

SENATE JOURNAL

EIGHTY-FIRST LEGISLATURE — REGULAR SESSION

AUSTIN, TEXAS

PROCEEDINGS

SIXTY-THIRD DAY
(Thursday, May 21, 2009)

The Senate met at 11:05 a.m. pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Averitt, Carona, Davis, Deuell, Duncan, Ellis, Eltife, Estes, Fraser, Gallegos, Harris, Hegar, Hinojosa, Huffman, Jackson, 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. Leslie Hollon, Trinity Baptist Church, San Antonio, offered the invocation as follows:

God, in this day we arise to serve Your holy, just, and loving purposes. We are grateful that You have endowed us with the rights of life, liberty, and the pursuit of happiness. Allow the comfort and counsel of Your spirit to rest on each Senator during this day's deliberations by giving care to their public and personal lives. Stir afresh within this Senate body the call of servant-leadership and renew for each Senator the honored and founding reasons why they agreed to represent the great people of Texas. Grant them wisdom and courage in the consideration of laws and procedures which will empower all Texans to be responsible as individuals and respectful as a community of citizens. By Your sovereign grace, we choose to be a people of steady character which will guide us through these unsteady times. By the power of Your spirit. 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-AUTHORS OF SENATE RESOLUTION 969

On motion of Senator Eltife, Senators Deuell and Nichols will be shown as Co-authors of **SR 969**.

CO-SPONSOR OF HOUSE BILL 4294

On motion of Senator Shapiro, Senator Carona will be shown as Co-sponsor of **HB 4294**.

PHYSICIAN OF THE DAY

Senator Averitt was recognized and presented Dr. Bruce Scaff of Clifton as the Physician of the Day.

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

GUESTS PRESENTED

Senator Fraser was recognized and introduced to the Senate a group of students from Central Texas College representing the students on the free enterprise team.

The Senate welcomed its guests.

GUESTS PRESENTED

Senator Estes was recognized and introduced to the Senate a group of students from the Harrold Independent School District.

The Senate welcomed its guests.

GUESTS PRESENTED

Senator Ogden was recognized and introduced to the Senate a group of ninth- through twelfth-grade students from Caldwell High School in Caldwell.

The Senate welcomed its guests.

MESSAGE FROM THE HOUSE

HOUSE CHAMBER

Austin, Texas

May 21, 2009

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 126, Designating the Mills County Goat and BBQ Cook-off as an official Texas State Goat Barbecue Championship Cook-off.

HCR 237, Designating the Brady World Championship BBQ Goat Cook-off as the official Texas State Goat Barbecue Championship Cook-off.

SB 333, Relating to the retention by a county or municipality of certain court costs for maintaining and supporting a certified breath alcohol testing program.
(Amended)

SB 408, Relating to the jurisdiction of and appeals from certain courts.
(Amended)

SB 451, Relating to staff development requirements in public schools.
(Amended)

SB 472, Relating to notice required before and period to vacate after foreclosure sale of real property.
(Amended)

SB 476, Relating to staffing, overtime, and other employment protections for nurses.
(Committee Substitute)

SB 518, Relating to providing access to certain information relating to the discretionary transfer of a child from a juvenile court to a criminal court.

SB 527, Relating to certain mammography systems that fail certification standards.

SB 532, Relating to a physician's delegation of prescriptive authority to physician assistants or advanced practice nurses.
(Committee Substitute/Amended)

SB 554, Relating to conduct constituting the offense of dog fighting and to the criminal and civil consequences of committing that offense.

SB 627, Relating to the liability of in-home service companies and residential delivery companies for negligent hiring.
(Committee Substitute/Amended)

SB 633, Relating to the number of counties or municipalities necessary to establish a regional drug court program.

SB 650, Relating to certain peace officers commissioned by the Texas State Board of Pharmacy.

SB 686, Relating to the installation, maintenance, or operation of natural gas pipelines on state highways and highway rights-of-way.
(Amended)

SB 704, Relating to disclosure of the prices charged to state agencies in connection with pharmacy benefit manager services.
(Amended)

SB 711, Relating to creating a winery festival permit.

SB 743, Relating to the time allowed for execution of a search warrant issued to obtain a specimen for DNA analysis.
(Amended)

SB 776, Relating to regulating the collection or solicitation of donated goods subsequently sold by for-profit entities or individuals; providing a civil penalty.

SB 833, Relating to the accrual of vacation and sick leave for certain state employees on a military leave of absence.
(Amended)

SB 839, Relating to the punishment for a capital felony committed by a juvenile whose case is transferred to criminal court.
(Committee Substitute)

SB 847, Relating to applicability of fee exemptions for military personnel and their children to certain course fees charged by public technical institutes and public state colleges.

SB 891, Relating to the public school physical education curriculum.
(Amended)

SB 894, Relating to municipal investment of public funds received from the management and development of mineral rights.

SB 963, Relating to regulation of premium rates for long-term care insurance.
(Committee Substitute)

SB 968, Relating to interactive water features and fountains.
(Committee Substitute/Amended)

SB 1001, Relating to the continuation and operation of the office of public insurance counsel.
(Amended)

SB 1027, Relating to the establishment of an interagency farm-to-school coordination task force.

SB 1091, Relating to the establishment of the capital writs committee and the office of capital writs and to the appointment and compensation of certain counsel for indigent defendants in a capital case.
(Committee Substitute)

SB 1182, Relating to the open records steering committee, reports by the attorney general on costs of copies, and certain deadlines, costs, and suits filed under the public information law.
(Amended)

SB 1219, Relating to a parenting and paternity awareness component of the health curriculum used in public high schools.
(Amended)

SB 1236, Relating to admonishments given to a person charged with a misdemeanor.

SB 1410, Relating to the licensing and regulation of plumbers.
(Amended)

SB 1449, Relating to the appointment of a receiver to remedy hazardous properties.
(Committee Substitute/Amended)

SB 1515, Relating to a major events trust fund, a motor sports racing trust fund, and an events trust fund for sporting and non-sporting events.
(Committee Substitute)

SB 1557, Relating to the early identification of criminal defendants who are or may be persons with mental illness or mental retardation.
(Amended)

SB 1655, Relating to the organization, duties, and functions of the Texas Veterans Commission.
(Amended)

SB 1681, Relating to requiring the corroboration of certain testimony to support a criminal conviction.

SB 1715, Relating to the requirements for a smoke detector in a multifamily residential unit.
(Amended)

SB 1806, Relating to liens for certain veterinary care charges for large animals.

SB 1814, Relating to return-to-work coordination services and a return-to-work reimbursement program for employers participating in the workers' compensation system.

SB 1847, Relating to the provision of services to a wrongfully imprisoned person who is discharged from a correctional facility.

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

HB 962 (143 Yeas, 0 Nays, 2 Present, not voting)

HB 1096 (132 Yeas, 0 Nays, 1 Present, not voting)

HB 1232 (138 Yeas, 2 Nays, 2 Present, not voting)

HB 1789 (136 Yeas, 5 Nays, 2 Present, not voting)

HB 1965 (138 Yeas, 0 Nays, 2 Present, not voting)

HB 2063 (137 Yeas, 0 Nays, 2 Present, not voting)

HB 2259 (138 Yeas, 0 Nays, 1 Present, not voting)

HB 2640 (134 Yeas, 0 Nays, 1 Present, not voting)

HB 3108 (140 Yeas, 0 Nays, 2 Present, not voting)

HB 3218 (135 Yeas, 1 Nays, 2 Present, not voting)

HB 3435 (143 Yeas, 0 Nays, 2 Present, not voting)

HB 3951 (138 Yeas, 1 Nays, 1 Present, not voting)

HB 4029 (91 Yeas, 44 Nays, 2 Present, not voting)

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

SB 1237 (non-record vote)

House Conferees: Heflin - Chair/Darby/Frost/Hopson/Lewis

Respectfully,

/s/Robert Haney, Chief Clerk
House of Representatives

SENATE RESOLUTION 921

Senator Watson offered the following resolution:

WHEREAS, The Senate of the State of Texas is pleased to recognize Texas Disposal Systems on its selection as the recipient of the top Landfill Management Award for 2008 by the Solid Waste Association of North America; and

WHEREAS, Officially named the Gold recipient in the Landfill Management Award category, Texas Disposal Systems, an Austin-area solid waste services company, earned the nation's most prestigious landfill management Excellence Award; and

WHEREAS, The Solid Waste Association of North America sponsors its Excellence Awards Program to recognize outstanding solid waste programs and facilities that advance the practice of environmentally and economically sound waste management; and

WHEREAS, Solid waste companies are also chosen for their commitment to utilizing effective technologies and processes in system design and operations, advancing worker and community health and safety, and implementing successful public education and outreach programs; and

WHEREAS, Texas Disposal Systems has worked over the past 20 years to operate a showcase landfill, recycling, and composting facility and has demonstrated that a large facility of its type can be a good neighbor and a major asset to the community; and

WHEREAS, The company receives solid waste and recyclables from more than 30 Central Texas cities; the facility boasts an exotic game ranch of more than 1,200 animals and a meeting complex with a 500-seat pavilion, which is available free of charge for use by qualifying, nonprofit organizations; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 81st Legislature, hereby commend Texas Disposal Systems on its exemplary facility and extend congratulations to all associated with the company on its top Landfill Management Award for 2008; and, be it further

RESOLVED, That a copy of this Resolution be prepared in honor of Texas Disposal Systems.

WATSON
WENTWORTH

SR 921 was again read.

The resolution was previously adopted on Friday, May 15, 2009.

GUESTS PRESENTED

Senator Watson, joined by Senator Wentworth, was recognized and introduced to the Senate Bob and Jim Gregory, co-owners of Texas Disposal Systems, winner of the Landfill Management Award for 2008.

The Senate welcomed its guests.

SENATE RESOLUTION 929

Senator Eltife offered the following resolution:

WHEREAS, The Senate of the State of Texas is pleased to recognize Mercy Ships, which for more than 30 years has delivered free, world-class health care services to those without access in more than 70 developing nations with its fleet of hospital ships; and

WHEREAS, Mercy Ships was founded in 1978 by Don and Deyon Stephens of Garden Valley, Texas, who were recently presented with the Variety Club Humanitarian Award in London by His Royal Highness Prince Michael of Kent; and

WHEREAS, The Variety Club Humanitarian Award is given to those who have shown unusual understanding, empathy, and devotion to mankind, and it is acknowledged as one of the foremost honors an individual can receive; and

WHEREAS, Since its inception, Mercy Ships has made significant strides toward fulfilling its goal of bringing hope and healing to the forgotten poor; through the years, it has served more than 2.16 million people, delivered services valued at more than \$748 million, and completed more than 900 construction and agriculture projects, including schools, clinics, and orphanages; and

WHEREAS, Mercy Ships operates the *Africa Mercy*, the world's largest nongovernmental hospital ship, which is equipped with six operating rooms and berth capacity for some 484 people; the ship and crew provide up to 7,000 surgical interventions onboard every year, including cataract and tumor removal, cleft lip and palate reconstruction, orthopedic repair, and obstetric fistula repair; and

WHEREAS, The crew of the *Africa Mercy* includes members from more than 35 nations; volunteers from the ship go ashore to provide dental and oral health care education, immunizations, and lessons on a variety of community health issues; they also offer palliative home care for terminally ill patients and support for their families; and

WHEREAS, The founders, staff, and volunteers of Mercy Ships have had a deep and lasting effect on the struggle for global health, and their compassion, their dedication, and their indefatigable efforts in behalf of those in need are truly an inspiration to us all; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 81st Legislature, hereby pay tribute to Mercy Ships on its exemplary contributions to global health and extend to all those associated with this extraordinary organization best wishes for continued success; and, be it further

RESOLVED, That a copy of this Resolution be prepared for Mercy Ships as an expression of esteem from the Texas Senate.

SR 929 was read and was adopted without objection.

GUESTS PRESENTED

Senator Eltife, joined by Senators Deuell, Van de Putte, Shapleigh, Nichols, and Estes, was recognized and introduced to the Senate Don Stephens, founder and President of Mercy Ships; Sam Smith, Chief Executive Officer; and Janine Turner, actress and Mercy Ships supporter; accompanied by her daughter, Juliette Turner.

The Senate welcomed its guests.

GUESTS PRESENTED

Senator Wentworth was recognized and introduced to the Senate a delegation representing Leadership Seguin.

The Senate welcomed its guests.

SENATE RESOLUTION 970

Senator Lucio offered the following resolution:

WHEREAS, The Senate of the State of Texas is pleased to recognize D. L. "Dally" Willis, the Dean of all Texas lobbyists, as he finishes his last legislative session as a full-time labor advocate; and

WHEREAS, Native Texan D. L. "Dally" Willis joined the United States Marine Corps in 1941 and served honorably in the South Pacific until his discharge in 1945; and

WHEREAS, On May 12, 2009, Dally and Margaret Willis celebrated their 59th wedding anniversary; and

WHEREAS, On May 21, 2009, Mr. Willis celebrates his 89th birthday; and

WHEREAS, He has served as full-time lobbyist for the Texas Political and Legislative Committee of the Communications Workers of America since 1961 and has inspired countless people with his devotion to hard-working Texans and the labor movement; and

WHEREAS, His friendly greeting has endeared him to members on both sides of the aisle, as have his trademark stickers for special occasions, which are often found on the lapels of legislators and their staff; and

WHEREAS, The 81st session of the Texas Legislature will be his last as a full-time lobbyist, and it is a fitting opportunity for the Senate to congratulate Dally on his retirement and recognize his devotion and dedication to the working men and women of Texas; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 81st Legislature, hereby congratulate D. L. Willis on the occasion of his retirement and extend to him best wishes for continued success and happiness; and, be it further

RESOLVED, That a copy of this Resolution be prepared for Dally Willis as an expression of high regard from the Texas Senate.

SR 970 was read and was adopted without objection.

GUEST PRESENTED

Senator Lucio was recognized and introduced to the Senate D. L. "Dally" Willis, Dean of Texas lobbyists.

The Senate welcomed its guest.

SENATE RESOLUTION 909

Senator Averitt offered the following resolution:

WHEREAS, Texas is a diverse state with many different ecological and hydrogeological regions and a wide range of rainfall, surface water, and groundwater availability; and

WHEREAS, The Texas Water Development Board estimates that Texas' population will more than double between 2000 and 2060, growing from about 21 million to about 46 million people; that the demand for water will increase by 27 percent, from almost 17 million acre-feet of water in 2000 to 21.6 million acre-feet in 2060; and that existing water supplies will decrease by about 18 percent, from about 17.9 million acre-feet in 2010 to about 14.6 million acre-feet in 2060; and

WHEREAS, One of the easiest and most cost-effective solutions for many parts of the state to help meet water supply needs now and in the future is water conservation, which is the reduction of overall demand for water and the increase in efficiency of water systems: consuming less, wasting less, and reusing more; and

WHEREAS, The Texas Legislature has recognized the importance of water conservation, most recently with the 80th Legislature's passage of Senate Bill 3 and House Bill 4, which adopted several water conservation measures and created the Water Conservation Advisory Council in order to develop a library of best conservation practices and report biennially to the legislature on progress of water conservation efforts; and

WHEREAS, The 2007 State Water Plan recommends that 600,000 acre-feet of municipal water be conserved statewide, and many believe additional water conservation is achievable by a number of new conservation methods including increased energy efficiency; and

WHEREAS, Some regional water plans set ambitious water conservation goals and must meet those goals to be able to match water demand with water supply; and

WHEREAS, Most cities are required by state law to develop written water conservation plans, and several cities have adopted exemplary water conservation programs; and

WHEREAS, Education about water conservation opportunities and practices is needed for consumers, municipal users, agriculture, and industry; and

WHEREAS, Many in Texas are helping take the lead in educating Texans about the need to conserve water and are helping identify and implement water conservation strategies, including the Texas Water Development Board, the Texas Commission on Environmental Quality, the Parks and Wildlife Department, the Department of Agriculture, the Texas Water Foundation, groundwater conservation districts, water utilities and irrigation districts, river authorities, communities, businesses, nonprofit organizations, and individuals; and

WHEREAS, The legislature recognizes the critical importance of bringing together water conservation leaders, educating Texans about water conservation opportunities and practices, and promoting the need for additional conservation; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 81st Legislature, hereby commend Texans across the state on their efforts to conserve water, urge Texans to continue and expand these efforts, and proclaim May 21, 2009, Texas Water Conservation Day at the State Capitol; and, be it further

RESOLVED, That a copy of this Resolution be prepared for the participating organizations as an expression of esteem from the Texas Senate.

SR 909 was read and was adopted without objection.

GUESTS PRESENTED

Senator Averitt was recognized and introduced to the Senate a delegation of board members representing Texas Water Conservation Day at the State Capitol.

The Senate welcomed its guests.

SENATE RESOLUTION 937

Senator Uresti offered the following resolution:

SR 937, In memory of Michael J. Sanchez of San Antonio.

On motion of Senator Uresti, **SR 937** was read and was adopted by a rising vote of the Senate.

In honor of the memory of Michael J. Sanchez, the text of the resolution is printed at the end of today's *Senate Journal*.

GUESTS PRESENTED

Senator Uresti was recognized and introduced to the Senate family members of Michael J. Sanchez: his wife, Apelle Sanchez, and his daughters, Suzanne Sanchez and Carla Parker, accompanied by Sue McKinley, Administrative Director, University Health System Emergency Center, and George Hernandez, President and Chief Executive Officer, University Health System, San Antonio.

The Senate welcomed its guests and extended its sympathy.

INTRODUCTION OF BILLS AND RESOLUTIONS POSTPONED

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

There was no objection.

CONFERENCE COMMITTEE ON HOUSE BILL 3

Senator Shapiro 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 3** and moved that the request be granted.

The motion prevailed without objection.

The President asked if there were any motions to instruct the conference committee on **HB 3** before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate: Senators Shapiro, Chair; Van de Putte, Williams, Patrick, and Ogden.

CONCLUSION OF MORNING CALL

The President at 11:58 a.m. announced the conclusion of morning call.

HOUSE BILL 497 ON SECOND READING

On motion of Senator Nelson and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 497** at this time on its second reading:

HB 497, Relating to a study to determine the effect on the health care infrastructure in this state if the state Medicaid program is abolished or a severe reduction in federal matching money under the program occurs.

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 497 ON THIRD READING

Senator Nelson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 497** 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 107 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 107** at this time on its second reading:

CSHB 107, Relating to allowing for certain criminal proceedings in the absence of certain defendants.

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 107 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 107** be placed on its third reading and final passage.

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

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

BILLS 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 79, SB 82, SB 745, HB 559, HB 1109, HB 1324, HB 1513, HB 1979, HB 2303, HB 2387, HB 2628, HB 3306, HB 4718, HCR 63, HCR 80, HCR 195, HCR 196, HCR 197, HCR 198, HCR 199, HCR 206, HCR 207, HCR 208, HCR 212, HCR 215, HCR 221, HCR 226, HJR 116.

HOUSE BILL 1366 ON SECOND READING

On motion of Senator Patrick and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 1366** at this time on its second reading:

HB 1366, Relating to ballot language in an election authorizing the issuance of bonds for hospital district system improvements.

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 1366 ON THIRD READING

Senator Patrick moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1366** 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 1487 ON SECOND READING

On motion of Senator Nelson and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 1487** at this time on its second reading:

HB 1487, Relating to the alignment of certain Medicaid procedures regarding written orders for diabetic equipment and supplies with comparable Medicare written order procedures.

The bill was read second time.

Senator Nelson offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 1487** (Senate committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION ____. The Health and Human Services Commission may use state money to implement Section 531.099, Government Code, as added by this Act, only if the overall cost to the state of operating the Medicaid program does not increase as a result of aligning diabetic equipment and supplies written order procedures with Medicare diabetic equipment and supplies written order procedures as required by that section.

The amendment to **HB 1487** 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 Nelson and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

HB 1487 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 1487 ON THIRD READING

Senator Nelson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1487** 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 2835 ON SECOND READING

On motion of Senator Shapleigh and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 2835** at this time on its second reading:

HB 2835, Relating to the delegation of duties of a county judge in certain counties.

