

# SENATE JOURNAL

EIGHTY-SECOND LEGISLATURE — REGULAR SESSION

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AUSTIN, TEXAS

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PROCEEDINGS

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SIXTY-FIFTH DAY

(Saturday, May 21, 2011)

The Senate met at 10:29 a.m. pursuant to adjournment and was called to order by Senator Eltife.

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

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

The Reverend Beth Magill, The University of Texas Episcopal Campus Ministry, Austin, offered the invocation as follows:

Holy and living God, our times are in Your hands. We give You thanks for this gathering and for the opportunities that are before us this day. Prepare us to serve those whom we represent. From every community and every corner of this state, keep foremost in our minds those on whose behalf we speak. Remind us of their needs, and give us the grace to effectively convey them. As leaders in our local communities, make us aware of the trust that we have been afforded. Give us courage to speak boldly and envision without caution. Grant that we may have humble hearts, remembering that all we are and all we have comes from You, holy one. In all that we do, keep us mindful of the needs of humanity. For those who are hungry, suffering, weak, or in any kind of affliction, heal them. Help us to be responsible stewards of Your creation. Create in us grateful hearts for the abundance of blessings that we each have been given. Where there are divisions among us, bring peace. Where there is distrust, grant us an open mind and ears to listen. Help us to be present to those who are new in our midst, always keeping in mind that together we are stronger. We thank You, gracious God, for this nation and the opportunity to serve freely and express our thoughts and opinions openly. Grant that we may be in service of the greater good for all God's people. Bless this gathering and our time together. Give us the grace to recognize the task before us and the will to accomplish it. In God's holy name we pray. Amen.

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

The motion prevailed without objection.

### **CONCLUSION OF MORNING CALL**

The Presiding Officer at 10:32 a.m. announced the conclusion of morning call.

### **GUESTS PRESENTED**

Senator Huffman was recognized and introduced to the Senate Boy Scout Troop 1000.

The Senate welcomed its guests.

### **HOUSE BILL 1422 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 1422** at this time on its second reading:

**HB 1422**, Relating to the issuance of titles for certain motor vehicles that are the subject of insurance claims.

The bill was read second time.

Senator Birdwell offered the following amendment to the bill:

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

Amend **HB 1422** (house engrossed version) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill as appropriate:

SECTION \_\_\_\_. Section 501.093(a), Transportation Code, is amended to read as follows:

(a) If an insurance company pays a claim on a nonrepairable motor vehicle or salvage motor vehicle and the insurance company does not acquire ownership of the motor vehicle, the insurance company shall:

(1) submit to the department, before the 31st day after the date of the payment of the claim, on the form prescribed by the department, a report stating that the insurance company:

(A) ~~[(+)]~~ has paid a claim on the motor vehicle; and

(B) ~~[(=)]~~ has not acquired ownership of the motor vehicle; and

(2) provide notice to the owner of the motor vehicle of:

(A) the report required under Subdivision (1); and

(B) the requirements for operation or transfer of ownership of the motor vehicle under Subsection (b).

The amendment to **HB 1422** 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.

**HB 1422** 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 1422 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 1422** 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 2417 ON SECOND READING**

On motion of Senator Rodriguez and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 2417** at this time on its second reading:

**HB 2417**, Relating to the Texas Code of Military Justice.

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 2417 ON THIRD READING**

Senator Rodriguez moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2417** 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 534 ON SECOND READING**

On motion of Senator Estes and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 534** at this time on its second reading:

**HB 534**, Relating to the powers and duties of the Gunter Municipal Utility Districts Nos. 1 and 2.

The bill was read second time.

Senator Estes offered the following amendment to the bill:

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

Amend **HB 534** (senate committee printing) as follows:

(1) Before SECTION 1 of the bill, between the enacting clause and "SECTION 1." (page 1, between lines 11 and 12), insert the following:

ARTICLE \_\_\_\_\_. GUNTER MUNICIPAL UTILITY DISTRICTS NOS. 1 AND 2

(2) Renumber the SECTIONS of ARTICLE 1 (page 1, line 12 through page 3, line 15) appropriately.

(3) In SECTION 5 of the bill (page 2, line 67), strike "Act" and substitute "article".

(4) In SECTION 5 of the bill (page 2, line 68), strike "Act" and substitute "article".

(5) In SECTION 5 of the bill (page 2, line 69), strike "Act" and substitute "article".

(6) In SECTION 5 of the bill (page 3, line 5), strike "Act" and substitute "article".

(7) In SECTION 5 of the bill (page 3, line 8), strike "Act" and substitute "article".

(8) In SECTION 5 of the bill (page 3, line 13), strike "Act" and substitute "article".

(9) In SECTION 6 of the bill (page 3, line 15), strike "Act" and substitute "article".

(10) After SECTION 6 of the bill (page 3, line 15), add the following appropriately numbered ARTICLES and SECTIONS:

ARTICLE \_\_\_\_ . MUSTANG RANCH MUNICIPAL MANAGEMENT DISTRICT  
NO. 1

SECTION \_\_\_\_ .01. Subtitle C, Title 4, Special District Local Laws Code, is amended by adding Chapter 3885 to read as follows:

CHAPTER 3885. MUSTANG RANCH MUNICIPAL MANAGEMENT DISTRICT  
NO. 1

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 3885.001. DEFINITIONS. In this chapter:

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

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

(3) "County" means Collin County, Texas.

(4) "Development agreement" means the development agreement between the city and Celina 682 Partners, L.P., initially effective June 11, 2007.

(5) "Director" means a board member.

(6) "District" means the Mustang Ranch Municipal Management District

No. 1.

Sec. 3885.002. CREATION AND NATURE OF DISTRICT. The district is a special district created under Sections 52 and 52-a, Article III, and Section 59, Article XVI, Texas Constitution.

Sec. 3885.003. PURPOSE; LEGISLATIVE FINDINGS. (a) The creation of the district is essential to accomplish the purposes of Sections 52 and 52-a, Article III, and Section 59, Article XVI, Texas Constitution, and other public purposes stated in this chapter. By creating the district and in authorizing the city and other political subdivisions to contract with the district, the legislature has established a program to accomplish the public purposes set out in Section 52-a, Article III, Texas Constitution.

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

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

Sec. 3885.004. FINDINGS OF BENEFIT AND PUBLIC PURPOSE. (a) The district is created to serve a public use and benefit.

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

(c) The district is created to accomplish the purposes of a municipal management district as provided by general law and Sections 52 and 52-a, Article III, and Section 59, Article XVI, Texas Constitution.

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

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

(2) eliminate unemployment and underemployment; and

(3) develop or expand transportation and commerce.

(e) The district will:

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

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

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

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

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

Sec. 3885.005. INITIAL DISTRICT TERRITORY. (a) The district is initially composed of the territory described by Section \_\_\_\_\_.02 of the Act enacting this chapter.

(b) The boundaries and field notes contained in Section \_\_\_\_\_.02 of the Act enacting this chapter form a closure. A mistake in the field notes or in copying the field notes in the legislative process does not affect the district's:

(1) organization, existence, or validity;

(2) right to contract;

(3) authority to borrow money or issue bonds or other obligations described by Section 3885.253 or to pay the principal and interest of the bonds or other obligations;

(4) right to impose or collect an assessment, or collect other revenue; or

(5) legality or operation.

Sec. 3885.006. ELIGIBILITY FOR INCLUSION IN SPECIAL ZONES. (a)

All or any part of the area of the district is eligible to be included in:

(1) a tax increment reinvestment zone created under Chapter 311, Tax Code;

(2) a tax abatement reinvestment zone created under Chapter 312, Tax

Code;

(3) an enterprise zone created under Chapter 2303, Government Code; or

(4) an industrial district created under Chapter 42, Local Government Code.

(b) If the city creates a tax increment reinvestment zone described by Subsection (a), the city and the board of directors of the zone, by contract with the district, may grant money deposited in the tax increment fund to the district to be used by the district for:

(1) the purposes permitted for money granted to a corporation under Section 380.002(b), Local Government Code; and

(2) any other district purpose, including the right to pledge the money as security for any bonds or other obligations issued by the district under Section 3885.253.

(c) A tax increment reinvestment zone created by the city in the district is not subject to the limitations provided by Section 311.006, Tax Code.

Sec. 3885.007. APPLICABILITY OF MUNICIPAL MANAGEMENT DISTRICT LAW. Except as provided by this chapter, Chapter 375, Local Government Code, applies to the district.

Sec. 3885.008. LIBERAL CONSTRUCTION OF CHAPTER. This chapter shall be liberally construed in conformity with the findings and purposes stated in this chapter.

[Sections 3885.009-3885.050 reserved for expansion]

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 3885.051. GOVERNING BODY; TERMS. (a) The district is governed by a board of five directors composed of:

(1) two directors appointed by the governing body of the city;

(2) one director appointed by the governing body of the city who is an employee of the Prosper Independent School District;

(3) the city manager; and

(4) the city's chief financial officer.

(b) An appointed director serves a term of four years.

Sec. 3885.052. QUALIFICATIONS OF DIRECTOR. (a) Section 375.063, Local Government Code, does not apply to a director employed by the city or the Prosper Independent School District.

(b) Section 49.052, Water Code, does not apply to the district.

Sec. 3885.053. VACANCY. The governing body of the city shall appoint a director to fill a vacancy on the board for the remainder of the unexpired term.

Sec. 3885.054. DIRECTOR'S OATH OR AFFIRMATION. A director shall file the director's oath or affirmation of office with the district, and the district shall retain the oath or affirmation in the district records.

Sec. 3885.055. OFFICERS. The board shall elect from among the directors a chair, a vice chair, and a secretary.

Sec. 3885.056. COMPENSATION; EXPENSES. (a) The district may compensate each director in an amount not to exceed \$150 for each board meeting.

(b) A director is entitled to reimbursement for necessary and reasonable expenses incurred in carrying out the duties and responsibilities of a director.

Sec. 3885.057. LIABILITY INSURANCE. The district may obtain and pay for comprehensive general liability insurance coverage from a commercial insurance company or other source that protects and insures the directors against personal liability and from all claims for actions taken as directors or actions and activities taken by the district or by others acting on its behalf.

Sec. 3885.058. BOARD MEETINGS. The board shall hold meetings at a place accessible to the public.

Sec. 3885.059. INITIAL DIRECTORS. (a) The initial board consists of the following directors:

(1) Rod Hogan, city manager;

(2) Jay Toutouchian, city chief financial officer;

(3) Jim Melino;

(4) Drew Watkins, Prosper Independent School District employee; and

(5) a director appointed by the governing body of the city.

(b) Of the initial directors, the term of the director appointed under Subsection (a)(3) expires May 31, 2014, and the terms of the directors appointed under Subsections (a)(4) and (5) expire May 31, 2012.

(c) This section expires September 1, 2014.

[Sections 3885.060-3885.100 reserved for expansion]

#### SUBCHAPTER C. POWERS AND DUTIES

Sec. 3885.101. GENERAL POWERS AND DUTIES. The district has the powers and duties necessary to accomplish the purposes for which the district is created.

Sec. 3885.102. IMPROVEMENT PROJECTS. The district may provide, or it may enter into contracts with a governmental or private entity to provide, the improvement projects described by Subchapter C-1 or activities in support of or incidental to those projects.

