensed under Chapter 142,~~] and each person exempt from licensing under Section 142.003(a)(19) shall notify its employees in a manner prescribed by the department:

- (1) about the employee misconduct registry; and
- (2) that an employee may not be employed if the employee is listed in the registry.

The amendments were read.

Senator Janek moved to concur in the House amendments to **SB 1318**.

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

### **SENATE BILL 877 WITH HOUSE AMENDMENT**

Senator Seliger called **SB 877** from the President's table for consideration of the House amendment to the bill.

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

#### **Amendment**

Amend **SB 877** by substituting in lieu thereof the following:

#### A BILL TO BE ENTITLED AN ACT

relating to a limitation on judge-ordered community supervision for certain defendants convicted of first-degree felony injury to a child.

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

SECTION 1. Section 3g(a), Article 42.12, Code of Criminal Procedure, is amended to read as follows:

- (a) The provisions of Section 3 of this article do not apply:
  - (1) to a defendant adjudged guilty of an offense under:
    - (A) Section 19.02, Penal Code (Murder);
    - (B) Section 19.03, Penal Code (Capital murder);
    - (C) Section 21.11(a)(1), Penal Code (Indecency with a child);

- (D) Section 20.04, Penal Code (Aggravated kidnapping);
- (E) Section 22.021, Penal Code (Aggravated sexual assault);
- (F) Section 29.03, Penal Code (Aggravated robbery);
- (G) Chapter 481, Health and Safety Code, for which punishment is

increased under:

- (i) Section 481.140, Health and Safety Code; or

- (ii) Section 481.134(c), (d), (e), or (f), Health and Safety Code, if it is shown that the defendant has been previously convicted of an offense for which punishment was increased under any of those subsections; ~~or~~

- (H) Section 22.011, Penal Code (Sexual assault); or

- (I) Section 22.04(a)(1), Penal Code (Injury to a child, elderly individual, or disabled individual), if the offense is punishable as a felony of the first degree and the victim of the offense is a child; or

(2) to a defendant when it is shown that a deadly weapon as defined in Section 1.07, Penal Code, was used or exhibited during the commission of a felony offense or during immediate flight therefrom, and that the defendant used or exhibited the deadly weapon or was a party to the offense and knew that a deadly weapon would be used or exhibited. On an affirmative finding under this subdivision, the trial court shall enter the finding in the judgment of the court. On an affirmative finding that the deadly weapon was a firearm, the court shall enter that finding in its judgment.

SECTION 2. Section 508.145(d), Government Code, is amended to read as follows:

(d) An inmate serving a sentence for an offense described by Section 3g(a)(1)(A), (C), (D), (E), (F), (G), ~~or~~ (H), or (I), Article 42.12, Code of Criminal Procedure, or for an offense for which the judgment contains an affirmative finding under Section 3g(a)(2) of that article, is not eligible for release on parole until the inmate's actual calendar time served, without consideration of good conduct time, equals one-half of the sentence or 30 calendar years, whichever is less, but in no event is the inmate eligible for release on parole in less than two calendar years.

SECTION 3. The change in law made by this Act applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense is committed before the effective date of this Act if any element of the offense occurs before the effective date.

SECTION 4. This Act takes effect September 1, 2007.

The amendment was read.

Senator Seliger moved to concur in the House amendment to **SB 877**.

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

### **SENATE BILL 561 WITH HOUSE AMENDMENT**

Senator Carona called **SB 561** from the President's table for consideration of the House amendment to the bill.

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

**Floor Amendment No. 1**

Amend **SB 561** by adding the following subsection (j) to Section 172.015:

(j) Subsections (c)-(i) do not apply to a payor of employee benefits participating in a cooperative effort to design and administer benefits through an administrative agency that includes a cooperative member that is a county with a population of at least two million that is adjacent to a county with a population of at least one million.

The amendment was read.

Senator Carona moved to concur in the House amendment to **SB 561**.

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

**SENATE BILL 949 WITH HOUSE AMENDMENTS**

Senator Hegar called **SB 949** from the President's table for consideration of the House amendments to the bill.

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

**Amendment**

Amend **SB 949** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED  
AN ACT

relating to the regulation of a private business providing security services by a political subdivision of this state.

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

SECTION 1. Subchapter H, Chapter 1702, Occupations Code, is amended by adding Section 1702.184 to read as follows:

Sec. 1702.184. **LOCAL REGULATION OF CERTAIN SECURITY SERVICES FOR PRIVATE BUSINESSES.** (a) Except as provided by Subsection (b), a political subdivision of this state may not require a private business to contract with or employ a peace officer to provide security services for the business.

(b) This section does not apply to:

(1) a requirement that a private business contract with or employ a peace officer to provide security services for a public event, conduct a public escort, or direct traffic on a public roadway; or

(2) an order or determination made by a court under Chapter 125, Civil Practice and Remedies Code.

SECTION 2. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2007.

**Floor Amendment No. 1**

Amend **CSSB 949** (House committee printing) in SECTION 1 of the bill, in proposed Section 1702.184, Occupations Code (page 1, lines 12 through 18) by striking proposed Subsection (b) of that section and substituting the following:

(b) This section does not apply to:

(1) a requirement that a private business contract with or employ a peace officer to:

(A) provide security services for a public event;

(B) provide security services for a private event held at a public facility that is owned or leased by a political subdivision of this state;

(C) conduct a public escort; or

(D) direct traffic on a public roadway; or

(2) an order or determination made by a court under Chapter 125, Civil Practice and Remedies Code.

The amendments were read.

Senator Hegar moved to concur in the House amendments to **SB 949**.

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

### **SENATE BILL 1222 WITH HOUSE AMENDMENT**

Senator Carona called **SB 1222** from the President's table for consideration of the House amendment to the bill.

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

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

Amend **SB 1222** (House committee report) as follows:

(1) Strike SECTION 1 of the bill (page 1, line 5, through page 2, line 1) and substitute the following:

SECTION 1. Section 1305.002, Occupations Code, is amended by amending Subdivision (12-a) and adding Subdivisions (12-b), (12-c), (12-d), and (12-e) to read as follows:

(12-a) "Residential appliance" means equipment that:

(A) is installed as a unit in a single-family or multifamily dwelling that does not exceed four stories;

(B) is directly connected to an electrical circuit; and

(C) performs a specific function [~~"Person" means an individual~~].

(12-b) "Residential appliance installation" means electrical work that is limited to the connection or disconnection of a residential appliance to an existing electrical circuit other than by inserting or removing a plug from an electrical outlet.

(12-c) "Residential appliance installation contracting" means the business of residential appliance installation.

(12-d) "Residential appliance installation contractor" means a business entity, other than an electrical contractor or electrical sign contractor, that is engaged in residential appliance installation contracting.

(12-e) "Residential appliance installer" means a person, other than a licensed electrician, who is licensed to perform residential appliance installation.

(2) In SECTION 2 of the bill, in Subdivision (7), Subsection (a), Section 1305.003, Occupations Code (page 3, line 16), between "employee" and "of", insert "or authorized representative".

(3) In SECTION 2 of the bill, strike added Subdivision (21), Subsection (a), Section 1305.003, Occupations Code (page 6, lines 12 through 15), and substitute the following:

(21) the maintenance or repair of a residential appliance by a residential appliance dealer or manufacturer or a person authorized by a residential appliance dealer or manufacturer using only components of the same type and ampacity as the original components.

(4) In SECTION 3 of the bill, in amended Subsection (a), Section 1305.102, Occupations Code (page 6, lines 20 and 21), strike "appliance installers, and appliance" and substitute "residential appliance installers, and residential appliance".

(5) In SECTION 4 of the bill, in amended Section 1305.151, Occupations Code (page 6, line 27), between "or" and "appliance", insert "residential".

(6) Strike SECTION 5 of the bill (page 7, line 3, through page 8, line 11) and substitute the following:

SECTION 5. Subchapter D, Chapter 1305, Occupations Code, is amended by adding Sections 1305.1617 and 1305.1618 to read as follows:

Sec. 1305.1617. RESIDENTIAL APPLIANCE INSTALLER. An applicant for a license as a residential appliance installer must pass a residential appliance installer examination administered under this chapter.

Sec. 1305.1618. RESIDENTIAL APPLIANCE INSTALLATION CONTRACTOR. (a) An applicant for a license as a residential appliance installation contractor must:

(1) be licensed under this chapter as a residential appliance installer or employ a person licensed under this chapter as a residential appliance installer;

(2) establish proof of financial responsibility in the manner prescribed by the executive director; and

(3) maintain workers' compensation coverage for the contractor's employees through an insurance company authorized to engage in the business of insurance in this state or through self-insurance, or elect not to obtain workers' compensation coverage, as provided by Subchapter A, Chapter 406, Labor Code.

(b) A person who holds a residential appliance installer's license issued or recognized under this chapter may only be assigned to a single residential appliance installation contractor, unless the residential appliance installer owns more than 50 percent of the residential appliance installation contracting business.

(7) In SECTION 6 of the bill, in amended Subsection (a), Section 1305.166, Occupations Code (page 8, line 15), between "and" and "appliance", insert "residential".

(8) In SECTION 7 of the bill, in amended Subsection (a), Section 1305.201, Occupations Code (page 8, line 21), between "or" and "appliance", insert "residential".

(9) In Subsection (a), SECTION 8 of the bill (page 9, line 2), strike "an appliance" and substitute "a residential appliance".

(10) Strike Subsection (b), SECTION 8 of the bill (page 9, lines 11 through 15), and substitute the following:



(b) An applicant for a license under this section is required to have completed at least 4,000 hours of electrical work or residential appliance installation under the supervision of a master electrician.

The amendment was read.

Senator Carona moved to concur in the House amendment to **SB 1222**.

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

### **SENATE BILL 1372 WITH HOUSE AMENDMENT**

Senator Carona called **SB 1372** from the President's table for consideration of the House amendment to the bill.

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

#### **Amendment**

Amend **SB 1372** by substituting in lieu thereof the following:

#### A BILL TO BE ENTITLED AN ACT

relating to the operation of motor vehicles and commercial motor vehicles.

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

SECTION 1. Section 521.049, Transportation Code, is amended by adding Subsection (d) to read as follows:

(d) The department shall respond to a request for a driving record check received from another state under 49 C.F.R. Section 384.206 within 30 days of the date of the request.

SECTION 2. Section 521.297, Transportation Code, is amended to read as follows:

Sec. 521.297. SUSPENSION, ~~[OR]~~ REVOCATION, OR DISQUALIFICATION EFFECTIVE DATE. (a) A license suspension under Section 521.292 or revocation under Section 521.294 takes effect on the 40th day after the date the person is considered to have received notice of the suspension or revocation under Section 521.295(b).

(b) A license disqualification under Section 522.081(a) takes effect on the 40th day after the date the person is considered to have received notice of the disqualification under Section 521.295(b), unless a disqualification is currently in effect. If a disqualification is currently in effect, the periods of disqualifications run consecutively.

SECTION 3. Sections 522.003(7) and (19), Transportation Code, are amended to read as follows:

(7) "Conviction" means:

(A) an adjudication of guilt, an unvacated forfeiture of bail or collateral deposited to secure the person's appearance in court, a plea of guilty or nolo contendere accepted by the court, the payment of a fine or court costs, or the violation of a condition of release without bail, in a court, regardless of whether the penalty is suspended, probated, or rebated; or

(B) a determination by a court, an authorized administrative tribunal or officer, or the department as authorized by this chapter that:

(i) the person has refused to give a specimen to determine the person's alcohol concentration or the presence in the person's body of a controlled substance or drug while driving a commercial motor vehicle; or

(ii) the person has driven a commercial motor vehicle while the person's alcohol concentration was 0.04 or more.

(19) "Hazardous materials" has the meaning assigned by 49 C.F.R. Section 383.5 [~~the Hazardous Materials Transportation Act (49 U.S.C. Section 1801 et seq.)~~].

SECTION 4. Section 522.004(a), Transportation Code, is amended to read as follows:

(a) This chapter does not apply to:

(1) a vehicle that is controlled and operated by a farmer and:

(A) used to transport agricultural products, farm machinery, or farm supplies to or from a farm;

(B) used within 150 miles of the person's farm; and

(C) not used in the operations of a common or contract motor carrier;

(2) a fire-fighting or emergency vehicle necessary to the preservation of life or property or the execution of emergency governmental functions, whether operated by an employee of a political subdivision or by a volunteer fire fighter;

(3) a military vehicle or a commercial motor vehicle, when operated for military purposes by military personnel, including:

(A) active duty military personnel, including personnel serving in the United States Coast Guard; and

(B) members of the reserves and national guard on active duty, including personnel on full-time national guard duty, personnel engaged in part-time training, and national guard military technicians;

(4) a recreational vehicle that is driven for personal use;

(5) a vehicle that is owned, leased, or controlled by an air carrier, as defined by Section 21.155, and that is driven or operated exclusively by an employee of the air carrier only on the premises of an airport, as defined by Section 22.001, on service roads to which the public does not have access; or

(6) a vehicle used exclusively to transport seed cotton modules or cotton burrs.

SECTION 5. Section 522.023, Transportation Code, is amended by adding Subsections (h) and (i) to read as follows:

(h) An applicant who pays the applicable fee required by Section 522.029 is entitled to three examinations of each element under Section 522.022. If the applicant has not qualified after the third examination, the applicant must submit a new application accompanied by the required fee.

(i) The department may not issue a commercial driver's license to a person who has not passed each examination required under this chapter.

SECTION 6. Subchapter D, Chapter 522, Transportation Code, is amended by adding Section 522.0425 to read as follows:

Sec. 522.0425. HAZARDOUS MATERIALS ENDORSEMENT; CANCELLATION. (a) The department shall cancel or deny the issuance of a hazardous materials endorsement of a person's commercial driver's license within 15 days of the date the department receives notification from a federal agency authorized to make a final determination of threat assessment under 49 C.F.R. Section 1572.13.

(b) On receipt of a notification from a federal agency authorized to make an initial determination of threat assessment under 49 C.F.R. Section 1572.13, the department shall immediately cancel or deny the person the issuance of a hazardous materials endorsement of a commercial driver's license.

(c) The cancellation or denial of a hazardous materials endorsement under this section shall be reported to the commercial driver's license information system before the 16th day after the date of cancellation or denial.

SECTION 7. Subchapter E, Chapter 522, Transportation Code, is amended by adding Sections 522.054 and 522.055 to read as follows:

Sec. 522.054. DENIAL OF RENEWAL OF COMMERCIAL DRIVER LICENSE. (a) In the manner ordered by a court in another state in connection with a matter involving the violation of a state law or local ordinance relating to motor vehicle traffic control and on receipt of the necessary information from the other state, the department may deny renewal of the commercial driver's license issued to a person by the department for the person's:

(1) failure to appear in connection with a complaint or citation; or

(2) failure to pay or satisfy a judgment ordering the payment of a fine and costs.

(b) The information necessary under Subsection (a) may be transmitted through the commercial driver's license information system and must include:

(1) the name, date of birth, and the commercial driver's license number of the license held by the person;

(2) notice that the person failed to appear as required by law or failed to satisfy a judgment that ordered the payment of a fine and costs in the manner ordered by the court;

(3) the nature of the violation; and

(4) any other information required by the department.

Sec. 522.055. CLEARANCE NOTICE TO DEPARTMENT. On receipt of notice from the other state that the grounds for denial of the renewal of the commercial driver's license based on the license holder's previous failure to appear or failure to pay a fine and costs previously reported by that state under Section 522.054 have ceased to exist, the department shall renew the person's commercial driver's license.

SECTION 8. Section 522.071(a), Transportation Code, is amended to read as follows:

(a) A person commits an offense if the person drives a commercial motor vehicle on a highway:

(1) after the person has been denied the issuance of a license, unless the person has a driver's license appropriate for the class of vehicle being driven that was subsequently issued;

(2) during a period that a disqualification of the person's driver's license or privilege is in effect;

(3) while the person's driver's license is expired, if the license expired during a period of disqualification;

(4) during a period that the person was subject to an order prohibiting the person from obtaining a driver's license; or

(5) during a period in which the person, the person's employer, or the vehicle being operated is subject to an out-of-service order.