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

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

HOUSE BILL 2835 ON THIRD READING

Senator Shapleigh moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2835** 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 2529 ON SECOND READING

On motion of Senator Patrick and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 2529** at this time on its second reading:

HB 2529, Relating to the terms of office of commissioners of certain emergency services districts.

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

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

HOUSE BILL 2529 ON THIRD READING

Senator Patrick moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2529** 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 3668 ON SECOND READING

On motion of Senator Nichols and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 3668** at this time on its second reading:

HB 3668, Relating to the injunction of municipal purchasing contracts.

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 3668 ON THIRD READING

Senator Nichols moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 3668** 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 1113 ON SECOND READING**

On motion of Senator Hegar and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 1113** at this time on its second reading:

CSHB 1113, Relating to the powers and duties of the Fort Bend County Municipal Utility District No. 194; providing authority to impose a tax and issue bonds.

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

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

COMMITTEE SUBSTITUTE**HOUSE BILL 1113 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 **CSHB 1113** be placed on its third reading and final passage.

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

Absent: Duncan.

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

HOUSE BILL 1358 ON SECOND READING

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

HB 1358, Relating to the Cancer Prevention and Research Institute 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 except as follows:

Absent: Duncan.

HOUSE BILL 1358 ON THIRD READING

Senator Nelson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1358** be placed on its third reading and final passage.

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

Absent: Duncan.

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

HOUSE BILL 2548 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 2548** at this time on its second reading:

HB 2548, Relating to membership of certain advisory bodies to the Texas Department of Licensing and Regulation.

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

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

Absent: Duncan.

HOUSE BILL 2548 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 2548** be placed on its third reading and final passage.

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

Absent: Duncan.

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

HOUSE BILL 2729 ON SECOND READING

On motion of Senator Ogden and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 2729** at this time on its second reading:

HB 2729, Relating to directing payment, after approval, of certain miscellaneous claims and judgments against the state out of funds designated by this Act; making appropriations.

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 2729 ON THIRD READING

Senator Ogden moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2729** 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 4139 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 4139** at this time on its second reading:

HB 4139, Relating to the powers and duties of the Hopkins County Hospital District.

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

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

Absent: Duncan.

HOUSE BILL 4139 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 4139** be placed on its third reading and final passage.

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

Absent: Duncan.

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

**COMMITTEE SUBSTITUTE
HOUSE BILL 3391 ON SECOND READING**

On motion of Senator Hegar and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 3391** at this time on its second reading:

CSHB 3391, Relating to the continuation and functions of the Parks and Wildlife Department; changing the elements of an offense.

The bill was read second time.

Senator Hegar offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSHB 3391** (Senate committee report) in SECTION 7 of the bill, in amended Section 12.0011, Parks and Wildlife Code, as follows:

(1) On page 3, line 7, strike "A local or state agency or private organization" and substitute "An agency with statewide jurisdiction".

(2) On page 3, lines 17 and 18, strike "or organization".

(3) On page 3, line 22, strike "or organization".

The amendment to **CSHB 3391** 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: Duncan.

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

CSHB 3391 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: Duncan.

**COMMITTEE SUBSTITUTE
HOUSE BILL 3391 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 **CSHB 3391** be placed on its third reading and final passage.

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

Absent: Duncan.

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

HOUSE BILL 2840 ON SECOND READING

On motion of Senator Averitt and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 2840** at this time on its second reading:

HB 2840, Relating to mortgage fraud; providing a criminal penalty.

The bill was read second time.

Senator Ellis offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 2840** by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS accordingly:

SECTION _____. (a) Title 2, Business & Commerce Code, is amended by adding Chapter 21 to read as follows:

CHAPTER 21. REQUIRED NOTICE BY CERTAIN RESIDENTIAL
FORECLOSURE CONSULTANTS
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 21.001. DEFINITIONS. In this chapter:

(1) "Foreclosure consultant" means a person who performs, or represents that the person can or will perform, for compensation services in connection with the prevention or postponement of foreclosure proceedings against a homeowner's residential property or other services related to the foreclosure of the property.

(2) "Residence in foreclosure" means residential real property consisting of not more than four single-family dwelling units, at least one of which is occupied as the homeowner's principal place of residence, and against which a foreclosure action has been commenced.

Sec. 21.002. EXCEPTION FROM APPLICABILITY OF CHAPTER. (a) Except as provided by Subsection (b), this chapter does not apply to the following persons who perform foreclosure consulting services:

(1) an attorney admitted to practice in this state who performs those services in relation to the attorney's attorney-client relationship with a homeowner or the beneficiary of the lien being foreclosed;

(2) a person who holds or is owed an obligation secured by a lien on a residence in foreclosure if the person performs those services in connection with the obligation or lien;

(3) a person who regulates banks, trust companies, savings and loan associations, credit unions, or insurance companies under the laws of this state or the United States if the person performs those services as part of the person's normal business activities;

(4) an affiliate of a person described by Subdivision (3) if the affiliate performs those services as part of the affiliate's normal business activities;

(5) a judgment creditor of the homeowner of the residence in foreclosure, if:
(A) the legal action giving rise to the judgment was commenced before the notice of default required under Section 5.064 or 51.002(d), Property Code; and

(B) the judgment is recorded in the real property records of the clerk of the county where the residence in foreclosure is located;

(6) a licensed title insurer, title insurance agent, or escrow officer authorized to transact business in this state if the person is performing those services in conjunction with title insurance or settlement services;

(7) a licensed real estate broker or real estate salesperson if the person is engaging in an activity for which the person is licensed;

(8) a mortgage broker or loan officer licensed under Chapter 156, Finance Code, if the person is engaging in an activity for which the person is licensed; or

(9) a nonprofit organization that provides solely counseling or advice to homeowners who have a residence in foreclosure or have defaulted on their home loans, unless the organization is an associate of the foreclosure consultant.

(b) This chapter applies to a person described by Subsection (a) if the person is providing foreclosure consulting services designed or intended to transfer title, directly or indirectly, to a residence in foreclosure to that person or the person's associate.

[Sections 21.003-21.050 reserved for expansion]

SUBCHAPTER B. NOTICE

Sec. 21.051. REQUIRED DISCLOSURE. Before entering into a contract with a homeowner of a residence in foreclosure for the purchase of the services of a foreclosure consultant, the foreclosure consultant shall provide the homeowner written notice stating the following, in at least 14-point boldfaced type:

NOTICE REQUIRED BY TEXAS LAW

(Name) or an associate of (Name) cannot ask you to sign or have you sign any document that transfers any interest in your home or property to (Name) or (Name's) associate.

(Name) or (Name's) associate cannot guarantee you that they will be able to refinance your home or arrange for you to keep your home.

You may, at any time, cancel or rescind this contract, without penalty of any kind.

If you want to cancel this contract, mail or deliver a signed and dated copy of this notice of cancellation or rescission, or any other written notice, indicating your intent to cancel or rescind to (Name and address of foreclosure consultant) at (Address of foreclosure consultant, including facsimile and electronic mail address).

As part of any cancellation or rescission, you (the homeowner) must repay any money spent on your behalf by (Name of foreclosure consultant) prior to receipt of this notice and as a result of this agreement, within 60 days, along with interest calculated at the rate of eight percent per year.

(b) Chapter 21, Business & Commerce Code, as added by this Act, applies only to a contract entered into on or after the effective date of this Act. A contract entered into before the effective date of this Act is governed by the law in effect on the date the contract was entered into, and the former law is continued in effect for that purpose.

The amendment to **HB 2840** was read.

Senator Ellis withdrew Floor Amendment No. 1.

HB 2840 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: Duncan.

HOUSE BILL 2840 ON THIRD READING

Senator Averitt moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2840** be placed on its third reading and final passage.

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

Absent: Duncan.

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

**COMMITTEE SUBSTITUTE
HOUSE BILL 3358 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 3358** at this time on its second reading:

CSHB 3358, Relating to allowing municipal or county housing authorities in certain counties to create housing communities for veterans.

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

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

Absent: Duncan.

(Senator Eltife in Chair)

**COMMITTEE SUBSTITUTE
HOUSE BILL 3358 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 3358** be placed on its third reading and final passage.

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

Absent: Duncan.

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

HOUSE BILL 2665 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 2665** at this time on its second reading:

HB 2665, Relating to authorizing the commissioners court of a county to adopt and impose standards and specifications for the design and installation of address number signs to identify properties located in unincorporated areas of the county; providing a penalty.

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

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

Absent: Duncan.

HOUSE BILL 2665 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 2665** be placed on its third reading and final passage.

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

Absent: Duncan.

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

HOUSE BILL 846 ON SECOND READING

On motion of Senator Gallegos and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 846** at this time on its second reading:

HB 846, Relating to the license or certificate renewal process for emergency medical services personnel and certain law enforcement officers.

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

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

Absent: Duncan.

HOUSE BILL 846 ON THIRD READING

Senator Gallegos moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 846** be placed on its third reading and final passage.

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

Absent: Duncan.

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

HOUSE BILL 2549 ON SECOND READING

On motion of Senator Patrick and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 2549** at this time on its second reading:

HB 2549, Relating to auditing procedures and authority relating to county education departments in certain populous counties.

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

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

HOUSE BILL 2549 ON THIRD READING

Senator Patrick moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2549** 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 1883 ON SECOND READING

On motion of Senator Averitt and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 1883** at this time on its second reading:

CSHB 1883, Relating to the status of certain transporters of natural or synthetic gas and liquified natural gas marine terminals as gas utilities.

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 1883 ON THIRD READING

Senator Averitt moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 1883** 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 2925 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 2925** at this time on its second reading:

HB 2925, Relating to protections provided by the Department of Agriculture for certain consumers; providing penalties.

The bill was read second time.

Senator Whitmire offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 2925** by inserting the following new SECTION ____ and renumbering subsequent sections accordingly:

SECTION _____. Appropriations Limited to Revenue Collections. It is the intent of the Legislature that fees, fines, and other miscellaneous revenues as authorized and generated by this act, at a minimum, cover the cost of the programs authorized by this act.

The amendment to **HB 2925** 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 2925 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 2925 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 2925** 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 4577 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 4577** at this time on its second reading:

HB 4577, Relating to the seizure and destruction of certain plants.

The bill was read second time.

Senator Shapleigh offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 4577** (Senate committee printing) by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Subtitle F, Title 5, Agriculture Code, is amended by adding Chapter 122 to read as follows:

CHAPTER 122. SALE OF DESERT PLANTS

Sec. 122.001. DEFINITION. In this chapter, "desert plant" means the following genera of plants:

- (1) Agave;
- (2) Ariocarpus;
- (3) Echinocactus;
- (4) Echinocereus;
- (5) Ferocactus;
- (6) Fouquieria;

(7) Mammillaria; and

(8) Yucca.

Sec. 122.002. ADMINISTRATION. The department shall administer this chapter and adopt rules necessary for its enforcement.

Sec. 122.003. REQUIREMENTS FOR SALE OR TRANSPORTATION. A person may not sell or offer for sale to a first purchaser a desert plant or transport for transfer out of this state a desert plant unless the person has documentation as required by department rule that the desert plant was harvested for sale in compliance with an agreement entered into in accordance with rules adopted under Section 122.004.

Sec. 122.004. REGISTRATION AND COMPLIANCE AGREEMENT. (a) A person who grows or harvests desert plants for sale must register with the department and enter into a compliance agreement with the department to ensure that a manifest or other form of documentation accompanies the person's desert plants when any of the person's desert plants are:

(1) sold or offered for sale to a first purchaser; or

(2) transported for transfer out of this state.

(b) The department by rule shall establish minimum standards for compliance agreements and the manifests or other forms of documentation to be provided in accordance with compliance agreements. A manifest or other form of documentation must:

(1) show the source of the desert plants; and

(2) verify compliance with the compliance agreement conditions.

(c) The department shall adopt rules, including procedures for inspection or other mechanisms, to ensure that a manifest or other form of documentation provided under a compliance agreement does not misrepresent the source of a desert plant.

(d) A person must include with an application for registration under this section:

(1) a written statement that the desert plants provided by the person for sale will be harvested from that person's property; or

(2) written documentation that the owner of the property from which the desert plants are to be harvested grants the person the authority to harvest the desert plants from that property.

(e) The department may charge a registration and compliance agreement fee to offset the costs of administering this chapter.

Sec. 122.005. DOCUMENTATION FOR SALE OR TRANSPORTATION OF DESERT PLANTS. (a) In accordance with department rules and the agreement entered into under Section 122.004, a person shall provide to a first purchaser, or to a person who sells or offers for sale to a first purchaser the person's desert plants or transports for transfer out of this state the person's desert plants, a manifest or other form of documentation of the source of the desert plants.

(b) A manifest or other form of documentation of the source of a desert plant must accompany the desert plant when:

(1) sold or offered for sale; or

(2) transported for transfer out of this state.

Sec. 122.006. STOP-SALE ORDER. In enforcing this chapter, the department may issue and enforce a written or printed order to stop the sale of a desert plant or a shipment of desert plants that is not accompanied by a manifest or other form of documentation as provided by Section 122.005. If an order is issued, a person may not sell the desert plant or shipment until proper documentation is provided.

Sec. 122.007. AUTHORITY TO SEIZE DESERT PLANTS. (a) In enforcing this chapter, the department with or without process may seize a desert plant or a shipment of desert plants that is:

(1) not accompanied by a manifest or other form of documentation as provided by Section 122.005; and

(2) intended for transfer out of this state.

(b) The department shall:

(1) return desert plants seized under this section to the owner of the land from which they were harvested; or

(2) if the department is not able to identify the owner of the land from which the desert plants were harvested, deliver them to the Parks and Wildlife Department.

Sec. 122.008. PENALTY. (a) A person commits an offense if the person advertises, sells, or offers for sale to a first purchaser a desert plant or a shipment of desert plants that is not accompanied by a manifest or other form of documentation as provided by Section 122.005.

(b) An offense under this section is punishable by:

(1) a fine not to exceed \$1,000;

(2) imprisonment for a term not to exceed 180 days; or

(3) both fine and imprisonment under this subsection.

SECTION _____. Section 12.020, Agriculture Code, is amended by amending Subsections (a) and (b) and adding Subsection (c-1) to read as follows:

(a) If a person violates a provision of this code described by Subsection (c) or (c-1) of this section or a rule or order adopted by the department under a provision of this code described by Subsection (c) or (c-1) of this section, the department may assess an administrative penalty against the person as provided by this section.

(b) The penalty for each violation may be in an amount not to exceed the maximum provided by Subsection (c) or (c-1) of this section. Each day a violation continues or occurs may be considered a separate violation for purposes of penalty assessments.

(c-1) In addition to provisions described by Subsection (c), Chapter 122 is subject to this section and the applicable penalty amount is \$500.

SECTION _____. (a) Not later than December 1, 2009, the Department of Agriculture shall adopt rules to administer Chapter 122, Agriculture Code, as added by this Act.

(b) Chapter 122, Agriculture Code, as added by this Act, applies only to a sale, an offer for sale, or the transportation of a desert plant on or after January 1, 2010.

The amendment to **HB 4577** was read.

POINT OF ORDER

Senator Harris raised a point of order that Floor Amendment No. 1 was not germane to the body of the bill.

POINT OF ORDER WITHDRAWN

Senator Harris withdrew the point of order.

Senator Shapleigh withdrew Floor Amendment No. 1.

HB 4577 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 4577 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 4577** 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 4661 ON SECOND READING

On motion of Senator Ogden and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 4661** at this time on its second reading:

HB 4661, Relating to the rate of the municipal hotel occupancy tax in certain municipalities and to the use of certain revenue from the tax.

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 4661 ON THIRD READING

Senator Ogden moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 4661** 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 1029 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 1029** at this time on its second reading:

HB 1029, Relating to the development, rehabilitation, or expansion of affordable housing in a public improvement district established by a county or municipality.

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

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

Absent: Williams.

HOUSE BILL 1029 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 1029** be placed on its third reading and final passage.

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

Absent: Williams.

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

**COMMITTEE SUBSTITUTE
HOUSE BILL 3346 ON SECOND READING**

On motion of Senator Averitt and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 3346** at this time on its second reading:

CSHB 3346, Relating to the definition of a gas utility.

The bill was read second time.

Senator Averitt offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSHB 3346** by adding the word "lawfully" between the words "by" and "representing" on lines 33 and 34.

The amendment to **CSHB 3346** 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 3346** (Senate committee printing) by striking SECTION 3 of the bill (page 1, line 49), and substituting the following appropriately numbered SECTIONS:

SECTION _____. Section 101.003(7), Utilities Code, is amended to read as follows:

(7) "Gas utility" includes a person or river authority that owns or operates for compensation in this state equipment or facilities to transmit or distribute combustible hydrocarbon natural gas or synthetic natural gas for sale or resale in a manner not subject to the jurisdiction of the Federal Energy Regulatory Commission under the Natural Gas Act (15 U.S.C. Section 717 et seq.). The term includes a lessee, trustee, or receiver of a gas utility. The term does not include:

(A) a municipal corporation;

(B) a person or river authority to the extent the person or river authority:

(i) produces, gathers, transports, or sells natural gas or synthetic natural gas under Section 121.004 or 121.005;

- (ii) distributes or sells liquefied petroleum gas; or
- (iii) transports, delivers, or sells natural gas for fuel for irrigation wells or any other direct agricultural use;
- (C) a person to the extent the person:
 - (i) sells natural gas for use as vehicle fuel;
 - (ii) sells natural gas to a person who later sells the natural gas for use as vehicle fuel; or
 - (iii) owns or operates equipment or facilities to sell or transport natural gas for ultimate use as vehicle fuel;
- (D) a person not otherwise a gas utility who furnishes gas or gas service only to itself, its employees, or its tenants as an incident of employment or tenancy, if the gas or gas service is not resold to or used by others; ~~or~~
- (E) a person excluded from being considered a gas utility under Section 121.007; or
- (F) an electric cooperative, as that term is defined by Section 11.003, or its subsidiary, that is excluded from regulation as a gas utility by Section 121.008.

SECTION _____. Subchapter A, Chapter 121, Utilities Code, is amended by adding Section 121.008 to read as follows:

Sec. 121.008. CERTAIN STORAGE FACILITIES OWNED BY ELECTRIC COOPERATIVES EXCLUDED. An electric cooperative, as that term is defined by Section 11.003, or its subsidiary, that sells electricity at wholesale is not a gas utility or subject to regulation as a gas utility solely because it provides gas storage services for hire if the gas storage facility is predominantly operated to support the integration of renewable resources. Such a gas storage facility shall not have a working gas capacity of greater than five billion cubic feet.

SECTION _____. Section 111.001(2), Natural Resources Code, is amended to read as follows:

(2) "Public utility" means a person, association of persons, or corporation that owns, operates, or manages crude petroleum storage tanks or storage facilities for the public for hire, either in connection with a pipeline, pipelines, or otherwise. The term does not include an electric cooperative, as that term is defined by Section 11.003, Utilities Code, or its subsidiary, that sells electricity at wholesale and that owns or operates an underground storage facility and provides gas storage services to the public for hire if the gas storage facility is predominantly operated to support the integration of renewable resources. Such a gas storage facility shall not have a working gas capacity of greater than five billion cubic feet.

SECTION _____. Section 111.003, Natural Resources Code, is amended by adding Subsection (c) to read as follows:

(c) The provisions of this chapter, and any common law requirements or limitations applicable to a common carrier, do not apply to an underground storage facility owned or operated by an electric cooperative, as that term is defined by Section 11.003, Utilities Code, or its subsidiary, that sells electricity at wholesale and offers or provides gas storage services to the public for hire if the gas storage facility is predominately operated to support the integration of renewable resources. Such a gas storage facility shall not have a working gas capacity of greater than five billion cubic feet.

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. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2009.

The amendment to **CSHB 3346** 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 Averitt and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

CSHB 3346 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 3346 ON THIRD READING

Senator Averitt moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 3346** 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 558 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 558** at this time on its second reading:

HB 558, Relating to law enforcement and judicial procedures for, and the prosecution of, children who engage in conduct constituting public intoxication.