Sec. 3885.103. WATER DISTRICT POWERS. The district has the powers provided by the general laws relating to conservation and reclamation districts created under Section 59, Article XVI, Texas Constitution, including Chapters 49 and 54, Water Code.

Sec. 3885.104. ROAD DISTRICT POWERS. The district has the powers provided by the general laws relating to road districts and road utility districts created under Section 52(b), Article III, Texas Constitution, including Chapter 441, Transportation Code.

Sec. 3885.105. PUBLIC IMPROVEMENT DISTRICT POWERS. The district has the powers provided by Chapter 372, Local Government Code, to a municipality or county.

Sec. 3885.106. CONTRACT POWERS. The district may contract with a governmental or private entity, on terms determined by the board, to carry out a power or duty authorized by this chapter or to accomplish a purpose for which the district is created.

Sec. 3885.107. EMERGENCY SERVICES. (a) This section applies only to territory in the district:

- (1) that is in the extraterritorial jurisdiction of the city;
- (2) for which a plat has been filed; and
- (3) that includes 100 or more residents.

(b) To protect the public interest, the district shall provide or contract with a qualified party to provide emergency services, including law enforcement, fire, and ambulance services, in the territory described by Subsection (a).

Sec. 3885.108. AMENDMENT OF DEVELOPMENT AGREEMENT. The parties to the development agreement may amend the agreement as necessary to accomplish the purposes of the district.

Sec. 3885.109. ECONOMIC DEVELOPMENT. (a) The district may engage in activities that accomplish the economic development purposes of the district.

(b) The district may establish and provide for the administration of one or more programs to promote state or local economic development and to stimulate business and commercial activity in the district, including programs to:

- (1) make loans and grants of public money; and
- (2) provide district personnel and services.

(c) The district may create economic development programs and exercise the economic development powers that:

- (1) Chapter 380, Local Government Code, provides to a municipality; and
- (2) Subchapter A, Chapter 1509, Government Code, provides to a municipality.

Sec. 3885.110. NO EMINENT DOMAIN POWER. The district may not exercise the power of eminent domain.

Sec. 3885.111. NO TOLL ROADS. The district may not construct, acquire, maintain, or operate a toll road.

[Sections 3885.112-3885.150 reserved for expansion]

#### SUBCHAPTER C-1. IMPROVEMENT PROJECTS AND SERVICES

Sec. 3885.151. IMPROVEMENT PROJECTS AND SERVICES. The district may provide, design, construct, acquire, improve, relocate, operate, maintain, or finance an improvement project or service using money available to the district, or contract with a governmental or private entity to provide, design, construct, acquire, improve, relocate, operate, maintain, or finance an improvement project or service authorized under this chapter or Chapter 375, Local Government Code.

Sec. 3885.152. BOARD DETERMINATION REQUIRED. The district may not undertake an improvement project unless the board determines the project:

- (1) is necessary to accomplish a public purpose of the district; and



(2) complies with the development agreement or the parties to the development agreement agree to the project, in writing.

Sec. 3885.153. LOCATION OF IMPROVEMENT PROJECT. An improvement project may be inside or outside the district.

Sec. 3885.154. CITY REQUIREMENTS. (a) An improvement project in the city must comply with any applicable requirements of the city, including codes and ordinances, that are consistent with the development agreement.

(b) The district may not provide, conduct, or authorize any improvement project on the city's streets, highways, rights-of-way, or easements without the consent of the governing body of the city.

Sec. 3885.155. IMPROVEMENT PROJECT AND SERVICE IN DEFINABLE AREA. The district may undertake an improvement project or service that confers a special benefit on a definable area in the district and levy and collect a special assessment on benefited property in the district in accordance with:

(1) Chapter 372, Local Government Code; or

(2) Chapter 375, Local Government Code.

Sec. 3885.156. CONTRACTS. A contract to design, construct, acquire, improve, relocate, operate, maintain, or finance an improvement project is considered a contract for a good or service under Subchapter I, Chapter 271, Local Government Code.

[Sections 3885.157-3885.200 reserved for expansion]

#### SUBCHAPTER D. DIVISION OF DISTRICT INTO MULTIPLE DISTRICTS

Sec. 3885.201. DIVISION OF DISTRICT; PREREQUISITE. The district may be divided into two or more new districts only if the district has no outstanding bonded debt.

Sec. 3885.202. LAW APPLICABLE TO NEW DISTRICT. This chapter applies to any new district created by division of the district, and a new district has all the powers and duties of the district.

Sec. 3885.203. DIVISION PROCEDURES. (a) The board, on its own motion or on receipt of a petition signed by an owner of real property in the district, may adopt an order proposing to divide the district.

(b) The board may not divide the district unless the division is approved by the governing body of the city by resolution. The resolution may set terms for the division under Subsection (c).

(c) If the board decides to divide the district, the board shall, subject to the city's resolution:

(1) set the terms of the division, including names for the new districts and a plan for the payment or performance of any outstanding district obligations;

(2) prepare a metes and bounds description for each proposed district; and

(3) appoint initial directors for each new district.

Sec. 3885.204. NOTICE AND RECORDING OF ORDER. Not later than the 30th day after the date of an order dividing the district, the district shall:

(1) file the order with the Texas Commission on Environmental Quality;  
and

(2) record the order in the real property records of the county in which the district is located.

Sec. 3885.205. CONTRACT AUTHORITY OF NEW DISTRICTS. (a) Except as provided by Subsection (b), the new districts may contract with each other for any matter the boards of the new districts consider appropriate.

(b) The new districts may not contract with each other for water and wastewater services.

[Sections 3885.206-3885.250 reserved for expansion]

SUBCHAPTER E. GENERAL FINANCIAL PROVISIONS; ASSESSMENTS

Sec. 3885.251. DISBURSEMENTS AND TRANSFERS OF MONEY. The board by resolution shall establish the number of directors' signatures and the procedure required for a disbursement or transfer of the district's money.

Sec. 3885.252. MONEY USED FOR IMPROVEMENTS OR SERVICES. The district may undertake and provide an improvement project or service authorized by this chapter using any money available to the district.

Sec. 3885.253. BORROWING MONEY; OBLIGATIONS. (a) The district may borrow money for a district purpose without holding an election by issuing bonds, notes, time warrants, or other obligations, or by entering into a contract or other agreement payable wholly or partly from an assessment, a contract payment, a grant, revenue from a zone created under Chapter 311 or 312, Tax Code, other district revenue, or a combination of these sources.

(b) An obligation described by Subsection (a):

(1) may bear interest at a rate determined by the board; and

(2) may include a term or condition as determined by the board.

Sec. 3885.254. DEVELOPMENT AGREEMENT. Before the district borrows money or issues an obligation under Section 3885.253, the city must provide written certification to the district that no party to the development agreement is in default as of the date the district is authorized to borrow the money or enter the obligation.

Sec. 3885.255. ASSESSMENTS. (a) Except as provided by Subsection (b), the district may impose an assessment on property in the district to pay for an obligation described by Section 3885.253 in the manner provided for:

(1) a district under Subchapters A, E, and F, Chapter 375, Local Government Code; or

(2) a municipality or county under Subchapter A, Chapter 372, Local Government Code.

(b) The district may not impose an assessment on a municipality, county, or other political subdivision.

Sec. 3885.256. NOTICE OF ASSESSMENTS. (a) The board shall annually file written notice with the secretary of the city that specifies the assessments the district will impose in the district's next fiscal year in sufficient clarity to describe the assessments for the operation and maintenance of the district and the assessments for the payment of debt service of obligations issued or incurred by the district.

(b) The board shall annually record in the deed records of the county a current assessment roll approved by the governing body of the city.

(c) The assessment roll must clearly state that the assessments in the assessment roll are in addition to the ad valorem taxes imposed by other taxing units that tax real property in the district.

(d) The district shall generate and implement a program to provide notification to a prospective purchaser of property in the district of the assessments that have been approved and are imposed by the district.

Sec. 3885.257. RESIDENTIAL PROPERTY NOT EXEMPT. Section 375.161, Local Government Code, does not apply to the district.

Sec. 3885.258. NO IMPACT FEES. The district may not impose an impact fee.

Sec. 3885.259. NO AD VALOREM TAX. The district may not impose an ad valorem tax.

[Sections 3885.260-3885.300 reserved for expansion]

#### SUBCHAPTER F. DISSOLUTION

Sec. 3885.301. DISSOLUTION BY CITY. (a) The city may dissolve the district by ordinance.

(b) The city may not dissolve the district until:

(1) the district's outstanding debt or contractual obligations have been repaid or discharged; or

(2) the city agrees to succeed to the rights and obligations of the district.

Sec. 3885.302. COLLECTION OF ASSESSMENTS AND OTHER REVENUE. (a) If the dissolved district has bonds or other obligations outstanding secured by and payable from assessments or other revenue, the city succeeds to the rights and obligations of the district regarding enforcement and collection of the assessments or other revenue.

(b) The city shall have and exercise all district powers to enforce and collect the assessments or other revenue to pay:

(1) the bonds or other obligations when due and payable according to their terms; or

(2) special revenue or assessment bonds or other obligations issued by the city to refund the outstanding bonds or obligations of the district.

Sec. 3885.303. ASSUMPTION OF ASSETS AND LIABILITIES. (a) After the city dissolves the district, the city assumes the obligations of the district, including any bonds or other debt payable from assessments or other district revenue.

(b) If the city dissolves the district, the board shall transfer ownership of all district property to the city.

SECTION \_\_\_\_\_.02. The Mustang Ranch Municipal Management District No. 1 initially includes all the territory contained in the following area:

BEING a tract of land located in the COLEMAN WATSON SURVEY, ABSTRACT NO. 945, Collin County, Texas and being a part of a called 632.051 acre tract of land described in Deed to Twin Eagles, Ltd. recorded in County Clerk's Document Number 96-0013989, Deed Records, Collin County, Texas and being a part of a called 12.686 acre tract of land described in Deed to Robert S. Folsom, Trustee of the Twin Eagles Qualified Personal Residence Trust recorded in County Clerk's Document Number 95-0093145, Deed Records, Collin County, Texas and being a part of a called 50.00 acre tract of land described in Deed to Twin Eagles Ltd. recorded in Volume 4826, Page 2205, Deed Records, Collin County, Texas and being more particularly described as follows:

BEGINNING at a 5/8 inch iron rod found in the North line of Farm-To-Market Road 1461, a variable width right-of-way, at the Southwest corner of a called 19.93 acre tract of land described in Deed to Debra Folsom Jarma and Don M. Jarma recorded in Volume 3790, Page 267, Deed Records, Collin County, Texas, said point being the Southeast corner of said 50.00 acre tract;

THENCE South 89 degrees 41 minutes 18 seconds West, along the North line of said Farm-To-Market Road 1461, a distance of 750.84 feet to a 1/2 inch iron rod with a yellow plastic cap stamped "DAA" set for corner, from which a 1/2 inch iron found bears South 76 degrees 31 minutes 14 seconds West, a distance of 2.08 feet;