SECTION 9. Section 522.072(a), Transportation Code, is amended to read as follows:

(a) An employer may not knowingly permit a person to drive a commercial motor vehicle during a period in which ~~the person~~:

(1) the person has been denied the privilege of driving a commercial motor vehicle;

(2) the person is disqualified from driving a commercial motor vehicle;

(3) the person, the person's employer, or the vehicle being operated is subject to an out-of-service order in a state; or

(4) the person has more than one commercial driver's license, except during the 10-day period beginning on the date the person is issued a driver's license.

SECTION 10. Section 522.081, Transportation Code, is amended by adding Subsection (h) to read as follows:

(h) A disqualification imposed under Subsection (g) must run concurrently with any imminent hazard disqualification that is then currently in effect.

SECTION 11. Section 522.087, Transportation Code, is amended by adding Subsection (c) to read as follows:

(c) A disqualification imposed under Section 522.081(a) must run consecutively to any other disqualification that is then currently in effect.

SECTION 12. Subchapter I, Chapter 545, Transportation Code, is amended by adding Section 545.426 to read as follows:

Sec. 545.426. OPERATION OF VEHICLE WITH INSUFFICIENT UNDERCARRIAGE CLEARANCE. (a) An operator may not drive on or cross a railroad grade crossing unless the vehicle being operated has sufficient undercarriage clearance.

(b) An offense under this section is a misdemeanor punishable by a fine of not less than \$50 or more than \$200.

SECTION 13. This Act takes effect January 1, 2008.

The amendment was read.

Senator Carona moved to concur in the House amendment to **SB 1372**.

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

#### CONFERENCE COMMITTEE ON HOUSE BILL 2004

Senator Lucio called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 2004** and moved that the request be granted.

The motion prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 2004** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Lucio, Chair; Duncan, Van de Putte, Carona, and Fraser.

### **SENATE BILL 1896 WITH HOUSE AMENDMENT**

Senator Lucio called **SB 1896** from the President's table for consideration of the House amendment to the bill.

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

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

Amend **SB 1896** in SECTION 1 of the bill by striking amended Subsection (e), Section 562.1085, Occupations Code (House committee printing, page 2, lines 15-19), and substituting the following:

(e) The board shall adopt the rules, policies, and procedures necessary to administer this section, including rules that require a health care facility to inform the Health and Human Services Commission and a penal institution to inform the Texas Department of Criminal Justice of medicines returned to a pharmacy under this section.

The amendment was read.

Senator Lucio 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 Presiding Officer asked if there were any motions to instruct the conference committee on **SB 1896** before appointment.

There were no motions offered.

The Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Lucio, Chair; Nelson, West, Deuell, and Shapleigh.

### **CONFERENCE COMMITTEE ON HOUSE BILL 2261**

Senator Jackson called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 2261** and moved that the request be granted.

The motion prevailed without objection.

The Presiding Officer asked if there were any motions to instruct the conference committee on **HB 2261** before appointment.

There were no motions offered.

Accordingly, the Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Jackson, Chair; Brimer, Fraser, Eltife, and Harris.

**SENATE BILL 908 WITH HOUSE AMENDMENT**

Senator Averitt called **SB 908** from the President's table for consideration of the House amendment to the bill.

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

**Amendment**

Amend **SB 908** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED  
AN ACT

relating to the continuation and functions of the State Office of Risk Management.

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

SECTION 1. Section 412.011, Labor Code, is amended by adding Subsections (f), (g), (h), and (i) to read as follows:

(f) The office shall work with each state agency to develop an agency-level business continuity plan under Section 412.054.

(g) The office shall make available to each agency subject to Section 412.054 guidelines and models for each element listed in Section 412.054. The office shall assist the agency as necessary to ensure that:

(1) agency staff understands each element of the business continuity plan developed under Section 412.054; and

(2) each agency practices implementation of the plan.

(h) The office and the Texas Building and Procurement Commission shall adopt a memorandum of understanding that:

(1) includes the type, amount, and frequency of safety-related information that may be shared between the office and the commission; and

(2) designates points of contact within the office and the commission to coordinate the sharing of information.

(i) The office shall:

(1) maintain a system to promptly and efficiently act on complaints filed with the office;

(2) maintain information about parties to the complaint, the subject matter of the complaint, a summary of the results of the review or investigation of the complaint, and disposition of the complaint;

(3) make information available describing the office's procedures for complaint investigation and resolution; and

(4) periodically notify the complaint parties of the status of the complaint until final disposition.

SECTION 2. Subchapter B, Chapter 412, Labor Code, is amended by adding Sections 412.0125 through 412.0129 to read as follows:

Sec. 412.0125. RETURN-TO-WORK COORDINATION SERVICES; CASE MANAGEMENT. (a) The office shall provide each state agency with return-to-work coordination services as necessary to facilitate an injured employee's return to employment. The office shall notify each state agency of the availability of return-to-work coordination services.

(b) As part of return-to-work coordination services under this section, the office shall:

(1) establish a time frame for case management of an injured employee that ensures services are provided to the injured employee as soon as practicable to improve the employee's chance of returning to work as quickly as possible;

(2) provide guidance to each state agency to identify appropriate services for an injured employee;

(3) adopt rules that set standards and provide guidance to a state agency interacting with an injured employee; and

(4) implement any other services provided under Section 413.021 that will facilitate the reintegration of an injured employee.

Sec. 412.0126. ANALYSIS. (a) The board shall adopt rules as necessary to collect data on lost time and return-to-work outcomes of each state agency to allow full evaluations of successes and of barriers to achieving timely return to work after an injury.

(b) The office shall:

(1) collect and analyze data from each state agency regarding lost time, including sick leave and annual leave used by an injured employee;

(2) identify state agencies that need additional training or case management services related to return-to-work services;

(3) modify as necessary the office's assessment computation to encourage state agencies to effectively reduce workers' compensation costs;

(4) incorporate as necessary return-to-work goals developed by the division of workers' compensation under Section 413.025;

(5) work with the workers' compensation research and evaluation group to develop analytical tools to assist the office with its duties under this section;

(6) require state agencies to report information in a standardized format;

(7) monitor the information reported by each state agency; and

(8) evaluate the information provided under this section to determine outcomes over time for each state agency.

Sec. 412.0127. PAYMENT BY ELECTRONIC FUNDS TRANSFER. (a) Notwithstanding Section 403.016, Government Code, and except as provided by Subsection (b), the office shall pay an employee entitled to an indemnity benefit payment using the same payment method as the method by which the employee receives the employee's wages.

(b) The office shall adopt rules to facilitate the use of electronic funds transfer as the preferred method of payment under this section.

(c) The office may issue an indemnity benefit payment by check on request or if electronic funds transfer is not feasible.

Sec. 412.0128. CONFIDENTIALITY OF INJURY INFORMATION. Information in or derived from a workers' compensation claim file regarding an employee is confidential and may not be disclosed by the office except as provided by this subchapter or other law.

Sec. 412.0129. STUDY ON CATASTROPHIC CLAIMS. (a) The office shall study options to prepare state agencies for catastrophic claims.

(b) The study must include information on:

(1) establishing a state employee workers' compensation catastrophe fund outside the state treasury;

(2) purchasing catastrophe reinsurance; and

(3) other options to prepare the state for catastrophic claims.

(c) In performing duties under Subsections (a) and (b), the office:

(1) shall work with the workers' compensation research and evaluation group; and

(2) may contract with a consultant to:

(A) analyze predicted costs of potential disasters; and

(B) estimate the appropriate size for a catastrophe fund or level of reinsurance.

(d) Not later than September 1, 2008, the office shall report the findings of the study conducted under this section to the lieutenant governor, the speaker of the house of representatives, and the appropriate standing committees of the house of representatives and senate with responsibility for oversight of the office.

(e) This section expires September 2, 2008.

SECTION 3. Section 412.021, Labor Code, is amended by adding Subsections (a-1), (g), and (h) and amending Subsections (d) and (f) to read as follows:

(a-1) A person may not be a member of the board if the person or the person's spouse:

(1) is employed by or participates in the management of a business entity or other organization regulated by or receiving money from the office;

(2) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization regulated by or receiving money from the office; or

(3) uses or receives a substantial amount of tangible goods, services, or money from the office other than compensation or reimbursement authorized by law for risk management board membership, attendance, or expenses.

(d) The governor shall designate one member of the board as presiding officer. The presiding officer shall serve in that capacity at the pleasure of the governor [~~for a two year term~~].

(f) The risk management board and the office are [~~is~~] subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the board is abolished and this section expires September 1, 2019 [~~2007~~].

(g) Appointments to the board shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointee.

(h) The board shall develop and implement policies that clearly separate the policymaking responsibilities of the board and the management responsibilities of the director and the staff of the risk management office.



SECTION 4. Section 412.022, Labor Code, is amended to read as follows:

Sec. 412.022. TRAINING PROGRAM FOR BOARD MEMBERS. (a) A person who is appointed to and qualifies for office as a member of the board may not vote, deliberate, or be counted as a member in attendance at a meeting of the board until the person completes a training program that complies with this section. ~~[To be eligible to take office as a member of the board, a person appointed to the board must complete at least one course of a training program that complies with this section. If the course has not been completed at the time of the appointment, the training program is to be completed within six months from the date of appointment, failure of which constitutes grounds for removal from the board.]~~

(b) A training program established under this section must provide information to the member regarding:

(1) the enabling legislation that created the office and the office's programs, functions, rules, and budget ~~[board]~~;

(2) the results of the most recent formal audit of the office ~~[program operated by the board]~~;

(3) the requirements of laws relating to open meetings, public information, administrative procedure, and conflicts of interest ~~[role and functions of the board]~~; and

(4) ~~[the rules of the board, with an emphasis on the rules that relate to disciplinary and investigatory authority;~~

~~[(5) the current budget for the board;~~

~~[(6) the results of the most recent formal audit of the board;~~

~~[(7) the requirements of:~~

~~[(A) the open meetings law, Chapter 551, Government Code;~~

~~[(B) the public information law, Chapter 552, Government Code; and~~

~~[(C) the administrative procedure law, Chapter 2001, Government Code;~~

~~[(8) the requirements of the conflict of interest laws and other laws relating to public officials; and~~

~~[(9)]~~ any applicable ethics policies adopted by the office ~~[board]~~ or the Texas Ethics Commission.

(c) A person appointed to the board is entitled to reimbursement, as provided by the General Appropriations Act, for the travel expenses incurred in attending the training program regardless of whether the attendance at the program occurs before or after the person qualifies for office.

SECTION 5. Section 412.023, Labor Code, is amended to read as follows:

Sec. 412.023. EFFECT OF LOBBYING ACTIVITY. (a) In this section, "Texas trade association" means a cooperative and voluntarily joined statewide association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest.

(b) A person may not be a member of the board and may not be an employee of the office employed in a "bona fide executive, administrative, or professional capacity," as that phrase is used for purposes of establishing an exemption to the overtime provisions of the federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.) if:

(1) the person is an officer, employee, or paid consultant of a Texas trade association in the field of insurance or health care; or

(2) the person's spouse is an officer, manager, or paid consultant of a Texas trade association in the field of insurance or health care.

(c) A person may not serve as a member of the board or act as the general counsel to the board if the person is required to register as a lobbyist under Chapter 305, Government Code, because of the person's activities for compensation on behalf of a profession related to the operation of the office ~~[that is regulated by or that has fees regulated by the board].~~

SECTION 6. Section 412.024, Labor Code, is amended by amending Subsection (a) and adding Subsection (a-1) to read as follows:

(a) It is a ground for removal from the board if a member:

(1) does not have at the time of taking office ~~[appointment]~~ the qualifications required by ~~[for appointment to the board other than the requirements of]~~ Section 412.021 ~~[412.022]~~;

(2) does not maintain during service on the board the qualifications required by Section 412.021 ~~[for appointment to the board]~~;

(3) is ineligible for membership under Section 412.021 or ~~[violates a prohibition established by Section]~~ 412.023;

(4) cannot because of illness or incapacity discharge the member's duties for a substantial part of the member's term ~~[for which the member is appointed]~~; or

(5) is absent from more than half of the regularly scheduled board meetings that the member is eligible to attend during a calendar year without an excuse approved by a majority vote of the board.

(a-1) The validity of an action of the board is not affected by the fact that it is taken when a ground for removal of a board member exists.

SECTION 7. Subchapter C, Chapter 412, Labor Code, is amended by adding Section 412.027 to read as follows:

Sec. 412.027. USE OF TECHNOLOGY. The board shall implement a policy requiring the office to use appropriate technological solutions to improve the office's ability to perform its functions. The policy must ensure that the public is able to interact with the office on the Internet.

SECTION 8. Section 412.032, Labor Code, is amended to read as follows:

Sec. 412.032. BOARD'S REPORT TO LEGISLATURE. (a) Based on the recommendations of the director, the board shall report to each legislature relating to:

(1) methods to reduce the exposure of state agencies to the risks of property and liability losses, including workers' compensation losses;

(2) the operation, financing, and management of those risks; ~~and~~

(3) the handling of claims brought against the state;

(4) return-to-work outcomes under Section 412.0126 for each state agency;

and

(5) the business continuity plan developed by state agencies under Section 412.054.

(b) The report must include:

(1) the frequency, severity, and aggregate amount of open and closed claims in the preceding biennium by category of risk, including final judgments;

(2) the identification of each state agency that has not complied with the risk management guidelines and reporting requirements of this chapter; ~~and~~

(3) recommendations for the coordination and administration of a comprehensive risk management program to serve all state agencies, including recommendations for any necessary statutory changes;

(4) a report of outcomes by state agency of lost time due to employee injury and return-to-work programs based on the information collected and analyzed by the office in Section 412.0126; and

(5) an evaluation of business continuity plans developed by state agencies under Section 412.054 for completeness and viability.

SECTION 9. Subchapter D, Chapter 412, Labor Code, is amended by adding Section 412.034 to read as follows:

Sec. 412.034. PUBLIC HEARING. The board shall develop and implement policies that provide the public with a reasonable opportunity to appear before the board and to speak on any issue under the jurisdiction of the office.

SECTION 10. Subchapter D, Chapter 412, Labor Code, is amended by adding Section 412.035 to read as follows:

Sec. 412.035. DISPUTE RESOLUTION. (a) The board shall develop and implement a policy to encourage the use of:

(1) negotiated rulemaking procedures under Chapter 2008, Government Code, for the adoption of office rules; and

(2) appropriate alternative dispute resolution procedures under Chapter 2009, Government Code, to assist in the resolution of internal and external disputes under the office's jurisdiction.

(b) The office's procedures relating to alternative dispute resolution must conform, to the extent possible, to any model guidelines issued by the State Office of Administrative Hearings for the use of alternative dispute resolution by state agencies.

(c) The board shall designate a trained person to:

(1) coordinate the implementation of the policy adopted under Subsection (a);

(2) serve as a resource for any training needed to implement the procedures for negotiated rulemaking or alternative dispute resolution; and

(3) collect data concerning the effectiveness of those procedures, as implemented by the office.

SECTION 11. Subchapter F, Chapter 412, Labor Code, is amended by adding Section 412.054 to read as follows:

Sec. 412.054. BUSINESS CONTINUITY PLAN. (a) Each state agency shall work with the office to develop an agency-level business continuity plan that outlines procedures to keep the agency operational in case of disruptions to production,

finance, administration, or other essential operations. The plan must include detailed information regarding resumption of essential services after a catastrophe, including:

- (1) coordination with public authorities;
- (2) management of media;
- (3) customer service delivery;
- (4) assessing immediate financial and operational needs; and
- (5) other services as determined by the office.

(b) A business continuity plan is considered to meet the requirements of this section if the agency forwards the plan to the office for review and the agency is:

- (1) involved in the delivery of emergency services as a member of the governor's Emergency Management Council; or
- (2) part of the State Data Center program.

SECTION 12. Section 417.0082, Government Code, is amended to read as follows:

Sec. 417.0082. PROTECTION OF CERTAIN STATE-OWNED BUILDINGS AGAINST FIRE HAZARDS. (a) The state fire marshal, under the direction of the commissioner, shall take any action necessary to protect a public building under the charge and control of the Texas Building and Procurement [~~General Services~~] Commission, and the building's occupants, against an existing or threatened fire hazard. The state fire marshal and the Texas Building and Procurement Commission shall include the State Office of Risk Management in all communication concerning fire hazards.