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 558 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 558** 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 2572 ON THIRD READING

The Presiding Officer, Senator Eltife in Chair, laid before the Senate **HB 2572** by Senator Jackson on its third reading and final passage. The bill had been finally passed, vote reconsidered, and further consideration postponed to a time certain of 11:00 a.m. today:

HB 2572, Relating to the authority of a gas corporation to use a public right-of-way.

Question — Shall **HB 2572** be finally passed?

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

Floor Amendment No. 1 on Third Reading

Amend Floor Amendment No. 1 by Jackson to **HB 2572**, second reading, in item (2) of the amendment, in substituted Section 181.005(d), Utilities Code, by striking Subdivision (3) and substituting the following:

(3) in accordance with Section 203.092, Transportation Code, at the expense of this state, if the pipeline is owned or operated by a gas utility as defined by Section 181.021 of this code or a common carrier as defined by Chapter 111, Natural Resources Code.

The amendment to Floor Amendment No. 1 on second reading to **HB 2572** 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 Jackson and by unanimous consent, the caption was again amended to conform to the body of the bill as amended.

HB 2572 as again amended was again finally passed by the following vote: Yeas 31, Nays 0.

**COMMITTEE SUBSTITUTE
HOUSE BILL 2447 ON SECOND READING**

On motion of Senator Estes and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 2447** at this time on its second reading:

CSHB 2447, Relating to the abolition of the Board of Tax Professional Examiners and the transfer of its functions to the Texas Department of Licensing and Regulation.

The bill was read second time.

Senator Hegar offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSHB 2447** (Senate committee printing), in SECTION 31 of the bill, by striking amended Section 1151.202, Occupations Code (page 6, line 61, through page 7, line 2), and substituting the following:

Sec. 1151.202. DENIAL OF REGISTRATION; DISCIPLINARY ACTION. (a) The department ~~[board]~~ may deny an application for ~~[- suspend, or revoke the]~~ registration of or take other disciplinary action as described by Chapter 51 against a person who violates this chapter or a commission [board] rule; ~~place on probation a person whose registration has been suspended, or reprimand a person for a violation by the person of this chapter or a board rule~~.

(b) The commission [board] by rule shall adopt written guidelines to ensure that denials of registration under this section and other disciplinary actions under Chapter 51 ~~[probation and the issuance of reprimands]~~ are administered consistently.

(c) Before imposing an administrative penalty under Subchapter F, Chapter 51, against a registrant, the department must consider evidence that the registrant:

(1) attempted in good faith to implement or execute a law, policy, rule, order, budgetary restriction, or other regulation provided by the laws of this state, the comptroller, or the governing body or the chief administrator of the appraisal district or taxing jurisdiction that employs the registrant;

(2) acted on the advice of counsel or the comptroller; or

(3) had discretion over the matter on which the complaint is based, if the complaint is based solely on grounds that the registrant decided incorrectly or failed to exercise discretion in favor of the complainant.

(d) The department may notify the local governmental entity that employs a registrant of a complaint against the registrant by sending a copy of the complaint letter to the local governmental entity.

The amendment to **CSHB 2447** 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 Estes and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

CSHB 2447 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 2447 ON THIRD READING

Senator Estes moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 2447** 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 1070 ON SECOND READING

On motion of Senator Duncan and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 1070** at this time on its second reading:

HB 1070, Relating to audits of certain public retirement system actuarial valuations, studies, and reports.

The bill was read second time.

Senator Ogden offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 1070** (Senate committee printing) by adding appropriately numbered SECTIONS to the bill to read as follows and renumbering subsequent SECTIONS appropriately:

SECTION _____. The heading to Chapter 801, Government Code, is amended to read as follows:

CHAPTER 801. STATE PENSION AND INVESTMENT REVIEW BOARD

SECTION 2. Subdivision (1), Section 801.001, Government Code, is amended to read as follows:

(1) "Board" means the State Pension and Investment Review Board.

SECTION _____. Section 801.101, Government Code, is amended to read as follows:

Sec. 801.101. PENSION AND INVESTMENT REVIEW BOARD. The State Pension and Investment Review Board is an agency of the state.

SECTION _____. Subsection (a), Section 801.102, Government Code, is amended to read as follows:

(a) The board is composed of seven ~~[nine]~~ members.

SECTION _____. Section 801.103, Government Code, is amended to read as follows:

Sec. 801.103. MEMBERS APPOINTED BY GOVERNOR. (a) The governor shall appoint, with the advice and consent of the senate, five ~~[seven]~~ members to the board.

(b) The governor shall appoint to the board:

(1) three persons who have experience in the fields of securities investment, pension administration, ~~[or]~~ pension law, institutional investment, investment risk management, or institutional audits but who are not members or retirees of a public retirement system;

(2) one person who is a fellow of the Society of Actuaries, a member of the American Academy of Actuaries, or an enrolled actuary under the federal Employee Retirement Income Security Act of 1974 (29 U.S.C. Sec. 1001 et seq.); and

(3) ~~[one person who has experience in the field of governmental finance;~~

~~[(4)]~~ one person who:

(A) is a contributing member of a public retirement system; or

(B) ~~[and~~

~~[(5) one person who]~~ is receiving retirement benefits from a public retirement system.

SECTION _____. Section 801.104, Government Code, is amended to read as follows:

Sec. 801.104. MEMBERS APPOINTED BY OTHERS. (a) The lieutenant governor shall appoint one member to the board ~~[one member of the senate]~~.

(b) The speaker of the house of representatives shall appoint one member to the board [~~one member of the house~~].

(c) Each person appointed to the board under this section must have experience in the field of securities investment, pension administration, pension law, institutional investment, investment risk management, or institutional audits.

SECTION _____. Section 801.106, Government Code, is amended to read as follows:

Sec. 801.106. TERMS OF OFFICE. Members of the board hold office for staggered terms of six years, with the terms of two or three members expiring on January 31 of each odd-numbered year.

SECTION _____. Section 801.107, Government Code, is amended to read as follows:

Sec. 801.107. SUNSET PROVISION. The State Pension and Investment Review Board is subject to Chapter 325 (Texas Sunset Act). Unless continued in existence as provided by that chapter, the board is abolished and this chapter expires September 1, 2013.

SECTION _____. The heading to Section 801.113, Government Code, is amended to read as follows:

Sec. 801.113. PROVISION OF CERTAIN SERVICES [FUND].

SECTION _____. Subsection (e), Section 801.113, Government Code, is amended to read as follows:

(e) The board is authorized to conduct training sessions, schools, or other educational activities for trustees and administrators of public retirement systems. The board may also furnish other appropriate services such as actuarial studies or other requirements of systems and may establish appropriate fees for these activities and services. [~~The fees may be based on whether or not the trustees, administrators, or systems contribute to the State Pension Review Board fund under Subsection (e) of this section. The net proceeds of these fees shall be deposited in the fund.~~]

SECTION _____. Subsections (b) and (c), Section 801.201, Government Code, are amended to read as follows:

(b) For the purpose of performing its duties under Section 801.202(1) or (2), the board by rule may require clarification of information provided by a public retirement system or other entity subject to Subchapter D in a report that is required by law and is required to be filed with the board. [~~A rule adopted under this subsection may not be enforced against a public retirement system if compliance with the rule would cause the system to incur a major expense.~~]

(c) The board by rule shall:

(1) adopt actuarial guidelines that may be used by public retirement systems;

(2) adopt a brief standard form that will assist the board in efficiently determining the actuarial soundness, if applicable, and current financial condition of a public retirement system or other entity subject to Subchapter D; and

(3) [~~2~~] require that a retirement system or other entity subject to Subchapter D submitting information required for the review or study described under Section 801.202(1) or (2) include the form with the submission.

SECTION _____. Section 801.202, Government Code, is amended to read as follows:

Sec. 801.202. GENERAL DUTIES. The board shall:

- (1) conduct a continuing review of:
 - (A) public retirement systems, compiling and comparing information about benefits, creditable service, financing, and administration of systems; and
 - (B) the investment practices of public retirement systems and other entities subject to Subchapter D;
- (2) conduct intensive studies of potential or existing problems that threaten ~~[the actuarial soundness of]~~ or inhibit:
 - (A) the financial condition or actuarial soundness of public funds managed or invested by an entity subject to Subchapter D; or
 - (B) an equitable distribution of benefits in one or more public retirement systems;
- (3) provide information and technical assistance on pension planning to public retirement systems on request; ~~[and]~~
- (4) review and document whether the board believes an entity subject to Subchapter D is investing funds in compliance with:
 - (A) the entity's investment strategy; and
 - (B) applicable law governing the entity's investments; and
- (5) recommend policies, practices, and legislation to public retirement systems and other entities subject to Subchapter D and appropriate governmental entities.

SECTION _____. Subsection (a), Section 801.203, Government Code, is amended to read as follows:

- (a) The board shall present to the legislature and the governor, in November of each even-numbered year, a public report explaining the work and findings of the board during the preceding two-year period and including drafts or recommendations of any legislation relating to public retirement systems or other entities subject to Subchapter D that the board finds advisable.

SECTION _____. Section 801.204, Government Code, is amended to read as follows:

Sec. 801.204. INSPECTION OF RECORDS. To the extent it is necessary to perform ~~[In performing]~~ its functions, the board may inspect the books, records, or accounts of a public retirement system or another entity subject to Subchapter D during business hours of the system.

SECTION _____. Chapter 801, Government Code, is amended by adding Subchapter D to read as follows:

SUBCHAPTER D. BOARD INVESTMENT OVERSIGHT

Sec. 801.301. APPLICABILITY. (a) This subchapter applies only to the investment of:

- (1) public funds by:
 - (A) the comptroller;
 - (B) the Employees Retirement System of Texas, including a retirement system administered by that system;
 - (C) the Teacher Retirement System of Texas;

- (D) the Texas Municipal Retirement System;
- (E) the Texas County and District Retirement System; and
- (F) the Texas Emergency Services Retirement System;

(2) the permanent university fund by the board of regents of The University of Texas System or any entity acting on behalf of the board of regents, including a nonprofit corporation acting under Section 66.08, Education Code; and

(3) the permanent school fund by the State Board of Education or any entity acting on behalf of the State Board of Education, including a nonprofit corporation acting under Section 43.006, Education Code.

(b) For purposes of this subchapter, a reference to "public retirement system" means a public retirement system subject to this subchapter.

Sec. 801.302. ANNUAL REPORT TO BOARD. An entity subject to this subchapter shall, not later than six months after the last day of the fiscal year under which the entity operates or, if a public retirement system, the plan year under which the entity operates, file with the board and post on the entity's Internet website information that the board determines is necessary to perform the board's duties under Section 801.202 unless the information is confidential under law.

Sec. 801.303. REPORT ON INVESTMENT STRATEGY. (a) An entity subject to this subchapter shall:

(1) develop and adopt a written investment strategy;

(2) file a copy of the strategy with the board not later than the 90th day after the date the strategy is adopted; and

(3) file a copy of each change to the strategy with the board not later than the 90th day after the change is adopted.

(b) A report under this section may be combined with any other report required by this chapter or Chapter 802.

Sec. 801.304. TIMELY SUBMISSION OF CERTAIN REPORTS AND RESPONSES REQUIRED. (a) The presiding officer of an entity subject to this subchapter or the governing body of an entity subject to this subchapter is responsible for ensuring that a report or a response to a request for information made by the board for the purpose of performing the board's duties under Section 801.202 is filed timely with the board.

(b) It is grounds for removal by the appropriate appointing officer if the presiding officer of an entity subject to this subchapter or the governing body of an entity subject to this subchapter consistently fails to timely submit a report or respond to a request for information under Subsection (a).

(c) If the board determines that the presiding officer of an entity subject to this subchapter consistently fails to timely report or respond to a request for information under Subsection (a), the board shall notify the appropriate appointing officer, if any, the governor, if the governor is not the appropriate appointing officer, and the Legislative Budget Board of its determination.

Sec. 801.305. CONTRACTS WITH INVESTMENT MANAGERS AND CERTAIN OTHERS. A contract with an investment manager or other person to provide services to an entity subject to this subchapter relating to the management and

investment of public funds for or on behalf of the entity is subject to review by the board regarding the fees charged and paid by the subject entity and the services rendered to the entity in consideration for the fees.

Sec. 801.306. DISCLOSURE OF CERTAIN POTENTIAL CONFLICTS OF INTEREST; ANNUAL FILING. (a) This section applies to:

(1) a member of the governing body of a public retirement system subject to this subchapter;

(2) an investment manager for a public retirement system appointed by contract;

(3) a member of the board of regents of The University of Texas System;

(4) the officers and directors of a nonprofit corporation under contract with the board of regents of The University of Texas System under Section 66.08, Education Code, to invest the funds of the permanent university fund on behalf of the board of regents;

(5) a member of the State Board of Education;

(6) the officers and directors of a nonprofit corporation acting under contract with the State Board of Education to invest the funds of the permanent school fund under Section 43.006, Education Code; and

(7) any private professional investment manager who has entered into a contract with the comptroller under Section 404.024(k) to assist the comptroller in investing public funds.

(b) A person to whom this section applies and who has a business, commercial, or other relationship that a reasonable person would find likely to materially diminish the person's independence of judgment in the performance of the person's responsibilities with respect to the management or investment of public funds for or on behalf of an entity subject to this subchapter shall immediately disclose the relationship in writing to the entity.

(c) If a person described by Subsection (a)(1) or (3) intentionally fails to disclose a relationship under Subsection (b), it is a ground for removal from the governing body of the entity on which the person serves.

(d) If a person described by Subsection (a)(2), (4), (6), or (7), intentionally fails to disclose a relationship under Subsection (b):

(1) the contract is voidable by the entity; and

(2) the governing body of the entity may enter an order declaring the person ineligible to contract for business relating to the management or investment of public funds for or on behalf of the entity.

(e) At least annually and not later than a date specified by the entity, a person to whom this section applies shall file a statement with the entity stating that the person is aware that the person is required to disclose material conflicts of interest under this section and that the person is in compliance with this section.

Sec. 801.307. PROHIBITION AGAINST ACCEPTANCE OF CERTAIN GIFTS. In any 12-month period, the comptroller or a person who is a member of the governing body of a public retirement system, the board of regents of The University of Texas System, or the State Board of Education or an employee of an entity subject to this subchapter 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.), may not accept a gift or gifts, the total value of which is more than \$250, including food, entertainment, and a promised future benefit, from another person doing business with or seeking to do business with the entity.

Sec. 801.308. PROHIBITED CONTRACTS. A public retirement system, the board of regents of The University of Texas System, or the State Board of Education may not directly or indirectly enter into a contract with a former member of the governing body of a public retirement system, the board of regents of The University of Texas System, or the State Board of Education, respectively, to provide services relating to the management and investment of public funds before the second anniversary of the date the person ceases to be a member of the body or board, as applicable.

Sec. 801.309. CIVIL PENALTY. (a) A person who commits fraud, theft, embezzlement, fraudulent conversion, unlawful appropriation, or misapplication of property in relation to a service provided by the person to an entity subject to this subchapter is liable to this state for a civil penalty in an amount not to exceed \$250,000 for each offense.

(b) The attorney general may bring an action to recover the civil penalty imposed under this section.

(c) The penalty under this section is in addition to any other remedy provided by law.

Sec. 801.310. INVESTIGATION OF CERTAIN COMPLAINTS; ASSISTANCE OF ATTORNEY GENERAL. (a) The board shall adopt rules and procedures for receiving and investigating a complaint against a person who provides management or investment services to an entity subject to this subchapter alleging that the person:

(1) violated or may have violated Section 801.306 or another applicable conflict of interest provision; or

(2) has been or may have been involved in criminal conduct relating to the services provided by the person to the entity.

(b) The board or the attorney general may, without receiving a complaint, initiate an investigation under this section if the board or the attorney general, as applicable, determines an investigation is appropriate.

(c) The board may enter into a memorandum of understanding with the attorney general to assist in an investigation under this section. The memorandum must specify the type, scope, and format of the investigative assistance provided by the attorney general.

(d) If the board or the attorney general determines that a criminal offense may have been committed, the board or the attorney general, as applicable, shall refer the case to the appropriate law enforcement agency for prosecution.

SECTION _____. Subdivision (1), Section 802.001, Government Code, is amended to read as follows:

(1) "Board" means the State Pension and Investment Review Board.

SECTION _____. Subsection (d), Section 802.003, Government Code, is amended to read as follows:

(d) The State Pension and Investment Review Board may file an appropriate pleading, in the manner provided by this section for filing by an individual, for the purpose of enforcing a requirement of Subchapter B or C, other than a requirement of Section 802.101(a), 802.101(d), 802.102, 802.103(a), or 802.104.

SECTION _____. Subsection (c), Section 802.101, Government Code, is amended to read as follows:

(c) The governing body of a public retirement system shall file with the State Pension and Investment Review Board a copy of each actuarial study and each separate report made as required by law.

SECTION _____. Subsection (j), Section 802.1012, Government Code, is amended to read as follows:

(j) The governmental entity shall:

(1) maintain a copy of the final audit report at its main office for public inspection;

(2) submit a copy of the final audit report to the public retirement system and the State Pension and Investment Review Board not later than the 30th day after the date the final audit report is received by the governmental entity; and

(3) pay all costs associated with conducting the audit and preparing and distributing the report under this section.

SECTION _____. Subchapter B, Chapter 802, Government Code, is amended by adding Section 802.1013 to read as follows:

Sec. 802.1013. ACTUARIAL EXPERIENCE STUDIES. (a) In this section, "plan year" means the 12-month accounting period of the affected pension plan of a public retirement system subject to this section.

(b) Subject to Subsection (c), the board may require a public retirement system with total assets the book value of which, as of the last day of the preceding plan year, is at least \$100 million to conduct an actuarial experience study.

(c) The board may not require a public retirement system to conduct more than one actuarial experience study every five years.

(d) The board may adopt rules to implement this section.

SECTION _____. Subsections (b) and (c), Section 802.103, Government Code, are amended to read as follows:

(b) The governing body of a public retirement system shall, before the 211th day after the last day of the fiscal year under which the system operates, file with the State Pension and Investment Review Board a copy of each annual financial report it makes as required by law.

(c) A public retirement system that is subject to Chapter 125, Acts of the 45th Legislature, Regular Session, 1937 (Article 6243e, Vernon's Texas Civil Statutes), and that has total assets with a book value, as of the last day of the fiscal year, of less than \$50,000, may submit to the State Pension and Investment Review Board for that year, instead of the financial report otherwise required by this section to be published and submitted, a copy of the financial report it submits to the firemen's pension commissioner.

SECTION _____. Subsection (a), Section 802.105, Government Code, is amended to read as follows:

(a) Each public retirement system shall, before the 91st day after the date of its creation, register with the State Pension and Investment Review Board.

SECTION _____. Subsection (h), Section 802.106, Government Code, is amended to read as follows:

(h) A public retirement system shall submit to the State Pension and Investment Review Board copies of the summarized information required by Subsections (a) and (b). A system shall submit a copy of the information required by Subsection (a) before the 31st day after the date of publication and a copy of the information required by Subsection (b) before the 271st day after the date a change is adopted.

SECTION _____. Section 802.107, Government Code, is amended to read as follows:

Sec. 802.107. GENERAL PROVISIONS RELATING TO REPORTS. (a) A public retirement system shall maintain for public review at its main office and at such other locations as the retirement system considers appropriate copies of the most recent edition of each type of report or other information required by this chapter to be submitted to the State Pension and Investment Review Board unless the information is confidential under law. Public information required to be reported annually to the board may be posted on the retirement system's Internet website or on the website of the board.

(b) Information required by this chapter to be submitted to the State Pension and Investment Review Board may be contained in one or more documents but must be submitted within the period provided by the provision requiring the information.

SECTION _____. Subsection (d), Section 802.202, Government Code, is amended to read as follows:

(d) The governing body of a public retirement system shall:

(1) develop and adopt a written investment policy;

(2) maintain for public review at its main office a copy of the policy;

(3) file a copy of the policy with the State Pension and Investment Review Board not later than the 90th day after the date the policy is adopted; and

(4) file a copy of each change to the policy with the State Pension and Investment Review Board not later than the 90th day after the change is adopted.