THENCE South 89 degrees 16 minutes 18 seconds West, continuing long the North line of said Farm-To-Market Road 1461, a distance of 231.01 feet to a 1/2 inch iron rod with a yellow plastic cap stamped "DAA" set at the Southwest corner of Lot 30, Block C of TWELVE OAKS PHASE II, an Addition to Collin County, Texas according to the Plat thereof recorded in Cabinet P, Slide 486, Map Records, Collin County, Texas, from which a 1/2 inch iron rod with a yellow plastic cap stamped "EC&D RPLS 5439" bears South 06 degrees 27 minutes 24 seconds West, a distance of 0.32 feet;

THENCE North 00 degrees 54 minutes 55 seconds East, along the West line of said TWELVE OAKS PHASE II, a distance of 2,206.67 feet to a 1/2 inch iron rod with a yellow plastic cap stamped "DAA" set in the South line of said 632.051 acre tract at the Northeast corner of Lot 18, Block C of said TWELVE OAKS PHASE II, from which a 1/2 inch iron rod with a yellow plastic cap stamped "ROOME" bears South 50 degrees 24 minutes 07 seconds West, a distance of 0.44 feet;

THENCE South 89 degrees 37 minutes 23 seconds West, along the North line of said TWELVE OAKS PHASE II, a distance of 2,146.50 feet to a 3/8 inch iron rod found at the Southwest corner of said 632.051 acre tract;

THENCE North 00 degrees 07 minutes 29 seconds East, along the West line of said 632.051 acre tract, a distance of 1,637.32 feet to a point for corner in the approximate centerline of Wilson Creek and in the East line of Lot 5, Block A of WILSON CREEK ESTATES, an Addition to Collin County, Texas according to the Plat thereof recorded in Cabinet J, Slide 605, Map Records, Collin County, Texas;

THENCE Northerly, along the East line of said WILSON CREEK ESTATES and the approximate centerline of said Wilson Creek, the following five (5) courses and distances; North 39 degrees 31 minutes 50 seconds East, a distance of 1.00 feet to a point for corner; North 14 degrees 09 minutes 54 seconds East, a distance of 67.24 feet to a point for corner; North 01 degrees 45 minutes 24 seconds West, a distance of 113.30 feet to a point for corner; North 08 degrees 43 minutes 39 seconds West, a distance of 137.99 feet to point for corner; North 02 degrees 14 minutes 13 seconds West, a distance of 113.37 feet to point at the Southeast corner of WILSON CREEK ESTATES 2, an Addition to Collin County, Texas according to the Plat thereof recorded in Cabinet K, Slide 192, Map Records, Collin County, Texas;

THENCE Northerly, along the East line of said WILSON CREEK ESTATES 2 and the approximate centerline of said Wilson Creek, the following eight (8) courses and distances; North 15 degrees 56 minutes 43 seconds East, a distance of 284.21 feet to point for corner; North 27 degrees 49 minutes 29 seconds East, a distance of 53.72 feet to a point for corner; North 13 degrees 03 minutes 17 seconds East, a distance of

109.39 feet to point for corner; North 10 degrees 02 minutes 27 seconds West, a distance of 235.76 feet to point for corner; North 04 degrees 58 minutes 53 seconds East, a distance of 56.26 feet to a point for corner; North 05 degrees 12 minutes 56 seconds West, a distance of 121.33 feet to point for corner; North 09 degrees 39 minutes 44 seconds West, a distance of 165.65 feet to point for corner; North 01 degrees 30 minutes 36 seconds East, a distance of 45.98 feet to a point for corner in the South line of a called 185.094 acre tract of land described as Tract One in Deed to J. Baxter Brinkman recorded in County Clerk's Document Number 92-0052450, Deed Records, Collin County, Texas, from which a 3/4 inch iron rod found bears South 89 degrees 38 minutes 46 seconds West; a distance of 39.22 feet;

THENCE North 89 degrees 38 minutes 46 seconds East, along the common line of said 185.094 acre tract and said 632.051 acre tract, a distance of 1,947.39 feet to a 1/2 inch iron rod found for corner;

THENCE North 00 degrees 14 minutes 27 seconds West, along the common line of said 185.094 acre tract and said 632.051 acre tract, a distance of 1,721.69 feet to a 1/2 inch iron rod with a yellow plastic cap stamped "DAA" set at the Southwest corner of a called 5.384 acre tract of land described as Tract Two in Deed to J. Baxter Brinkman recorded in County Clerk's Document Number 92-0052450, Deed Records, Collin County, Texas, from which a 1/2 inch iron rod found bears South 85 degrees 18 minutes 16 seconds West, a distance of 1.01 feet;

THENCE Easterly, along the common line of said 5.384 acre tract and said 632.051 acre tract, the following six (6) courses and distances: North 89 degrees 48 minutes 09 seconds East, a distance of 2,167.88 feet to a 1/2 inch iron rod with a yellow plastic cap stamped "COLLIS RPLS 1764" found for corner; North 89 degrees 49 minutes 55 seconds East, a distance of 465.82 feet to a 1/2 inch iron rod with a yellow plastic cap stamped "DAA" set for corner, from which a 1/2 inch iron rod found bears South 35 degrees 46 minutes 01 seconds West, a distance of 0.39 feet; North 89 degrees 47 minutes 20 seconds East, a distance of 305.39 feet to a 1/2 inch iron rod found for corner; North 89 degrees 51 minutes 51 seconds East, a distance of 816.05 feet to a 1/2 inch iron rod with a yellow plastic cap stamped "DAA" set for corner; South 89 degrees 56 minutes 24 seconds East, a distance of 311.73 feet to a 1/2 inch iron rod with a yellow plastic cap stamped "DAA" set for corner; North 89 degrees 42 minutes 42 seconds East, a distance of 330.59 feet to a 1/2 inch iron rod with a yellow plastic cap stamped "DAA" set at the Northwest corner of a called 1.0000 acre tract of land described in Deed to Danville Water Supply Corporation recorded in Volume 1992, Page 738, Deed Records, Collin County, Texas;

THENCE South 00 degrees 15 minutes 01 seconds East, along the common line of said 1.0000 acre tract and said 632.051 acre tract, a distance of 146.88 feet to a 1/2 inch iron rod found for corner;

THENCE North 89 degrees 44 minutes 59 seconds East, continuing along the common line of said 1.0000 acre tract and said 632.051 acre tract a distance of 299.37 feet to a 1/2 inch iron rod with a yellow plastic cap stamped "DAA" set for corner in the West line of Farm-To-Market Road 2478, a variable width right-of-way, from which a 1/2 inch iron rod found bears South 89 degrees 44 minutes 59 seconds East, a distance of 0.33 feet;

THENCE Southerly, along the West line of said Farm-To-Market Road 2478, the following eight (8) courses and distances: South 04 degrees 07 minutes 13 seconds East, a distance of 113.40 feet to a wood right-of-way marker found for corner; South 03 degrees 46 minutes 13 seconds East, a distance of 525.05 feet to a 1/2 inch iron rod found for corner; South 01 degrees 56 minutes 26 seconds West, a distance of 100.50 feet to a nail found in wood right-of-way marker for corner; South 03 degrees 46 minutes 13 seconds East, a distance of 200.00 feet to a 1/2 inch iron rod with a yellow plastic cap stamped "DAA" set for corner, from which a wood right-of-way marker found bears North 78 degrees 39 minutes 45 seconds West, a distance of 0.95 feet; South 09 degrees 28 minutes 51 seconds East, a distance of 100.50 feet to a 1/2 inch iron rod with a yellow plastic cap stamped "DAA" set for corner; South 03 degrees 46 minutes 13 seconds East, a distance of 415.90 feet to a wood right-of-way marker found for corner at the beginning of a curve to the right having a central angle of 03 degrees 41 minutes 00 seconds, a radius of 5,679.58 feet and a chord bearing and distance of South 01 degrees 55 minutes 43 seconds East, 365.06 feet; Southerly, along said curve to the right, an arc distance of 365.12 feet to a wood right-of-way marker found for corner; South 00 degrees 05 minutes 13 seconds East, a distance of 2,278.15 feet to a 1/2 inch iron rod with a yellow plastic cap stamped "DAA" set at the Northeast corner of a called 1.000 acre tract of land described in Deed to Rhea's Mill Baptist Church recorded in Volume 1745, Page 773, Deed Records, Collin County, Texas, from which a 1/2 inch square pipe found bears South 89 degrees 48 minutes 02 seconds West, a distance of 1.07 feet;

THENCE South 89 degrees 48 minutes 02 seconds West, a distance of 291.81 feet to a 1/2 inch iron rod found at the Northwest corner of said Rhea's Mill Baptist Church tract;

THENCE South 00 degrees 20 minutes 34 seconds East, a distance of 150.52 feet to a 1/2 inch iron rod with a yellow plastic cap stamped "DAA" set for corner in the North line of Lot 4 of ROLLING MEADOWS ESTATES, an Addition to Collin County, Texas according to the Plat thereof recorded in Cabinet P, Slide 486, Map Records, Collin County, Texas;

THENCE South 89 degrees 40 minutes 07 seconds West, along the common line of said ROLLING MEADOWS ESTATES and said 632.051 acre tract, passing at a distance of 1,509.89 feet a 1 inch iron rod found at the Northwest corner of said ROLLING MEADOWS ESTATES and the Northeast corner of a called 81.104 acre tract described in Deed to Debra F. Jarma and Don M. Jarma recorded in County Clerk's Document Number 95-0092267, Deed Records, Collin County, Texas and continuing along the common line of said 81.104 acre tract and said 632.051 acre tract, in all for a total distance of 2,209.89 feet to a 1/2 inch iron rod with a yellow plastic cap stamped "DAA" set for corner;

THENCE South 00 degrees 52 minutes 41 seconds West, along the common line of said 81.104 acre tract and said 632.051 acre tract, a distance of 421.13 feet to a 1/2 inch iron rod with a yellow plastic cap stamped "DAA" set for corner;

THENCE South 89 degrees 27 minutes 07 seconds West, continuing along the common line of said 81.104 acre tract and said 632,051 acre tract, a distance of 1,159.85 feet to a 1/2 inch iron square pipe found at the Northwest corner of said

81.104 acre tract and the Northeast corner of a called 11.252 acre tract of land described in Deed to Debra F. Jarma and Don M. Jarma recorded in Volume 4973, Page 3420, Deed Records, Collin County, Texas;

THENCE South 89 degrees 24 minutes 47 seconds West, along the common line of said 11.252 acre tract and said 632.051 acre tract, a distance of 281.99 feet to a 1/2 inch iron rod with a yellow plastic cap stamped "DAA" set at the Northwest corner of said 11.252 acre tract;

THENCE Southerly, along the West line of said 11.252 acre tract, the following six (6) courses and distances: South 00 degrees 55 minutes 08 seconds West, a distance of 420.00 feet to a 1/2 inch iron rod with a yellow plastic cap stamped "DAA" set for corner; South 14 degrees 29 minutes 02 seconds East, a distance of 241.26 feet to a 1/2 inch iron rod with a yellow plastic cap stamped "DAA" set for corner; South 00 degrees 55 minutes 08 seconds West, a distance of 320.00 feet to a 1/2 inch iron rod with a yellow plastic cap stamped "DAA" set for corner; South 12 degrees 45 minutes 08 seconds West, a distance of 449.55 feet to a 1/2 inch iron rod with a yellow plastic cap stamped "DAA" set for corner; South 19 degrees 10 minutes 32 seconds East, a distance of 436.57 feet to a 1/2 inch iron rod with a yellow plastic cap stamped "DAA" set for corner; South 33 degrees 22 minutes 42 seconds East, a distance of 288.40 feet to a 1/2 inch iron rod with a yellow plastic cap stamped "DAA" set for corner in the West line of said 19.93 acre tract;

THENCE South 01 degrees 56 minutes 48 seconds West, along the West line of said 19.93 acre tract, a distance of 139.88 feet to the POINT OF BEGINNING and containing 681.999 acres of land, more or less.