(b) The commissioner, ~~and~~ the Texas Building and Procurement Commission, and the risk management board [~~General Services Commission~~] shall make and each adopt by rule a memorandum of understanding that coordinates the agency's duties under this section.

SECTION 13. A state agency shall develop a business continuity plan under Section 412.054, Labor Code, as added by this Act, not later than May 1, 2008.

SECTION 14. The changes in law made by Sections 412.021, 412.022, and 412.023, Labor Code, as amended by this Act, regarding the prohibitions on or qualifications of members of the Risk Management Board do not affect the entitlement of a member serving on the board immediately before September 1, 2007, to continue to serve and function as a member of the board for the remainder of the member's term. The changes in law made by those sections apply only to a member appointed on or after September 1, 2007.

SECTION 15. Section 412.0127, Labor Code, as added by this Act, applies to indemnity benefit payments made on or after February 1, 2008.

SECTION 16. This Act takes effect September 1, 2007.

The amendment was read.

Senator Averitt moved to concur in the House amendment to **SB 908**.

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

**MESSAGE FROM THE HOUSE**

HOUSE CHAMBER

Austin, Texas

May 17, 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 259**, Honoring Bardoli Global for helping students of color to study abroad.

**HCR 260**, Congratulating Michael J. Warner of Austin on his graduation from The University of Texas at Austin.

**HCR 261**, Convening a joint memorial session to honor all Texans killed during the Global War on Terrorism.

**SB 138**, Relating to promoting the retention and graduation of students enrolled in professional nursing programs.

**SB 139**, Relating to a study on improving the curricula of professional and vocational nursing education programs.

**SB 140**, Relating to a study of the feasibility of providing immunizations to certain students enrolled in health professional degree programs.

**SB 157**, Relating to the definition of criminally injurious conduct for purposes of the Crime Victims' Compensation Act.

**SB 161**, Relating to intercollegiate athletics fees at institutions within the Texas State University System.  
(Amended)

**SB 175**, Relating to the calculation of certain deadlines under the public information law.

**SB 182**, Relating to the prosecution of the offense of criminal trespass.

**SB 201**, Relating to tuition exemptions at public institutions of higher education for certain professional nursing program preceptors and their children.

**SB 214**, Relating to authorizing the transfer for consideration of certain fractional mineral interests held by the state to certain landowners.

**SB 235**, Relating to the composition of a county bail bond board.

**SB 246**, Relating to the management and maintenance of certain land located south of the Sam Houston Building by the State Preservation Board.

**SB 251**, Relating to parking of a motor vehicle operated by or for the transportation of a veteran with a disability in certain parking spaces; providing a criminal penalty.

**SB 254**, Relating to the sale of live animals in certain counties on a public highway or road, the right-of-way of a public highway or road, or a parking lot.  
(Committee Substitute)

**SB 274**, Relating to the issuance of Silver Star Medal license plates.

**SB 285**, Relating to the imposition of certain fees on students enrolled at The University of Texas at Dallas.

**SB 289**, Relating to the use of professional nursing shortage reduction program grants to encourage clinical nursing instruction by part-time faculty at public or private institutions of higher education.

**SB 303**, Relating to health care coverage for a child in a suit affecting the parent-child relationship.

**SB 310**, Relating to the Texas Veterans Commission's authority to make performance incentive awards for providing services to veterans.

**SB 311**, Relating to reemployment rights of certain members of the National Guard.

**SB 323**, Relating to the creation of the Fairfields Municipal Utility District of Kaufman County; providing authority to impose a tax and issue bonds; granting the power of eminent domain.  
(Committee Substitute)

**SB 328**, Relating to the requirement that the results of an alcohol and drug test taken by certain holders of a commercial driver's license be reported to the Department of Public Safety of the State of Texas.

**SB 350**, Relating to the abatement of certain nuisances involving junked vehicles.  
(Committee Substitute)

**SB 351**, Relating to notice procedures for abatement of certain nuisances.

**SB 352**, Relating to the method of providing notice in the enforcement of certain municipal ordinances involving substandard buildings and conditions.

**SB 397**, Relating to the administration of an oath in this state.

**SB 480**, Relating to the definition of private or independent institution of higher education applicable to certain statutes.

**SB 512**, Relating to the attachment of a judgment lien to homestead property.

**SB 535**, Relating to the possession or shooting of a handgun on the land of the Lower Colorado River Authority by a person licensed to carry a concealed handgun.

**SB 541**, Relating to continuing education in sustainable and energy-efficient design standards for a person registered by the Texas Board of Architectural Examiners.

**SB 555**, Relating to designating April as Texas Fruit and Vegetable Month.

**SB 564**, Relating to the name of The Calhoun County Navigation District.

**SB 592**, Relating to special notice to the news media of the meeting of a governmental body in certain situations under the open meetings law.

**SB 608**, Relating to restrictions on state contracts with certain contractors.

**SB 616**, Relating to the protection and use of intellectual property by the executive administrator of the Texas Water Development Board.

**SB 620**, Relating to the marking of oyster beds.

**SB 640**, Relating to creating a recognition day to celebrate adoption, adoptive families, and adoption workers in Texas.

**SB 654**, Relating to the management of certain public land; providing for penalties.

**SB 660**, Relating to the creation of an additional statutory county court in Travis County.

(Committee Substitute)

**SB 682**, Relating to the creation of the Fulshear Municipal Utility District No. 1 of Fort Bend County; providing authority to impose a tax and issue bonds; granting the power of eminent domain.

**SB 687**, Relating to the use of TexasOnline by state agencies and local governments.

**SB 688**, Relating to the area served by certain municipal drainage utility systems.

(Committee Substitute)

**SB 705**, Relating to an annual report by the Office of Court Administration of the Texas Judicial System about jury charges and sentences in capital cases.

**SB 711**, Relating to the use of TexasOnline by businesses to apply and pay for certain permits.

**SB 748**, Relating to the dissolution of the Aransas County Conservation and Reclamation District.

**SB 749**, Relating to the authority and salary of a district judge presiding over multidistrict litigation proceedings in cases involving claims for asbestos-related or silica-related injuries.

**SB 757**, Relating to the planning and management of state telecommunications services by the Department of Information Resources.

**SB 763**, Relating to the affidavit required to prove expenses in a civil action.

(Amended)

**SB 781**, Relating to remedies available if a subdivider fails to provide water or sewer services in certain subdivisions near an international border.

**SB 813**, Relating to child protective services.

(Committee Substitute)

**SB 819**, Relating to the fees charged for filing an inventory and appraisalment in probate actions.

**SB 821**, Relating to the use of certain excess contributions to the judicial fund that are remitted to certain counties.

**SB 831**, Relating to energy savings performance contracts.

(Committee Substitute)

**SB 833**, Relating to limitations on the compensation of county auditors for certain counties.

**SB 835**, Relating to exempting certain federal judges from certain procedural requirements for obtaining or renewing a concealed handgun license.

**SB 850**, Relating to the designation of certain highways as the Ports-to-Plains Corridor.

**SB 853**, Relating to the creation, administration, powers, duties, functions, operations, and financing of the San Jacinto Special Utility District; providing authority to impose a tax and issue bonds; granting the power of eminent domain.

**SB 870**, Relating to the definition of "institution" in the law regulating convalescent and nursing homes.

**SB 885**, Relating to access to criminal history record information by state appellate courts.

**SB 903**, Relating to the continuation and functions of the Office of State-Federal Relations and the administrative attachment of that agency to the office of the governor.

(Committee Substitute/Amended)

**SB 969**, Relating to exemptions from certain fees for government vessels and outboard motors.

**SB 976**, Relating to the public retirement system of certain municipalities.

(Committee Substitute)

**SB 1039**, Relating to the payment of benefits to certain retirees of the Teacher Retirement System of Texas who return to work.

**SB 1047**, Relating to the use of information obtained by the attorney general through a civil investigative demand under the Deceptive Trade Practices-Consumer Protection Act.

**SB 1056**, Relating to conversion of a reciprocal or interinsurance exchange to a stock company through creation of a mutual holding company.

**SB 1063**, Relating to the authority of the governing body of a taxing unit to waive penalties and interest on a delinquent ad valorem tax.

**SB 1086**, Relating to providing notice of the anticipated fiscal impact of municipal charter amendments.

**SB 1123**, Relating to the creation of the Harris County Improvement District No. 8; providing authority to impose a tax and issue bonds.

(Amended)

**SB 1153**, Relating to the use of title insurance to insure certain interests in personal property.

(Committee Substitute)

**SB 1165**, Relating to the powers and duties of the Gainesville Hospital District.



- SB 1182**, Relating to the imposition of an additional filing fee in certain proceedings for the support of the Supreme Court of Texas.
- SB 1196**, Relating to access to criminal history record information by certain county attorneys.
- SB 1244**, Relating to the authority of an investigator employed by a prosecuting attorney.
- SB 1257**, Relating to the definition of hotel under the Alcoholic Beverage Code.
- SB 1260**, Relating to the issuance of a nonresident commercial driver's license.
- SB 1263**, Relating to regulation and licensing of certain insurance agents.  
(Committee Substitute)
- SB 1269**, Relating to the performance of certain civil duties by officers in this state.
- SB 1297**, Relating to additional criminal law magistrates in Bexar County.  
(Committee Substitute)
- SB 1325**, Relating to the eligibility of relatives of public college and university board members to receive certain scholarships; providing a criminal penalty.
- SB 1349**, Relating to the annexation of certain municipally owned airports.
- SB 1396**, Relating to the filing of a conflicts disclosure statement by a vendor or member of a governing body of a port authority or navigation district.
- SB 1412**, Relating to certain fees collected by justice courts and small claims courts.
- SB 1413**, Relating to the amount of a judgment that may be appealed or removed from justice court.
- SB 1416**, Relating to the amount of a judgment that may be appealed from small claims court.
- SB 1417**, Relating to the student endowment scholarship and internship program fund at Texas A&M University–Corpus Christi.
- SB 1439**, Relating to the annexation powers of the West Fort Bend Management District.
- SB 1533**, Relating to the transfer of certain state property from the Texas Department of Criminal Justice to Burnet County.  
(Committee Substitute)
- SB 1540**, Relating to financing statements and other records under the secured transactions law.
- SB 1618**, Relating to the award of a contract by an airport authority created by certain municipalities.
- SB 1626**, Relating to participation in the proportionate retirement program by certain public employees.
- SB 1630**, Relating to limitations on the compensation of county auditors for certain counties.

**SB 1661**, Relating to the creation, administration, powers, duties, functions, operations, and financing of the Goforth Special Utility District; providing authority to impose a tax and issue bonds; granting the power of eminent domain.

**SB 1732**, Relating to fees for copies of certain records and research protected by copyright and owned by the State Preservation Board.

**SB 1735**, Relating to the effect of a charter provision relating to the sale of alcoholic beverages for off-premise consumption on a subsequent local option election for the sale of alcoholic beverages in certain home-rule municipalities.  
(Committee Substitute)

**SB 1761**, Relating to the pilot program to provide health services to state employees in state office complexes.

**SB 1765**, Relating to the authority of a municipality to enter into contracts without competitive bidding; making conforming changes.

**SB 1766**, Relating to expansion of the use of consumer direction for delivery of certain services to persons with disabilities and elderly persons.

**SB 1786**, Relating to temporary cardboard tags on vehicles; providing penalties.

**SB 1884**, Relating to liability for and calculation of underpayment penalties under certain provisions regarding prompt payment of physicians and providers under certain managed care plans.

**SB 1953**, Relating to the name, commissioners, and powers of the Aransas County Navigation District No. 1.

**SB 1961**, Relating to the creation of the Willow Creek Farms Municipal Utility District; providing authority to impose a tax and issue bonds; granting the power of eminent domain.

**SB 1963**, Relating to the creation of the Montgomery County Municipal Utility District No. 113; providing authority to impose a tax and issue bonds; granting the power of eminent domain.

**SB 1964**, Relating to the creation of the Montgomery County Municipal Utility District No. 114; providing authority to impose a tax and issue bonds; granting the power of eminent domain.

**SB 1965**, Relating to the creation of the Montgomery County Municipal Utility District No. 121; providing authority to impose a tax and issue bonds; granting the power of eminent domain.

**SB 1966**, Relating to the creation of the Montgomery County Municipal Utility District No. 123; providing authority to impose a tax and issue bonds; granting the power of eminent domain.

**SB 1967**, Relating to the creation of the Montgomery County Municipal Utility District No. 124; providing authority to impose a tax and issue bonds; granting the power of eminent domain.

**SB 1983**, Relating to the creation of the Upper Trinity Groundwater Conservation District; providing authority to issue bonds.  
(Committee Substitute)

**SB 1993**, Relating to the validation of acts and proceedings of the Lake View Management and Development District and the division of the district into two or more new districts.  
(Amended)

**SB 1999**, Relating to the creation of the NASA Area Management District; providing authority to impose an assessment, impose a sales and use tax, and issue bonds.

**SB 2009**, Relating to the creation of municipal courts of record in the city of Corpus Christi.

**SB 2016**, Relating to the compensation paid to a statutory county court judge in Gregg County.  
(Committee Substitute)

**SCR 75**, Congratulating James Joseph "Jay" Crabb for completing the Ford Ironman Arizona competition.

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

**HB 73** (143 Yeas, 0 Nays, 1 Present, not voting)

**HB 167** (144 Yeas, 0 Nays, 1 Present, not voting)

**HB 417** (146 Yeas, 0 Nays, 1 Present, not voting)

**HB 495** (146 Yeas, 0 Nays, 1 Present, not voting)

**HB 585** (142 Yeas, 0 Nays, 2 Present, not voting)

**HB 776** (144 Yeas, 0 Nays, 1 Present, not voting)

**HB 1067** (144 Yeas, 0 Nays, 1 Present, not voting)

**HB 1070** (142 Yeas, 0 Nays, 2 Present, not voting)

**HB 1157** (143 Yeas, 0 Nays, 1 Present, not voting)

**HB 1717** (143 Yeas, 0 Nays, 1 Present, not voting)

**HB 2075** (147 Yeas, 0 Nays, 1 Present, not voting)

**HB 2168** (142 Yeas, 0 Nays, 1 Present, not voting)

**HB 2251** (145 Yeas, 0 Nays, 1 Present, not voting)

**HB 2468** (143 Yeas, 0 Nays, 1 Present, not voting)

**HB 2559** (141 Yeas, 0 Nays, 2 Present, not voting)

**HB 2636** (144 Yeas, 0 Nays, 1 Present, not voting)

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

**HB 126** (non-record vote)

House Conferees: Delisi - Chair/Bohac/Brown, Betty/McReynolds/Paxton

**HB 1594** (non-record vote)

House Conferees: Zerwas - Chair/Eiland/Hancock/Martinez, "Mando"/Smithee

**HB 1623** (non-record vote)

House Conferees: Phillips - Chair/Deshotel/Gattis/Harper-Brown/Macias

**HB 3392** (non-record vote)

House Conferees: Guillen - Chair/Davis, Yvonne/Latham/Pena/Truitt

Respectfully,

/s/Robert Haney, Chief Clerk  
House of Representatives

**HOUSE BILL 604 ON SECOND READING**

On motion of Senator Wentworth and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 604** at this time on its second reading:

**HB 604**, Relating to the appraisal for ad valorem tax purposes of certain land used for wildlife management under a conservation easement.

The bill was read second time.

Senator Hegar offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **HB 604** (Senate committee printing) in SECTION 1 of the bill, in amended Subdivision (7), Section 23.51, Tax Code, by striking proposed Paragraph (B) of the subdivision (page 1, lines 49 through 53) and substituting the following:

(B) actively using land to protect federally listed endangered species under a federal permit if the land is:

(i) included in a habitat preserve and is subject to a conservation easement created under Chapter 183, Natural Resources Code; or

(ii) part of a conservation development under a federally approved habitat conservation plan that restricts the use of the land to protect federally listed endangered species; or

The amendment to **HB 604** was read and was adopted by a viva voce vote.