SECTION _____. The heading to Section 802.3021, Government Code, is amended to read as follows:

Sec. 802.3021. STATE PENSION AND INVESTMENT REVIEW BOARD ACTUARY.

SECTION _____. Subsection (f), Section 810.001, Government Code, is amended to read as follows:

(f) Every political entity which establishes or maintains a public retirement system covered under this Act shall file all reports with the State Pension and Investment Review Board required by Chapter 802. If a political subdivision establishes a retirement program that would be a "public retirement system" within the meaning ascribed to that term by Section 801.001, but for the fact that the program is administered by a life insurance company, the subdivision shall notify the State Pension and Investment Review Board of the establishment of the program and the name of the administering company.

SECTION _____. Subsection (d), Section 815.110, Government Code, is amended to read as follows:

(d) No later than 30 days after the legislative audit committee receives an audit report, the committee shall file a copy of the report with the retirement system, the governor, the lieutenant governor, the speaker of the house of representatives, the State Pension and Investment Review Board, the state auditor, and the secretary of state for publication in the Texas Register.

SECTION _____. Subsection (a), Section 815.510, Government Code, is amended to read as follows:

(a) The Employees Retirement System of Texas shall submit a report not later than the 25th day of the month following the end of each fiscal year to the governor, the lieutenant governor, the speaker of the house of representatives, the executive director of the State Pension and Investment Review Board, the appropriate oversight committees of the house and senate, and the Legislative Budget Board. The report shall include the following:

- (1) the current end-of-fiscal-year market value of the trust fund;
- (2) the asset allocations of the trust fund expressed in percentages of stocks, fixed income, cash, or other financial investments; and
- (3) the investment performance of the trust fund utilizing accepted industry measurement standards.

SECTION _____. Subsections (c) and (d), Section 825.108, Government Code, are amended to read as follows:

(c) A copy of the report required by Subsection (a) must be filed with the governor, the lieutenant governor, the speaker of the house of representatives, the State Pension and Investment Review Board, the legislative audit committee, and the state auditor no later than December 15 of each year.

(d) A copy of the report required by Subsection (b) must be filed with the governor, the lieutenant governor, the speaker of the house of representatives, the State Pension and Investment Review Board, the legislative audit committee, and the state auditor no later than March 1 of each year.

SECTION _____. Subsection (d), Section 825.111, Government Code, is amended to read as follows:

(d) No later than 30 days after the legislative audit committee receives an audit report, the committee shall file a copy of the report with the retirement system, the governor, the lieutenant governor, the speaker of the house of representatives, the State Pension and Investment Review Board, the state auditor, and the secretary of state for publication in the Texas Register.

SECTION _____. Subsection (e), Section 825.512, Government Code, is amended to read as follows:

(e) The retirement system shall submit an annual investment performance report not later than the 45th day after the end of each fiscal year to the governor, the lieutenant governor, the speaker of the house of representatives, the executive director of the State Pension and Investment Review Board, the legislative audit committee, the committees of the senate and the house of representatives having jurisdiction over appropriations, the committees of the senate and the house of representatives having principal jurisdiction over legislation governing the retirement system, and the

Legislative Budget Board. The report shall include a listing of all commissions and fees paid by the system during the reporting period for the sale, purchase, or management of system assets.

SECTION _____. Section 825.513, Government Code, is amended to read as follows:

Sec. 825.513. INFORMATION FOR PUBLICATION. The retirement system shall verify with the State Pension and Investment Review Board the accuracy of information about the effects of proposed legislation on benefits and the trust fund before including the information in an official publication of the retirement system.

SECTION _____. Section 825.518, Government Code, is amended to read as follows:

Sec. 825.518. ANNUAL REPORT. The Teacher Retirement System of Texas shall submit a statistical analysis based on information compiled under Section 822.005(d) not later than the 25th day of the month following the end of each fiscal year to the governor, the lieutenant governor, the speaker of the house of representatives, the executive director of the State Pension and Investment Review Board, the appropriate oversight committees of the house and senate, and the Legislative Budget Board.

SECTION _____. Section 2, Chapter 817 (S.B. 127), Acts of the 73rd Legislature, Regular Session, 1993 (Article 4413(34e), Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 2. The manager of each state trust fund shall submit to the governor, the lieutenant governor, the speaker of the house of representatives, and the executive director of the State Pension and Investment Review Board:

(1) not later than January 25 of each year, a report with the information required by Section 3 of this Act covering the last six months of the previous calendar year; and

(2) not later than June 25 of each year, a report with the information required by Section 3 of this Act covering the first six months of that calendar year.

SECTION _____. Subsection (d), Section 12.03, Chapter 183 (S.B. 598), Acts of the 64th Legislature, Regular Session, 1975 (Article 6243e.1, Vernon's Texas Civil Statutes), is amended to read as follows:

(d) The board of trustees shall file with the State Pension and Investment Review Board a copy of each actuarial study and each separate report made as required by law.

SECTION _____. Section 10, Article 6243e.2(1), Revised Statutes, is amended to read as follows:

Sec. 10. NONSTATUTORY BENEFIT INCREASES. The benefits provided by this article may be increased if:

(1) an actuary selected by the board who, if an individual, is a Fellow of the Society of Actuaries, a Fellow of the Conference of Actuaries in Public Practice, or a member of the American Academy of Actuaries determines that the increase cannot reasonably be viewed as posing a material risk of jeopardizing the fund's ability to pay any existing benefit;

(2) a majority of the participating members of the fund vote for the increase by a secret ballot;

(3) the increase does not deprive a member, without the member's written consent, of a right to receive benefits that have already become fully vested and matured in a member; and

(4) the State Pension and Investment Review Board approves the determination by the actuary selected by the board that the increase cannot reasonably be viewed as posing a material risk of jeopardizing the fund's ability to pay any existing benefit.

SECTION _____. Subsections (a), (b), (c), (d), and (f), Section 801.113, Government Code, are repealed.

SECTION _____. (a) The name of the State Pension Review Board is changed to the State Pension and Investment Review Board. A reference in law to the State Pension Review Board means the State Pension and Investment Review Board. A reference in law to the State Pension Review Board fund means the State Pension and Investment Review Board fund.

(b) An appropriation for the use and benefit of the State Pension Review Board is available for the use and benefit of the State Pension and Investment Review Board.

SECTION _____. (a) As soon as practicable on or after the effective date of this Act:

(1) the governor shall appoint five members to the State Pension and Investment Review Board as provided by Section 801.103, Government Code, as amended by this Act, as follows:

(A) two members for a term expiring January 31, 2011;

(B) two members for a term expiring January 31, 2013; and

(C) one member for a term expiring January 31, 2015;

(2) the lieutenant governor shall appoint one member to the State Pension and Investment Review Board as provided by Subsection (a), Section 801.104, Government Code, as amended by this Act, for a term expiring January 31, 2013; and

(3) the speaker of the house of representatives shall appoint one member to the State Pension and Investment Review Board as provided by Subsection (b), Section 801.104, Government Code, as amended by this Act, for a term expiring January 31, 2015.

(b) The term of a member of the State Pension Review Board serving immediately before the effective date of this Act expires at the time five or more of the members appointed to the State Pension and Investment Review Board under Subsection (a) of this section qualify for office. Until the expiration of a member's term occurs under this subsection, the member has the same powers and duties that the member had immediately before that date.

SECTION _____. Subchapter D, Chapter 801, Government Code, as added by this Act, applies to the oversight of funds by the State Pension and Investment Review Board, regardless of whether the investment of those funds was made before, on, or after the effective date of this Act.

SECTION _____. This Act does not make an appropriation. A provision in this Act that creates a new governmental program, creates a new entitlement, or imposes a new duty on a governmental entity is not mandatory during a fiscal period for which the legislature has not made a specific appropriation to implement the provision.

The amendment to **HB 1070** was read and was adopted by a viva voce vote.

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

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

HB 1070 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 1070 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 1070** 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 807 ON SECOND READING

On motion of Senator Uresti and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 807** at this time on its second reading:

HB 807, Relating to allowing counties with no incorporated territory to participate in programs designed to assist municipalities.

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 807 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 807** 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 4102 ON SECOND READING

On motion of Senator Carona and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 4102** at this time on its second reading:

HB 4102, Relating to the disaster contingency fund.

The bill was read second time.

Senator Carona offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 4102** in SECTION 2 of the bill by striking added Section 418.073(h), Government Code (page 1, lines 45-52, Senate committee printing), and substituting the following:

(h) Money in the disaster contingency fund may be used to provide to a local government entity that is suffering financial hardship as a result of a disaster declared under this chapter funds for the purpose of providing local matching funds for Federal Emergency Management Agency qualifying projects.

The amendment to **HB 4102** 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 Shapiro offered the following amendment to the bill:

Floor Amendment No. 2

Amend **HB 4102** (Senate committee report) by adding the following appropriately numbered SECTIONS and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Subchapter A, Chapter 42, Education Code, is amended by adding Section 42.0051 to read as follows:

Sec. 42.0051. AVERAGE DAILY ATTENDANCE FOR DISTRICTS IN DISASTER AREA. (a) The commissioner shall adjust the average daily attendance of a school district all or part of which is located in an area declared a disaster area by the governor under Chapter 418, Government Code, if the district experiences a decline in average daily attendance that is reasonably attributable to the impact of the disaster.

(b) The adjustment must be sufficient to ensure that the district receives funding comparable to the funding that the district would have received if the decline in average daily attendance reasonably attributable to the impact of the disaster had not occurred.

(c) The commissioner shall make the adjustment required by this section for the two-year period following the date of the governor's initial proclamation or executive order declaring the state of disaster.

(d) Section 42.005(b)(2) does not apply to a district that receives an adjustment under this section.

(e) A district that receives an adjustment under this section may not receive any additional adjustment under Section 42.005(d) for the decline in average daily attendance on which the adjustment under this section is based.

(f) For purposes of this title, a district's adjusted average daily attendance under this section is considered to be the district's average daily attendance as determined under Section 42.005.

SECTION _____. Subchapter E, Chapter 42, Education Code, is amended by adding Sections 42.2523 and 42.2524 to read as follows:

Sec. 42.2523. ADJUSTMENT FOR PROPERTY VALUE AFFECTED BY STATE OF DISASTER. (a) For purposes of Chapters 41 and 46 and this chapter, the commissioner shall adjust the taxable value of property of a school district all or part of which is located in an area declared a disaster area by the governor under Chapter 418, Government Code, as necessary to ensure that the district receives funding based as soon as possible on property values as affected by the disaster.

(b) Any additional funding to which a school district is entitled as a result of the adjustment required by this section is in addition to the amount of funding to which the district is entitled under Section 42.2516(b).

(c) A decision of the commissioner under this section is final and may not be appealed.

Sec. 42.2524. REIMBURSEMENT FOR DISASTER REMEDIATION COSTS.

(a) This section applies only to a school district all or part of which is located in an area declared a disaster area by the governor under Chapter 418, Government Code, and that incurs disaster remediation costs as a result of the disaster.

(b) During the two-year period following the date of the governor's initial proclamation or executive order declaring a state of disaster, a district may apply to the commissioner for reimbursement of disaster remediation costs that the district pays during that period and does not anticipate recovering through insurance proceeds, federal disaster relief payments, or another similar source of reimbursement.

(b-1) A district may seek reimbursement of disaster remediation costs paid by the district on or after September 1, 2008. This subsection expires September 1, 2011.

(c) The commissioner may provide reimbursement under this section only if:

(1) funds are specifically appropriated for purposes of this section; or

(2) Foundation School Program funds are available for purposes of this section, based on a determination by the commissioner that the amount appropriated for the Foundation School Program, including the facilities component as provided by Chapter 46, exceeds the amount to which districts are entitled under this chapter and Chapter 46.

(d) A district seeking reimbursement under this section must provide the commissioner with adequate documentation of the costs for which the district seeks reimbursement.

(e) If the amount of money available for purposes of this section is not sufficient to fully reimburse each district's disaster remediation costs, the commissioner shall reduce the amount of assistance provided under this section to each district proportionately.

(f) Notwithstanding any other provision of law, a district that is required to purchase attendance credits under Chapter 41 is eligible to receive assistance under this section in the same manner as any other district. A district may, at its discretion, receive assistance either as a payment of state aid under this chapter or as a reduction in the total amount required to be paid by the district for attendance credits under Section 41.093.

(g) Amounts provided to a district under this section are in addition to the amount to which the district is entitled under Section 42.2516.

(h) The commissioner shall adopt rules necessary to implement this section, including rules defining "disaster remediation costs" for purposes of this section and specifying the type of documentation required under Subsection (d).

(i) Notwithstanding any other provision of this section, the commissioner may permit a district to use amounts provided to a district under this section to pay the costs of replacing a facility instead of repairing the facility. The commissioner shall ensure that a district that elects to replace a facility does not receive an amount under this section that exceeds the lesser of:

(1) the amount that would be provided to the district if the facility were repaired; or

(2) the amount necessary to replace the facility.

(j) This section does not require the commissioner to provide any requested reimbursement. A decision of the commissioner regarding reimbursement is final and may not be appealed.

SECTION _____. Section 44.0312, Education Code, is amended by adding Subsection (c) to read as follows:

(c) Notwithstanding any other provision of this code, in the event of a catastrophe, emergency, or natural disaster affecting a school district, the board of trustees of the district may delegate to the superintendent or designated person the authority to contract for the replacement, construction, or repair of school equipment or facilities under this subchapter if emergency replacement, construction, or repair is necessary for the health and safety of district students and staff.

SECTION _____. This Act does not make an appropriation. Sections 42.0051, 42.2523, and 42.2524 of the Education Code take effect only if a specific appropriation for the implementation of those sections is provided in a general appropriations act of the 81st Legislature.

The amendment to **HB 4102** 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 Carona and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

HB 4102 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 4102 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 4102** 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 4149 ON SECOND READING**

On motion of Senator Zaffirini and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 4149** at this time on its second reading:

CSHB 4149, Relating to certain studies and reports by the Texas Higher Education Coordinating Board regarding achievable cost-saving measures and the use and availability of electronic textbooks at institutions 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.

**COMMITTEE SUBSTITUTE
HOUSE BILL 4149 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 **CSHB 4149** 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 422 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 422** at this time on its second reading:

CSHB 422, Relating to information provided to a person applying for a state tax permit or license.

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 422 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 422** 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)

**MOTION TO PLACE
COMMITTEE SUBSTITUTE
SENATE BILL 714 ON SECOND READING**

Senator Van de Putte moved to suspend the regular order of business to take up for consideration **CSSB 714** at this time on its second reading:

CSSB 714, Relating to the regulation of certain health care rental network contract arrangements; providing a civil penalty.

The motion was lost by the following vote: Yeas 16, Nays 13. (Not receiving two-thirds vote of Members present)

Yeas: Averitt, Carona, Davis, Deuell, Duncan, Ellis, Gallegos, Hinojosa, Lucio, Shapleigh, Uresti, Van de Putte, Watson, West, Whitmire, Zaffirini.

Nays: Estes, Fraser, Harris, Huffman, Jackson, Nelson, Nichols, Ogden, Patrick, Seliger, Shapiro, Wentworth, Williams.

Absent: Eltife, Hegar.

**COMMITTEE SUBSTITUTE
HOUSE BILL 1888 ON SECOND READING**

Senator Duncan moved to suspend the regular order of business to take up for consideration **CSHB 1888** at this time on its second reading:

CSHB 1888, Relating to standards required for certain rankings of physicians by health benefit plans.

The motion prevailed.

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

The bill was read second time.

Senator Duncan offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSHB 1888** as follows:

On page 2, delete lines 35-37 and replace with the following:

"Sec. 1460.005. RULES; STANDARDS. (a) The commissioner shall adopt rules as necessary to implement this chapter."

The amendment to **CSHB 1888** was read and was adopted by a viva voce vote.

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

Nays: Williams.

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

CSHB 1888 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: Williams.

**COMMITTEE SUBSTITUTE
HOUSE BILL 1888 ON THIRD READING**

Senator Duncan moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 1888** be placed on its third reading and final passage.

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

Nays: Williams.

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

MESSAGE FROM THE HOUSE

HOUSE CHAMBER
Austin, Texas
May 21, 2009

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 283, Relating to the membership and activities of local school health advisory councils.
(Amended)

SB 865, Relating to child support enforcement.
(Amended)

SB 1009, Relating to the continuation and functions of the Commission on Jail Standards.
(Committee Substitute/Amended)

SB 1016, Relating to the continuation and functions of the Department of Agriculture and the Prescribed Burning Board and the abolition of the Texas-Israel Exchange Fund Board; providing penalties.
(Committee Substitute/Amended)

Respectfully,

/s/Robert Haney, Chief Clerk
House of Representatives

**COMMITTEE SUBSTITUTE
HOUSE BILL 1969 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 1969** at this time on its second reading:

CSHB 1969, Relating to the enforcement of certain provisions in a will or trust that forfeit or void devises or interests.

The bill was read second time.

Senator Watson offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSHB 1969** (committee version) as follows:

- (1) On page 1, line 20, between "brought" and "in" insert "and maintained"
- (2) On page 1, line 58, between "brought" and "in" insert "and maintained"

The amendment to **CSHB 1969** 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 Watson and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

CSHB 1969 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 1969 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 1969** 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 4779 ON SECOND READING**

On motion of Senator Ogden and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 4779** at this time on its second reading:

CSHB 4779, Relating to the powers and duties of the 3 B&J Municipal Utility District; providing authority to impose a tax and issue bonds.

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

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

**COMMITTEE SUBSTITUTE
HOUSE BILL 4779 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 4779** 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 1975 ON SECOND READING

On motion of Senator Lucio and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 1975** at this time on its second reading:

HB 1975, Relating to refund of excess unearned premiums by insurance premium finance companies.

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 1975 ON THIRD READING

Senator Lucio moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1975** 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.

PERMISSION TO INTRODUCE RESOLUTION

On motion of Senator Nelson and by unanimous consent, Senate Rule 7.07(b) was suspended to permit the introduction of the following resolution: **SCR 77**.

SENATE RESOLUTION ON FIRST READING

The following resolution was introduced, read first time, and referred to the committee indicated:

SCR 77 by Nelson

Approving the system-wide settlement agreement with the United States Department of Justice resolving certain investigations of state mental retardation facilities.

To Committee on Health and Human Services.

HOUSE BILLS AND RESOLUTIONS ON FIRST READING

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

HB 206 to Committee on Business and Commerce.

HB 358 to Committee on State Affairs.

HB 498 to Committee on Criminal Justice.
HB 518 to Committee on Finance.
HB 801 to Committee on Finance.
HB 1243 to Committee on Business and Commerce.
HB 1928 to Committee on Business and Commerce.
HB 2511 to Committee on State Affairs.
HB 2986 to Committee on State Affairs.
HB 3790 to Committee on Higher Education.
HB 4807 to Committee on Natural Resources.
HCR 22 to Committee on Jurisprudence.
HCR 47 to Committee on International Relations and Trade.
HCR 54 to Committee on Economic Development.
HCR 61 to Committee on State Affairs.
HCR 67 to Committee on Natural Resources.
HCR 119 to Committee on Natural Resources.
HCR 120 to Committee on Natural Resources.
HCR 139 to Committee on Administration.

SESSION TO CONSIDER EXECUTIVE APPOINTMENTS

The President announced the time had arrived to consider executive appointments to agencies, boards, and commissions. Notice of submission of these names for consideration was given Tuesday, May 19, 2009, by Senator Jackson.

Senator Jackson moved confirmation of the nominees reported Tuesday by the Committee on Nominations.

The President asked if there were requests to sever nominees.

There were no requests offered.

NOMINEES CONFIRMED

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

Members, Parks and Wildlife Commission: Ralph H. Duggins, Tarrant County; Antonio Falcon, M.D., Starr County; Karen J. Hixon, Bexar County; Margaret Martin, Kendall County; S. Reed Morian, Harris County.