SECTION \_\_\_\_\_.03. (a) The legal notice of the intention to introduce this article, setting forth the general substance of this article, has been published as provided by law, and the notice and a copy of this article have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished under Section 59, Article XVI, Texas Constitution, and Chapter 313, Government Code.

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

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

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

SECTION \_\_\_\_\_.04. This article takes effect September 1, 2011.

ARTICLE \_\_\_\_\_. CASE CREEK MUNICIPAL UTILITY DISTRICT NO. 1 OF  
GRAYSON COUNTY

SECTION \_\_\_\_\_.01. Subtitle F, Title 6, Special District Local Laws Code, is amended by adding Chapter 8249 to read as follows:

CHAPTER 8249. CASE CREEK MUNICIPAL UTILITY DISTRICT NO. 1 OF  
GRAYSON COUNTY

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8249.001. DEFINITIONS. In this chapter:

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

(2) "Commission" means the Texas Commission on Environmental Quality.

(3) "Director" means a board member.

(4) "District" means the Case Creek Municipal Utility District No. 1 of Grayson County.

Sec. 8249.002. NATURE OF DISTRICT. The district is a municipal utility district created under Section 59, Article XVI, Texas Constitution.

Sec. 8249.003. CONFIRMATION AND DIRECTORS' ELECTION REQUIRED. The temporary directors shall hold an election to confirm the creation of the district and to elect five permanent directors as provided by Section 49.102, Water Code.

Sec. 8249.004. FINDINGS OF PUBLIC PURPOSE AND BENEFIT. (a) The district is created to serve a public purpose and benefit.

(b) The district is created to accomplish the purposes of:

(1) a municipal utility district as provided by general law and Section 59, Article XVI, Texas Constitution; and

(2) Section 52, Article III, Texas Constitution, that relate to the construction, acquisition, improvement, operation, or maintenance of macadamized, graveled, or paved roads, or improvements, including storm drainage, in aid of those roads.

Sec. 8249.005. INITIAL DISTRICT TERRITORY. (a) The district is initially composed of the territory described by Section \_\_\_\_ .02 of the Act enacting this chapter.

(b) The boundaries and field notes contained in Section \_\_\_\_ .02 of the Act enacting this chapter form a closure. A mistake made in the field notes or in copying the field notes in the legislative process does not affect the district's:

(1) organization, existence, or validity;

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

(3) right to impose a tax; or

(4) legality or operation.

[Sections 8249.006-8249.050 reserved for expansion]

#### SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 8249.051. GOVERNING BODY; TERMS. (a) The district is governed by a board of five elected directors.

(b) Except as provided by Section 8249.052, directors serve staggered four-year terms.

Sec. 8249.052. TEMPORARY DIRECTORS. (a) On or after September 1, 2011, the owner or owners of a majority of the assessed value of the real property in the district may submit a petition to the commission requesting that the commission appoint as temporary directors the five persons named in the petition. The commission shall appoint as temporary directors the five persons named in the petition.

(b) Temporary directors serve until the earlier of:

(1) the date permanent directors are elected under Section 8249.003; or

(2) September 1, 2015.



(c) If permanent directors have not been elected under Section 8249.003 and the terms of the temporary directors have expired, successor temporary directors shall be appointed or reappointed as provided by Subsection (d) to serve terms that expire on the earlier of:

(1) the date permanent directors are elected under Section 8249.003; or

(2) the fourth anniversary of the date of the appointment or reappointment.

(d) If Subsection (c) applies, the owner or owners of a majority of the assessed value of the real property in the district may submit a petition to the commission requesting that the commission appoint as successor temporary directors the five persons named in the petition. The commission shall appoint as successor temporary directors the five persons named in the petition.

[Sections 8249.053-8249.100 reserved for expansion]

#### SUBCHAPTER C. POWERS AND DUTIES

Sec. 8249.101. GENERAL POWERS AND DUTIES. The district has the powers and duties necessary to accomplish the purposes for which the district is created.

Sec. 8249.102. MUNICIPAL UTILITY DISTRICT POWERS AND DUTIES. The district has the powers and duties provided by the general law of this state, including Chapters 49 and 54, Water Code, applicable to municipal utility districts created under Section 59, Article XVI, Texas Constitution.

Sec. 8249.103. AUTHORITY FOR ROAD PROJECTS. Under Section 52, Article III, Texas Constitution, the district may design, acquire, construct, finance, issue bonds for, improve, operate, maintain, and convey to this state, a county, or a municipality for operation and maintenance macadamized, graveled, or paved roads, or improvements, including storm drainage, in aid of those roads.

Sec. 8249.104. ROAD STANDARDS AND REQUIREMENTS. (a) A road project must meet all applicable construction standards, zoning and subdivision requirements, and regulations of each municipality in whose corporate limits or extraterritorial jurisdiction the road project is located.

(b) If a road project is not located in the corporate limits or extraterritorial jurisdiction of a municipality, the road project must meet all applicable construction standards, subdivision requirements, and regulations of each county in which the road project is located.

(c) If the state will maintain and operate the road, the Texas Transportation Commission must approve the plans and specifications of the road project.

Sec. 8249.105. COSTS OF ROAD PROJECT. The district shall bear the cost of maintaining, improving, operating, and repairing a road located in the district and authorized by Section 8249.103 in accordance with all applicable ordinances and rules of the political subdivision authorized to exercise jurisdiction over the road, regardless of whether the district conveys the road to this state, a county, or a municipality.

Sec. 8249.106. LIMITATION ON USE OF EMINENT DOMAIN. The district may not exercise the power of eminent domain outside the district to acquire a site or easement for:

(1) a road project authorized by Section 8249.103; or

(2) a recreational facility as defined by Section 49.462, Water Code.

Sec. 8249.107. LIMITATION ON WATER SUPPLY AND WASTEWATER SERVICES; USE OF DISTRICT FACILITIES BY TWO WAY SPECIAL UTILITY DISTRICT. (a) The district may not act as a retail provider of water or wastewater services in the district except as provided by this section.

(b) Except as provided by Subsection (c), the district shall convey or otherwise assign the district's water supply facilities and wastewater facilities to Two Way Special Utility District.

(c) If Two Way Special Utility District refuses or is unable to provide water supply or wastewater service to customers located in the district, the district may retain the necessary facilities and provide water supply or wastewater service, as applicable, to those customers.

[Sections 8249.108-8249.150 reserved for expansion]

#### SUBCHAPTER D. DIVISION OF DISTRICT INTO MULTIPLE DISTRICTS

Sec. 8249.151. DIVISION OF DISTRICT; PREREQUISITES. The district may be divided into two or more new districts only if the district:

- (1) has no outstanding bonded debt; and
- (2) is not imposing ad valorem taxes.

Sec. 8249.152. LAW APPLICABLE TO NEW DISTRICT. This chapter applies to any new district created by division of the district, and a new district has all the powers and duties of the district.

Sec. 8249.153. LIMITATION ON AREA OF NEW DISTRICT. A new district created by the division of the district may not, at the time the new district is created, contain any land outside the area described by Section \_\_\_\_\_.02 of the Act enacting this chapter.

Sec. 8249.154. DIVISION PROCEDURES. (a) The board, on its own motion or on receipt of a petition signed by the owner or owners of a majority of the assessed value of the real property in the district, may adopt an order dividing the district.

(b) The board may adopt an order dividing the district before or after the date the board holds an election under Section 8249.003 to confirm the district's creation.

(c) An order dividing the district must:

- (1) name each new district;
- (2) include the metes and bounds description of the territory of each new

district;

- (3) appoint temporary directors for each new district; and
- (4) provide for the division of assets and liabilities between the new

districts.

(d) On or before the 30th day after the date of adoption of an order dividing the district, the district shall file the order with the commission and record the order in the real property records of each county in which the district is located.

Sec. 8249.155. CONFIRMATION ELECTION FOR NEW DISTRICT. (a) A new district created by the division of the district shall hold a confirmation and directors' election as required by Section 8249.003.

(b) If the creation of the new district is confirmed, the new district shall provide the election date and results to the commission.

Sec. 8249.156. TAX OR BOND ELECTION. Before a new district created by the division of the district may impose a maintenance tax or issue bonds payable wholly or partly from ad valorem taxes, the new district must hold an election as required by this chapter to obtain voter approval.

[Sections 8249.157-8249.200 reserved for expansion]

#### SUBCHAPTER E. GENERAL FINANCIAL PROVISIONS

Sec. 8249.201. ELECTIONS REGARDING TAXES OR BONDS. (a) The district may issue, without an election, bonds and other obligations secured by:

- (1) revenue other than ad valorem taxes; or
- (2) contract payments described by Section 8249.203.

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

(c) The district may not issue bonds payable from ad valorem taxes to finance a road project unless the issuance is approved by a vote of a two-thirds majority of the district voters voting at an election held for that purpose.

Sec. 8249.202. OPERATION AND MAINTENANCE TAX. (a) If authorized at an election held under Section 8249.201, the district may impose an operation and maintenance tax on taxable property in the district in accordance with Section 49.107, Water Code.

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

Sec. 8249.203. CONTRACT TAXES. (a) In accordance with Section 49.108, Water Code, the district may impose a tax other than an operation and maintenance tax and use the revenue derived from the tax to make payments under a contract after the provisions of the contract have been approved by a majority of the district voters voting at an election held for that purpose.

(b) A contract approved by the district voters may contain a provision stating that the contract may be modified or amended by the board without further voter approval.

[Sections 8249.204-8249.250 reserved for expansion]

#### SUBCHAPTER F. BONDS AND OTHER OBLIGATIONS

Sec. 8249.251. AUTHORITY TO ISSUE BONDS AND OTHER OBLIGATIONS. The district may issue bonds or other obligations payable wholly or partly from ad valorem taxes, impact fees, revenue, contract payments, grants, or other district money, or any combination of those sources, to pay for any authorized district purpose.

Sec. 8249.252. TAXES FOR BONDS. At the time the district issues bonds payable wholly or partly from ad valorem taxes, the board shall provide for the annual imposition of a continuing direct ad valorem tax, without limit as to rate or amount, while all or part of the bonds are outstanding as required and in the manner provided by Sections 54.601 and 54.602, Water Code.

Sec. 8249.253. BONDS FOR ROAD PROJECTS. At the time of issuance, the total principal amount of bonds or other obligations issued or incurred to finance road projects and payable from ad valorem taxes may not exceed one-fourth of the assessed value of the real property in the district.