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

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

**HB 604** as amended was passed to third reading by a viva voce vote.

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

**HOUSE BILL 604 ON THIRD READING**

Senator Wentworth moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 604** 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 JOINT RESOLUTION 68 ON SECOND READING**

On motion of Senator Wentworth and by unanimous consent, the regular order of business was suspended to take up for consideration **SJR 68** at this time on its second reading:

**SJR 68**, Proposing a constitutional amendment to allow certain elected county or district officeholders to become a candidate for another office in a primary election held in the final year of the officeholder's term without causing the automatic resignation of the officeholder.

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

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

### **SENATE JOINT RESOLUTION 68 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 **SJR 68** be placed on its third reading and final passage.

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

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

### **HOUSE BILL 3446 ON SECOND READING**

Senator Eltife moved to suspend Senate Rule 5.14(a) and the regular order of business to take up for consideration **HB 3446** at this time on its second reading:

**HB 3446**, Relating to the promotion by the governor's office of economic development of Texas manufactured products; providing civil and administrative penalties.

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

The bill was read second time.

Senator Eltife offered the following amendment to the bill:

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

Amend **HB 3446** in proposed Subdivision (6), Section 490C.053, Government Code (Senate committee printing, page 1, line 51), by striking "cooperate" and substituting "enter into a memorandum of understanding".

The amendment to **HB 3446** 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 Eltife and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

**HB 3446** as amended was passed to third reading by a viva voce vote.

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

### **HOUSE BILL 3446 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 **HB 3446** 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 RULES SUSPENDED (Posting Rules)**

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

**HB 573, HB 831, HB 1456, HB 1573, HB 1671, HB 1680, HB 2063, HB 2091, HB 2184, HB 2283, HB 2353, HB 2484, HB 2523, HB 2653, HB 2734, HB 2909, HB 3182, HB 3195, HB 3223, HB 3232, HB 3355, HB 3407, HB 3417, HB 3439, HB 3873, HB 3954, HB 3982, HB 3991, HB 4004, HB 4006, HB 4060, HB 4077, HB 4093, HB 4099, HB 4109, HB 4110, HB 4120, HB 4123, HB 3698.**

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

On motion of Senator Carona and by unanimous consent, Senate Rule 11.10(a) and Senate Rule 11.18(a) were suspended in order that the Committee on Transportation and Homeland Security might meet and consider the following bills tomorrow:

**HB 53, HB 586, HB 614, HB 2652, HB 2991, HB 2944, HB 3225, HB 3275, HB 3441, HB 3270, HB 1857.**

### **SENATE RULE 11.10(a) SUSPENDED (Public Notice of Committee Meetings)**

On motion of Senator Van de Putte and by unanimous consent, Senate Rule 11.10(a) was suspended in order that the Committee on Veteran Affairs and Military Installations might meet today at her desk.

### **CONFERENCE COMMITTEE REPORT ON SENATE BILL 426 ADOPTED**

Senator West called from the President's table the Conference Committee Report on **SB 426**. The Conference Committee Report was filed with the Senate on Monday, May 14, 2007.

On motion of Senator West, the Conference Committee Report was adopted by the following vote: Yeas 31, Nays 0.

**SENATE RULES SUSPENDED  
(Posting Rules)**

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

**HB 497, HB 1146, HB 1183, HB 1495, HB 1613, HB 1849, HB 2451, HB 2564, HB 2667, HB 2823, SB 674.**

**SENATE RULES SUSPENDED  
(Posting Rules)**

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

**HB 4057, HB 4112, HB 4071, HB 3300, HB 3168, HB 3764, HB 4010, HB 3098, HB 4041, HB 4042, HB 4043, HB 3502, HB 3780, HB 3431, HB 4.**

**SENATE RULES SUSPENDED  
(Posting Rules)**

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

**HCR 151, HCR 186, HCR 201.**

**COMMITTEE SUBSTITUTE  
HOUSE BILL 1602 ON SECOND READING**

On motion of Senator Fraser and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 1602** at this time on its second reading:

**CSHB 1602**, Relating to venue in civil actions under the Jones Act.

The bill was read second time.

Senator Fraser offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **CSHB 1602** (Senate committee printing) in SECTION 2 of the bill by striking added Subsection (c), Section 15.0181, Civil Practice and Remedies Code (page 1, lines 56 through 61), and substituting the following:

(c) Except as provided by this section, a suit brought under the Jones Act shall be brought:

(1) in the county where the defendant's principal office in this state is located;

(2) in the county in which all or a substantial part of the events or omissions giving rise to the claim occurred; or

(3) in the county where the plaintiff resided at the time the cause of action accrued.

The amendment to **CSHB 1602** 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: Ogden.

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

**CSHB 1602** as amended was passed to third reading by a viva voce vote.

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

Absent: Ogden.

### COMMITTEE SUBSTITUTE HOUSE BILL 1602 ON THIRD READING

Senator Fraser moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 1602** be placed on its third reading and final passage.

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

Absent: Ogden.

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

### REMARKS ORDERED PRINTED

On motion of Senator Hinojosa and by unanimous consent, the remarks by Senators Hinojosa and Fraser regarding **CSHB 1602** were ordered reduced to writing and printed in the *Senate Journal* as follows:

**Senator Hinojosa:** Thank you Senator Fraser. I guess, as I look at your amendment, and I know this is an agreed-to bill, on the amendment on (c)(3), a suit brought under this, under the Jones Act shall be brought in the county where the plaintiff resided at the time the cause of action accrued.

**Senator Fraser:** Yes, that's what it says.

**Senator Hinojosa:** So, I guess, if I lived, let's say, in Hidalgo County or if I live in Harris County and I want to work up in Corpus Christi, the county where I resided will be Harris or Hidalgo County?

**Senator Fraser:** It, I mean it clearly says it's in the county where the plaintiff resided at the time of the cause of action.

**Senator Hinojosa:** Then I guess resided is a term of art, it has certain legal definitions.

**Senator Fraser:** I believe the legal definition is the same legal definition we use when we run for office, is that it's where you either have declared your post office box, and, or your voter identification, or your, that you declare, in some cases, it would be, if you owned a home, it would be your homestead.



**Senator Hinojosa:** So, right now, for example, in my situation, I reside in McAllen, Hidalgo County, but I have a second home here in Austin, and I work here in Austin. So under the provisions that set out in this amendment, if I were injured here in Austin, I could file lawsuit back at home where I reside?

**Senator Fraser:** The choices would be, the county where the defendant's principal office was, the county where the act of omissions, which the injury occurred, or your residence, and I'm assuming the residence would be declared by the courts, would be wherever you declare your official residence, and your official residence, you declare that by act of post office box, voter registration, you know, what you, really, I think one of the ways doing it would be the address on your driver's license.

**Senator Hinojosa:** And I think that's a good answer for that, I guess the answer to my own question, is that while I'm up here temporarily working here in Travis County, my place of residence is really Hidalgo County, so that I could sue in Hidalgo County, the way I read (c)(3).

**Senator Fraser:** I'm being advised that this is standard venue language that has been in place since 1995 we passed the bill, and that you would have your choice of picking that location.

**Senator Hinojosa:** And I guess what I'm trying to clarify, you know, where I reside is Hidalgo County, McAllen, I'm up here on a temporary basis for five months. If I'm injured here, the way this amendment reads, I have different options as to where I can file a lawsuit, is that not correct?

**Senator Fraser:** Yes, you have that option.

**Senator Hinojosa:** And while those options would be where I reside at the time of cause of action accrued and that would be where I reside, would be down in the Valley.

**Senator Fraser:** That is correct.

**Senator Hinojosa:** Thank you for answering, Senator.

#### **HOUSE BILL 3281 ON SECOND READING**

Senator Duncan moved to suspend the regular order of business to take up for consideration **HB 3281** at this time on its second reading:

**HB 3281**, Relating to the recovery of medical or health care expenses in civil actions.

The motion prevailed.

Senators Nichols and Patrick asked to be recorded as voting "Nay" on suspension of the regular order of business.

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

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

Nays: Nichols, Patrick.

Absent: Ogden.

### HOUSE BILL 3281 ON THIRD READING

Senator Duncan moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 3281** be placed on its third reading and final passage.

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

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

Nays: Nichols, Patrick.

Absent: Ogden.

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

### COMMITTEE SUBSTITUTE HOUSE BILL 530 ON SECOND READING

On motion of Senator Seliger and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 530** at this time on its second reading:

**CSHB 530**, Relating to the operation and funding of drug court programs.

The bill was read second time.

Senator Seliger offered the following amendment to the bill:

#### Floor Amendment No. 1

Amend **CSHB 530** (Senate committee report) as follows:

In SECTION 8 of the bill, starting on page 4, line 45, strike proposed Article 102.0178 and replace with the following:

Art. 102.0178. COSTS ATTENDANT TO CERTAIN INTOXICATION AND DRUG CONVICTIONS. (a) In addition to other costs on conviction imposed by this chapter, a person shall pay \$50 as a court cost on conviction of an offense punishable as a Class B misdemeanor or any higher category of offense under:

(1) Chapter 49, Penal Code; or

(2) Chapter 481, Health and Safety Code.

(b) For purposes of this article, a person is considered to have been convicted if:

(1) a sentence is imposed; or

(2) the defendant receives community supervision or deferred adjudication.

(c) Court costs under this article are collected in the same manner as other fines or costs. An officer collecting the costs shall keep separate records of the funds collected as costs under this article and shall deposit the funds in the county treasury, as appropriate.

(d) The custodian of a county treasury shall:

(1) keep records of the amount of funds on deposit collected under this article; and

(2) except as provided by Subsection (e), send to the comptroller before the last day of the first month following each calendar quarter the funds collected under this article during the preceding quarter.

(e) A county is entitled to:

(1) if the custodian of the county treasury complies with Subsection (d), retain 10 percent of the funds collected under this article by an officer of the county during the calendar quarter as a service fee; and

(2) if the county has established a drug court program or establishes a drug court program before the expiration of the calendar quarter, retain in addition to the 10 percent authorized by Subdivision (1) another 50 percent of the funds collected under this article by an officer of the county during the calendar quarter to be used exclusively for the development and maintenance of drug court programs operated within the county.

(f) If no funds due as costs under this article are deposited in a county treasury in a calendar quarter, the custodian of the treasury shall file the report required for the quarter in the regular manner and must state that no funds were collected.

(g) The comptroller shall deposit the funds received under this article to the credit of the drug court account in the general revenue fund to help fund drug court programs established under Chapter 469, Health and Safety Code. The legislature shall appropriate money from the account solely to the criminal justice division of the governor's office for distribution to drug court programs that apply for the money.

(h) Funds collected under this article are subject to audit by the comptroller.

The amendment to **CSHB 530** was read and was adopted by a viva voce vote.

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

Senator Seliger offered the following amendment to the bill:

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

Amend **CSHB 530** (Senate committee report) as follows:

In SECTION 9 of the bill, on page 6, lines 14-29, strike proposed Section 54.1809 and replace with the following:

Sec. 54.1809. POWERS. Except as limited by an order of referral, a magistrate to whom a drug court case is referred may perform any act and take any measure necessary and proper for the efficient performance of the duties assigned by the district or statutory county court judge.

The amendment to **CSHB 530** was read and was adopted by a viva voce vote.

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

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

**CSHB 530** as amended was passed to third reading by a viva voce vote.

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

**COMMITTEE SUBSTITUTE  
HOUSE BILL 530 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 **CSHB 530** 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.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 8 ADOPTED**

Senator Deuell called from the President's table the Conference Committee Report on **HB 8**. The Conference Committee Report was filed with the Senate on Monday, May 14, 2007.

On motion of Senator Deuell, the Conference Committee Report was adopted by the following vote: Yeas 30, Nays 1.

Nays: Ellis.

**SENATE RULES SUSPENDED  
(Posting Rules)**

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

**HB 1637, HB 3862, HB 3871, HB 3979, HB 4097, HB 4098.**

**SENATE RULES SUSPENDED  
(Posting Rules)**

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

**HB 1786, HB 2285.**

**SENATE RULES SUSPENDED  
(Posting Rules)**

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

**HB 1889, HB 2115, HB 2498, HB 2656, HB 3613, HB 2385, HB 1503, HB 3692, HB 2884, HB 2112, HB 1158, HB 649, HB 1121, HB 1111, HB 1113, HB 2151, HB 3736, HJR 6.**

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 893 ADOPTED**

Senator Zaffirini called from the President's table the Conference Committee Report on **SB 893**. The Conference Committee Report was filed with the Senate on Tuesday, May 15, 2007.

On motion of Senator Zaffirini, the Conference Committee Report was adopted by the following vote: Yeas 31, Nays 0.

**SENATE BILL 61 WITH HOUSE AMENDMENT**

Senator Zaffirini called **SB 61** from the President's table for consideration of the House amendment to the bill.

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

**Amendment**

Amend **SB 61** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED  
AN ACT

relating to the performance of the functions of the governing body of a political subdivision in the event of a disaster.

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

SECTION 1. Subchapter E, Chapter 418, Government Code, is amended by adding Sections 418.111 and 418.112 to read as follows:

Sec. 418.111. PLAN FOR CONTINUITY OF FUNCTIONS. (a) The governing body of a political subdivision may at any time adopt a plan for the continuity of functions of the political subdivision to be carried out during a disaster declared as provided by law by the president of the United States or the governor or during another catastrophic event.

(b) The plan may provide for:

(1) delegating any administrative duty of the governing body of the political subdivision or any official or employee of the political subdivision to another appropriate person;

(2) establishing orders of succession for performing essential functions of the political subdivision; and

(3) establishing meeting procedures for the governing body of the political subdivision.

(c) The plan may not provide for the delegation of a duty that the governing body or official is required to perform by the Texas Constitution.

Sec. 418.112. EXCEPTION TO QUORUM REQUIREMENTS. (a) This section applies to a local governmental entity created and operating under the laws of this state, including a political subdivision, school district, or special district or authority.

(b) Notwithstanding any other law, a quorum is not required for the governing body of a local governmental entity to act if:

(1) the entity's jurisdiction is wholly or partly located in the area of a disaster declared by the president of the United States or the governor; and

(2) a majority of the members of the governing body are unable to be present at a meeting of the governing body as a result of the disaster.

SECTION 2. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2007.

The amendment was read.

Senator Zaffirini moved to concur in the House amendment to **SB 61**.

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

### **SENATE BILL 63 WITH HOUSE AMENDMENT**

Senator Zaffirini called **SB 63** from the President's table for consideration of the House amendment to the bill.

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

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

Amend **SB 63** (House committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Chapter 231, Local Government Code, is amended by adding Subchapter L to read as follows:

#### SUBCHAPTER L. ZONING AROUND FALCON LAKE

Sec. 231.251. LEGISLATIVE FINDINGS; PURPOSE. (a) The legislature finds that:

(1) the area that surrounds Falcon Lake in Zapata County is frequented for recreational purposes by residents from every part of the state;

(2) orderly development and use of the area is of concern to the entire state;

and

(3) buildings in the area that are frequented for resort or recreational purposes tend to become congested and to be used in ways that interfere with the proper use of the area as a place of recreation to the detriment of the public health, safety, morals, and general welfare.

(b) The powers granted under this subchapter are for the purpose of promoting the public health, safety, peace, morals, and general welfare and encouraging the recreational use of county land.

Sec. 231.252. AREAS SUBJECT TO REGULATION. This subchapter applies only to the unincorporated area of Zapata County located within 25,000 feet of:

(1) the project boundary line for Falcon Lake; and

(2) the Rio Grande river.

Sec. 231.253. FALCON LAKE PLANNING COMMISSION. (a) A lake planning commission is established for the area subject to this subchapter. The commission is comprised of:

(1) four residents of Zapata County, with one resident from each of the county commissioner precincts, appointed by that precinct's commissioner; and

(2) a person, who shall serve as the commission's presiding officer, appointed by the county judge of Zapata County.

(b) Except as provided by Subsection (c), the members of the commission shall be appointed for two year terms that expire February 1 of each odd-numbered year.

(c) The terms of the initial members of the commission expire on February 1st of the first February in an odd-numbered year following their appointment.

(d) The commissioners court of Zapata County may employ staff for the commission to use in performing the commission's functions.

Sec. 231.254. COMMISSION STUDY & REPORT; HEARING. (a) At the request of the commissioners court of Zapata County, the commission shall, or on the lake planning commission's own initiative, the commission may, conduct studies of the area subject to this subchapter and prepare reports to advise the commissioner's court about matters affecting that area, including any need for zoning regulations in that area.