Members, Texas Juvenile Probation Commission: Jean Boyd, Tarrant County; B. W. McClendon, D.Min., Travis County; Scott O'Grady, Dallas County; Robert Alton "Bob" Shults, Harris County.

Executive Commissioner, Texas Youth Commission: Cheryl K. "Cherie" Townsend, Travis County.

SENATE BILL 98 WITH HOUSE AMENDMENTS

Senator Lucio called **SB 98** from the President's table for consideration of the House amendments to the bill.

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

Amendment

Amend **SB 98** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED
AN ACT

relating to establishing a health science center and medical school in South Texas.

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

SECTION 1. Chapter 74, Education Code, is amended by adding Subchapter N to read as follows:

SUBCHAPTER N. THE UNIVERSITY OF TEXAS HEALTH
SCIENCE CENTER—SOUTH TEXAS

Sec. 74.751. HEALTH SCIENCE CENTER. (a) The board of regents of The University of Texas System may operate The University of Texas Health Science Center—South Texas as a component institution of The University of Texas System with its main campus and administrative offices in Cameron County. The health science center may consist of a medical school, as provided by Section 74.752, other health and health-related degree programs, and related programs and facilities as the board considers appropriate.

(b) The board of regents may include facilities located in Brooks, Cameron, Hidalgo, Jim Hogg, Kenedy, Kleberg, Starr, Willacy, and Zapata Counties in the health science center and may operate programs and activities and provide related services of the center in those counties.

Sec. 74.752. MEDICAL SCHOOL. If The University of Texas Health Science Center—South Texas is established under Section 74.751, The University of Texas Medical School—South Texas may be established as a component of the health science center and as a component institution of The University of Texas System under the management and control of the board of regents of The University of Texas System.

Sec. 74.753. PARTICIPATION IN AVAILABLE UNIVERSITY FUND. In accordance with Section 18(c), Article VII, Texas Constitution, if the Act enacting this section receives a vote of two-thirds of all the members elected to each house of the legislature, and if an institution is established under this subchapter, the institution is entitled to participate in the funding provided by Section 18, Article VII, Texas Constitution, for The University of Texas System.

Sec. 74.754. COURSES AND DEGREES; RULES. The board of regents may prescribe courses leading to customary degrees and may adopt rules for the operation, control, and management of the health science center as may be necessary for the conduct of a medical school and other health science center programs of the first class.

Sec. 74.755. AFFILIATION AGREEMENTS; JOINT APPOINTMENTS. (a) The board of regents may execute and carry out affiliation or coordination agreements with any other entity or institution in the region.

(b) The board of regents may make joint appointments in the health science center, its component institutions, and other institutions under the board's governance. The salary of a person who receives a joint appointment shall be apportioned to the appointing institutions on the basis of services rendered.

Sec. 74.756. GIFTS AND GRANTS; OTHER FUNDING. (a) The board of regents may accept and administer gifts and grants from any public or private person or entity for the use and benefit of the health science center and its component institutions.

(b) Notwithstanding any other provision of this subchapter, establishment of the health science center is subject to the availability of funding, either through appropriation or from another source.

Sec. 74.757. OTHER FACILITIES. In addition to the facilities of the health science center and its component institutions, the board of regents may enter into agreements under which additional facilities used in the center's teaching and research programs, including libraries, auditoriums, research facilities, and medical education buildings, may be provided by a public or private entity.

Sec. 74.758. TEACHING HOSPITAL. A teaching hospital considered suitable by the board of regents for the health science center may be provided by a public or private entity. The hospital may not be constructed, maintained, or operated with state funds.

Sec. 74.759. COORDINATING BOARD SUPERVISION. The health science center is subject to the continuing supervision of the Texas Higher Education Coordinating Board under Chapter 61 and to the rules of the coordinating board adopted under Chapter 61.

Sec. 74.760. EFFECT OF HEALTH SCIENCE CENTER ON LOWER RIO GRANDE VALLEY ACADEMIC HEALTH CENTER. (a) The board of regents may convert the regional academic health center established under Subchapter L into The University of Texas Health Science Center–South Texas and may establish The University of Texas Medical School–South Texas at the health science center as soon as the board considers appropriate considering available resources and the best interests of The University of Texas System and the people of this state and the South Texas region. In establishing the health science center and medical school, the board of regents shall ensure that the programs, students, and faculty and staff of the regional academic health center are not affected other than as the board considers necessary to implement this subchapter.

(b) It is the intent of the legislature that The University of Texas Health Science Center–South Texas and its component institutions be established by conversion of the regional academic health center established under Subchapter L and that those entities be considered to be the same institution. A reference in law to the regional academic health center applies to The University of Texas Health Science Center–South Texas to the extent it can be made applicable. All contracts and agreements, including bonds and other financial obligations, entered into by The University of Texas System or any of its officers or employees relating to the regional academic health center apply to The University of Texas Health Science Center–South Texas when the health science center is established.

(c) The permanent endowment fund established under Section 63.101 for the benefit of the regional academic health center established under Subchapter L is transferred to the benefit of The University of Texas Health Science Center–South Texas and its component institutions when the health science center is established. It

is the intent of the legislature that the transfer of the permanent endowment fund be made so as not to interrupt the research or other programs supported by distributions from the fund.

SECTION 2. Section 55.1732, Education Code, is amended by adding Subsection (e) to read as follows:

(e) Bonds authorized or issued under this section for the regional academic health center established under Section 74.611 are considered to have been authorized or issued for The University of Texas Health Science Center–South Texas and its component institutions if the health science center is established.

SECTION 3. Section 61.003(5), Education Code, is amended to read as follows:

(5) "Medical and dental unit" means The University of Texas Medical Branch at Galveston; The University of Texas Southwestern Medical Center at Dallas; The University of Texas Medical School at San Antonio; The University of Texas Dental Branch at Houston; The University of Texas M.D. Anderson Cancer Center; The University of Texas Graduate School of Biomedical Sciences at Houston; The University of Texas Dental School at San Antonio; The University of Texas Medical School at Houston; The University of Texas Health Science Center–South Texas and its component institutions, if established under Subchapter N, Chapter 74; the nursing institutions of The University of Texas System; and The University of Texas School of Public Health at Houston; and such other medical or dental schools as may be established by statute or as provided in this chapter.

SECTION 4. Section 63.002(c), Education Code, is amended to read as follows:

(c) The amount available for distribution from the fund may be appropriated only for programs that benefit medical research, health education, or treatment programs at the following health-related institutions of higher education:

- (1) The University of Texas Health Science Center at San Antonio;
- (2) The University of Texas M. D. Anderson Cancer Center;
- (3) The University of Texas Southwestern Medical Center at Dallas;
- (4) The University of Texas Medical Branch at Galveston;
- (5) The University of Texas Health Science Center at Houston;
- (6) The University of Texas Health Science Center at Tyler;
- (7) The University of Texas Health Science Center–South Texas and its component institutions, if established under Subchapter N, Chapter 74;
- (8) The Texas A&M University Health Science Center;
- (9) ~~(8)~~ the University of North Texas Health Science Center at Fort Worth;
- (10) ~~(9)~~ the Texas Tech University Health Sciences Center; and
- (11) ~~(10)~~ Baylor College of Medicine, if a contract between Baylor College of Medicine and the Texas Higher Education Coordinating Board is in effect under Section 61.092.

SECTION 5. Section 65.02(a), Education Code, is amended to read as follows:

(a) The University of Texas System is composed of the following institutions and entities:

- (1) The University of Texas at Arlington, including:
 - (A) The University of Texas Institute of Urban Studies at Arlington;
 - (B) The University of Texas School of Nursing at Arlington;

and

- (2) The University of Texas at Austin, including:
 (A) The University of Texas Marine Science Institute;
 (B) The University of Texas McDonald Observatory at Mount Locke;
- and
- (C) The University of Texas School of Nursing at Austin;
- (3) The University of Texas at Dallas;
- (4) The University of Texas at El Paso, including The University of Texas School of Nursing at El Paso;
- (5) The University of Texas of the Permian Basin;
- (6) The University of Texas at San Antonio, including the University of Texas Institute of Texan Cultures at San Antonio;
- (7) The University of Texas Southwestern Medical Center at Dallas, including:
 (A) The University of Texas Southwestern Medical School at Dallas;
 (B) The University of Texas Southwestern Graduate School of Biomedical Sciences at Dallas; and
 (C) The University of Texas Southwestern Allied Health Sciences School at Dallas;
- (8) The University of Texas Medical Branch at Galveston, including:
 (A) The University of Texas Medical School at Galveston;
 (B) The University of Texas Graduate School of Biomedical Sciences at Galveston;
 (C) The University of Texas School of Allied Health Sciences at Galveston;
 (D) The University of Texas Marine Biomedical Institute at Galveston;
 (E) The University of Texas Hospitals at Galveston; and
 (F) The University of Texas School of Nursing at Galveston;
- (9) The University of Texas Health Science Center at Houston, including:
 (A) The University of Texas Medical School at Houston;
 (B) The University of Texas Dental Branch at Houston;
 (C) The University of Texas Graduate School of Biomedical Sciences at Houston;
 (D) The University of Texas School of Health Information Sciences at Houston;
 (E) The University of Texas School of Public Health at Houston;
 (F) The University of Texas Speech and Hearing Institute at Houston;
- and
- (G) The University of Texas School of Nursing at Houston;
- (10) The University of Texas Health Science Center at San Antonio, including:
 (A) The University of Texas Medical School at San Antonio;
 (B) The University of Texas Dental School at San Antonio;
 (C) The University of Texas Graduate School of Biomedical Sciences at San Antonio;
 (D) The University of Texas School of Allied Health Sciences at San Antonio; and

(E) The University of Texas School of Nursing at San Antonio;
 (11) The University of Texas M. D. Anderson Cancer Center, including:
 (A) The University of Texas M. D. Anderson Hospital;
 (B) The University of Texas M. D. Anderson Tumor Institute; and
 (C) The University of Texas M. D. Anderson Science Park; and
 (12) The University of Texas Health Science Center–South Texas, including
The University of Texas Medical School–South Texas, if established under
Subchapter N, Chapter 74.

SECTION 6. No funds for a state fiscal biennium ending on or before August 31, 2015, may be appropriated for the purposes of Subchapter N, Chapter 74, Education Code, as added by this Act.

SECTION 7. 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, 2009.

Floor Amendment No. 1

Amend **CSSB 98** (House committee printing) on page 1, line 19, between "Kleberg," and "Star", by inserting "Nueces,".

Floor Amendment No. 1 on Third Reading

Amend **CSSB 98** (House committee printing) on page 1, line 19, by striking "Brooks, Cameron, Hidalgo, Jim Hogg" and substituting "Bee, Brooks, Cameron, Hidalgo, Jim Hogg, Jim Wells".

The amendments were read.

Senator Lucio moved to concur in the House amendments to **SB 98**.

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

SENATE BILL 93 WITH HOUSE AMENDMENTS

Senator Van de Putte called **SB 93** from the President's table for consideration of the House amendments to the bill.

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

Floor Amendment No. 1

Amend **SB 93** (House committee report) as follows:

(1) Strike the recital to SECTION 1 of the bill (page 1, lines 5 through 7), and substitute:

SECTION 1. Section 54.203, Education Code, is amended by amending Subsections (a), (b), (b-1), (d), (g), and (h) and adding Subsections (a-1), (a-2), and (k) to read as follows:

(2) In SECTION 1 of the bill, in amended Section 54.203, Education Code (page 3, between lines 13 and 14), insert the following:

(a-2) The exemptions provided for in Subsection (a) also apply to the spouse of:

(1) a member of the armed forces of the United States:

(A) who was killed in action;

(B) who died while in service;

(C) who is missing in action;

(D) whose death is documented to be directly caused by illness or injury connected with service in the armed forces of the United States; or

(E) who became totally disabled for purposes of employability according to the disability ratings of the Department of Veterans Affairs as a result of a service-related injury; or

(2) a member of the Texas National Guard or the Texas Air National Guard who:

(A) was killed since January 1, 1946, while on active duty either in the service of this state or the United States; or

(B) is totally disabled for purposes of employability according to the disability ratings of the Department of Veterans Affairs, regardless of whether the member is eligible to receive disability benefits from the department, as a result of a service-related injury suffered since January 1, 1946, while on active duty either in the service of this state or the United States.

(3) In SECTION 1 of the bill, in amended Section 54.203, Education Code, strike amended Subsection (b-1) (page 4, lines 12 through 16) and substitute:

(b-1) To qualify for an exemption under Subsection (a-2) or (b), the spouse or child [a person must be a citizen of Texas and] must be classified as a resident under Subchapter B on [have resided in the state for at least 12 months immediately preceding] the date of the spouse's or child's [person's] registration.

(4) In SECTION 1 of the bill, in amended Section 54.203, Education Code (page 4, between lines 22 and 23), insert the following:

(g) The governing board of a junior college district may establish a fee for extraordinary costs associated with a specific course or program and may provide that the exemptions provided by this section [~~Subsections (a) and (b)~~] do not apply to this fee.

(h) The governing board of each institution of higher education shall electronically report to the Texas Higher Education Coordinating Board the information required by Section 61.0516 relating to each individual receiving an exemption from fees and charges under Subsection (a), (a-2), or (b). The institution shall report the information not later than December 31 of each year for the fall semester, May 31 of each year for the spring semester, and September 30 of each year for the summer session.

(5) Strike SECTION 2 of the bill (page 5, lines 4 through 13) and substitute:

SECTION 2. Section 54.203, Education Code, as amended by this Act, applies beginning with tuition, dues, fees, and other charges for the 2009 fall semester. If a person who becomes eligible for an exemption in that semester under that section has paid the tuition, dues, fees, and other charges for that semester, the institution of higher education shall refund to the student the amount of those charges paid by the person in the amount of the exemption. Tuition, dues, fees, and other charges for a term or semester before the 2009 fall semester are covered by the law in effect immediately before the effective date of this Act, and the former law is continued in effect for that purpose.

Floor Amendment No. 2

Amend **SB 93** (House committee report) in SECTION 1 of the bill as follows:

(1) In amended Section 54.203(a)(3), Education Code (page 2, line 11), strike "and" and substitute "~~and~~".

(2) At the end of Section 54.203(a)(4)(G), Education Code (page 3, line 4), between "federal law" and the period, insert the following:
; and

(5) all persons who:

(A) were honorably discharged from the Texas State Guard after serving on active duty in the Texas State Guard by call or order of the governor under Section 431.053, Government Code, excluding training, for a cumulative period of more than 90 days; and

(B) served a portion of the active duty described by Paragraph (A) on or after September 1, 1971

Floor Amendment No. 3

Amend **SB 93** (House committee report) as follows:

(1) Strike the recital to SECTION 1 of the bill (page 1, lines 5 through 7), and substitute:

SECTION 1. Section 54.203, Education Code, is amended by amending Subsections (a), (b), (b-1), (d), and (g) and adding Subsections (a-1), (k), (l), and (m) to read as follows:

(2) In SECTION 1 of the bill, in amended Section 54.203, Education Code (page 4, between lines 22 and 23), insert the following:

(g) The governing board of a junior college district may establish a fee for extraordinary costs associated with a specific course or program and may provide that the exemptions provided by this section [~~Subsections (a) and (b)~~] do not apply to this fee.

(k) The Texas Higher Education Coordinating Board by rule shall prescribe procedures to allow a person who becomes eligible for an exemption provided by Subsection (a) to waive the person's right to any unused portion of the maximum number of cumulative credit hours for which the person could receive the exemption and assign the exemption for the unused portion of those credit hours to a child of the person. The procedures shall provide:

(1) the manner in which a person may waive the exemption and designate a child to receive the exemption;

(2) a procedure permitting the person to designate a different child to receive the exemption if the child previously designated to receive the exemption did not use the exemption under this section for all of the assigned portion of credit hours;
and

(3) a method of documentation to enable institutions of higher education to determine the eligibility of the designated child to receive the exemption.

(l) To be eligible to receive an exemption under Subsection (k), the child must:

(1) be a student who is classified as a resident under Subchapter B when the child enrolls in an institution of higher education;

(2) make satisfactory academic progress in a degree, certificate, or continuing education program as determined by the institution at which the child is enrolled in accordance with the policy of the institution's financial aid department, except that the institution may not require the child to enroll in a minimum course load; and

(3) be 25 years of age or younger on the first day of the semester or other academic term for which the exemption is claimed, except that the Texas Higher Education Coordinating Board by rule shall prescribe procedures by which a child who suffered from a severe illness or other debilitating condition that affected the child's ability to use the exemption before reaching that age may be granted additional time to use the exemption corresponding to the time the child was unable to use the exemption because of the illness or condition.

(3) In SECTION 1 of the bill, in added Section 54.203(k), Education Code (page 4, line 23), strike "(k)" and substitute "(m)".

(4) Strike SECTION 2 of the bill (page 5, lines 4 through 13).

(5) Add the following SECTIONS to the bill, appropriately numbered, and renumber subsequent SECTIONS accordingly:

SECTION _____. This Act shall be known as the "Hazlewood Legacy Act."

SECTION _____. Subsections (e) and (e-1), Section 54.203, Education Code, as amended by Chapters 443 (**HB 125**) and 1334 (**SB 1640**), Acts of the 80th Legislature, Regular Session, 2007, are reenacted and amended to read as follows:

(e) The exemption from tuition, fees, and other charges provided for by this section [in Subsection (a)] does not apply to a person who at the time of registration is entitled to receive educational benefits under federal legislation that may be used only for the payment of tuition and fees if the value of those benefits received in a semester or other term is equal to or exceeds the value of the exemption for the same semester or other term. If the value of federal benefits that may be used only for the payment of tuition and fees and are received in a semester or other term does not equal or exceed the value of the exemption for the same semester or other term, the person is entitled to receive both those federal benefits [the federal benefit] and the exemption in the same semester or other term. The combined amount of the federal benefit that may be used only for the payment of tuition and fees plus the amount of the exemption received in a semester or other term may not exceed the cost of tuition and fees for that semester or other term. [A person is covered by the exemption if the person's right to benefits under federal legislation is extinguished at the time of the person's registration, except that a person may not receive an exemption from fees under this section if the person's right to benefits under federal legislation is extinguished because the person is in default of repayment of a loan made to the person under a federal program to provide or guarantee loans for educational purposes.]

(e-1) A person may not receive an exemption under this section if the person is in default on a loan made or guaranteed for educational purposes by the State of Texas.

SECTION _____. (a) Section 54.203, Education Code, as amended by this Act, applies beginning with tuition, dues, fees, and other charges for the 2009 fall semester. If a person who becomes eligible for an exemption in that semester under that section has paid the tuition, dues, fees, and other charges for that semester, the institution of

higher education shall refund to the student the amount of those charges paid by the person in the amount of the exemption. Tuition, dues, fees, and other charges for a term or semester before the 2009 fall semester are covered by the law in effect immediately before the effective date of this Act, and the former law is continued in effect for that purpose.

(b) The Texas Higher Education Coordinating Board shall prescribe the procedures required by Sections 54.203(k) and (l), Education Code, as added by this Act, as soon as practicable after the effective date of this Act. For that purpose, the coordinating board may adopt the initial rules prescribing those procedures in the manner provided by law for emergency rules.

Floor Amendment No. 1 on Third Reading

Amend **SB 93** on third reading by adding the following SECTION to the bill, appropriately numbered, and renumbering subsequent SECTIONS accordingly:

SECTION _____. This Act does not make an appropriation. This Act takes effect only if a specific appropriation for the implementation of this Act is provided in a general appropriations act of the 81st Legislature.

The amendments were read.

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

The motion prevailed without objection.

The President asked if there were any motions to instruct the conference committee on **SB 93** before appointment.

There were no motions offered.

The President announced the appointment of the following conferees on the part of the Senate: Senators Van de Putte, Chair; Duncan, Averitt, Ogden, and Zaffirini.

COMMITTEE SUBSTITUTE HOUSE BILL 3515 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 3515** at this time on its second reading:

CSHB 3515, Relating to the creation of the offense of failure to report barratry and solicitation of employment.