SECTION \_\_\_\_\_.02. The Case Creek Municipal Utility District No. 1 of Grayson County initially includes all the territory contained in the following area:

TRACT 1

BEING A 734.245 ACRE TRACT OF LAND SITUATED IN THE PATSY KITCHENS SURVEY, ABSTRACT NO. 666, THE RACHEL HANNING SURVEY, ABSTRACT NO. 547, THE JAMES THOMAS SURVEY, ABSTRACT NO. 1235, THE B.B.B. & C.R.R. SURVEY, ABSTRACT NO. 167 AND THE H.L. NOLAND SURVEY, ABSTRACT NO. 1550, GRAYSON COUNTY, TEXAS AND BEING ALL OF THE FOLLOWING TRACTS OF LAND, THAT TRACT OF LAND DESCRIBED IN DEED TO BLUE ISLAND PARTNERS, LTD., RECORDED IN VOLUME 4076, PAGE 824, THAT TRACT OF LAND DESCRIBED IN DEED TO THE NICID LIMITED PARTNERSHIP, RECORDED IN VOLUME 3734, PAGE 246 AND THAT TRACT OF LAND DESCRIBED IN DEED TO 202 BOREN ROAD PARTNERS, LLC, RECORDED IN VOLUME 4223, PAGE 252 OF THE OFFICIAL PUBLIC RECORDS, GRAYSON COUNTY, TEXAS. SAID 734.245 ACRE TRACT, WITH BEARING BASIS BEING GRID NORTH, TEXAS STATE PLANE COORDINATES, NORTH CENTRAL ZONE, NAD83 (CORS96, EPOCH DATE 2002), DETERMINED BY GPS OBSERVATIONS BETWEEN JULIAN DAY 253, 2004 AND JULIAN DAY 259, 2004, CALCULATED FROM COLLIN CORS ARP (PID-DF8982) AND DENTON CORS ARP (PID-DF8986), BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING AT A 60D NAIL FOUND FOR THE NORTHEAST CORNER OF SAID BLUE ISLAND TRACT, SAID NAIL BEING THE SOUTHEAST CORNER OF A TRACT AS DESCRIBED IN DEED TO JERRY TODD, FILED JUNE 27, 1977, AND RECORDED IN VOLUME 1392 PAGE 797 OF SAID DEED RECORDS, SAID NAIL ALSO BEING IN THE WEST LINE OF A TRACT AS DESCRIBED IN DEED TO JEFF JOHNSON AND WIFE CARYANN JOHNSON, FILED DECEMBER 05, 2002, AND RECORDED IN VOLUME 3363, PAGE 624 OF DEED RECORDS, GRAYSON COUNTY, TEXAS, SAID NAIL ALSO BEING AT THE INTERSECTION OF DAVIS ROAD AND MACOMB CEMETERY ROAD;

THENCE, SOUTH 00 DEGREES 41 MINUTES 37 SECONDS EAST, WITH THE EAST LINE OF SAID BLUE ISLAND TRACT, AND WITH THE WEST LINE OF SAID JOHNSON TRACT, AND ALONG SAID DAVIS ROAD, A DISTANCE OF 1738.20 FEET TO A 1/2 INCH STEEL SQUARE TUBING FOUND FOR AN ELL CORNER OF SAID BLUE ISLAND TRACT, AND THE SOUTHWEST CORNER OF SAID JOHNSON TRACT, AND AT A TURN IN SAID ROAD;

THENCE, NORTH 88 DEGREES 46 MINUTES 03 SECONDS EAST, WITH A NORTH LINE OF SAID BLUE ISLAND TRACT, AND WITH THE SOUTH LINE OF SAID JOHNSON TRACT, AND ALONG SAID DAVIS ROAD, A DISTANCE OF 620.31 FEET TO A 1/2 INCH STEEL REBAR FOUND FOR THE MOST EASTERLY NORTHEAST CORNER OF SAID BLUE ISLAND TRACT, SAID REBAR BEING ON THE SOUTH LINE OF SAID JOHNSON TRACT, SAID REBAR BEING THE NORTHWEST CORNER OF A TRACT AS DESCRIBED IN DEED TO THE NICID LIMITED PARTNERSHIP, FILED SEPTEMBER 22, 2004,

AND RECORDED IN VOLUME 3734, PAGE 246, OFFICIAL PUBLIC RECORDS, GRAYSON COUNTY, TEXAS, SAID REBAR ALSO BEING IN SAID ROAD;

THENCE, NORTH 89 DEGREES 31 MINUTES 32 SECONDS EAST, WITH THE NORTH LINE OF SAID NICID TRACT, AND IN DAVIS ROAD, A DISTANCE OF 2414.87 FEET TO A 1/2 INCH STEEL SQUARE TUBING FOUND, SAID TUBING BEING THE NORTHEAST CORNER OF SAID NICID TRACT, AND THE NORTHWEST CORNER OF A TRACT AS DESCRIBED IN DEED TO DIAMOND H RANCH, LP, AND RECORDED IN VOLUME 4052, PAGE 184, OFFICIAL PUBLIC RECORDS, GRAYSON COUNTY, TEXAS, SAID TUBING ALSO BEING IN DAVIS ROAD;

THENCE, SOUTH 00 DEGREES 26 MINUTES 08 SECONDS EAST, WITH THE EAST LINE OF SAID NICID TRACT, AND THE WEST LINE OF SAID DIAMOND H TRACT, AND PASSING AT 20.34 FEET A PIPE FENCE CORNER POST ON THE SOUTH SIDE OF SAID DAVIS ROAD, AND CONTINUING ON SAID COURSE FOR A TOTAL DISTANCE OF 2645.90 FEET TO A 5/8 INCH IRON ROD WITH YELLOW PLASTIC CAP STAMPED "CARTER BURGESS" SET FOR AN ELL CORNER OF SAID NICID AND DIAMOND H TRACTS;

THENCE, SOUTH 89 DEGREES 24 MINUTES 16 SECONDS WEST, WITH THE SOUTH LINE OF SAID NICID TRACT, A DISTANCE OF 989.63 FEET TO A 5/8 INCH IRON ROD WITH YELLOW PLASTIC CAP STAMPED "CARTER BURGESS" SET FOR AN ELL CORNER OF SAID NICID AND DIAMOND H TRACT;

THENCE, SOUTH 00 DEGREES 31 MINUTES 07 SECONDS EAST, A DISTANCE OF 614.83 FEET TO A 1/2 INCH STEEL REBAR FOUND FOR A SOUTHEAST CORNER OF SAID NICID AND AN ELL CORNER OF SAID DIAMOND H TRACT;

THENCE, SOUTH 89 DEGREES 38 MINUTES 58 SECONDS WEST, WITH THE APPARENT SOUTH LINE OF SAID NICID TRACT, A DISTANCE OF 2189.66 FEET TO A POINT CORNER;

THENCE, SOUTH 00 DEGRESS 58 MINUTES 28 SECONDS WEST, PASSING AT A DISTANCE OF 14.49 FEET A 1/2" IRON ROD FOUND AT THE NORTHEAST CORNER OF SAID 202 BOREN ROAD PARTNERS TRACT AND THE NORTHWEST CORNER OF THAT TRACT OF LAND DESCRIBED IN DEED TO DEWEY MCGILL, JR., RECORDED IN VOLUME 2426, PAGE 836, OFFICIAL PUBLIC RECORDS, GRAYSON COUNTY, TEXAS, AND CONTINUING WITH THE EAST LINE OF SAID 202 BOREN ROAD PARTNERS TRACT, THE WEST LINE OF SAID MCGILL TRACT, CROSSING THE SOUTH LINE OF SAID NOLAND SURVEY AND THE NORTH LINE OF SAID B.B.B. & C.R.R. SURVEY, AND CONTINUING FOR A TOTAL DISTANCE OF 2317.78 FEET TO A 1/2 INCH IRON ROD FOUND ON THE NORTH LINE OF THAT TRACT OF LAND DESCRIBED IN DEED TO DIANE S. MORGAN, RECORDED IN VOLUME 3368, PAGE 355, OFFICIAL PUBLIC RECORDS, GRAYSON COUNTY, TEXAS;

THENCE, NORTH 88 DEGREES 25 MINUTES 06 SECONDS WEST, WITH THE NORTH LINES OF SAID DIANE MORGAN TRACT, THE NORTH LINE OF A 20.000 ACRE TRACT OF LAND CONVEYED TO GLEN D. MORGAN BY DEED DATED APRIL 11, 2000, RECORDED IN VOLUME 2914, PAGE 61, OFFICIAL PUBLIC RECORDS, GRAYSON COUNTY, TEXAS AND THE SOUTH LINE OF SAID 202 BOREN ROAD PARTNERS TRACT, FOR A DISTANCE OF 1627.84 FEET TO A 60D NAIL FOUND AT THE SOUTHWEST CORNER OF BOTH SAID B.B.B. & C.R.R. SURVEY AND THE SOUTHEAST CORNER OF SAID THOMAS SURVEY, FOR THE MOST SOUTHERLY SOUTHWEST CORNER OF SAID 202 BOREN ROAD PARTNERS TRACT AND THE SOUTHEAST CORNER OF THAT TRACT OF LAND DESCRIBED IN DEED TO TOM W. PINGLETON, DATED AUGUST 15, 2006, RECORDED IN VOLUME 4105, PAGE 811, OFFICIAL PUBLIC RECORDS, GRAYSON COUNTY, TEXAS,

THENCE, NORTH 01 DEGREES 40 MINUTES 41 SECONDS EAST, WITH THE WEST LINES OF BOTH SAID B.B.B. & C.R.R. SURVEY, AND SAID 202 BOREN ROAD PARTNERS TRACT AND THE EAST LINES OF THE FOLLOWING, SAID THOMAS SURVEY, TRACT 1 DESCRIBED IN DEED TO JAMES DOUGLAS SCHULTZ, RECORDED IN VOLUME 1646, PAGE 617 DEED RECORDS, GRAYSON COUNTY, TEXAS, SAID PINGLETON TRACT, THAT TRACT OF LAND DESCRIBED IN DEED TO GINGER BLALOCK, DATED AUGUST 28, 1998, RECORDED IN VOLUME 2695, PAGE 380, OFFICIAL PUBLIC RECORDS, GRAYSON COUNTY, TEXAS, THAT TRACT OF LAND DESCRIBED IN DEED TO JAMES C. BLAKE, ET UX, DATED OCTOBER 9, 1998, RECORDED IN VOIUME 2709, PAGE 366, OFFICIAL PUBLIC RECORDS, GRAYSON COUNTY, TEXAS, THAT TRACT OF LAND DESCRIBED IN DEED TO MICHAEL W. WALKER, AND MONIQUE R. WALKER, DATED DECEMBER 22, 2004, RECORDED IN VOLUME 3790, PAGE 348, OFFICIAL PUBLIC RECORDS, GRAYSON COUNTY, TEXAS AND THAT TRACT OF LAND DESCRIBED IN DEED TO NANCY SUSAN PARKER, DATED DECEMBER 1, 1993, RECORDED IN VOLUME 2306, PAGE 433, OFFICIAL PUBLIC RECORDS, GRAYSON COUNTY, TEXAS FOR A DISTANCE OF 2132.79 FEET TO A 1/2 INCH IRON ROD FOUND AT THE NORTHEAST CORNER OF SAID PARKER TRACT AT AN ELL CORNER OF SAID 202 BOREN ROAD PARTNERS TRACT;