(b) Before the commission may prepare a report, the commission must hold a public hearing in which members of the public may offer testimony regarding any subject to be included in the commission's report. The commission shall provide notice of the hearing as required by the commissioner's court.

Sec. 231.255. ZONING REGULATIONS. After receiving a report from the lake planning commission under Section 231.254, the commissioner's court of Zapata County may adopt zoning regulations for the area subject to this subchapter and in accordance with the report that regulate:

(1) the height, number of stories, and size of buildings and other structures;

(2) the percentage of a lot that may be occupied;

(3) the size of yards, courts, and other open spaces;

(4) population density;

(5) the location and use of buildings, other structures, and land for business, industrial, residential, or other purposes; and

(6) the placement of water and sewage facilities, parks, and other public requirements.

Sec. 231.256. DISTRICTS. (a) The commissioners court may divide the area in the county that is subject to this subchapter into districts of a number, shape, and size the court considers best for carrying out this subchapter. Within each district, the commissioners court may regulate the erection, construction, reconstruction, alteration, repair, or use of buildings, other structures, or land.

(b) The zoning regulations must be uniform for each class or kind of building in a district, but the regulations may vary from district to district. The regulations shall be adopted with reasonable consideration, among other things, for the character of each district and its peculiar suitability for particular uses, with a view of conserving the value of buildings and encouraging the most appropriate use of land throughout the area.

Sec. 231.257. ENFORCEMENT; PENALTY; REMEDIES. (a) The commissioners court may adopt orders to enforce this subchapter, any order adopted under this subchapter, or a zoning regulation.

(b) A person commits an offense if the person violates this subchapter, an order adopted under this subchapter, or a zoning regulation. An offense under this subsection is a misdemeanor, punishable by fine, imprisonment, or both, as provided by the commissioners court. The commissioners court may also provide civil penalties for a violation.

(c) If a building or other structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained or if a building, other structure, or land is used in violation of this subchapter, an order adopted under this subchapter, or a zoning regulation, the appropriate county authority, in addition to other remedies, may institute appropriate action to:

(1) prevent the unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use;

(2) restrain, correct, or abate the violation;

(3) prevent the occupancy of the building, structure, or land; or

(4) prevent any illegal act, conduct, business, or use on or about the premises.

The amendment was read.

Senator Zaffirini moved to concur in the House amendment to **SB 63**.

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

### **SENATE BILL 1848 ON SECOND READING**

On motion of Senator Duncan and by unanimous consent, the regular order of business was suspended to take up for consideration **SB 1848** at this time on its second reading:

**SB 1848**, Relating to state fiscal matters.

The bill was read second time.

Senator Duncan offered the following amendment to the bill:

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

Amend **SB 1848** by striking all below the enacting clause and substituting the following:

SECTION 1. Section 57.48(k)(1), Education Code, is amended to read as follows:

(1) "Compensation" means base salary or wages, longevity pay, hazardous duty pay, benefit replacement pay, a retirement annuity, or an emolument provided in lieu of base salary or wages.

SECTION 2. Section 73.003(c), Government Code, is amended to read as follows:

(c) If a case is transferred to a court that regularly sits not more than 35 miles from the place the court from which the case was transferred regularly sits, the court, at the discretion of its chief justice and after notice to the parties or their counsel, may hear oral arguments at the place it regularly sits. For purposes of this subsection, the place where a court of appeals regularly sits is that specified in Subchapter C, Chapter 22, and the mileage between the places is that determined [~~by the comptroller~~] under Chapter 660.



SECTION 3. Section 403.055(l)(1), Government Code, is amended to read as follows:

(1) "Compensation" means base salary or wages, longevity pay, hazardous duty pay, benefit replacement pay, a retirement annuity, or an emolument provided in lieu of base salary or wages.

SECTION 4. Section 403.0551(d), Government Code, is amended to read as follows:

(d) This section does not authorize the comptroller to deduct the amount of a state employee's indebtedness to a state agency from any amount of compensation owed by the agency to the employee, the employee's successor, or the assignee of the employee or successor. In this subsection:

(1) ~~["compensation"]~~ has the meaning assigned by Section 403.055; and

(2) "indebtedness," "state agency," "state employee," and "successor" have the meanings assigned by Section 666.001.

SECTION 5. Section 404.024, Government Code, is amended by amending Subsections (b) and (l) and adding Subsections (m) and (n) to read as follows:

(b) State funds not deposited in state depositories shall be invested by the comptroller in:

(1) direct security repurchase agreements;

(2) reverse security repurchase agreements;

(3) direct obligations of or obligations the principal and interest of which are guaranteed by the United States;

(4) direct obligations of or obligations guaranteed by agencies or instrumentalities of the United States government;

(5) bankers' acceptances that:

(A) are eligible for purchase by the Federal Reserve System;

(B) do not exceed 270 days to maturity; and

(C) are issued by a bank whose other comparable short-term obligations are rated in ~~[that has received]~~ the highest short-term ~~[credit]~~ rating category, within which there may be subcategories or gradations indicating relative standing, including such subcategories or gradations as "rating category" or "rated," by a nationally recognized statistical rating organization, as defined by Rule 2a-7 (17 C.F.R. Section 270.2a-7), promulgated under the Investment Company Act of 1940 (15 U.S.C. Section 80a-1 et seq.) by the Securities and Exchange Commission ~~[investment rating firm]~~;

(6) commercial paper that:

(A) does not exceed 270 days to maturity; and

(B) except as provided by Subsection (i), is issued by an entity whose other comparable short-term obligations are rated in ~~[has received]~~ the highest short-term ~~[credit]~~ rating category by a nationally recognized statistical rating organization ~~[investment rating firm]~~;

(7) contracts written by the treasury in which the treasury grants the purchaser the right to purchase securities in the treasury's marketable securities portfolio at a specified price over a specified period and for which the treasury is paid a fee and specifically prohibits naked-option or uncovered option trading;

(8) direct obligations of or obligations guaranteed by the Inter-American Development Bank, the International Bank for Reconstruction and Development (the World Bank), the African Development Bank, the Asian Development Bank, and the International Finance Corporation that have received the highest long-term [credit] rating categories for debt obligations by a nationally recognized statistical rating organization [investment rating firm];

(9) bonds issued, assumed, or guaranteed by the State of Israel;

(10) obligations of a state or an agency, county, city, or other political subdivision of a state;

(11) mutual funds secured by obligations that are described by Subdivisions (1) through (6) or by obligations consistent with Rule 2a-7 (17 C.F.R. Section 270.2a-7), promulgated by the Securities and Exchange Commission, including pooled funds:

(A) established by the Texas Treasury Safekeeping Trust Company;

(B) operated like a mutual fund; and

(C) with portfolios consisting only of dollar-denominated securities;

[and]

(12) foreign currency for the sole purpose of facilitating investment by state agencies that have the authority to invest in foreign securities;

(13) asset-backed securities, as defined by the Securities and Exchange Commission in Rule 2a-7 (17 C.F.R. Section 270.2a-7), that are rated at least A or its equivalent by a nationally recognized statistical rating organization and that have a weighted-average maturity of five years or less; and

(14) corporate debt obligations that are rated at least A or its equivalent by a nationally recognized statistical rating organization and mature in five years or less from the date on which the obligations were "acquired," as defined by the Securities and Exchange Commission in Rule 2a-7 (17 C.F.R. Section 270.2a-7).

(l) The comptroller may lend securities under procedures established by the comptroller. The procedures must be consistent with industry practice and must include a requirement to fully secure the loan with cash, obligations described by Subsections (b)(1)-(6), or a combination of cash and the described obligations. Notwithstanding any law to the contrary, cash may be reinvested in the items permitted under Subsection (b) or mutual funds, as defined by the Securities and Exchange Commission in Rule 2a-7 (17 C.F.R. Section 270.2a-7) [In this subsection, "obligation" means an item described by Subsections (b)(1)-(6)].

(m) In entering into a direct security repurchase agreement or a reverse security repurchase agreement, the comptroller may agree to accept cash on an overnight basis in lieu of the securities, obligations, or participation certificates identified in Section 404.001(3). Cash held by the state under this subsection is not a deposit of state or public funds for purposes of any statute, including this subchapter or Subchapter D, that requires a deposit of state or public funds to be collateralized by eligible securities.

(n) Notwithstanding any other law to the contrary, any government investment pool created to function as a money market mutual fund and managed by the comptroller or the Texas Treasury Safekeeping Trust Company may invest the funds it receives in investments that are "eligible securities," as defined by the Securities and

Exchange Commission in Rule 2a-7 (17 C.F.R. Section 270.2a-7), if it maintains a dollar-weighted average portfolio maturity of 90 days or less, with the maturity of each portfolio security calculated in accordance with Rule 2a-7 (17 C.F.R. Section 270.2a-7), and meets the diversification requirements of Rule 2a-7.

SECTION 6. Section 442.015, Government Code, is amended by amending Subsections (a), (b), and (f) and adding Subsections (h), (i), (j), (k), and (l) to read as follows:

(a) Notwithstanding Sections 403.094 and 403.095, the Texas preservation trust fund account is a separate account in the general revenue fund. The account consists of transfers made to the account, loan repayments, grants and donations made for the purposes of this program, proceeds of sales, earnings [~~income earned~~] on [~~money in~~] the account, and any other money received under this section. Distributions from [~~Money in~~] the account may be used only for the purposes of this section and may not be used to pay operating expenses of the commission. Money allocated to the commission's historic preservation grant program shall be deposited to the credit of the account. Earnings [~~Income earned~~] on [~~money in~~] the account shall be deposited to the credit of the account.

(b) The commission may use distributions from [~~money in~~] the Texas preservation trust fund account to provide financial assistance to public or private entities for the acquisition, survey, restoration, or preservation, or for planning and educational activities leading to the preservation, of historic property in the state that is listed in the National Register of Historic Places or designated as a State Archeological Landmark or Recorded Texas Historic Landmark, or that the commission determines is eligible for such listing or designation. The financial assistance may be in the amount and form and according to the terms that the commission by rule determines. The commission shall give priority to property the commission determines to be endangered by demolition, neglect, underuse, looting, vandalism, or other threat to the property. Gifts and grants [~~Money~~] deposited to the credit of the account specifically for any eligible projects may be used only for the type of projects specified. If such a specification is not made, the gift or grant [~~money~~] shall be unencumbered and accrue to the benefit of the Texas preservation trust fund account. If such a specification is made, the entire amount of the gift or grant may be used during any period for the project or type of project specified.

(f) The advisory board shall recommend to the commission rules for administering Subsections (a)-(e) [~~this section~~].

(h) The comptroller shall manage the assets of the account. In managing the assets of the account, the comptroller may acquire, exchange, sell, supervise, manage, or retain, through procedures and subject to restrictions the comptroller considers appropriate, any kind of investment that a prudent investor, exercising reasonable care, skill, and caution, would acquire or retain in light of the purposes, terms, distribution requirements, and other circumstances of the account then prevailing, taking into consideration the investment of all the assets of the account rather than a single investment.

(i) The amount of a distribution shall be determined by the comptroller in a manner intended to provide a stable and predictable stream of annual distributions and to maintain over time the purchasing power of account investments and annual

distributions from the account. If the purchasing power of account investments for any 10-year period is not preserved, the comptroller may not increase annual distributions from the account until the purchasing power of account investments is restored.

(j) An annual distribution made by the comptroller from the account during a fiscal year may not exceed an amount equal to seven percent of the average net fair market value of the investment assets of the account as determined by the comptroller.

(k) The expenses of managing account investments shall be paid from the account.

(l) On request, the comptroller shall fully disclose all details concerning the investments of the account.

SECTION 7. (a) It is the intent of the legislature that the Health and Human Services Commission use digital or electronic technology, to the greatest extent feasible, to reduce paper transactions, streamline processes, and promote provider participation and client access to services, including the submission of applications, the determination of eligibility, and requests for recertification, redetermination, and appeals.

(b) Section 531.0055, Government Code, is amended by adding Subsection (m) to read as follows:

(m) The executive commissioner shall establish standards for the use of electronic signatures in accordance with the Uniform Electronic Transactions Act (Chapter 43, Business & Commerce Code), with respect to any transaction, as defined by Section 43.002, Business & Commerce Code, in connection with the administration of health and human services programs.

SECTION 8. Section 533.012(c), Government Code, is amended to read as follows:

(c) The commission's office of investigations and enforcement shall review the information submitted under this section as appropriate in the investigation of fraud in the Medicaid managed care program. ~~[The comptroller may review the information in connection with the health care fraud study conducted by the comptroller.]~~

SECTION 9, Subchapter A, Chapter 659, Government Code, is amended by adding Section 659.007 to read as follows:

Sec. 659.007. EARNINGS STATEMENTS. (a) In this section, "state agency" has the meaning assigned by Section 403.013.

(b) A state agency may provide a written or electronic earnings statement to an officer or employee of the agency.

(c) The comptroller may adopt rules and establish procedures concerning the earnings statements provided by state agencies that under Subchapter C, Chapter 2101, are required to use the uniform statewide payroll system.

SECTION 10. Section 660.024(a), Government Code, is amended to read as follows:

(a) The chief administrator of a state agency must give advance written approval for any travel related to official state business for which a reimbursement for travel expenses is claimed or for which an advance for travel expenses to be incurred is sought. The advance written approval may be communicated electronically. ~~[A copy of the written approval shall be submitted with the travel voucher to the comptroller in accordance with Section 660.027.]~~

SECTION 11. Sections 660.027(b), (d), and (e), Government Code, are amended to read as follows:

(b) A voucher submitted under Subsection (a) is valid only if:

(1) the state agency submitting the voucher approves it in accordance with Chapter 2103 and, if required by law, certifies the voucher; and

(2) the state employee who incurred the travel expense or, if the employee is unavailable, another individual acceptable to the comptroller approves the description, information, and documentation required by Subsection (d) [voucher] in writing or electronically, except that the employee's approval is not required if another person is required by law to provide the approval.

(d) A voucher must be supported by:

(1) a description of [~~describe~~] the official state business performed; and

(2) [~~be accompanied by~~] the information and documentation that the comptroller considers necessary for the comptroller to determine compliance with this chapter, the travel provisions of the General Appropriations Act, and the rules adopted by the comptroller under this chapter.

(e) The comptroller may require a state agency to provide to the comptroller the description, information, and documentation required under [by] Subsection (d):

(1) on the form adopted by the comptroller under Subsection (c);

(2) electronically;

(3) by submitting receipts or other documents; or

(4) [~~3~~] by any [~~a~~] combination of Subdivisions (1), [~~and~~] (2), and (3).

SECTION 12. Section 660.028, Government Code, is amended by amending Subsections (b), (c), and (d) and adding Subsection (e) to read as follows:

(b) If the comptroller audits a state agency's voucher after the comptroller issues a warrant or initiates an electronic funds transfer in response to the voucher, the comptroller may require the agency to maintain in its files the description, information, and documentation [receipts] relating to the travel expense paid or reimbursed by the voucher until the comptroller audits the voucher.

(c) If a state agency pays or reimburses a travel expense without first submitting a voucher to the comptroller, the comptroller may audit the payment or reimbursement for compliance with this chapter and the travel provisions of the General Appropriations Act. The comptroller may report the results of the audit to the governor, the lieutenant governor, the speaker of the house of representatives, the state auditor, and the Legislative Budget Board. The state agency shall cooperate with the comptroller and make available the description, information, and documentation [receipts] required by the comptroller at the time and in the manner required by the comptroller.

(d) The comptroller may require a state agency to maintain in its files the description, information, and documentation [receipts] regarding a travel expense payment or reimbursement for the period required by the comptroller.

(e) The comptroller may require or authorize the description, information, and documentation relating to a travel expense payment or reimbursement to be maintained in paper form or electronically.

SECTION 13. Sections 660.043(c) and (d), Government Code, are amended to read as follows:

(c) A state agency ~~[The comptroller]~~ shall adopt or designate ~~[periodically issue and update]~~ a mileage guide, for use by agency employees and officers, ~~[that includes a chart]~~ showing the number of miles for the shortest route between points. A state agency may produce the guide or may use a reliable commercially or publicly available service to produce the guide ~~[The guide also may include a chart showing the number of miles for longer routes between points. Farm to market and ranch to market roads shall be considered when determining the routings between points in this state. The guide may be electronic or printed, or both].~~

(d) If the number of miles between points is not shown in the guide adopted or designated under Subsection (c), the mileage incurred while traveling between those points is not reimbursable unless:

- (1) the voucher itemizes the mileage on a point-to-point basis; and
- (2) the mileage is reasonable.