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 3515 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 3515** 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 1929 WITH HOUSE AMENDMENT

Senator Watson called **SB 1929** from the President's table for consideration of the House amendment to the bill.

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

Floor Amendment No. 1

Amend **SB 1929** (House committee printing) in SECTION 1 of the bill, in added Section 485A.101(1), Government Code, between "metropolitan" and "area", by inserting "statistical".

The amendment was read.

Senator Watson moved to concur in the House amendment to **SB 1929**.

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

SENATE BILL 1011 WITH HOUSE AMENDMENTS

Senator Estes called **SB 1011** from the President's table for consideration of the House amendments to the bill.

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

Amendment

Amend **SB 1011** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED AN ACT

relating to the continuation and functions of the Texas Commission on Fire Protection.

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

SECTION 1. The heading to Chapter 419, Government Code, is amended to read as follows:

CHAPTER 419. TEXAS [~~COMMISSION ON~~] FIRE PROTECTION AGENCY

SECTION 2. Section 419.001(1), Government Code, is amended to read as follows:

(1) "Commission" means the Texas [~~Commission on~~] Fire Protection Agency.

SECTION 3. Section 419.002, Government Code, is amended to read as follows:

Sec. 419.002. TEXAS FIRE PROTECTION AGENCY [~~COMMISSION~~]. The Texas [~~Commission on~~] Fire Protection Agency is an agency of the state.

SECTION 4. Subchapter A, Chapter 419, Government Code, is amended by adding Section 419.0025 to read as follows:

Sec. 419.0025. REFERENCE. A reference in law to the Texas Commission on Fire Protection means the Texas Fire Protection Agency.

SECTION 5. Section 419.003, Government Code, is amended to read as follows:

Sec. 419.003. SUNSET PROVISION. The Texas [~~Commission on~~] Fire Protection Agency is subject to Chapter 325 (Texas Sunset Act). Unless continued in existence as provided by that chapter, the Texas Fire Protection Agency [~~commission~~] is abolished and this chapter expires September 1, 2021 [~~2009~~].

SECTION 6. Section 419.004(e), Government Code, is amended to read as follows:

(e) A person may not be [~~is not eligible for appointment as~~] a public member of the commission if the person or the person's spouse:

(1) is registered, certified, or licensed by a regulatory agency in the field of fire protection [~~the commission~~];

(2) is employed by or participates in the management of a business entity or other organization regulated by [~~the commission~~] or receiving money [~~funds~~] from the commission;

(3) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization regulated by [~~the commission~~] or receiving money [~~funds~~] from the commission;

(4) uses or receives a substantial amount of tangible goods, services, or money [~~funds~~] from the commission, other than compensation or reimbursement authorized by law for commission membership, attendance, or expenses; or

(5) is employed in the field of [~~a member of a paid or volunteer~~] fire protection [~~department~~].

SECTION 7. Sections 419.005(a) and (c), Government Code, are amended to read as follows:

(a) It is a ground for removal from the commission that [~~if~~] a member:

(1) does not have at the time of taking office [~~appointment~~] the qualifications required by Section 419.004;

(2) does not maintain during service on the commission the qualifications required by Section 419.004;

(3) is ineligible for membership under [~~violates a prohibition established by~~] Section 419.006;

(4) cannot, because of illness or disability, discharge the member's duties for a substantial part of the member's term [~~for which the member is appointed because of illness or disability~~]; or

(5) is absent from more than half of the regularly scheduled commission meetings that the member is eligible to attend during a calendar year without an excuse approved [~~unless the absence is excused~~] by majority vote of the commission.

(c) If the executive director has knowledge that a potential ground for removal exists, the executive director shall notify the presiding officer of the commission of the potential ground. The presiding officer shall then notify the governor and the attorney general that a potential ground for removal exists. If the potential ground for removal involves the presiding officer, the executive director shall notify the next highest ranking officer of the commission, who shall then notify the governor and the attorney general that a potential ground for removal exists.

SECTION 8. Section 419.006, Government Code, is amended to read as follows:

Sec. 419.006. CONFLICT OF INTEREST. (a) ~~In [An officer, employee, or paid consultant of a Texas trade association in the field of fire protection may not be a member of the commission or an employee of the commission who is exempt from the state's position classification plan or is compensated at or above the amount prescribed by the General Appropriations Act for step 1, salary group 17, of the position classification salary schedule.~~

~~[(b) A person who is the spouse of an officer, manager, or paid consultant of a Texas trade association in the field of fire protection may not be a commission member and may not be a commission employee who is exempt from the state's position classification plan or is compensated at or above the amount prescribed by the General Appropriations Act for step 1, salary group 17, of the position classification salary schedule.~~

~~[(c) For the purposes of] this section, "Texas trade association" means [a Texas trade association is] a [nonprofit,] 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 commission and may not be a commission employee 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 fire protection; or~~

~~(2) the person's spouse is an officer, manager, or paid consultant of a Texas trade association in the field of fire protection.~~

~~(c) [(d)] A person may not be [serve as] a member of the commission or act as the general counsel to the commission or the agency if the person is required to register as a lobbyist under Chapter 305 because of the person's activities for compensation on behalf of a profession related to the operation of the commission.~~

SECTION 9. Section 419.007(a), Government Code, is amended to read as follows:

(a) ~~The governor shall designate a member of the commission [fire protection instructor appointed under Section 419.004(a)(6) serves] as the presiding officer of the commission to serve in that capacity at the pleasure of [unless] the governor [designates another member as presiding officer]. The commission shall elect from among its members an assistant presiding officer and a secretary.~~

SECTION 10. Section 419.0071, Government Code, is amended to read as follows:

Sec. 419.0071. COMMISSION MEMBER TRAINING. (a) ~~A [To be eligible to take office as a member of the commission, a] person who is appointed to and qualifies for office as a member of the commission may not vote, deliberate, or be counted as a member in attendance at a meeting of the commission until the person completes [must complete at least one course of] a training program that complies with this section.~~

(b) The training program must provide ~~[information to]~~ the person with information regarding:

- (1) the ~~[enabling]~~ legislation that created the commission;
- (2) the programs, ~~[operated by the commission;~~
- ~~[(3) the role and]~~ functions, ~~[of the commission;~~
- ~~[(4) the]~~ rules, and ~~[of the commission with an emphasis on the rules that relate to disciplinary and investigatory authority;~~
- ~~[(5) the current]~~ budget of ~~[for]~~ the commission;
- (3) ~~[(6)]~~ the results of the most recent formal audit of the commission;
- (4) ~~[(7)]~~ the requirements of laws relating to ~~[the:~~
 - ~~[(A)]~~ open meetings ~~[law],~~ public information ~~[Chapter 551;~~
 - ~~[(B)]~~ open records law, Chapter 552; and
 - ~~[(C)]~~ administrative procedure law], and ~~[Chapter 2001;~~
- ~~[(8) the requirements of the conflict]~~ conflicts of interest ~~[interests laws and other laws relating to public officials];~~ and
- (5) ~~[(9)]~~ any applicable ethics policies adopted by the commission ~~[agency]~~ or the Texas Ethics Commission.

(c) A person appointed to the commission 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 ~~[- as provided by the General Appropriations Act and as if]~~ the person qualifies for office ~~[were a member of the commission].~~

SECTION 11. Subchapter A, Chapter 419, Government Code, is amended by adding Section 419.0083 to read as follows:

Sec. 419.0083. NEGOTIATED RULEMAKING; ALTERNATIVE DISPUTE RESOLUTION. (a) The commission shall develop and implement a policy to encourage the use of:

- (1) negotiated rulemaking procedures under Chapter 2008 for the adoption of commission rules; and
- (2) appropriate alternative dispute resolution procedures under Chapter 2009 to assist in the resolution of internal and external disputes under the commission's jurisdiction.

(b) The commission'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 commission 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 commission.

SECTION 12. Section 419.009(c), Government Code, is amended to read as follows:

(c) The commission shall develop and implement policies that clearly separate the policy-making [define the respective] responsibilities of the commission and the management responsibilities of the executive director and the staff of the commission.

SECTION 13. Section 419.011, Government Code, is amended to read as follows:

Sec. 419.011. ~~[PUBLIC INTEREST INFORMATION AND]~~ COMPLAINTS.

(a) The commission shall maintain a system to promptly and efficiently act on complaints filed with the commission. The commission shall 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 its disposition.

(b) The commission shall make [prepare] information available [of public interest] describing its [the functions of the commission and the commission's] procedures for complaint investigation and resolution [by which complaints are filed with and resolved by the commission. The commission shall make the information available to the public and appropriate state agencies.

~~[(b) The commission shall keep a file about each written complaint filed with the commission that the commission has authority to resolve. The commission shall provide to the person filing the complaint and the persons or entities complained about the commission's policies and procedures pertaining to complaint investigation and resolution].~~

~~(c) The commission[— at least quarterly and until final disposition of the complaint,] shall periodically notify the [person filing the] complaint parties [and the persons or entities complained about] of the status of the complaint until final disposition [unless the notice would jeopardize an undercover investigation.~~

~~[(c) The commission shall keep information about each complaint filed with the commission. The information shall include:~~

~~[(1) the date the complaint is received;~~

~~[(2) the name of the complainant;~~

~~[(3) the subject matter of the complaint;~~

~~[(4) a record of all persons contacted in relation to the complaint;~~

~~[(5) a summary of the results of the review or investigation of the complaint; and~~

~~[(6) for complaints for which the agency took no action, an explanation of the reason the complaint was closed without action.~~

~~[(d) The commission shall comply with federal and state laws related to program and facility accessibility. The executive director shall also prepare and maintain a written plan that describes how a person who does not speak English can be provided reasonable access to the commission's programs].~~

SECTION 14. Subchapter A, Chapter 419, Government Code, is amended by adding Section 419.012 to read as follows:

Sec. 419.012. TECHNOLOGICAL SOLUTIONS. The commission shall implement a policy requiring the commission to use appropriate technological solutions to improve the commission's ability to perform its functions. The policy must ensure that the public is able to interact with the commission on the Internet.

SECTION 15. Section 419.021, Government Code, is amended by adding Subdivision (8) to read as follows:

(8) "Volunteer fire department" means a fire department operated by its members, including a part-paid fire department, that is operated on a not-for-profit basis, including a department that is exempt from federal income tax under Section 501(a), Internal Revenue Code of 1986, by being listed as an exempt organization in Section 501(c)(3) of that code.

SECTION 16. Section 419.022(a), Government Code, is amended to read as follows:

(a) The commission may:

(1) require the submission of reports and information by a local governmental agency in this state that employs fire protection personnel;

(2) assist fire departments, volunteer fire departments, volunteer firefighters, and fire protection personnel with problems related to fire-fighting techniques, clothing, and equipment;

(3) assist fire departments and local governments with the development and updating of local fire codes;

(4) on request, assist in performing staffing studies of fire departments; ~~and~~

(5) establish minimum educational, training, physical, and mental standards for admission to employment as fire protection personnel in a permanent, temporary, or probationary status and for advanced or specialized fire protection personnel positions; and

(6) establish under Subchapter D minimum educational and training standards for volunteer firefighters.

SECTION 17. Section 419.023, Government Code, is amended by amending Subsection (e) and adding Subsection (f) to read as follows:

(e) On request by the commission, the ~~The~~ committee ~~periodically~~ shall review commission rules relating to fire protection personnel, fire departments, and other fire fighters and fire fighting organizations that are subject to regulation under this subchapter and recommend changes in the rules to the commission.

(f) Appointments to the committee shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointees.

SECTION 18. Section 419.026(a), Government Code, is amended to read as follows:

(a) The commission shall set and collect a fee ~~[of not more than \$35]~~ for each certificate that the commission issues or renews under this subchapter, except that if a person holds more than one certificate the commission may collect only one fee each year for the renewal of those certificates. The commission by rule shall set the amount of the fee under this subsection in an amount designed to recover the commission's costs in connection with issuing certificates under this subchapter, including the cost to the commission of obtaining fingerprint-based criminal history record information under Section 419.0325. The employing agency or entity shall pay the ~~this~~ fee in the manner prescribed ~~as provided~~ by commission rule. The certificate must be renewed annually.

SECTION 19. Section 419.027, Government Code, is amended to read as follows:

Sec. 419.027. BIENNIAL INSPECTIONS. (a) At least biennially, the commission shall visit and inspect each institution or facility conducting courses for training fire protection personnel and recruits, each fire department, and each local governmental agency providing fire protection to determine if the department, agency, institution, or facility is complying with this chapter and commission rules.

(b) The commission may conduct risk-based inspections of institutions and facilities in addition to the inspections under Subsection (a). In determining whether to conduct an inspection of an institution or facility under this subsection, the commission shall consider:

- (1) how recently the institution or facility has come under regulation;
- (2) the institution's or facility's history of compliance with state law and commission rules;
- (3) the number of complaints filed with the commission regarding the institution or facility during the last year;
- (4) the number of paid personnel in the institution or facility;
- (5) the frequency of fire responses;
- (6) the institution's or facility's ability to inspect and maintain equipment;

and

(7) any other factor the commission considers appropriate to assess an institution's or facility's safety risk.

SECTION 20. Sections 419.032(a) and (d), Government Code, are amended to read as follows:

(a) A fire department may not appoint a person to the fire department, except on a temporary or probationary basis, unless:

- (1) the person:
 - (A) [~~(1)~~] has satisfactorily completed a preparatory program of training in fire protection at a school approved by the commission; and
 - (B) [~~(2)~~] meets the qualifications established by the commission under Subsection (b); and

(2) the commission has approved the person's fingerprint-based criminal history record information under Section 419.0325.

(d) The commission may certify persons who are qualified under this subchapter to be fire protection personnel. The commission shall adopt rules relating to presentation of evidence of satisfactory completion of a program or course of instruction in another jurisdiction equivalent in content and quality to that required by the commission for approved fire protection education and training programs in this state and shall issue to a person meeting the rules and the requirements of Section 419.0325 a certificate evidencing satisfaction of Subsections (a) and (b). The commission may waive any certification requirement, except those under Section 419.0325, for an applicant with a valid license from another state having certification requirements substantially equivalent to those of this state.

SECTION 21. Subchapter B, Chapter 419, Government Code, is amended by adding Section 419.0325 to read as follows:

Sec. 419.0325. CRIMINAL HISTORY RECORD INFORMATION APPROVAL REQUIRED FOR CERTIFICATION. (a) The commission may not certify a person as fire protection personnel unless the commission, after review, has

approved fingerprint-based criminal history record information about the person obtained from the Department of Public Safety under Subchapter F, Chapter 411, and from the Federal Bureau of Investigation under Section 411.087.

(b) The applicant for certification or the fire department may submit the required fingerprint-based state and national criminal history record information to the commission. If neither the applicant nor the fire department submits the required criminal history record information to the commission, the commission shall obtain the required criminal history record information pursuant to Sections 411.087 and 411.1236.

(c) The commission by rule shall establish criteria for denying a person certification to be fire protection personnel based on the person's criminal history record information. The criteria must relate to a person's fitness to serve as fire protection personnel.

(d) Criminal history record information received by the commission is privileged and confidential and for commission use only.

SECTION 22. Sections 419.034(a), (b), and (c), Government Code, are amended to read as follows:

(a) A fire department or other employing entity may renew an unexpired certification by, ~~[paying to the commission]~~ before the expiration date of the certificate:

(1) submitting evidence satisfactory to the commission of completion of any required professional education; and

(2) paying to the commission the required renewal fee.

(b) If a person's certificate has been expired for 30 days or less, the fire department or other employing entity may renew the certificate by:

(1) submitting evidence satisfactory to the commission of completion of any required professional education; and

(2) paying to the commission the required renewal fee and a fee that is one-half of the certification fee for the certificate.

(c) If a person's certificate has been expired for longer than 30 days but less than one year, the fire department or other employing entity may renew the certificate by:

(1) submitting evidence satisfactory to the commission of completion of any required professional education; and

(2) paying to the commission all unpaid renewal fees and a fee that is equal to the certification fee.

SECTION 23. Section 419.036, Government Code, is amended by adding Subsections (c) and (d) to read as follows:

(c) A complaint case opened by the commission based on a violation found during an inspection conducted under Section 419.027 must be opened not later than the 30th day after the date the commission provides notice of the violation to the applicable department, agency, institution, or facility.

(d) The commission by rule shall create a matrix for determining penalty amounts and disciplinary actions for fire departments, training providers, and certified personnel who commit violations of this chapter or a rule adopted under this chapter. In developing the matrix, the commission shall consider the following factors:

(1) compliance history;

- (2) seriousness of the violation;
- (3) the safety threat to the public or fire personnel;
- (4) any mitigating factors; and
- (5) any other factors the commission considers appropriate.

SECTION 24. Subchapter B, Chapter 419, Government Code, is amended by adding Section 419.0366 to read as follows:

Sec. 419.0366. TRACKING AND ANALYSIS OF COMPLAINT AND VIOLATION DATA. (a) The commission shall develop and implement a method for tracking and categorizing the sources and types of complaints filed with the commission and of violations of this chapter or a rule adopted under this chapter.

(b) The commission shall analyze the complaint and violation data maintained under Subsection (a) to identify trends and areas that may require additional regulation or enforcement.

SECTION 25. Subchapter B, Chapter 419, Government Code, is amended by adding Section 419.048 to read as follows:

Sec. 419.048. FIRE PROTECTION PERSONNEL INJURY DATA; RECOMMENDATIONS TO REDUCE INJURIES. (a) Pursuant to Section 417.004, the commission and the commissioner of insurance, as necessary to allow the agencies to perform their statutory duties, shall transfer information between the two agencies, including injury information from the Texas Fire Incident Reporting System and workers' compensation data showing claims filed by fire protection personnel.

(b) Personally identifiable information received by the commission under this section relating to injured fire protection personnel is confidential. The commission may not release, and a person may not gain access to, any information that could reasonably be expected to reveal the identity of injured fire protection personnel.

(c) The commission shall evaluate information and data on fire protection personnel injuries and develop recommendations for reducing fire protection personnel injuries. The commission shall forward the recommendations to the state fire marshal not later than September 1 of each year for inclusion in the annual report required by Section 417.0075.

(d) The commission shall establish criteria for evaluating fire protection personnel injury information to determine the nature of injuries that the commission should investigate. Based on these investigations, the commission shall identify fire departments in need of assistance in reducing injuries and may provide assistance to those fire departments.

SECTION 26. Section 419.054, Government Code, is amended by adding Subsection (e) to read as follows:

(e) Appointments to the committee shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointees.

SECTION 27. Subchapter D, Chapter 419, Government Code, is amended by adding Sections 419.074 and 419.075 to read as follows:

Sec. 419.074. RULES RELATING TO VOLUNTEER FIREFIGHTERS. Notwithstanding that participation in any component of a program established under this chapter remains voluntary for a volunteer firefighter, the commission may prohibit a person from serving as a volunteer firefighter unless the person meets

certain requirements determined by commission rule, including initial minimum education and training requirements and continuing education requirements that the commission may establish by rule for purposes of this section.

Sec. 419.075. TRAINING ASSISTANCE. The commission shall adopt rules and procedures for the administration of a training assistance program for volunteer fire departments and volunteer firefighters. The training assistance provided under this subchapter may be provided by any of the methods listed in Section 419.031.

SECTION 28. Section 419.906, Government Code, is amended by adding Subsections (d) and (e) to read as follows:

(d) The commission may enter a default order if a fire department or training provider fails to take action to correct a violation found during an inspection conducted under this chapter or to request an informal settlement conference before the 61st day after the date the commission provides to the department or provider notice requiring the department or provider to correct the violation.

(e) Notwithstanding Section 419.0365, the commission may temporarily suspend a person's or regulated entity's certificate on a determination by a panel of the commission that continued activity by the person or entity would present an immediate threat to the public or to fire service trainees. The panel may hold a meeting for purposes of this subsection by teleconference call pursuant to Section 551.125. A person or regulated entity whose certificate is temporarily suspended under this subsection is entitled to a hearing before the commission not later than the 14th day after the date of the temporary suspension.