THENCE, NORTH 86 DEGREES 41 MINUTES 55 SECONDS WEST, WITH THE NORTH LINE OF SAID PARKER TRACT, AND A SOUTH LINE OF SAID 202 BOREN ROAD PARTNERS TRACT, A DISTANCE OF 1332.93 FEET TO A PK NAIL FOUND FOR THE NORTHWEST CORNER OF SAID PARKER TRACT IN THE EAST LINE OF THAT TRACT OF LAND DESCRIBED IN DEED TO MYRNA RHEUDASIL, INDIVIDUALLY BY DEED DATED APRIL 21, 1992, RECORDED IN VOLUME 2208, PAGE 492, OFFICIAL PUBLIC RECORDS, GRAYSON COUNTY, TEXAS IN THE CENTER OF A PUBLIC ROAD KNOWN AS BOREN ROAD;

THENCE NORTH 01 DEGREES, 59 MINUTES 16 SECONDS EAST, WITH THE CENTER OF SAID BOREN ROAD, THE WEST LINE OF SAID 202 BOREN ROAD PARTNERS TRACT, THE EAST LINE OF SAID RHEUDASIL TRACT

FOR A DISTANCE OF 411.44 FEET TO A 1/2 INCH IRON ROD FOUND AT THE NORTHEAST CORNER OF SAID RHEUDASIL TRACT, ON THE NORTH LINE OF SAID THOMAS SURVEY, THE SOUTH LINE OF BOTH SAID RACHEL HANNING SURVEY, AND SAID 202 BOREN ROAD PARTNERS TRACT; THENCE, NORTH 88 DEGREES 28 MINUTES 34 SECONDS WEST, WITH THE NORTH LINE OF BOTH SAID THOMAS SURVEY, AND SAID RHEUDASIL TRACT, THE SOUTH LINE OF BOTH SAID RACHEL HANNING SURVEY, AND SAID 202 BOREN ROAD PARTNERS TRACT, CONTINUING ALONG SAID BOREN ROAD, FOR A DISTANCE OF 1333.90 FEET TO A 5/8 INCH IRON ROD WITH YELLOW PLASTIC CAP STAMPED "CARTER BURGESS" SET AT THE SOUTHWEST CORNER OF BOTH SAID RACHEL HANNING SURVEY, AND SAID 202 BOREN ROAD PARTNERS TRACT, THE SOUTHWEST CORNER OF THE JAMES M. THOMAS SURVEY, ABSTRACT NO. 1212, THE MOST SOUTHERLY SOUTHWEST CORNER OF THAT TRACT OF LAND DESCRIBED IN DEED TO CALVIN BLEDSOE, RECORDED IN VOLUME 2546, PAGE 224, OFFICIAL PUBLIC RECORDS, GRAYSON COUNTY, TEXAS;

THENCE, NORTH 01 DEGREE 36 MINUTES 58 SECONDS EAST, WITH THE WEST LINE OF BOTH SAID RACHEL HANNING SURVEY, AND SAID 202 BOREN ROAD PARTNERS TRACT, THE EAST LINE OF SAID JAMES THOMAS SURVEY, ABST. NO. 1212, AND SAID BLEDSOE TRACT, FOR A DISTANCE OF 1595.82 FEET TO A 1/2 INCH IRON ROD CAPPED "COX 4577" FOUND AT THE NORTHWEST CORNER OF SAID 202 BOREN ROAD PARTNERS TRACT, THE MOST WESTERLY SOUTHWEST CORNER OF A 300.43 ACRE TRACT OF LAND DESCRIBED IN DEED TO BLUE ISLAND PARTNERS, LTD. BY DEED DATED JUNE 28, 2006, RECORDED IN VOLUME 4076, PAGE 824, OFFICIAL PUBLIC RECORDS, GRAYSON COUNTY, TEXAS; THENCE, NORTH 01 DEGREE 26 MINUTES 55 SECONDS EAST, WITH THE WEST LINE OF SAID BLUE ISLAND TRACT, AND WITH THE EAST LINE OF SAID BLEDSOE TRACT, A DISTANCE OF 1631.30 FEET TO A 1/2 INCH IRON ROD CAPPED "COX 4577" FOUND FOR THE WESTERN MOST NORTHWEST CORNER OF BLUE ISLAND TRACT, AND THE NORTHEAST CORNER OF SAID BLEDSOE TRACT;

THENCE, NORTH 89 DEGREES 27 MINUTES 39 SECONDS EAST, WITH A NORTH LINE OF SAID BLUE ISLAND TRACT, A DISTANCE OF 1676.04 FEET TO A 5/8 INCH IRON ROD WITH YELLOW PLASTIC CAP STAMPED "CARTER BURGESS" SET FOR AN ELL CORNER OF SAID BLUE ISLAND TRACT, AND THE SOUTHWEST CORNER OF A TRACT AS DESCRIBED IN DEED TO NANCY SUSAN PARKER, FILED SEPTEMBER 15, 1993, AND RECORDED IN VOLUME 2306 PAGE 433, OFFICIAL PUBLIC RECORDS, GRAYSON COUNTY, TEXAS;

THENCE, NORTH 00 DEGREES 18 MINUTES 02 SECONDS WEST, WITH THE WEST LINE OF SAID BLUE ISLAND TRACT, AND WITH THE EAST LINE OF SAID PARKER TRACT, A DISTANCE OF 1411.57 FEET TO A 5/8 INCH IRON ROD WITH YELLOW PLASTIC CAP STAMPED "CARTER BURGESS" SET FOR THE NORTHWEST CORNER OF SAID BLUE ISLAND TRACT, SAID

IRON ROD BEING THE NORTHEAST CORNER OF SAID PARKER TRACT, SAID IRON ROD ALSO BEING ON THE SOUTH LINE OF SAID BLEDSOE TRACT, SAID IRON ROD BEING IN SAID MACOMB CEMETERY ROAD; THENCE, SOUTH 88 DEGREES 57 MINUTES 45 SECONDS EAST, WITH THE NORTH LINE OF SAID BLUE ISLAND TRACT, ALONG SAID ROAD, PASSING THE SOUTHEAST CORNER OF SAID BLEDSOE TRACT, AND THE SOUTHWEST CORNER OF SAID TODD TRACT, AND CONTINUING ALONG SAID COURSE, A DISTANCE OF 2597.18 FEET TO THE POINT OF BEGINNING AND CONTAINING 734.245 ACRES OF LAND, MORE OR LESS.  
TRACT 2

BEING A 558.197 ACRE TRACT OF LAND SITUATED IN THE BURK TRAMMEL SURVEY, ABSTRACT NUMBER 1229, GRAYSON COUNTY, TEXAS, SAID 558.132 ACRE TRACT BEING COMPRISED BY THE TOTAL OF 6 TRACTS OF LAND RECORDED IN THE OFFICIAL PUBLIC RECORDS, GRAYSON COUNTY, TEXAS, A TRACT OF LAND DESCRIBED IN A DEED TO W.P. PELPHREY AND C.F. PELPHREY AS RECORDED IN VOLUME 205, PAGE 591, DEED RECORDS, GRAYSON COUNTY, TEXAS, A TRACT OF LAND DESCRIBED IN A DEED TO W.P. PELPHREY AS RECORDED IN VOLUME 234, PAGE 113, DEED RECORDS, GRAYSON COUNTY, TEXAS, A TRACT OF LAND DESCRIBED IN A DEED TO A.T. PELPHREY AS RECORDED IN VOLUME 129, PAGE 171, DEED RECORDS, GRAYSON COUNTY, TEXAS, A TRACT OF LAND DESCRIBED IN A DEED TO JACK M. DECORDOVA AND WIFE FRANCES M. DECORDOVA AS RECORDED IN VOLUME 1280, PAGE 29, DEED RECORDS, GRAYSON COUNTY, TEXAS, A TRACT OF LAND DESCRIBED IN A DEED TO C.F. PELPHREY AS RECORDED IN VOLUME 550, PAGE 399, DEED RECORDS, GRAYSON COUNTY, TEXAS, AND A TRACT OF LAND DESCRIBED IN A DEED TO W.P. PELPHREY AS RECORDED IN VOLUME 234, PAGE 113, DEED RECORDS, GRAYSON COUNTY, TEXAS, SAID 558.197 ACRE TRACT WITH BEARING BASIS BEING GRID NORTH, TEXAS STATE PLANE COORDINATES, NORTH CENTRAL ZONE, NAD83 (CORS96, EPOCH DATE 2002), DETERMINED BY GPS OBSERVATIONS BETWEEN JULIAN DAY 253, 2004 AND JULIAN DAY 259, 2004, CALCULATED FROM COLLIN CORS ARP (PID-DF8982) AND DENTON CORS ARP (PID-DF8986), BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING AT A P.K. NAIL SET FOR THE NORTHWEST CORNER OF SAID W.P. PELPHREY AND C.F. PELPHREY TRACT, SAME POINT BEING IN THE APPROXIMATE INTERSECTION OF SOUTHMAYD ROAD (AN APPARENT PERSCRIPTIVE RIGHT OF WAY) WITH MCGEEHE ROAD (AN APPARENT PERSCRIPTIVE RIGHT OF WAY);

THENCE, SOUTH 88 DEGREES 22 MINUTES 04 SECONDS EAST, IN SAID SOUTHMAYD ROAD, A DISTANCE OF 2563.72 FEET TO A P.K. NAIL FOUND FOR THE NORTHWEST CORNER OF THE AFOREMENTIONED W.P. PELPHREY TRACT DESCRIBED IN VOLUME 234 AT PAGE 113, DEED RECORDS, GRAYSON COUNTY, TEXAS FOR AN ANGLE POINT;



THENCE, SOUTH 88 DEGREES 29 MINUTES 07 SECONDS EAST, CONTINUING IN SAID ROAD, FOR A DISTANCE OF 1926.86 FEET TO A P.K. NAIL SET FOR THE NORTHEAST CORNER OF THE HEREIN DESCRIBED TRACT AND THE NORTHWEST CORNER OF THAT CERTAIN TRACT OF LAND DESCRIBED IN A DEED TO GLEN D. MORGAN AS RECORDED IN VOLUME 2752, PAGE 321, OFFICIAL PUBLIC RECORDS, GRAYSON COUNTY, TEXAS

THENCE, SOUTH 00 DEGREES 58 MINUTES 51 SECONDS WEST, WITH THE WEST LINE OF SAID MORGAN TRACT AND ALONG A FENCE LINE AT A DISTANCE 3314.73 PASSING A 1/2" IRON ROD FOR THE SOUTHWEST CORNER OF SAID MORGAN TRACT, THE SAME BEING THE NORTHWEST CORNER OF THAT CERTAIN TRACT OF LAND DESCRIBED IN A DEED TO LOY RODERICK MAYFIELD AS RECORDED IN VOLUME 2889, PAGE 672 OF THE OFFICIAL PUBLIC RECORDS, GRAYSON COUNTY, TEXAS AND WITH THE WEST LINE OF SAID MAYFIELD TRACT FOR A TOTAL DISTANCE 5469.03 FEET TO A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "CARTER BURGESS" SET FOR CORNER THE SAME BEING THE SOUTHEAST CORNER OF THE AFOREMENTIONED JACK M. DECORDOVA TRACT;