SECTION 14. Section 430.003, Local Government Code, is amended to read as follows:

Sec. 430.003. EXEMPTIONS OF CERTAIN ~~[STATE]~~ PROPERTY FROM INFRASTRUCTURE FEES. No county, municipality, or utility district may collect from a state agency or a public or private institution of higher education any fee charged for the development or maintenance of programs or ~~[of]~~ facilities for the control of excess water or storm water.

SECTION 15. Section 74.202, Property Code, is amended to read as follows:

Sec. 74.202. NOTICE FOR ITEM WITH VALUE OF LESS THAN \$200 ~~[\$100]~~. In the notice required by Section 74.201, the comptroller is not required to publish information regarding an item having a value that is less than \$200 ~~[\$100]~~ unless the comptroller determines that publication of that information is in the public interest.

SECTION 16. Section 403.028, Government Code, is repealed.

SECTION 17. (a) Except as provided by Subsection (d) of this section, this Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution.

(b) If this Act does not receive the vote necessary for immediate effect, the changes to or additions or repeal of the following laws made by this Act take effect on the 91st day after the last day of the legislative session:

- (1) Section 57.48, Education Code; and
- (2) Sections 403.028, 403.055, 403.0551, and 533.012, Government Code.

(c) If this Act does not receive the vote necessary for immediate effect, all provisions of this Act not treated by Subsection (b) of this section, including the changes to or additions of the following laws made by this Act, take effect September 1, 2007:

- (1) Sections 404.024, 659.007, 660.024, 660.027, and 660.028, Government Code; and
- (2) Section 74.202, Property Code.

(d) The changes to Sections 73.003 and 660.043, Government Code, made by this Act take effect September 1, 2007, without regard to whether this Act receives the vote necessary for immediate effect.

The amendment to **SB 1848** was read.

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

**Floor Amendment No. 2**

Amend Floor Amendment No. 1 to **SB 1848** as follows:

SECTION \_\_. Section 31.01, Tax Code, is amended by adding Subsection (d-2) to read as follows:

(d-2) This subsection applies only to a school district and only in connection with taxes imposed by the district in 2007. This subsection expires January 1, 2008. In addition to any other information required by this section, the tax bill or separate statement shall separately state:

(1) the amount of tax that would be imposed by applying the district's maintenance and operations rate for the 2005 tax year to current total value for 2007;

(2) the amount of tax that would be imposed by applying the district's maintenance and operations rate for the 2007 tax year to current total value for 2007;  
and

(3) the amount, if any, by which the amount calculated under Subdivision (1) exceeds the amount calculated under Subdivision (2), which must be labeled "Estimate of school district maintenance and operations property tax savings attributable to House Bill No. 1, Acts of the 79th Legislature, 3rd Called Session, 2006 and appropriations of state funds by the 80th Legislature.

The amendment to Floor Amendment No. 1 to **SB 1848** was read and was adopted by a viva voce vote.

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

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

**Floor Amendment No. 3**

Amend Floor Amendment No. 1 to **SB 1848** by amending Health and Safety Code 551.022, subsection (d) as follows:

(d) In accordance with board rules and departmental operating procedures, the superintendent may:

(1) establish policy to govern the facility that the superintendent considers will best promote the patients' and clients' interest and welfare;

(2) appoint subordinate officers, teachers, and other employees and set their salaries, in the absence of other law; and

(3) remove an officer, teacher, or employee ~~for good Cause~~ on an at-will basis.

The amendment to Floor Amendment No. 1 to **SB 1848** was read and was adopted by a viva voce vote.

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

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

**Floor Amendment No. 4**

Amend Floor Amendment No. 1 to **SB 1848** on page 1 of the amendment, between lines 2 and 3, by adding the following appropriately numbered SECTIONS and renumbering subsequent SECTIONS accordingly:

SECTION \_\_\_. Sections 42.253(a) and (c), Education Code, are amended to read as follows:

(a) For each school year the commissioner shall determine:

(1) the amount of money to which a school district is entitled under Subchapters B and C;

(2) the amount of money to which a school district is entitled under Sections 42.2516(b)(2) and (3);

(3) the amount of money to which a school district is entitled under Subchapter F;

(4) ~~[(3)]~~ the amount of money allocated to the district from the available school fund;

(5) ~~[(4)]~~ the amount of each district's tier one local share under Section 42.252; and

(6) ~~[(5)]~~ the amount of each district's tier two local share under Section 42.302.

(c) Each school district is entitled to an amount equal to the difference for that district between the sum of Subsections (a)(1), ~~and~~ (a)(2), and (a)(3) and the sum of Subsections ~~[(a)(3);~~ (a)(4), ~~and~~ (a)(5), and (a)(6).

SECTION \_\_\_. Section 42.259(b), Education Code, is amended to read as follows:

(b) Payments from the foundation school fund to each category 1 school district shall be made as follows:

(1) for amounts to which a district is entitled under Section 42.2516(b)(2) or (3):

(A) 15 percent of the yearly entitlement of the district shall be paid in an installment to be made on or before the 25th day of September of a fiscal year;

(B) ~~[(2)]~~ 80 percent of the yearly entitlement of the district shall be paid in eight equal installments to be made on or before the 25th day of October, November, December, January, March, May, June, and July; and

(C) ~~[(3)]~~ five percent of the yearly entitlement of the district shall be paid in an installment to be made on or before the 25th day of February; and

(2) for all other amounts to which a district is entitled:

(A) 14 percent of the yearly entitlement of the district shall be paid in an installment to be made on or before the 25th day of September of a fiscal year;

(B) 45 percent of the yearly entitlement of the district shall be paid in five equal installments to be made on or before the 25th day of October, November, December, June, and July;

(C) 33 percent of the yearly entitlement of the district shall be paid in three equal installments to be made on or before the 25th day of January, March, and May;



(D) six percent of the yearly entitlement of the district shall be paid in an installment to be made on or before the 25th day of February; and

(E) two percent of the yearly entitlement of the district shall be paid in an installment to be made on or before the 25th day of April.

SECTION \_\_\_\_\_. Sections 42.259(c), (d), and (f), Education Code, as effective until August 1, 2009, are amended to read as follows:

(c) Payments from the foundation school fund to each category 2 school district shall be made as follows:

(1) for amounts to which a district is entitled under Section 42.2516(b)(2) or (3):

(A) 22 percent of the yearly entitlement of the district shall be paid in an installment to be made on or before the 25th day of September of a fiscal year;

(B) [~~2~~] 18 percent of the yearly entitlement of the district shall be paid in an installment to be made on or before the 25th day of October;

(C) [~~3~~] 9.5 percent of the yearly entitlement of the district shall be paid in an installment to be made on or before the 25th day of November;

(D) [~~4~~] 7.5 percent of the yearly entitlement of the district shall be paid in an installment to be made on or before the 25th day of April;

(E) [~~5~~] five percent of the yearly entitlement of the district shall be paid in an installment to be made on or before the 25th day of May;

(F) [~~6~~] 10 percent of the yearly entitlement of the district shall be paid in an installment to be made on or before the 25th day of June;

(G) [~~7~~] 13 percent of the yearly entitlement of the district shall be paid in an installment to be made on or before the 25th day of July; and

(H) [~~8~~] 15 percent of the yearly entitlement of the district shall be paid in an installment to be made after the fifth day of September and not later than the 10th day of September of the calendar year following the calendar year of the payment made under Paragraph (A); and

(2) for all other amounts to which a district is entitled:

(A) 15 percent of the yearly entitlement of the district shall be paid in an installment to be made on or before the 25th day of September of a fiscal year;

(B) 13 percent of the yearly entitlement of the district shall be paid in an installment to be made on or before the 25th day of October;

(C) 14 percent of the yearly entitlement of the district shall be paid in two equal installments to be made on or before the 25th day of November and June;

(D) 18 percent of the yearly entitlement of the district shall be paid in three equal installments to be made on or before the 25th day of January, February, and March;

(E) 11 percent of the yearly entitlement of the district shall be paid in an installment to be made on or before the 25th day of April;

(F) 10 percent of the yearly entitlement of the district shall be paid in an installment to be made on or before the 25th day of May;

(G) nine percent of the yearly entitlement of the district shall be paid in an installment to be made on or before the 25th day of July; and

(H) 10 percent of the yearly entitlement of the district shall be paid in an installment to be made after the fifth day of September and not later than the 10th day of September of the calendar year following the calendar year of the payment made under Paragraph (A) [Subdivision (1)].

(d) Payments from the foundation school fund to each category 3 school district shall be made as follows:

(1) for amounts to which a district is entitled under Section 42.2516(b)(2) or (3):

(A) 45 percent of the yearly entitlement of the district shall be paid in an installment to be made on or before the 25th day of September of a fiscal year;

(B) [2] 35 percent of the yearly entitlement of the district shall be paid in an installment to be made on or before the 25th day of October; and

(C) [3] 20 percent of the yearly entitlement of the district shall be paid in an installment to be made after the fifth day of September and not later than the 10th day of September of the calendar year following the calendar year of the payment made under Paragraph (A); and

(2) for all other amounts to which a district is entitled:

(A) seven percent of the yearly entitlement of the district shall be paid in an installment to be made on or before the 25th day of September of a fiscal year;

(B) six percent of the yearly entitlement of the district shall be paid in an installment to be made on or before the 25th day of October;

(C) 85 percent of the yearly entitlement of the district shall be paid in five equal installments to be made on or before the 25th day of January, February, March, April, and May; and

(D) two percent of the yearly entitlement of the district shall be paid in an installment to be made after the fifth day of September and not later than the 10th day of September of the calendar year following the calendar year of the payment made under Paragraph (A) [Subdivision (1)].

(f) Except as provided by Subsection (c)(1)(H) or (2)(H) or (d)(1)(C) or (2)(D) [~~(e)(8) or (d)(3)~~], any previously unpaid additional funds from prior years owed to a district shall be paid to the district together with the September payment of the current year entitlement.

SECTION \_\_\_\_. Sections 42.259(c) and (d), Education Code, as effective August 1, 2009, are amended to read as follows:

(c) Payments from the foundation school fund to each category 2 school district shall be made as follows:

(1) for amounts to which a district is entitled under Section 42.2516(b)(2) or (3):

(A) 22 percent of the yearly entitlement of the district shall be paid in an installment to be made on or before the 25th day of September of a fiscal year;

(B) [2] 18 percent of the yearly entitlement of the district shall be paid in an installment to be made on or before the 25th day of October;

(C) [3] 9.5 percent of the yearly entitlement of the district shall be paid in an installment to be made on or before the 25th day of November;

(D) [4] 7.5 percent of the yearly entitlement of the district shall be paid in an installment to be made on or before the 25th day of April;

(E) [~~(5)~~] five percent of the yearly entitlement of the district shall be paid in an installment to be made on or before the 25th day of May;

(F) [~~(6)~~] 10 percent of the yearly entitlement of the district shall be paid in an installment to be made on or before the 25th day of June;

(G) [~~(7)~~] 13 percent of the yearly entitlement of the district shall be paid in an installment to be made on or before the 25th day of July; and

(H) [~~(8)~~] 15 percent of the yearly entitlement of the district shall be paid in an installment to be made on or before the 25th day of August; and

(2) for all other amounts to which a district is entitled:

(A) 15 percent of the yearly entitlement of the district shall be paid in an installment to be made on or before the 25th day of September of a fiscal year;

(B) 13 percent of the yearly entitlement of the district shall be paid in an installment to be made on or before the 25th day of October;

(C) 14 percent of the yearly entitlement of the district shall be paid in two equal installments to be made on or before the 25th day of November and June;

(D) 18 percent of the yearly entitlement of the district shall be paid in three equal installments to be made on or before the 25th day of January, February, and March;

(E) 11 percent of the yearly entitlement of the district shall be paid in an installment to be made on or before the 25th day of April;

(F) 20 percent of the yearly entitlement of the district shall be paid in two equal installments to be made on or before the 25th day of May and August; and

(G) nine percent of the yearly entitlement of the district shall be paid in an installment to be made on or before the 25th day of July.

(d) Payments from the foundation school fund to each category 3 school district shall be made as follows:

(1) for amounts to which a district is entitled under Section 42.2516(b)(2) or (3):

(A) 45 percent of the yearly entitlement of the district shall be paid in an installment to be made on or before the 25th day of September of a fiscal year;

(B) [~~(2)~~] 35 percent of the yearly entitlement of the district shall be paid in an installment to be made on or before the 25th day of October; and

(C) [~~(3)~~] 20 percent of the yearly entitlement of the district shall be paid in an installment to be made on or before the 25th day of August; and

(2) for all other amounts to which a district is entitled:

(A) seven percent of the yearly entitlement of the district shall be paid in an installment to be made on or before the 25th day of September of a fiscal year;

(B) six percent of the yearly entitlement of the district shall be paid in an installment to be made on or before the 25th day of October;

(C) 85 percent of the yearly entitlement of the district shall be paid in five equal installments to be made on or before the 25th day of January, February, March, April, and May; and

(D) two percent of the yearly entitlement of the district shall be paid in an installment to be made on or before the 25th day of August.

SECTION \_\_\_\_ . Subchapter E, Chapter 42, Education Code, is amended by adding Section 42.2591 to read as follows:

Sec. 42.2591. MODIFICATION OF PAYMENT SCHEDULE. (a) For the fiscal year ending August 31, 2008, or August 31, 2009, a school district may apply to the commissioner for a modification of the payment schedule provided by Section 42.259, as amended by S.B. No. 1848, Acts of the 80th Legislature, Regular Session, 2007, if application of that payment schedule would cause the district financial hardship as a result of the effect of the schedule on the district's cash flow.

(b) A modification granted under this section expires at the end of the fiscal year for which the modification is granted. A school district may seek a modification for each fiscal year.

(c) A modification granted under this section may affect only the timing of payments made under the schedule provided by Section 42.259, and may not result in a net change to the total amount of funds a school district receives during the fiscal year for which the modification is granted.

(d) The commissioner shall adopt rules necessary to implement this section.

(e) A decision of the commissioner under this section is final and may not be appealed.

(f) This section expires September 1, 2009.

The amendment to Floor Amendment No. 1 to **SB 1848** 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 Shapiro offered the following amendment to Floor Amendment No. 1:

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

Amend Floor Amendment No. 1 to **SB 1848** on page 1 of the amendment, between lines 2 and 3, by adding the following appropriately numbered SECTION and renumbering subsequent SECTIONS accordingly:

SECTION \_\_. Section 42.2516, Education Code, is amended by amending Subsection (b) and adding Subsection (b-2) to read as follows:

(b) Subject to Subsections (b-2), (g)<sub>2</sub> and (h), but notwithstanding any other provision of this title, a school district is entitled to state revenue necessary to provide the district with the sum of:

(1) the amount of state revenue necessary to maintain state and local revenue per student in weighted average daily attendance in the amount equal to the greater of:

(A) the amount of state and local revenue per student in weighted average daily attendance for the maintenance and operations of the district available to the district for the 2005-2006 school year;

(B) the amount of state and local revenue per student in weighted average daily attendance for the maintenance and operations of the district to which the district would have been entitled for the 2006-2007 school year under this chapter, as it existed on January 1, 2006, or, if the district would have been subject to Chapter 41, as that chapter existed on January 1, 2006, the amount to which the district would

have been entitled under that chapter, based on the funding elements in effect for the 2005-2006 school year, if the district imposed a maintenance and operations tax at the rate adopted by the district for the 2005 tax year; or

(C) the amount of state and local revenue per student in weighted average daily attendance for the maintenance and operations of the district to which the district would have been entitled for the 2006-2007 school year under this chapter, as it existed on January 1, 2006, or, if the district would have been subject to Chapter 41, as that chapter existed on January 1, 2006, the amount to which the district would have been entitled under that chapter, based on the funding elements in effect for the 2005-2006 school year, if the district imposed a maintenance and operations tax at the rate equal to the rate described by Section 26.08(i) or (k)(1), Tax Code, as applicable, for the 2006 tax year;

(2) an amount equal to the product of \$2,500 multiplied by the number of classroom teachers, full-time librarians, full-time counselors certified under Subchapter B, Chapter 21, and full-time school nurses employed by the district and entitled to a minimum salary under Section 21.402; and

(3) an amount equal to the product of \$275 multiplied by the number of students in average daily attendance in grades nine through 12 in the district.