SECTION 29. Subchapter Z, Chapter 419, Government Code, is amended by adding Section 419.908 to read as follows:

Sec. 419.908. COOPERATION WITH FEDERAL AND STATE ENTITIES IN A DISASTER. In a declared state of disaster under Section 418.014, the commission shall coordinate with appropriate state and federal agencies, including the governor's office of homeland security and the Federal Emergency Management Agency.

SECTION 30. (a) As soon as practicable after the effective date of this Act, the governor shall designate a member of the governing body of the Texas Fire Protection Agency as the presiding officer of the governing body pursuant to Section 419.007, Government Code, as amended by this Act.

(b) As soon as practicable after the effective date of this Act, the Texas Fire Protection Agency shall adopt the rules required by Section 419.0325, Government Code, as added by this Act, and Sections 419.026 and 419.036, Government Code, as amended by this Act.

(c) Notwithstanding Section 419.048, Government Code, as added by this Act, the Texas Fire Protection Agency is not required to submit its annual recommendations to the state fire marshal for inclusion in the report required by Section 417.0075, Government Code, before September 1, 2010.

SECTION 31. (a) Sections 419.004, 419.006, and 419.0071(a), Government Code, as amended by this Act, apply only to a person who is appointed or reappointed as a member of the governing body of the Texas Fire Protection Agency on or after the effective date of this Act. A person appointed or reappointed as a member of the

governing body before the effective date of this Act is governed by the law in effect immediately before that date, and the former law is continued in effect for that purpose.

(b) Section 419.005, Government Code, as amended by this Act, applies only to a ground for removal that occurs on or after the effective date of this Act. A ground for removal that occurs before the effective date of this Act is governed by the law in effect immediately before that date, and the former law is continued in effect for that purpose.

(c) Section 419.0071(b), Government Code, as amended by this Act, applies only to a training program attended on or after the effective date of this Act. A training program attended before the effective date of this Act is governed by the law in effect immediately before that date, and the former law is continued in effect for that purpose.

(d) Section 419.0071(c), Government Code, as amended by this Act, applies only to expenses incurred on or after the effective date of this Act. Expenses incurred before the effective date of this Act are governed by the law in effect immediately before that date, and the former law is continued in effect for that purpose.

(e) Section 419.026, Government Code, as amended by this Act, applies only to a certificate issued or renewed on or after January 1, 2010. A certificate issued or renewed before January 1, 2010, is governed by the law in effect on the date the certificate was issued or renewed, and the former law is continued in effect for that purpose.

(f) Section 419.032, Government Code, as amended by this Act, and Section 419.0325, Government Code, as added by this Act, apply only to a person who applies for an initial certificate on or after January 1, 2010. A person who applies for an initial certificate before January 1, 2010, is governed, even in relation to the person's renewal of the certificate on or after that date, by the law in effect immediately before that date, and the former law is continued in effect for that purpose.

(g) Section 419.034, Government Code, as amended by this Act, applies only to a certificate renewed on or after the effective date of this Act. A certificate renewed before the effective date of this Act is governed by the law in effect immediately before that date, and the former law is continued in effect for that purpose.

(h) Section 419.906(d), Government Code, as added by this Act, applies only to an order pursuant to a violation that occurs on or after the effective date of this Act. An order pursuant to a violation that occurs before the effective date of this Act is governed by the law in effect immediately before that date, and the former law is continued in effect for that purpose.

SECTION 32. (a) On September 1, 2009, the Texas Commission on Fire Protection is renamed the Texas Fire Protection Agency.

(b) A reference in any statute or administrative rule to the Texas Commission on Fire Protection means the Texas Fire Protection Agency.

SECTION 33. (a) Except as provided by Subsections (b) and (c) of this section, this Act takes effect September 1, 2009.

(b) The amendment to Section 419.026, Government Code, takes effect January 1, 2010.

(c) The addition of Section 419.074, Government Code, takes effect September 1, 2010.

Floor Amendment No. 1

Amend **CSSB 1011** (House committee report) as follows:

(1) Strike SECTION 15 (page 10, lines 6-13), SECTION 16 (page 10, line 14, through page 11, line 7), and SECTION 27 (page 18, lines 10-26) of the bill and renumber remaining SECTIONS of the bill accordingly.

(2) On page 22, lines 16 and 17, strike "Subsections (b) and (c)" and substitute "Subsection (b)".

(3) On page 22, strike lines 20 and 21.

Floor Amendment No. 3

Amend **CSSB 1011** (House committee report) as follows:

(1) Strike the recital to SECTION 6 of the bill (page 2, lines 5-6) and substitute the following:

Sections 419.004(a) and (e), Government Code, are amended to read as follows:

(a) The commission is composed of the following 13 members:

(1) two members to be selected from a list of five names submitted by the Texas Fire Chiefs Association who are chief officers with a minimum rank that is equivalent to the position immediately below that of the fire chief and who are employed in fire departments as defined by Section 419.021 that are under the jurisdiction of the commission, at least one of whom must be the head of a fire department and one of whom must be employed by a political subdivision with a population of less than 100,000 [~~50,000~~];

(2) two members to be selected from a list of five names submitted by the Texas State Association of Fire Fighters who are fire protection personnel as defined by Section 419.021 with the rank of battalion chief or below and who are employed in fire departments or other appropriate local authorities under the jurisdiction of the commission, one of whom must be employed by a political subdivision with a population of less than 100,000 [~~50,000~~];

(3) two members to be selected from a list of five names submitted by the State Firemen's and Fire Marshals' Association of Texas who are volunteer fire chiefs or volunteer fire fighters;

(4) one certified fire protection engineer;

(5) one certified arson investigator or certified fire protection inspector;

(6) one fire protection instructor from an institution of higher education as defined by Section 61.003, Education Code; and

(7) four public members.

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

SECTION _____. Section 419.0082(a), Government Code, is amended to read as follows:

(a) In adopting or amending a rule under Section 419.008(a) or any other law, the commission shall seek the input of the fire fighter advisory committee and, when appropriate, the funds allocation advisory committee. The commission shall permit the appropriate advisory committee to review and comment on any proposed rule,

including a proposed amendment to a rule, before the rule is adopted. The recommendations of an advisory committee are subject to modification or rejection by the commission, in the commission's sole discretion, without the resubmission of the matter to the advisory committee.

(3) In the recital to SECTION 17 of the bill (page 11, line 9) strike "amending Subsection (e) and".

(4) In SECTION 17 of the bill, strike amended Section 419.023(e), Government Code (page 11, lines 11-16).

(5) In SECTION 31 of the bill, add the following appropriately lettered subsection and reletter subsequent subsections accordingly:

(____) Section 419.0082, Government Code, as amended by this Act, applies to a rule adopted on or after the effective date of this Act. A rule adopted before the effective date of this Act is governed by the law in effect immediately before that date, and the former law is continued in effect for that purpose.

Floor Amendment No. 4

Amend **CSSB 1011** (House committee report) as follows:

(1) Strike SECTION 2 of the bill (page 1, lines 8-11) and substitute the following:

SECTION 2. Section 419.001, Government Code, is amended to read as follows:

Sec. 419.001. DEFINITIONS. In this chapter:

(1) "Commission" means the Texas [~~Commission on~~] Fire Protection Agency.

(2) Except as otherwise provided in this chapter, "volunteer" ["~~Volunteer~~"] fire fighter" and "volunteer fire chief" do not include a person who is also employed full-time in the fire service.

(2) Strike the recital to SECTION 6 of the bill (page 2, lines 5-6) and substitute the following:

SECTION 6. Section 419.004, Government Code, is amended by amending Subsection (e) and adding Subsection (f) to read as follows:

(3) In SECTION 6 of the bill (page 2, between lines 24 and 25) insert the following new Section 419.004(f), Government Code:

(f) For purposes of this section, "volunteer fire fighter" and "volunteer fire chief" mean a person who is a member of a nonprofit volunteer fire department, and the term may include a person who is also employed full-time in the fire service.

Floor Amendment No. 5

Amend Amendment No. 1 by McReynolds to **CSSB 1011** by adding the following Section to the McReynolds amendment:

SECTION _____. (a) The legislature shall establish a joint interim committee to examine the feasibility and desirability of consolidating and expanding functions relating to volunteer firefighters and volunteer fire departments with the Texas Fire Protection Agency. The committee is composed of:

(1) five members of the house of representatives appointed by the speaker of the house of representatives, one of whom must be the chair of the standing house committee with oversight of the Texas Fire Protection Agency; and

(2) five members of the senate appointed by the lieutenant governor, one of whom must be the chair of the standing senate committee with oversight of the Texas Fire Protection Agency.

(b) The speaker and the lieutenant governor shall jointly select the presiding officer and assistant presiding officer of the committee from among the committee members. The committee may designate other officers as the committee considers appropriate.

(c) The study shall address:

(1) transferring the Rural Volunteer Fire Department Assistance Program under Subchapter G, Chapter 614, Government Code, from the Texas Forest Service of The Texas A&M University System to the Texas Fire Protection Agency;

(2) establishing minimum educational and training standards for volunteer firefighters, including a system of certification, proficiency examinations, and continuing education requirements;

(3) adopting a uniform curriculum for volunteer firefighters and approving courses for that curriculum;

(4) providing educational and other assistance to volunteer fire departments and volunteer firefighters;

(5) establishing standards for volunteer fire departments and monitoring compliance with those standards; and

(6) establishing and enforcing uniform statewide firefighter safety standards for the safety of firefighters and the general public.

(d) Not later than January 1, 2011, the joint interim committee shall report its findings to the governor, the lieutenant governor, the speaker of the house of representatives, and the standing committees of the house and senate with oversight of the Texas Fire Protection Agency.

The amendments were read.

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

The motion prevailed without objection.

The President asked if there were any motions to instruct the conference committee on **SB 1011** before appointment.

There were no motions offered.

The President announced the appointment of the following conferees on the part of the Senate: Senators Estes, Chair; Hegar, Fraser, Hinojosa, and Lucio.

SENATE BILL 1152 WITH HOUSE AMENDMENT

Senator Hinojosa called **SB 1152** from the President's table for consideration of the House amendment to the bill.

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

Amendment

Amend **SB 1152** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED
AN ACT

relating to the making or acceptance of political contributions in a courthouse; providing penalties.

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

SECTION 1. Section 253.039, Election Code, is amended by amending Subsection (c) and adding Subsections (a-1), (b-1), and (h) to read as follows:

(a-1) A person may not knowingly make or authorize a political contribution while in a courthouse to:

(1) a candidate for or holder of an office described by Section 253.151 or the office of justice of the peace;

(2) a specific-purpose committee for supporting or opposing a candidate for or assisting a holder of an office described by Section 253.151 or the office of justice of the peace; or

(3) a person acting on behalf of a candidate, officeholder, or committee described by Subdivision (1) or (2).

(b-1) A person described by Subsection (a-1) may not knowingly accept a political contribution, and shall refuse a political contribution that is received, in a courthouse.

(c) This section does not prohibit contributions made in the Capitol or a courthouse through the United States postal service or a common or contract carrier.

(h) In this section, "courthouse" means any building owned by the state, a county, or a municipality, or an office or part of a building leased to the state, a county, or a municipality, in which a justice or judge sits to conduct court proceedings.

SECTION 2. This Act takes effect September 1, 2009.

The amendment was read.

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

The motion prevailed without objection.

The President asked if there were any motions to instruct the conference committee on **SB 1152** before appointment.

There were no motions offered.

The President announced the appointment of the following conferees on the part of the Senate: Senators Hinojosa, Chair; Averitt, Eltife, Ellis, and Harris.

SENATE BILL 1206 WITH HOUSE AMENDMENT

Senator Hinojosa called **SB 1206** from the President's table for consideration of the House amendment to the bill.

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

Amendment

Amend **SB 1206** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED
AN ACT

relating to the release from the Texas Department of Criminal Justice of certain inmates who complete a rehabilitation program.

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

SECTION 1. Section 508.141, Government Code, is amended by amending Subsection (d) and adding Subsection (d-1) to read as follows:

(d) A parole panel may release an inmate on parole during the parole month established for the inmate, or at an earlier time in accordance with Subsection (d-1), if the panel determines that the inmate's release will not increase the likelihood of harm to the public.

(d-1) If a parole panel requires, as a condition of release, that an inmate complete a specific department rehabilitation program before release, the department shall place the inmate in the program specified by the parole panel, except that the department may place the inmate in a different program with the approval of the parole panel. If the inmate successfully completes a department rehabilitation program specified or approved by the parole panel under this subsection and satisfies all other conditions of release specified by the parole panel before the parole month established for the inmate, the department shall promptly notify the parole panel for purposes of considering the inmate's immediate release.

SECTION 2. The change in law made by this Act applies to any inmate who is confined in a facility operated by or under contract with the Texas Department of Criminal Justice on or after the effective date of this Act, regardless of when the inmate's period of confinement began.

SECTION 3. This Act takes effect September 1, 2009.

The amendment was read.

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

The motion prevailed without objection.

The President asked if there were any motions to instruct the conference committee on **SB 1206** before appointment.

There were no motions offered.

The President announced the appointment of the following conferees on the part of the Senate: Senators Hinojosa, Chair; Whitmire, Seliger, Williams, and Hegar.

SENATE BILL 2423 WITH HOUSE AMENDMENT

Senator Deuell called **SB 2423** from the President's table for consideration of the House amendment to the bill.

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

Floor Amendment No. 1

Amend **SB 2423** (House committee report) as follows:

(1) In Section 1 of the bill, in amended Section 76.001(3), Health and Safety Code, in the added sentence (page 1, lines 16-17) strike "if the entity engages in the transfer or sale of such patient information,".

(2) Strike SECTIONS 2 and 3 of the bill (page 2, lines 6-16) and substitute the following:

SECTION 2. Section 76.053, Health and Safety Code, is amended by adding Subsection (a-1) and amending Subsection (b) to read as follows:

(a-1) A program operator shall, before enrollment, provide each prospective member disclosure materials containing the program operator's policy regarding access to patient information or patient prescription drug histories if the program operator engages in the transfer or sale of a member's patient information or patient prescription drug history.

(b) A marketer shall use disclosure materials that comply with this section [~~Subsection (a)~~].

SECTION 3. Title 21, Insurance Code, is amended by adding Chapter 7002 to read as follows:

CHAPTER 7002. SUPPLEMENTAL PROVISIONS RELATING TO DISCOUNT HEALTH CARE OPERATORS

Sec. 7002.001. DEFINITION. For purposes of Chapters 562 and 7001, Insurance Code, "other consideration" provided to a discount health care program or a discount health care program operator includes access to patient information, access to patient prescription drug histories, and drug manufacturer rebates.

Sec. 7002.002. REQUIRED DISCLOSURE. A discount health care program operator shall, before enrollment, provide each prospective member disclosure materials containing the program operator's policy regarding access to patient information or patient prescription drug histories if the program operator engages in the transfer or sale of a member's patient information or patient prescription drug history.

Sec. 7002.003. VIOLATION; PENALTIES. A violation of this chapter may be enforced in the same manner as a violation of Chapter 562 or 7001.

SECTION 4. (a) Sections 1 and 2 of this Act take effect only if **HB 4341** or **SB 2339**, Acts of the 81st Legislature, Regular Session, 2009, or another Act of the 81st Legislature, Regular Session, 2009, enacting Chapter 562 and Title 21, Insurance Code, concerning discount health care programs is not enacted or does not become law.

(b) Section 3 of this Act takes effect only if **HB 4341** or **SB 2339**, Acts of the 81st Legislature, Regular Session, 2009, or another Act of the 81st Legislature, Regular Session, 2009, enacting Chapter 562 and Title 21, Insurance Code, concerning discount health care programs is enacted and becomes law.

SECTION 5. This Act takes effect September 1, 2009.

The amendment was read.

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

The motion prevailed without objection.

The President asked if there were any motions to instruct the conference committee on **SB 2423** before appointment.

There were no motions offered.

The President announced the appointment of the following conferees on the part of the Senate: Senators Deuell, Chair; Shapiro, Nichols, Uresti, and Patrick.

CONFERENCE COMMITTEE ON HOUSE BILL 2030

Senator Deuell 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 2030** and moved that the request be granted.

The motion prevailed without objection.

The President asked if there were any motions to instruct the conference committee on **HB 2030** before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate: Senators Deuell, Chair; Van de Putte, Davis, Williams, and Nelson.

CONFERENCE COMMITTEE ON HOUSE BILL 2310

Senator Williams 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 2310** and moved that the request be granted.

The motion prevailed without objection.

The President asked if there were any motions to instruct the conference committee on **HB 2310** before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate: Senators Williams, Chair; Fraser, Harris, Whitmire, and Watson.

CONFERENCE COMMITTEE ON HOUSE BILL 2626

Senator Zaffirini 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 2626** and moved that the request be granted.

The motion prevailed without objection.

The President asked if there were any motions to instruct the conference committee on **HB 2626** before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate: Senators Zaffirini, Chair; Carona, Hinojosa, Ogden, and Eltife.

CONFERENCE COMMITTEE ON HOUSE BILL 2196

Senator Deuell 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 2196** and moved that the request be granted.

The motion prevailed without objection.

The President asked if there were any motions to instruct the conference committee on **HB 2196** before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate: Senators Deuell, Chair; Lucio, Seliger, Zaffirini, and Nichols.

**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 the following bills today:

HB 507, HB 2555, HB 2814, HB 2941, HB 3206, HB 4265, HB 4270, HB 4433;
and for tomorrow: **HB 2154, HB 2165.**

**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 **HB 1976** today and the following bills tomorrow:

HB 694, HB 1187, HB 1275, HB 1680, HB 1937, HB 2708, HB 3065, HB 3089,
HB 3479, HB 4106, HB 4704, HB 4728, HB 4795, HB 1517, HB 2788.

**SENATE RULES SUSPENDED
(Posting Rules)**

On motion of Senator Zaffirini and by unanimous consent, Senate Rule 11.10(a) and Senate Rule 11.18(a) were suspended in order that the Committee on Higher Education might meet and consider **HB 3790** tomorrow.

**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 Veteran Affairs and Military Installations might meet and consider **HJR 132** today.

**SENATE RULE 11.10(a) SUSPENDED
(Public Notice of Committee Meetings)**

On motion of Senator Duncan and by unanimous consent, Senate Rule 11.10(a) was suspended in order that the Committee on State Affairs might meet today.

**SENATE RULE 7.12(a) SUSPENDED
(Printing of Bills)**

On motion of Senator Williams and by unanimous consent, Senate Rule 7.12(a) was suspended and the committee report for **HB 2619** was ordered not printed.

**SENATE RULE 11.10(a) SUSPENDED
(Public Notice of Committee Meetings)**

On motion of Senator Ellis and by unanimous consent, Senate Rule 11.10(a) was suspended in order that the Committee on Government Organization might meet 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 **HB 1243** today.

**SENATE RULES SUSPENDED
(Posting Rules)**

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

HB 1277, HB 3896, HB 394.

**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 1375, HB 2280.**

**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:

SCR 54, HB 459, HB 498, HB 1320, HB 1321, HB 1343, HB 2003, HB 2093, HB 2153, HB 2267, HB 2799, HB 3385, HB 3594, HB 3595, HB 4009.

**SENATE RULES SUSPENDED
(Posting Rules)**

On motion of Senator Wentworth and by unanimous consent, Senate Rule 11.10(a) and Senate Rule 11.18(a) were suspended in order that the Committee on Jurisprudence might meet and consider **HB 4833** today.

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 2553, HB 2248.**

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 **SCR 77** tomorrow.

CONFERENCE COMMITTEE REPORT ON
SENATE BILL 482

Senator Ellis submitted the following Conference Committee Report:

Austin, Texas
May 18, 2009

Honorable David Dewhurst
President of the Senate

Honorable Joe Straus
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **SB 482** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

ELLIS
CARONA
SHAPIRO
LUCIO
SELIGER

On the part of the Senate

CHISUM
COHEN
BRANCH
NAISHTAT
THOMPSON

On the part of the House

A BILL TO BE ENTITLED
AN ACT

relating to the Texas Holocaust and Genocide Commission.