THENCE, NORTH 88 DEGREES 58 MINUTES 51 SECONDS WEST, WITH THE SOUTH LINE OF SAID JACK M. DECORDOVA TRACT, IN BATES ROAD (AN APPARENT PERSCRIPTIVE RIGHT OF WAY) FOR A DISTANCE OF 2596.11 FEET TO A 1/2" CAPPED IRON ROD FOUND STAMPED "SARTIN" FOR CORNER IN THE EAST LINE OF THAT CERTAIN TRACT OF LAND DESCRIBED IN A DEED TO CHALLENGE MOTOR SPORTS AS RECORDED IN VOLUME 4224, PAGE 225, OFFICIAL PUBLIC RECORDS, GRAYSON COUNTY, TEXAS;

THENCE, NORTH 00 DEGREES 40 MINUTES 14 SECONDS WEST, AT TIMES WITHIN SAID BATES ROAD, A DISTANCE OF 248.68 FEET A 5/8" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "CARTER BURGESS" SET FOR CORNER AND BEING THE SOUTHEAST CORNER OF THE AFOREMENTIONED C.F. PELPHREY TRACT;

THENCE, NORTH 88 DEGREES 23 MINUTES 47 SECONDS WEST, WITH THE SOUTH LINE OF SAID C.F. PHELPHREY TRACT AND GENERALLY ALONG SAID BATES ROAD A DISTANCE OF 1944.93 FEET TO A P.K. NAIL SET FOR CORNER AT THE INTERSECTION OF SAID BATES ROAD WITH RICE ROAD (AN APPARENT PERSCRIPTIVE RIGHT OF WAY) THE SAME BEING THE SOUTHWEST CORNER OF SAID C.F. PELPHREY TRACT;

THENCE NORTH 01 DEGREES 36 MINUTES 42 SECONDS EAST, WITH THE WEST LINE OF SAID PELPHREY TRACTS, AND GENERALLY ALONG SAID RICE AND SOUTHMAYD ROADS, A DISTANCE OF 5245.00 FEET TO THE POINT OF BEGINNING, CONTAINING 558.197 ACRES OR OF LAND MORE OR LESS.

TRACT 3

BEING A 185.677 ACRE TRACT OF LAND SITUATED IN THE SAMUEL GILMAN SURVEY, ABSTRACT NO. 456, GRAYSON COUNTY, TEXAS, AND BEING ALL OF A 185.677 ACRE TRACT OF LAND, CONVEYED TO WALTON TEXAS, L.P. BY DEED RECORDED IN VOLUME 4782, PAGE 760, OFFICIAL PUBLIC RECORDS, GRAYSON COUNTY, TEXAS, SAID 185.677 ACRE TRACT, WITH BEARING BASIS BEING GRID NORTH, TEXAS STATE PLANE COORDINATES, NORTH CENTRAL ZONE, NAD83 (CORS96, EPOCH DATE 2002), DETERMINED BY GPS OBSERVATIONS BETWEEN JULIAN DAY 253, 2004 AND JULIAN DAY 259, 2004, CALCULATED FROM COLLIN CORS ARP (PID-DF8982) AND DENTON CORS ARP (PID-DF8986), BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING AT A 1/2" IRON ROD FOUND AT THE MOST WESTERLY SOUTHWEST CORNER OF SAID 185.677 ACRE TRACT, SAID POINT BEING ON THE EAST RIGHT-OF-WAY LINE OF F.M. HIGHWAY NO. 902 (A 100' RIGHT OF WAY);

THENCE, NORTH 00 DEGREES 36 MINUTES 33 SECONDS WEST, ALONG SAID EAST RIGHT OF WAY LINE, A DISTANCE OF 996.90 FEET TO A 60D NAIL FOUND FOR CORNER NEAR THE CENTER LINE OF A PUBLIC ROAD;

THENCE, NORTH 88 DEGREES 59 MINUTES 45 SECONDS EAST, WITH THE GENERAL DIRECTION OF SAID CENTERLINE OF SAID PUBLIC ROAD, A DISTANCE OF 839.41 FEET TO A 1/2" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "RPLS 5433" FOUND FOR AN ELL CORNER OF SAID 185.677 ACRE TRACT, SAID POINT BEING ON THE WEST LINE OF A 51.465 ACRE TRACT OF LAND CONVEYED BY DEED TO CHALLENGE MOTOR SPORTS, L.P., RECORDED IN VOLUME 4224, PAGE 225, OFFICIAL PUBLIC RECORDS, GRAYSON COUNTY, TEXAS;

THENCE, SOUTH 01 DEGREES 09 MINUTES 35 SECONDS WEST, ALONG SAID WEST LINE, A DISTANCE OF 18.26 FEET TO A 1/2" IRON ROD FOUND FOR AN ELL CORNER OF SAID 185.677 ACRE TRACT AND THE COMMON SOUTHWEST CORNER OF SAID 51.465 ACRE TRACT;

THENCE, NORTH 87 DEGREES 42 MINUTES 40 SECONDS EAST, ALONG THE NORTH LINE OF SAID 185.677 ACRE TRACT AND THE SOUTH LINE OF SAID 51.465 ACRE TRACT, A DISTANCE OF 1953.64 FEET TO A 1/2" IRON ROD FOUND FOR CORNER;

THENCE, NORTH 88 DEGREES 42 MINUTES 58 SECONDS EAST, CONTINUING ALONG SAID NORTH LINE OF 185.677 ACRE TRACT, A DISTANCE OF 664.80 FEET TO A 1/2" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "RPLS 5433" FOUND FOR THE NORTHEAST CORNER OF SAID 185.677 ACRE TRACT, SAID POINT BEING THE ELL CORNER OF A 10.001 ACRE TRACT CONVEYED TO JESSE WHITTINGTON, RECORDED IN VOLUME 4272, PAGE 659, OFFICIAL PUBLIC RECORDS, GRAYSON COUNTY, TEXAS;

THENCE, ALONG THE EAST LINE OF SAID 185.677 ACRE TRACT, THE FOLLOWING COURSES AND DISTANCES

SOUTH 00 DEGREES 27 MINUTES 48 SECONDS EAST, ALONG THE WEST LINE OF SAID 10.001 ACRE TRACT, A DISTANCE OF 413.59 FEET TO A 1/2" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "RPLS 5433" FOUND FOR CORNER, SAID POINT BEING THE SOUTHWEST CORNER OF SAID 10.001 ACRE TRACT AND THE NORTHWEST CORNER OF A 136.85 ACRE TRACT OF LAND CONVEYED BY DEED TO SUTTER INVESTMENTS, L.P., RECORDED IN VOLUME 4224, PAGE 231, OFFICIAL PUBLIC RECORDS, GRAYSON COUNTY, TEXAS;

SOUTH 00 DEGREES 46 MINUTES 35 SECONDS EAST, ALONG THE WEST LINE OF SAID 136.85 ACRE TRACT, A DISTANCE OF 2334.85 FEET TO A 1" IRON PIPE FOUND FOR CORNER, SAID POINT BEING THE SOUTHWEST CORNER OF SAID 136.85 ACRE TRACT AND THE NORTHWEST CORNER OF 15.00 ACRE TRACT OF LAND CONVEYED BY DEED TO BILLY LYNN, RECORDED IN VOLUME 1462, PAGE 390, DEED RECORDS, GRAYSON COUNTY, TEXAS;

SOUTH 00 DEGREES 04 MINUTES 17 SECONDS WEST, ALONG THE WEST LINE OF SAID 15.00 ACRE TRACT, A DISTANCE OF 510.69 FEET TO A 1/2" SQUARE IRON ROD FOUND FOR CORNER, SAID POINT BEING THE SOUTHWEST CORNER OF SAID 15.00 ACRE TRACT AND THE NORTHWEST CORNER OF A 16.866 ACRE TRACT OF LAND CONVEYED BY DEED TO JAMES D. HOOVER, RECORDED IN VOLUME 3245, PAGE 578, OFFICIAL PUBLIC RECORDS, GRAYSON COUNTY, TEXAS, SAID POINT ALSO LYING NEAR THE CENTER OF A PUBLIC ROAD KNOWN AS COBLER ROAD;

SOUTH 00 DEGREES 23 MINUTES 38 SECONDS EAST, ALONG THE WEST LINE OF SAID 16.866 ACRE TRACT AND WITH THE GENERAL DIRECTION OF THE CENTERLINE OF COBLER ROAD, A DISTANCE OF 407.48 FEET TO A 1/2" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "RPLS 5433" FOUND FOR THE SOUTHWEST CORNER OF SAID 185.677 ACRE TRACT, SAID POINT BEING AT THE INTERSECTION OF SAID COBLER ROAD AND A PUBLIC ROAD KNOWN AS MINNIS ROAD;

THENCE, SOUTH 89 DEGREES 02 MINUTES 11 SECONDS WEST, ALONG THE SOUTH LINE OF SAID 185.677 ACRE TRACT AND WITH THE GENERAL DIRECTION OF SAID COBLER ROAD, A DISTANCE OF 1748.05 FEET TO A 1/2" IRON ROD FOUND FOR CORNER; THE SOUTHWEST CORNER OF SAID 185.677 ACRE TRACT AND THE SOUTHEAST CORNER OF A 33.04 ACRE TRACT OF LAND CONVEYED BY DEED TO THOMAS W. BYROM, SR., RECORDED IN 3117, PAGE 40, OFFICIAL PUBLIC RECORDS, GRAYSON COUNTY, TEXAS;

THENCE, NORTH 00 DEGREES 49 MINUTES 46 SECONDS WEST, ALONG THE COMMON WEST LINE OF SAID 185.677 ACRE TRACT AND THE EAST LINE OF SAID 33.04 ACRE TRACT, A DISTANCE OF 2562.49 FEET TO A 1/2" IRON ROD FOUND FOR THE NORTHEAST CORNER OF SAID 33.04 ACRE TRACT AND THE SOUTHEAST CORNER OF A 12.352 ACRE TRACT OF

LAND CONVEYED BY DEED TO THE MILDRED L. BROWN REVOCABLE TRUST, RECORDED IN VOLUME 3194, PAGE 344, OFFICIAL PUBLIC RECORDS, GRAYSON COUNTY, TEXAS;

THENCE, NORTH 01 DEGREES 43 MINUTES 38 SECONDS WEST, CONTINUING ALONG THE WEST LINE OF SAID 185.677 ACRE TRACT AND THE COMMON EAST LINE OF SAID 12.352 ACRE TRACT, A DISTANCE OF 103.58 FEET TO A 1/2" IRON ROD FOUND FOR AND INTERIOR ELL CORNER OF SAID 185.677 ACRE TRACT AND THE NORTHEAST CORNER OF SAID 12.352 ACRE TRACT;

THENCE, SOUTH 88 DEGREES 06 MINUTES 00 SECONDS WEST, ALONG THE COMMON SOUTH LINE OF SAID 185.677 ACRE TRACT AND THE NORTH LINE OF SAID 12.352 ACRE TRACT, A DISTANCE OF 1695.09 FEET; TO THE POINT OF BEGINNING AND CONTAINING 185.677 ACRES LAND, MORE OR LESS.