(b-2) The amount determined for a school district under Subsection (b) is increased or reduced as follows:

(1) if for any school year the district is entitled to a greater allotment under Section 42.155 or greater additional state aid under Section 42.2515 than the allotment or additional state aid to which the district was entitled under Section 42.155 or 42.2515, as applicable, for the school year on which the district's entitlement under Subsection (b) is based, the district's entitlement under Subsection (b) is increased by an amount equal to the difference between the amount to which the district is entitled under Section 42.155 or 42.2515, as applicable, for that school year and the amount to which the district was entitled under the applicable section, as applicable for:

(A) the 2005-2006 school year, if the amount determined for the district under Subsection (b) is determined under Subsection (b)(1)(A); or

(B) the 2006-2007 school year, if the amount determined for the district under Subsection (b) is determined under Subsection (b)(1)(B) or (C); and

(2) if for any school year the district is not entitled to an allotment under Section 42.155 or additional state aid under Section 42.2515 or is entitled to a lesser allotment or less additional state aid under the applicable section than the allotment or additional state aid to which the district was entitled under the applicable section for the school year on which the district's entitlement under Subsection (b) is based, the district's entitlement under Subsection (b) is reduced by an amount equal to the difference between the amount to which the district was entitled under Section 42.155 or 42.2515, as applicable, for the 2005-2006 or 2006-2007 school year, as appropriate based on whether the district's entitlement under Subsection (b) is determined under Subsection (b)(1)(A), (B), or (C), and the amount to which the district is entitled under the applicable section for the current school year.

The amendment to Floor Amendment No. 1 to **SB 1848** 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 Ogden offered the following amendment to Floor Amendment No. 1:

**Floor Amendment No. 6**

Amend Floor Amendment No. 1 to **SB 1848** by adding the following appropriately numbered SECTIONS to read as follows and renumbering subsequent SECTIONS accordingly:

SECTION \_\_. (a) Subchapter C, Chapter 57, Utilities Code, is repealed.

(b) The assessment imposed under Subchapter C, Chapter 57, Utilities Code, for the calendar quarter ending in September 2007 is due on the last day of October 2007, and Subchapter C, Chapter 57, Utilities Code, is continued in effect for the collection of the assessment due and for civil and criminal enforcement of the liability for that assessment.

(c) A telecommunications utility or commercial mobile service provider subject to Subchapter C, Chapter 57, Utilities Code, may recover from the utility's customers through a monthly billing process the amount of the assessment imposed under that subchapter as provided by Section 57.048(f), Utilities Code, and the former law is continued in effect for that purpose.

(d) Notwithstanding any other provision of this Act providing for a different effective date, this section takes effect October 1, 2007.

SECTION \_\_. (a) Section 171.103(b), Tax Code, as effective January 1, 2008, is amended to read as follows:

(b) A combined group shall include in its gross receipts computed under Subsection (a) the gross receipts of each taxable entity that is a member of the combined group ~~[and that has a nexus with this state for the purpose of taxation]~~.

(b) Section 171.1055(b), Tax Code, as effective January 1, 2008, is amended to read as follows:

(b) In apportioning margin, receipts derived from transactions between individual members of a combined group that are excluded under Section 171.1014(c)(3) may not be included in the receipts of the taxable entity from its business done in this state as determined under Section 171.103~~[-except that receipts derived from the sale of tangible personal property between individual members of a combined group where one member party to the transaction does not have nexus in this state shall be included in the receipts of the taxable entity from its business done in this state as determined under Section 171.103 to the extent that the member of the combined group that does not have nexus in this state resells the tangible personal property without modification to a purchaser in this state]~~.

(c) In the event of a conflict between a provision of this section and another Act passed by the 80th Legislature, Regular Session, 2007, that becomes law, this section prevails and controls regardless of relative dates of enactment.

(d) This section applies only to a report originally due on or after the effective date of this section.

(e) Notwithstanding any other provision of this Act, this section takes effect January 1, 2008.

SECTION \_\_. The repeal of Subchapter C, Chapter 57, Utilities Code, by this Act takes effect only if Sections 171.103 and 171.1055, Tax Code, as effective January 1, 2008, and as amended by this Act or by another Act of the 80th Legislature, Regular Session, 2007, providing for identical amendment of those sections become law. If Sections 171.103 and 171.1055, Tax Code, as effective January 1, 2008, and as amended by this Act or by another Act of the 80th Legislature, Regular Session, 2007, providing for identical amendment of those sections do not become law, the Section of this Act repealing Subchapter C, Chapter 57, Utilities Code, has no effect.

The amendment to Floor Amendment No. 1 to **SB 1848** was read and failed of adoption by the following vote: Yeas 14, Nays 17.

Yeas: Averitt, Carona, Duncan, Ellis, Gallegos, Hinojosa, Janek, Lucio, Ogden, Shapleigh, Van de Putte, Watson, Whitmire, Zaffirini.

Nays: Brimer, Deuell, Eltife, Estes, Fraser, Harris, Hegar, Jackson, Nelson, Nichols, Patrick, Seliger, Shapiro, Uresti, Wentworth, West, Williams.

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

#### **Floor Amendment No. 7**

Amend Floor Amendment No. 1 to **SB 1848** (Senate committee printing) by adding the following appropriately numbered SECTIONS to read as follows and renumber subsequent SECTIONS accordingly:

SECTION \_\_. (a) The legislative task force on the use of the sales tax on sporting goods is composed of eight members, as follows:

(1) two members of the House Natural Resources Committee, appointed by the speaker of the house of representatives;

(2) two members of the House Appropriations Committee, appointed by the speaker of the house of representatives;

(3) two members of the Senate Committee on Natural Resources, appointed by the lieutenant governor; and

(4) two members of the Senate Committee on Finance, appointed by the lieutenant governor.

(b) The speaker of the house of representatives shall designate one member of the task force to serve as a joint presiding officer of the task force, and the lieutenant governor shall designate another task force member to serve as the other joint presiding officer.

(c) The task force meets at the call of a joint presiding officer.

(d) The task force shall:

(1) review the items that are included in the definition of "sporting goods" under Section 151.801(e), Tax Code, and determine if there is a correlation between each individual item included and activities related to state parks, including the use of those parks; and

(2) determine the amount of revenue that must be generated to fund the policy decisions made by the 80th Legislature regarding state parks.

(e) Not later than January 15, 2009, the task force shall prepare and present to the 81st Legislature a report that describes the findings of the task force and includes recommendations regarding the specific items that should be included in the definition of "sporting goods" under Section 151.801(e), Tax Code.

(f) This section expires March 1, 2009.

SECTION \_\_. Subchapter A, Chapter 442, Government Code, is amended by adding Sections 442.0051, 442.0052, and 442.0053 to read as follows:

Sec. 442.0051. FEES. The commission by rule may establish reasonable fees for commission purposes under this chapter, including an admission fee appropriate to a historic site under its jurisdiction.

Sec. 442.0052. VOLUNTEER SERVICES. (a) Except as provided by Subsection (b), the commission may use the services of volunteers to help carry out the duties and responsibilities of the commission.

(b) A volunteer may not enforce this code.

Sec. 442.0053. ELIGIBILITY CRITERIA FOR INCLUSION OF REAL PROPERTY IN STATE HISTORIC SITES SYSTEM. (a) The commission by rule shall adopt criteria for determining the eligibility of real property donated to the commission for inclusion in the historic sites system.

(b) The commission may accept a donation of real property that satisfies the criteria adopted under Subsection (a).

(c) The commission may renovate or restore donated real property, including improvements to the property, or construct improvements on the donated real property as necessary and prudent.

SECTION \_\_. Chapter 442, Government Code, is amended by adding Subchapter C to read as follows:

#### SUBCHAPTER C. CERTAIN HISTORIC SITES

Sec. 442.071. DEFINITION. In this subchapter, "historic site" means a site or park listed under Section 442.072.

Sec. 442.072. JURISDICTION. (a) The following historic sites and parks formerly under the jurisdiction of the Parks and Wildlife Department are under the commission's jurisdiction:

- (1) Acton State Historic Site;
- (2) Caddoan Mounds State Historic Site;
- (3) Casa Navarro State Historic Site;
- (4) Confederate Reunion Grounds State Historic Site;
- (5) Eisenhower Birthplace State Historic Site;
- (6) Fannin Battleground State Historic Site;
- (7) Fort Griffin State Historic Site;
- (8) Fort Lancaster State Historic Site;
- (9) Fort McKavett State Historic Site;
- (10) Fulton Mansion State Historic Site;
- (11) Landmark Inn State Historic Site;
- (12) Levi Jordan State Historic Site;
- (13) Magoffin Home State Historic Site;
- (14) Sabine Pass Battleground State Historic Site;
- (15) Sam Bell Maxey House State Historic Site;



- (16) San Felipe State Historic Site;
- (17) Starr Family Home State Historic Site;
- (18) Varner-Hogg Plantation State Historic Site.

(b) This subsection applies to a historic site that the state is required to operate in a particular manner or for a particular purpose, such as a site improved with federal money subject to federal restrictions on the purposes for which the improved site may be used or a site donated to the state subject to a reversion clause providing that the title reverts to the grantor when the site is not used for the purposes for which it was acquired. The commission has all powers necessary to operate the site in the required manner or for the required purpose.

(c) The commission may enter into an agreement with a nonprofit corporation, foundation, association, or other nonprofit entity for the expansion, renovation, management, operation, or financial support of a historic site.

Sec. 442.073. HISTORIC SITE ACCOUNT. (a) The historic site account is a separate account in the general revenue fund.

(b) The account consists of:

- (1) transfers to the account;
- (2) interest earned on the account;
- (3) fees and other revenue from operation of a historic site; and
- (4) grants and donations accepted under Section 442.074.

(c) A fee or other revenue generated at a historic site must be credited to the account.

(d) Money in the account may be used only to administer, operate, preserve, repair, expand, or otherwise maintain a historic site or to acquire a historical item appropriate to a historic site.

(e) Any money in the account not used in a fiscal year remains in the account. The account is exempt from the application of Section 403.095.

Sec. 442.074. GRANTS; DONATIONS. (a) The commission may seek and accept grants and donations for a historic site from any appropriate source.

(b) Money accepted under this section shall be deposited to the credit of the historic site account.

SECTION \_\_. Section 442.019, Government Code, as added by Chapter 1259, Acts of the 79th Legislature, Regular Session, 2005, is transferred to Subchapter C, Chapter 442, Government Code, as added by this Act, renumbered as Section 442.075, Government Code, and amended to read as follows:

Sec. 442.075 [442.019]. TRANSFER OF HISTORIC [HISTORICAL] SITES FROM PARKS AND WILDLIFE. (a) Section 442.071 does not apply to this section.

(b) By interagency agreement, a historic [historical] site under the jurisdiction of the Parks and Wildlife Department may be transferred to the commission.

(c) [442.075] If jurisdiction over a historic [historical] site is transferred under this section, all rights, powers, duties, obligations, functions, activities, property, and programs of the Parks and Wildlife Department relating to the [historical] site are transferred to the commission.

(d) ~~(e)~~ On or after the transfer of jurisdiction over a historic ~~[historical]~~ site, the commission may enter into an agreement with a nonprofit corporation, including the Admiral Nimitz Foundation, for the expansion, renovation, management, operation, or financial support of the site.

SECTION \_\_. Section 11.0262(a), Parks and Wildlife Code, is amended to read as follows:

(a) An employee of the state parks division of the department may accept a gratuity if:

(1) the employee, as a primary job duty, serves food or beverages in a restaurant, cafeteria, or other food service establishment located within a state park and owned and operated by the department;

(2) the employee, as an auxiliary duty in performance of a regular duty renders a special customer service to an individual or group;

(3) the gratuity is offered by a customer:

(A) of the restaurant, cafeteria, ~~[or other]~~ food service establishment, or hospitality unit of the state parks division in appreciation of being served food or beverages by the employee; or

(B) of a hospitality unit of the state parks division, in appreciation of receiving some other customer service from the employee;

(4) ~~(3)~~ the department has designated the employee as an employee authorized to accept a gratuity; and

(5) ~~(4)~~ the employee reports the gratuity in accordance with commission rules.

SECTION \_\_. Chapter 11, Parks and Wildlife Code, is amended by adding Subchapter K to read as follows:

#### SUBCHAPTER K. MANAGEMENT AND EFFICIENCY REVIEWS

Sec. 11.251. MAINTENANCE EQUIPMENT REVIEW SYSTEM. (a) In this section:

(1) "Maintenance equipment" means personal property owned by the department that is used to administer, operate, preserve, repair, expand, or otherwise maintain real property, including improvements and fixtures, owned or operated by the department.

(2) "Outdated equipment" means equipment:

(A) that has a fair market value that is less than the annual cost of maintaining the equipment in working order;

(B) that is not operational and cannot reasonably be made operational;

or

(C) that no longer serves a department purpose.

(b) The commission by rule shall establish an equipment review system through which the department annually determines whether any of the department's maintenance equipment has become outdated equipment since the last date the department conducted an equipment review under this section.

(c) The equipment review system established under Subsection (b) must require the department to sell any outdated equipment in the manner and at the time specified by the commission by rule.

(d) The department shall deposit proceeds from the sale of equipment under this section to the credit of the appropriate parks and wildlife account.

Sec. 11.252. MAINTENANCE PROVIDER REVIEW SYSTEM. (a) In this section "maintenance" includes the administration, operation, preservation, repair, and expansion of personal property owned by the department and real property owned or operated by the department.

(b) The commission by rule shall establish a maintenance provider review system through which the department annually determines whether a maintenance task performed by the department could be performed by a third-party contractor in a manner that:

(1) is more cost-effective than the department's manner of performing the maintenance task; and

(2) yields a result that is equal to or greater than the quality of the result produced by the department performing the task.

(c) The maintenance provider review system established under Subsection (b) must require the department to contract with a third party for the performance of any maintenance task performed by the department that could be performed by a third-party contractor in the manner that meets the criteria described by Subsection (b) after the department's cost of administering the contract is added to the cost of performance by the third party.

Sec. 11.253. MANAGEMENT PLAN AND PRIORITIES LIST. Not later than January 15 of each odd-numbered year the department shall submit to the governor, the speaker of the house of representatives, the lieutenant governor, and the chair of each house and senate standing committee having jurisdiction over a matter regulated by the department under this code a management plan to address the department's maintenance responsibilities under this subchapter and a priorities list that includes the following information:

(1) a prioritized list of facilities operated by the department that are most in need of repair, renovation, expansion, or other maintenance;

(2) an itemized list explaining any additional funding requested by the department to accomplish a task described by Subdivision (1); and

(3) the results of the reviews conducted under Sections 11.251, 11.252, and 13.019(b).

SECTION \_\_. Subchapter A, Chapter 13, Parks and Wildlife Code, is amended by adding Section 13.0044 to read as follows:

Sec. 13.0044. PREFERENCE FOR CERTAIN PARK PROGRAMS. In selecting parks for capital improvements, the department may give a preference to programs in which the department matches locally raised money on a dollar-for-dollar basis.

SECTION \_\_. Section 13.0061(a), Parks and Wildlife Code, is amended to read as follows:

(a) The department may lease grazing rights on any state park or any area of a state park. The department may harvest and sell, or sell in place, any timber, hay, livestock, or other product grown on state park land the department finds to be in excess of natural resource management, educational, or interpretive objectives

~~[programming needs]~~. Timber may be harvested only for forest pest management, salvage, or habitat restoration and under good forestry practices with the advice of the Texas Forest Service.

SECTION \_\_. Subchapter A, Chapter 13, Parks and Wildlife Code, is amended by adding Section 13.0075 to read as follows:

Sec. 13.0075. ELIGIBILITY CRITERIA FOR INCLUSION OF REAL PROPERTY IN STATE PARKS SYSTEM. (a) The commission by rule shall adopt criteria for determining the eligibility of real property that is donated to the department for inclusion in the state parks system.