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

SECTION 1. Subtitle D, Title 4, Government Code, is amended by adding Chapter 449 to read as follows:

CHAPTER 449. TEXAS HOLOCAUST AND GENOCIDE COMMISSION
SUBCHAPTER A. GENERAL AND ADMINISTRATIVE PROVISIONS

Sec. 449.001. DEFINITIONS. In this chapter:

(1) "Commission" means the Texas Holocaust and Genocide Commission.

(2) "Genocide" means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial, or religious group as such:

(A) killing members of the group;

(B) causing serious bodily or mental harm to members of the group;

(C) deliberately inflicting on the group conditions of life calculated to bring about the group's physical destruction in whole or in part;

(D) imposing measures intended to prevent births within the group; or

(E) forcibly transferring children of the group to another group.

(3) "Holocaust" means the killing of approximately six million Jews and millions of other persons during World War II by the National Socialist German Workers' Party (Nazis) and Nazi collaborators as part of a state-sponsored, systematic program of genocide and other actions of persecution, discrimination, violence, or other human rights violations committed by the Nazis and Nazi collaborators against those persons.

Sec. 449.002. SUNSET PROVISION. The Texas Holocaust and Genocide Commission is subject to Chapter 325 (Texas Sunset Act). Unless continued in existence as provided by that chapter, the commission is abolished and this chapter expires September 1, 2021.

Sec. 449.003. ADMINISTRATIVE ATTACHMENT. The commission is administratively attached to the Texas Historical Commission.

Sec. 449.004. COMPOSITION OF COMMISSION. (a) The commission is composed of 18 members as follows:

(1) 15 public members appointed as follows:

(A) five public members appointed by the governor;

(B) five public members appointed by the lieutenant governor; and

(C) five public members appointed by the speaker of the house of representatives; and

(2) three ex officio members as follows:

(A) the commissioner of education;

(B) the commissioner of higher education; and

(C) the executive director of the Texas Veterans Commission.

(b) The speaker of the house of representatives shall designate a member of the house and the lieutenant governor shall designate a member of the senate to advise the commission.

Sec. 449.005. PUBLIC MEMBERS: ELIGIBILITY; APPOINTMENT; VACANCY. (a) A person appointed as a public member of the commission must be a resident of this state.

(b) Public members of the commission must include:

(1) persons who have served prominently as leaders of or spokespersons for public or private organizations that serve members of religious, ethnic, national heritage, or social groups that were subjected to the Holocaust or other genocides;

(2) persons who have significant professional experience in the field of Holocaust or genocide education;

(3) persons who represent liberators of Holocaust or other genocide victims;
and

(4) persons who have demonstrated a significant, particular interest in Holocaust or genocide education.

(c) Appointments of public members to the commission shall be made:

(1) without regard to the race, color, disability, sex, religion, age, or national origin of an appointee; and

(2) so that each geographic area of this state is represented on the commission.

(d) The original appointing authority shall fill any vacancy in an appointed position on the commission for the unexpired portion of the term.

Sec. 449.006. EX OFFICIO MEMBERS: ELIGIBILITY; DESIGNATION OF REPRESENTATIVE. (a) An ex officio member of the commission vacates the person's position on the commission if the person ceases to hold the position that qualifies the person for service on the commission.

(b) An ex officio member may designate a representative to serve on the commission in the member's absence. A representative designated under this subsection must be an officer or employee of the state agency that employs the ex officio member.

Sec. 449.007. REMOVAL OF PUBLIC MEMBER. (a) It is a ground for removal of a public member from the commission if the member:

(1) is ineligible for public membership under Section 449.005(a);

(2) cannot because of illness or disability discharge the member's duties for a substantial part of the term for which the member is appointed; or

(3) is absent from more than three consecutive regularly scheduled commission meetings that the member is eligible to attend during a calendar year unless the absence is excused by majority vote of the commission.

(b) The validity of an action of the commission is not affected by the fact that it is taken when a ground for removal of a commission member exists.

(c) If a member of the commission has knowledge that a potential ground for removal exists, the member shall notify the presiding officer of the commission of the potential ground. The presiding officer shall then notify the governor and the attorney general that a potential ground for removal exists.

Sec. 449.008. TERM OF PUBLIC MEMBER. (a) A public member of the commission serves a term of four years.

(b) A public member is eligible for reappointment to another term or part of a term.

(c) A public member may not serve more than two consecutive terms. For purposes of this prohibition, a member is considered to have served a term only if the member has served more than half of the term.

Sec. 449.009. OFFICERS; SUBCOMMITTEES. (a) The governor shall designate a public member of the commission as presiding officer to serve in that capacity at the pleasure of the governor.

(b) The presiding officer of the commission may appoint a subcommittee for any purpose consistent with the duties of the commission under this chapter.

Sec. 449.010. COMPENSATION; EXPENSES. (a) A public member of the commission is not entitled to compensation but is entitled to reimbursement for the travel expenses incurred by the member while transacting commission business, as provided by the General Appropriations Act.

(b) An ex officio member's service on the commission is an additional duty of the underlying position that qualifies the member for service on the commission. The entitlement of an ex officio member to compensation or to reimbursement for travel expenses incurred while transacting commission business is governed by the law that applies to the member's service in that underlying position, and any payment to the member for either purpose must be made from money that may be used for the purpose and is available to the state agency that the member serves in that underlying position.

Sec. 449.011. MEETINGS; QUORUM; VOTING; PUBLIC ACCESS. (a) The commission shall meet at least quarterly at the times and places in this state that the commission designates.

(b) Seven voting members of the commission constitute a quorum for transacting commission business.

(c) An ex officio member of the commission may not vote on commission business.

(d) The commission shall develop and implement policies that provide the public with a reasonable opportunity to appear before the commission and speak on any issue under the jurisdiction of the commission.

Sec. 449.012. COORDINATOR. The Texas Historical Commission shall provide one part-time employee to serve as the coordinator for the Texas Holocaust and Genocide Commission to transact commission business.

[Sections 449.013-449.050 reserved for expansion]

SUBCHAPTER B. POWERS AND DUTIES; FUNDING

Sec. 449.051. ADVISORY STATUS OF COMMISSION. (a) In implementing its powers and duties under this chapter, the commission functions only in an advisory capacity. Membership on the commission does not constitute a public office.

(b) Chapter 2110 does not apply to the commission.

Sec. 449.052. GENERAL POWERS AND DUTIES OF COMMISSION.

(a) The commission shall:

(1) provide advice and assistance to public and private primary and secondary schools and institutions of higher education in this state regarding implementation of Holocaust and genocide courses of study and awareness programs;

(2) meet with appropriate representatives of public and private organizations, including service organizations, to provide information on and to assist in planning, coordinating, or modifying Holocaust and genocide courses of study and awareness programs;

(3) determine which, if any, existing Holocaust or other genocide memorials, exhibits, or other resources could be included in or used to support Holocaust and genocide courses of study and awareness programs;

(4) compile a list of volunteers, such as Holocaust or other genocide survivors, liberators of concentration camps, scholars, and members of the clergy, who have agreed to share, in classrooms, seminars, exhibits, or workshops, their verifiable knowledge and experiences regarding the Holocaust or other genocide;

(5) coordinate events in this state memorializing the Holocaust and other genocides on January 27, International Holocaust Remembrance Day, on the Days of Remembrance established by the United States Congress, or on any other day designated by the commission for that purpose; and

(6) solicit volunteers to participate in commemorative events designed to enhance public awareness of the continuing significance of the Holocaust and other genocides.

(b) In implementing Subsection (a)(3), the commission may contact and cooperate with:

(1) existing public or private Holocaust or other genocide resource organizations, including the United States Holocaust Memorial Museum;

(2) other museums, centers, and organizations based in this state;

(3) state agencies that carry out the educational functions of the state delegated under the Education Code, including the Texas Education Agency and the Texas Higher Education Coordinating Board; and

(4) members of the United States Congress and of the legislature of this state.

(c) The commission shall adopt rules as necessary for its own procedures.

(d) The commission may appoint advisory committees to advise the commission.

Sec. 449.053. FUNDING. (a) The commission may accept gifts and grants from a public or private source for the commission to use in performing the commission's powers and duties under this chapter.

(b) The Texas Historical Commission may provide staff and may support functions and activities of the Texas Holocaust and Genocide Commission from money available to the Texas Historical Commission that may be used for this purpose. The legislature may also specifically appropriate money to the Texas Historical Commission to provide staff and to otherwise support functions and activities of the Texas Holocaust and Genocide Commission.

SECTION 2. As soon as practicable after the effective date of this Act, appointments of public members shall be made to the Texas Holocaust and Genocide Commission as provided by Chapter 449, Government Code, as added by this Act. Notwithstanding Section 449.008, Government Code, as added by this Act, the terms of initial public members appointed to the Texas Holocaust and Genocide Commission expire February 1, 2015.

SECTION 3. This Act takes effect September 1, 2009.

The Conference Committee Report on **SB 482** was filed with the Secretary of the Senate on Wednesday, May 20, 2009.

**CONFERENCE COMMITTEE REPORT ON
SENATE BILL 434**

Senator Wentworth submitted the following Conference Committee Report:

Austin, Texas
May 20, 2009

Honorable David Dewhurst
President of the Senate

Honorable Joe Straus
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **SB 434** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

WENTWORTH
SHAPLEIGH
CARONA
WATSON
SHAPIRO

On the part of the Senate

BOLTON
PICKETT
PAXTON
CORTE
RODRIGUEZ

On the part of the House

A BILL TO BE ENTITLED
AN ACT

relating to the establishment and operation of a public transit motor-bus-only lane pilot program in certain counties.

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

SECTION 1. Chapter 455, Transportation Code, is amended by adding Section 455.006 to read as follows:

Sec. 455.006. PUBLIC TRANSIT MOTOR-BUS-ONLY LANE PILOT PROGRAM. (a) The department, in consultation with the Department of Public Safety and in conjunction with the appropriate mass transit authorities and the municipalities served by those authorities, shall establish and operate a public transit motor-bus-only lane pilot program for highways in Bexar, Denton, and Travis Counties that are part of the state highway system and have shoulders of sufficient width and structural integrity.

(b) The public transit motor-bus-only lane pilot program shall:

(1) provide for the use by public transit motor buses of highway shoulders as a low-speed bypass of congested highway lanes when the speed of vehicles being operated on the main traveled part of the adjacent highways is 35 miles per hour or less;

(2) limit the maximum speed of a public transit motor bus being operated on a public transit motor-bus-only lane to not more than 15 miles per hour greater than the speed of vehicles being operated on the main traveled part of the adjacent highway;

(3) gain local operational experience with the conversion of existing highway shoulders to public transit motor-bus-only lanes during peak traffic periods;

(4) take into consideration the following:

(A) safety;

(B) travel time and reliability;

(C) driver and passenger perceptions;

(D) level of service and maintenance; and

(E) capital improvements; and

(5) be limited only to public transit motor buses operated by the mass transit authorities or municipal mass transit departments in the counties specified by Subsection (a).

(c) The department shall initiate the public transit motor-bus-only lane pilot program as soon as practicable but not later than December 31, 2009.

(d) Notwithstanding Subsection (a), the department may not establish or operate a public transit motor-bus-only lane on a highway or toll facility maintained by a regional tollway authority established under Chapter 366 without the authority's consent.

SECTION 2. Section 542.002, Transportation Code, is amended to read as follows:

Sec. 542.002. GOVERNMENT VEHICLES. A provision of this subtitle applicable to an operator of a vehicle applies to the operator of a vehicle owned or operated by the United States, this state, or a political subdivision of this state, except as specifically provided otherwise by this subtitle [~~for an authorized emergency vehicle~~].

SECTION 3. Subsection (c), Section 545.058, Transportation Code, is amended to read as follows:

(c) A limitation in this section on driving on an improved shoulder does not apply to:

(1) an authorized emergency vehicle responding to a call;

(2) a police patrol; ~~or~~

(3) a bicycle; or

(4) a public transit motor bus of a transportation entity described by Section 455.006 operating on a shoulder designated by the Texas Department of Transportation under that section.

SECTION 4. Section 545.352, Transportation Code, is amended by adding Subsection (c-1) to read as follows:

(c-1) The maximum speed limit for a public transit motor bus of a transportation entity described by Section 455.006 that is operating on the shoulder of a highway designated as a public transit motor-bus-only lane by the Texas Department of Transportation under that section is 35 miles per hour.

SECTION 5. 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, 2009.

The Conference Committee Report on **SB 434** was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON
SENATE BILL 562**

Senator Jackson submitted the following Conference Committee Report:

Austin, Texas
May 21, 2009

Honorable David Dewhurst
President of the Senate

Honorable Joe Straus
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **SB 562** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

JACKSON
DEUELL
DUNCAN
FRASER
LUCIO
On the part of the Senate

BONNEN
ALVARADO
DESHOTEL
FLYNN
MENENDEZ
On the part of the House

A BILL TO BE ENTITLED
AN ACT

relating to the inclusion on the exterior of an ad valorem tax bill of a statement directing the United States Postal Service to return the bill if it is not deliverable as addressed.

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

SECTION 1. Subsection (a), Section 31.01, Tax Code, is amended to read as follows:

(a) Except as provided by Subsections (f) and (i-1), the assessor for each taxing unit shall prepare and mail a tax bill to each person in whose name the property is listed on the tax roll and to the person's authorized agent. The assessor shall mail tax bills by October 1 or as soon thereafter as practicable. The assessor shall mail to the state agency or institution the tax bill for any taxable property owned by the agency or institution. The agency or institution shall pay the taxes from funds appropriated for the administration of the agency or institution. The exterior of the tax bill must show the return address of the taxing unit. If the assessor wants the United States Postal Service to return the tax bill if it is not deliverable as addressed, the exterior of the tax bill may ~~and must~~ contain, in all capital letters, the words "RETURN SERVICE REQUESTED," or another appropriate statement directing the United States Postal Service to return the tax bill if it is not deliverable as addressed.

SECTION 2. This Act takes effect September 1, 2009.

The Conference Committee Report on **SB 562** was filed with the Secretary of the Senate.

RESOLUTIONS OF RECOGNITION

The following resolutions were adopted by the Senate:

Congratulatory Resolutions

SR 65 by Ogden, Recognizing the Bryan Little League West Senior boys' baseball team for winning the title of United States Southwest Champions.

SR 968 by Ellis, Commending the Community Supervision and Corrections Department for its contributions to the Lone Star State.

SR 969 by Harris, Estes, and Nelson, Recognizing the North and East Texas County Judges and Commissioners Association on the occasion of its annual conference.

SR 971 by Deuell, Recognizing Peggy Rogers for her contributions to the Mabank community.

SR 972 by Ellis, Congratulating Christopher M. Sellers for receiving the 2008 State of Texas Law Enforcement Achievement Award for Valor from the Texas Commission on Law Enforcement Officer Standards and Education.

SR 973 by Ellis, Recognizing Margaret Yu Lee and Jack Isekang Chang on the occasion of their marriage.

SR 974 by Estes, Recognizing National Elite Gymnastics for its accomplishments.

HCR 168 (Hegar), Extending appreciation to former president George W. Bush for his service to our state and nation.

Official Designation Resolutions

HCR 126 (Fraser), Designating the Mills County Goat and BBQ Cook-off as an official Texas State Goat Barbecue Championship Cook-off.

HCR 237 (Fraser), Designating the Brady World Championship BBQ Goat Cook-off as the official Texas State Goat Barbecue Championship Cook-off.

ADJOURNMENT

On motion of Senator Whitmire, the Senate at 3:21 p.m. adjourned, in memory of Michael J. Sanchez of San Antonio, until 11:00 a.m. tomorrow.

APPENDIX

COMMITTEE REPORTS

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

May 21, 2009

ECONOMIC DEVELOPMENT — **CSHB 1770, CSHB 2531, CSHB 3072**

VETERAN AFFAIRS AND MILITARY INSTALLATIONS — **HCR 5, HJR 7, HB 2919**

ADMINISTRATION — **HB 2619** (Amended, ordered not printed), **CSHB 764, CSHB 2571**

EDUCATION — **CSHB 192, CSHB 3041, CSHB 4294**

STATE AFFAIRS — **CSSB 1780, HB 3625, HB 3634**

TRANSPORTATION AND HOMELAND SECURITY — **HB 400, HB 768, HB 1286, HB 1749**

ECONOMIC DEVELOPMENT — **CSHB 2521, CSHB 3983**

CRIMINAL JUSTICE — **CSHB 1506, CSHB 1722, CSHB 2328, CSHB 3148, CSHB 3751, CSHB 4451, CSHB 4456**

GOVERNMENT ORGANIZATION — **CSHB 431**

TRANSPORTATION AND HOMELAND SECURITY — **CSHB 2642, HB 2644** (Amended)

ADMINISTRATION — **CSHB 63**

HEALTH AND HUMAN SERVICES — **CSHB 103, CSHB 1357, CSHB 1924**

JURISPRUDENCE — **HCR 161, HB 397, HB 585, HB 587, HB 1083, HB 1151, HB 1461, HB 3080, HB 3128, HB 3314, HB 3666, HB 3767, HB 4068, HB 4529, HB 4700, HB 4760**

TRANSPORTATION AND HOMELAND SECURITY — **CSHB 3433**

EDUCATION — **CSHB 1041, CSHB 2488**

CRIMINAL JUSTICE — **CSHB 2932, CSHB 3481**

GOVERNMENT ORGANIZATION — **HCR 182**

HIGHER EDUCATION — **CSHB 3276, CSHB 4244**

HEALTH AND HUMAN SERVICES — **HB 233, HB 732, HB 1795, HB 2163**

BUSINESS AND COMMERCE — **CSHB 3073, CSHB 882, CSHB 3309, CSHB 2127, CSHB 1043**

INTERNATIONAL RELATIONS AND TRADE — **HB 1326**

HEALTH AND HUMAN SERVICES — **HB 3112, HB 4281, HB 2917**

BILLS ENGROSSED

May 20, 2009

SB 73, SB 1164, SB 1603, SB 2060, SB 2574, SB 2579

BILLS AND RESOLUTIONS ENROLLEDMay 20, 2009**SB 79, SB 82, SB 745, SR 908, SR 910, SR 951, SR 960, SR 961, SR 962, SR 963, SR 964, SR 965, SR 966, SR 967****SENT TO GOVERNOR**May 21, 2009**SB 79, SB 82, SB 745**

In Memory
of
Michael J. Sanchez
Senate Resolution 937

WHEREAS, The Senate of the State of Texas joins the citizens of San Antonio in mourning the loss of Dr. Michael J. Sanchez, who recently died at the age of 52; and

WHEREAS, Dr. Michael Sanchez was a committed, compassionate physician who was highly respected in his community for his many achievements; and

WHEREAS, Dr. Sanchez began his medical career in the United States Air Force as a physician assistant; with the encouragement of his colleagues, he attended medical school and earned a medical degree at the University of New Mexico; and

WHEREAS, Dr. Sanchez later became director of the emergency department at the United States Air Force Academy at Colorado Springs, where he was chosen to accompany President Bill Clinton to Pakistan and India as part of the medical team aboard Air Force One; and

WHEREAS, Following his military career, Dr. Sanchez returned to San Antonio and continued to serve as a director of emergency medicine; and

WHEREAS, Dr. Sanchez had been the emergency center director at University Health System since August of 2008; his energy and enthusiasm revitalized the department, and under his leadership, the emergency center greatly reduced waiting times and reduced the number of patients turned away for lack of beds; and

WHEREAS, A man of courage, dedication, and generosity, he gave unselfishly to others, and his wisdom, compassion, and valued counsel will not be forgotten by those who knew him; and

WHEREAS, Dr. Sanchez was a devoted husband and father, and he will long be remembered for his generous spirit and his many accomplishments; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 81st Legislature, hereby extend sincere condolences to the bereaved family of Dr. Michael J. Sanchez: his wife, Apelle Sanchez; and his daughters, Carla Parker and Suzanne Sanchez; and, be it further

RESOLVED, That a copy of this Resolution be prepared for his family as an expression of deepest sympathy from the Texas Senate, and that when the Senate adjourns this day, it do so in memory of Dr. Michael J. Sanchez.

URESTI