(b) The department may accept a donation of real property that satisfies the criteria adopted under Subsection (a).

(c) The department may renovate or restore donated real property, including improvements to the property, or construct improvements on the donated real property as necessary and prudent.

SECTION \_\_. Subchapter A, Chapter 13, Parks and Wildlife Code, is amended by adding Section 13.0145 to read as follows:

Sec. 13.0145. SPEED LIMITS. (a) The department shall set and enforce speed limits on a road in a state park, wildlife management area, or other site under the control of the department as follows:

(1) 30 miles per hour on a park road or main drive;

(2) 20 miles per hour on a secondary road; or

(3) as posted by the department.

(b) The department shall:

(1) consult with the Texas Department of Transportation to determine if a speed limit under Subsection (a) is reasonable and safe based on an engineering and traffic control study; and

(2) amend the limit, if necessary.

SECTION \_\_. Section 13.015, Parks and Wildlife Code, is amended by amending Subsection (b) and adding Subsections (a-1), (b-1), (b-2), and (b-3) to read as follows:

(a-1) The department may promote visits and enhance revenue at parks, including amounts necessary for salaries, advertising, consumable supplies and materials, promotional products, fees, and related expenses.

(b) The department may operate or grant contracts to operate concessions in state parks or on causeways, beach drives, or other improvements in connection with state park sites. The department may make regulations governing the granting or operating of concessions. The department may establish and operate staff concessions, including salaries, consumable supplies and materials, operating expenses, rental and other equipment, and other capital outlays.

(b-1) The department may purchase products, including food items, for resale or rental at a profit.

(b-2) The department shall operate any resale concession program using standard business practice models to generate revenue and provide quality customer service while adhering to conservation principles.

(b-3) The department may recruit and select private service providers to enter into leased concession contracts with the department to provide necessary and appropriate visitor services.

SECTION \_\_. Section 13.016, Parks and Wildlife Code, is amended to read as follows:

Sec. 13.016. INMATE [PRISON] LABOR. (a) The department may use the labor of an inmate confined in a state, county, or local correctional facility ~~[trustee state convicts]~~ on or in connection with state parks, wildlife management areas, or other property under the control or jurisdiction of the department.

(b) Inmates [Convicts] working in connection with lands under the control or jurisdiction of the department remain under the control of the Texas Department of Criminal Justice or county or local correctional facility, as appropriate, and are considered as serving their terms in the Texas Department of Criminal Justice or other correctional facility [penitentiary].

(c) The department may purchase equipment, meals, supplies, and materials for an inmate working at a department site as necessary to facilitate the use of the labor described by this section.

(d) The department may not use the labor of an inmate convicted of an offense listed in Article 62.001(5), Code of Criminal Procedure.

(e) The department may not use the labor of an inmate convicted of any violent offense.

SECTION \_\_. Section 13.019, Parks and Wildlife Code, is amended to read as follows:

Sec. 13.019. FACILITY RESERVATION SYSTEM AND FEE. (a) The department may permit the advance reservation of a facility, lodging, or campsite at a state park and require the payment of a fee by a person making the reservation.

(b) The department shall annually:

(1) evaluate whether the reservation system used by the department for the advance reservation of facilities, lodging, and campsites is as user-friendly as possible; and

(2) make modifications to the system as necessary to enhance the user-friendliness of the reservation system.

SECTION \_\_. Subchapter A, Chapter 13, Parks and Wildlife Code, is amended by adding Section 13.0191 to read as follows:

Sec. 13.0191. FACILITY AND LODGING FEES. A fee charged by the department under this subchapter for the use of a facility or lodging at a state park may vary on a seasonal basis and may be set in an amount to recover the direct and indirect costs of providing the facility or lodging and provide a reasonable rate of return to the department. Items to be considered in setting a fee include the cost required to provide, maintain, and improve amenities available at the site and seasonal variables such as the cost of staffing to meet demand and costs of heating or air conditioning.

SECTION \_\_. The Parks and Wildlife Department shall comply with the recommendations contained in the State Auditor's Office "An Audit Report on Financial Processes at the Parks and Wildlife Department Report No. 07-021" in

accordance with the dates specified in the department's management response included as Appendix 6 to the report and contingent on receiving an appropriation sufficient to fund the implementation of the recommendations.

SECTION \_\_. (a) In this section, "historic site" means a historic site or park listed under Section 442.072, Government Code, as added by this Act.

(b) On or after January 1, 2008, as provided by this section, the following are transferred to the Texas Historical Commission:

(1) each historic site and all obligations and liabilities of the Parks and Wildlife Department relating to the site;

(2) all unobligated and unexpended funds appropriated to the Parks and Wildlife Department designated for the administration of each site;

(3) all equipment and property of the Parks and Wildlife Department used for the administration of or related to each site; and

(4) all files and other records of the Parks and Wildlife Department kept by the department regarding each site.

(c) A rule adopted by the Parks and Wildlife Commission that is in effect immediately before January 1, 2008, and that relates to a historic site is, on January 1, 2008, a rule of the Texas Historical Commission and remains in effect until amended or repealed by the Texas Historical Commission. A rule that applies to both a transferred site and park that is not transferred is a rule of both commissions and applies to the transferred site until amended or repealed by the Texas Historical Commission.

(d) A transfer under this Act does not diminish or impair the rights of a holder of an outstanding bond or other obligation issued by the Parks and Wildlife Department in relation to the support of a historic site.

(e) On January 1, 2008, a reference in the Parks and Wildlife Code or other law to a power, duty, obligation, or liability of the Parks and Wildlife Department or the Parks and Wildlife Commission that relates to a historic site is a reference to the Texas Historical Commission. The Texas Historical Commission is the successor agency to the Parks and Wildlife Department and the Parks and Wildlife Commission for the site.

(f) The Texas Historical Commission shall prepare a base operating plan for each historic site before the transfer of any site or associated artifact or archival materials from the Parks and Wildlife Department to the commission. The base operating plan for each site must be completed on or before January 1, 2008. The base operating plan for each site must include:

(1) a mission statement outlining the goals for the site;

(2) an interpretive plan showing how the mission is to be accomplished;

(3) an operational plan, including:

(A) facilities, documents, records, and other assets to be transferred;

(B) parties responsible for daily site management, including staff that will be transferred;

(C) off-site support structure;

(D) plans for artifact and archival curation;

(E) signed memoranda of understanding or memoranda of agreement with appropriate friends groups and volunteer organizations; and

- (F) emergency plans;
- (4) a maintenance plan, including maintenance and repair needs;
- (5) a marketing plan;
- (6) a business plan, including revenue and visitation goals;
- (7) a plan for compliance with:
  - (A) Chapter 191, Natural Resources Code (the Antiquities Code of Texas); and
  - (B) the National Historic Preservation Act (16 U.S.C. Section 470 et seq.); and
- (8) fiscal plans and budgets associated with Subdivisions (1) through (7) of this subsection.

(g) An interim study committee shall review the base operating plan described by Subsection (f) of this section. The members of the interim committee shall be a subcommittee of the House Committee on Culture, Recreation, and Tourism appointed not later than September 1, 2007, by the chair of that house committee. The interim committee shall obtain feedback and information from professionals familiar with the work of the Parks and Wildlife Department, the Texas Historical Commission, the National Park Service, the Council of Texas Archeologists, professional archivists, park managers, and the tourism industry. The interim study committee shall report to the House Committee on Culture, Recreation, and Tourism on the results of the study conducted under this subsection not later than September 1, 2008.

(h) Until a historic site is transferred to the Texas Historical Commission in accordance with this Act, the Parks and Wildlife Department shall continue to operate and maintain the site under applicable law as it existed on January 1, 2007.

(i) The Parks and Wildlife Department and the Texas Historical Commission shall keep the House Committee on Culture, Recreation, and Tourism informed of the progress of the transfer of each historic site under this Act.

(j) An employee of the Parks and Wildlife Department whose job responsibilities are more than 50 percent related to a historic site transferred to the Texas Historical Commission under this Act becomes an employee of the Texas Historical Commission on the date of the transfer of that site. An employee whose job is transferred may not be dismissed after the transfer except for cause before the first anniversary of the date of the transfer.

SECTION \_\_. Any restrictions on the allocation of money in the state parks account under Section 11.035, Parks and Wildlife Code, as amended by this Act, on the use of money in the Texas parks and wildlife conservation and capital account under Section 11.043, Parks and Wildlife Code, as amended by this Act, on the use of money in the Texas recreation and parks account under Section 24.002, Parks and Wildlife Code, as amended by this Act, or on the allocation of that money under Section 24.003, Parks and Wildlife Code, as amended by this Act, do not apply to a one-time appropriation of the unencumbered balances of those accounts on August 31, 2007, made by a rider to the General Appropriations Act that:

1) is contingent on the enactment of this Act or a similar Act by the 80th Legislature; and

2) provides for the one-time allocation of that money to the Parks and Wildlife Department and the Texas Historical Commission to be used for the repair, renovation, maintenance, and other one-time costs associated with state historic sites and state parks.

SECTION \_\_. The name of the Peach Point Wildlife Management Area is changed to the Justin Hurst Wildlife Management Area.

The amendment to Floor Amendment No. 1 to **SB 1848** was read and was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 7.

Question recurring on the adoption of Floor Amendment No. 1 to **SB 1848**, 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.

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

**SB 1848** 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 1848 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 **SB 1848** 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 ON FIRST READING**

The following bill was introduced, read first time, and referred to the committee indicated:

**SB 2058** by Wentworth

Relating to the authority of the Cow Creek Groundwater Conservation District to exempt property from ad valorem taxation.

To Committee on Intergovernmental Relations.

#### **SENATE RULES SUSPENDED**

##### **(Posting Rules)**

On motion of Senator Duncan and by unanimous consent, Senate Rule 11.10(a) and Senate Rule 11.18(a) were suspended in order that the Committee on State Affairs might meet and consider the following bills today: **HB 2701**, **HB 2250**.



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

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

**HB 828, SB 479, SB 2049, HB 544, HB 1250, HB 1330, HB 1427, HB 1493, HB 1775, HB 2103, HB 2225, HB 2702, HB 2978, HB 3114, HB 3236, HB 3291, HB 3382, HB 3449, HB 3851, HB 3934, HB 1213, HB 317, HB 589, HB 2383, HB 2074.**

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

On motion of Senator Ogden and by unanimous consent, Senate Rule 11.10(a) and Senate Rule 11.18(a) were suspended in order that the Committee on Finance might meet and consider **HB 109** today.

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

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

**HB 2936, HB 1795, HB 1467, HB 2783, HB 1205, HB 624, HB 2605, HB 4065, HB 3222, HB 1166, HB 3706, HB 1214, HB 2723, HCR 198.**

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

On motion of Senator Whitmire and by unanimous consent, Senate Rule 11.10(a) and Senate Rule 11.18(a) were suspended in order that the Committee on Criminal Justice might meet and consider the following bills today: **HB 430, HB 1110.**

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

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

**MOTION TO ADJOURN**

On motion of Senator Whitmire and by unanimous consent, the Senate at 6:09 p.m. agreed to adjourn, in memory of Governor Ann Richards, pending receipt of Messages from the House, until 10:00 a.m. tomorrow.

(Senator Duncan in Chair)

**MESSAGE FROM THE HOUSE**

HOUSE CHAMBER  
Austin, Texas  
May 17, 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 792**, Relating to the authority of certain counties and other entities with respect to certain transportation projects and to comprehensive development agreements with regard to such projects; authorizing the issuance of bonds; providing penalties.  
(Amended)

Respectfully,

/s/Robert Haney, Chief Clerk  
House of Representatives

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 88**

Senator Hinojosa submitted the following Conference Committee Report:

Austin, Texas  
May 17, 2007

Honorable David Dewhurst  
President of the Senate  
Honorable Tom Craddick  
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **HB 88** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

HINOJOSA  
SELIGER  
BRIMER  
LUCIO  
JACKSON

On the part of the Senate

BRANCH  
ANDERSON  
AYCOCK  
COHEN  
CORTE

On the part of the House

The Conference Committee Report on **HB 88** was filed with the Secretary of the Senate.

**RESOLUTIONS OF RECOGNITION**

The following resolutions were adopted by the Senate:

**Memorial Resolutions**

**SR 1067** by Ellis, In memory of Jewell Thigpen Wilson of Houston.

**SR 1072** by Wentworth, In memory of James Howard Dunks of New Braunfels.

**Congratulatory Resolutions**

**SR 669** by Zaffirini, Recognizing J. O. Barrera of San Diego for his service as a Duval County veterans service officer.

**SR 1066** by Shapiro, Commending the Richardson Independent School District for its selection as a recipient of a 2007 H-E-B Excellence in Education Award.

**SR 1068** by Gallegos, Recognizing Robert Gonzalez on the occasion of his retirement from Maxwell House Coffee.

**SR 1069** by Gallegos, Congratulating Jerry Lowry for receiving the Distinguished Community Leader Award from Leadership North Houston.

**SR 1070** by West, Recognizing Javier Julian Ramirez, Jr., on the occasion of his graduation from The University of Texas at Austin.

**SR 1075** by Lucio, Recognizing Ruben Gallegos of Brownsville on the occasion of his 70th birthday.

**HCR 259** (Ellis), Honoring Bardoli Global for helping students of color to study abroad.

**ADJOURNMENT**

Pursuant to a previously adopted motion, the Senate at 6:29 p.m. adjourned, in memory of Governor Ann Richards, until 10:00 a.m. tomorrow.

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**APPENDIX**

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**COMMITTEE REPORTS**

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

May 17, 2007

GOVERNMENT ORGANIZATION — **HCR 12, HCR 102, CSHB 957, HB 2293, HB 2542, CSHB 3106**

FINANCE — **HB 48, HB 261, HB 3290, HB 3492, HB 3514, HB 264**

STATE AFFAIRS — **CSHB 724, CSHB 2548**

BUSINESS AND COMMERCE — **HB 2002, HB 2660, HB 2820, HB 3093**

JURISPRUDENCE — **HB 335, HB 1352, HB 1500, HB 1930, HB 1995, HB 2617, HB 2691, HB 3060, HB 3063, HB 3135, HB 3293, HB 3460, HB 3593, HB 3992, HB 3993, HB 3997, HB 4008, HB 4037, HB 4039, HB 4040, HB 3537, HB 4094, HB 1481**

FINANCE — **CSHB 142**

BUSINESS AND COMMERCE — **HB 177, HB 550, HB 1293, HB 1524, HB 2551**

TRANSPORTATION AND HOMELAND SECURITY — **HB 2216, HB 2622**

NATURAL RESOURCES — **CSHB 147, CSHB 1498, CSSB 1676**

BUSINESS AND COMMERCE — **CSHB 1541, CSHB 3385**

TRANSPORTATION AND HOMELAND SECURITY — **HCR 164, HB 1638, HB 2945, HB 2694, HB 3832**

STATE AFFAIRS — **HB 928, HB 1519, HB 1587, HB 1728, HB 1847, HB 2467, HB 3350**

BUSINESS AND COMMERCE — **HB 1188, HB 2092**

TRANSPORTATION AND HOMELAND SECURITY — **CSHB 1522, CSHB 2093, CSHB 3711, CSHB 3849**

NATURAL RESOURCES — **CSHB 3011**

INTERGOVERNMENTAL RELATIONS — **CSHB 1141, CSHB 1314**

CRIMINAL JUSTICE — **CSHB 460, HB 1093 (Amended), CSHB 1944, CSHB 1955, CSHB 2328, CSHB 2445**

**SENT TO SECRETARY OF STATE**

May 17, 2007

**SJR 20**

**SENT TO GOVERNOR**

May 17, 2007

**SB 66, SB 75, SB 99, SB 156, SB 178, SB 242, SB 244, SB 288, SB 291, SB 377, SB 596, SB 600, SB 625, SB 680, SB 744, SB 796, SB 802, SB 814, SB 952, SB 1426, SB 1502, SB 1615, SB 1659, SB 1666, SB 1667, SB 1867, SCR 73**

**SIGNED BY GOVERNOR**

May 17, 2007

**SB 44, SB 123, SB 267, SB 370, SB 1041, SB 1077, SB 1089, SB 1106, SB 1209, SB 1236, SB 1389, SB 1447, SB 1470, SB 1500, SB 1694, SB 1752**