TRACT 4

BEING A 207.484 ACRE TRACT OF LAND SITUATED IN THE SAMUEL GILMAN SURVEY, ABSTRACT NO. 456 AND THE S. PRATHER SURVEY, ABSTRACT NO. 934, GRAYSON COUNTY, TEXAS, AND BEING ALL OF A 207.51 ACRE TRACT OF LAND, CONVEYED AS TRACT 1 TO WALTON TEXAS, L.P., BY DEED RECORDED IN VOLUME 4861, PAGE 258, OFFICIAL PUBLIC RECORDS, GRAYSON COUNTY, TEXAS, SAID 207.484 ACRE TRACT, WITH BEARING BASIS BEING GRID NORTH, TEXAS STATE PLANE COORDINATES, NORTH CENTRAL ZONE, NAD83 (CORS96, EPOCH DATE 2002), DETERMINED BY GPS OBSERVATIONS BETWEEN JULIAN DAY 253, 2004 AND JULIAN DAY 259, 2004, CALCULATED FROM COLLIN CORS ARP (PID-DF8982) AND DENTON CORS ARP (PID-DF8986), BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING AT A 1/2" IRON ROD FOUND FOR THE SOUTHEAST CORNER OF SAID 207.484 ACRE TRACT, SAID POINT BEING THE NORTHEAST CORNER OF A 130.028 ACRE TRACT OF LAND CONVEYED BY DEED TO LITTLE CREEK INVESTMENTS, L.P., RECORDED IN VOLUME 3751, PAGE 802, OFFICIAL PUBLIC RECORDS, GRAYSON COUNTY, TEXAS, SAID POINT BEING ON THE WEST LINE OF F.M. HIGHWAY NO. 902 (A 100 FOOT RIGHT-OF-WAY) AND IN A PUBLIC ROAD KNOWN AS SPRING CREEK ROAD;

THENCE, SOUTH 89 DEGREES 47 MINUTES 51 SECONDS WEST, ALONG THE COMMON SOUTH LINE OF SAID 207.484 ACRE TRACT AND THE NORTH LINE OF SAID 130.028 ACRE TRACT, A DISTANCE OF 1751.93 FEET TO A 1/2" IRON ROD WITH YELLOW PLASTIC CAP STAMPED "RPLS 3688" FOUND FOR THE SOUTHWEST CORNER OF SAID 207.484 ACRE TRACT AND THE SOUTHEAST CORNER OF A 20.992 ACRE TRACT OF LAND CONVEYED BY DEED TO JOHN DANIEL BROWN JR. AND TWALLA Y. BROWN RECORDED IN VOLUME 4292, PAGE 423, OFFICIAL PUBLIC RECORDS, GRAYSON COUNTY, TEXAS;

THENCE, NORTH 00 DEGREES 57 MINUTES 18 SECONDS EAST, ALONG THE COMMON WEST LINE OF SAID 207.484 ACRE TRACT AND THE EAST LINE OF SAID 20.992 ACRE TRACT, A DISTANCE OF 880.65 FEET TO A 1/2" IRON ROD WITH FOUND FOR AN INTERIOR ELL CORNER OF SAID 207.484 ACRE TRACT AND THE NORTHEAST CORNER OF SAID 20.992 ACRE TRACT;

THENCE, SOUTH 88 DEGREES 18 MINUTES 15 SECONDS WEST, ALONG THE COMMON SOUTH LINE OF SAID 207.484 ACRE TRACT AND THE NORTH LINE OF SAID 20.992 ACRE TRACT AND THE NORTH LINES OF A 9.000 ACRE TRACT OF LAND CONVEYED BY DEED TO JONATHAN L. HACKETT, RECORDED IN VOLUME 3909, PAGE 579, OFFICIAL PUBLIC RECORDS, GRAYSON COUNTY, TEXAS; A 5.334 ACRE TRACT OF LAND CONVEYED BY DEED TO TIMOTHY A GARBACIK AND DEBBIE J. GARBACIK RECORDED IN VOLUME 3570, PAGE 885, OFFICIAL PUBLIC RECORDS, GRAYSON COUNTY, TEXAS; AND A 13.000 ACRE TRACT OF LAND CONVEYED BY DEED TO DOYLE ALAN COULTER, RECORDED IN VOLUME 3356, PAGE 501, OFFICIAL PUBLIC RECORDS, GRAYSON COUNTY, TEXAS; A DISTANCE OF 2631.70 FEET TO A 1/2" IRON ROD FOUND FOR THE SOUTHWEST CORNER OF SAID 207.484 ACRE TRACT AND THE NORTHWEST CORNER OF SAID 13.000 ACRE TRACT AND BEING ON THE EAST LINE OF A TRACT OF LAND CONVEYED BY WILL TO NANCY L. LINDSAY, RECORDED IN VOLUME 4039, PAGE 877, OFFICIAL PUBLIC RECORDS, GRAYSON COUNTY, TEXAS;

THENCE, NORTH 01 DEGREES 06 MINUTES 22 SECONDS EAST, ALONG THE COMMON WEST LINE OF SAID 207.484 ACRE TRACT AND THE EAST LINE OF SAID LINDSAY TRACT, A DISTANCE OF 518.13 FEET TO A 60D NAIL FOUND IN FENCE POST FOR A NORTHWEST CORNER OF SAID 207.484 ACRE TRACT AND BEING THE SOUTHWEST CORNER OF A 78.974 ACRE TRACT OF LAND CONVEYED BY DEED TO TOW W. PINGLETON RECORDED IN VOLUME 4042, PAGE 73, OFFICIAL PUBLIC RECORDS, GRAYSON COUNTY, TEXAS;

THENCE, SOUTH 89 DEGREES 59 MINUTES 22 SECONDS EAST, ALONG THE COMMON NORTH LINE OF SAID 78.974 ACRE TRACT, A DISTANCE OF 409.90 FEET TO A 1/2" IRON ROD FOUND FOR AND INTERIOR ELL CORNER OF SAID 207.484 ACRE TRACT AND THE SOUTHEAST CORNER OF SAID 78.974 ACRE TRACT;

THENCE, NORTH 01 DEGREES 11 MINUTES 10 SECONDS EAST, ALONG THE COMMON WEST LINE OF SAID 207.484 TRACT AND THE EAST LINE OF SAID 78.974 ACRE TRACT, A DISTANCE OF 1352.83 FEET TO A 1/2" IRON ROD WITH PLASTIC CAP STAMPED "COX4577" FOUND FOR THE NORTHWEST CORNER OF SAID 207.484 ACRE TRACT;

THENCE, NORTH 88 DEGREES 22 MINUTES 08 SECONDS EAST, ALONG THE NORTH LINE OF SAID 207.484 ACRE TRACT, A DISTANCE OF 3816.13 FEET TO A 5/8" IRON ROD WITH PLASTIC CAP STAMPED "PEISER SUR" FOUND FOR THE NORTHEAST CORNER OF SAID 207.484 ACRE TRACT, SAID POINT BEING ON THE AFORESAID WEST LINE OF F.M. HIGHWAY 902

AND BEING THE BEGINNING OF A NON-TANGENT CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 16 DEGREES 45 MINUTES 31 SECONDS, A RADIUS OF 1860.00 FEET, AND A LONG CHORD THAT BEARS SOUTH 08 DEGREES 38 MINUTES 43 SECONDS EAST, A DISTANCE OF 542.10 FEET; THENCE, ALONG SAID NON-TANGENT CURVE TO THE RIGHT AND THE COMMON EAST LINE OF SAID 207.484 ACRE TRACT AND SAID WEST LINE OF F.M. HIGHWAY 902, AN ARC DISTANCE OF 544.04 FEET TO A 5/8" IRON ROD WITH PLASTIC CAP STAMPED "PEISER SUR" FOUND FOR CORNER; THENCE, SOUTH 00 DEGREES 36 MINUTES 33 SECONDS EAST, CONTINUING ALONG SAID COMMON LINE, A DISTANCE OF 2239.76 FEET TO THE POINT OF BEGINNING AND CONTAINING 207.484 ACRES LAND, MORE OR LESS.

SECTION \_\_\_\_\_.03. (a) The legal notice of the intention to introduce this article, setting forth the general substance of this article, has been published as provided by law, and the notice and a copy of this article have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished under Section 59, Article XVI, Texas Constitution, and Chapter 313, Government Code.

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

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

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

SECTION \_\_\_\_\_.04. (a) Section 8249.106, Special District Local Laws Code, as added by Section \_\_\_\_\_.01 of this article, takes effect only if this Act receives a two-thirds vote of all the members elected to each house.

(b) If this Act does not receive a two-thirds vote of all the members elected to each house, Subchapter C, Chapter 8249, Special District Local Laws Code, as added by Section \_\_\_\_\_.01 of this article, is amended by adding Section 8249.106 to read as follows:

Sec. 8249.106. NO EMINENT DOMAIN POWER. The district may not exercise the power of eminent domain.

(c) This section is not intended to be an expression of a legislative interpretation of the requirements of Section 17(c), Article I, Texas Constitution.

SECTION \_\_\_\_\_.05. Except as provided by Section \_\_\_\_\_.04 of this article, this article takes effect September 1, 2011.

The amendment to **HB 534** 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.

**HB 534** 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 534 ON THIRD READING**

Senator Estes moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 534** 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 1837 ON SECOND READING**

On motion of Senator Van de Putte and by unanimous consent, the regular order of business was suspended to take up for consideration **SB 1837** at this time on its second reading:

**SB 1837**, Relating to exemptions to persons required to hold a limited property and casualty license.

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

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

#### **SENATE BILL 1837 ON THIRD READING**

Senator Van de Putte moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **SB 1837** 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 91 ON SECOND READING**

On motion of Senator Birdwell and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 91** at this time on its second reading:

**HB 91**, Relating to the extent of extraterritorial jurisdiction for certain 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 91 ON THIRD READING**

Senator Birdwell moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 91** 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 1137 ON SECOND READING**

On motion of Senator Estes and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 1137** at this time on its second reading:

**HB 1137**, Relating to the transmission of records regarding over-the-counter sales of ephedrine, pseudoephedrine, and norpseudoephedrine and a person's civil liability for certain acts arising from the sale of those products.

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 1137 ON THIRD READING**

Senator Estes moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1137** 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 2160 ON SECOND READING**

Senator West moved to suspend the regular order of business to take up for consideration **CSHB 2160** at this time on its second reading:

**CSHB 2160**, Relating to the governing bodies of certain local planning organizations.

The motion prevailed.

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

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

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

Nays: Hegar, Nelson, Nichols.

### **COMMITTEE SUBSTITUTE HOUSE BILL 2160 ON THIRD READING**

Senator West moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 2160** be placed on its third reading and final passage.



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

Yeas: Birdwell, Carona, Davis, Deuell, Duncan, Ellis, Eltife, Estes, Fraser, Gallegos, Harris, Hegar, Hinojosa, Huffman, Jackson, Lucio, Ogden, Patrick, Rodriguez, Seliger, Shapiro, Uresti, Van de Putte, Watson, Wentworth, West, Whitmire, Williams, Zaffirini.

Nays: Nelson, Nichols.

The bill was read third time and was passed by the following vote: Yeas 28, Nays 3.

Yeas: Birdwell, Carona, Davis, Deuell, Duncan, Ellis, Eltife, Estes, Fraser, Gallegos, Harris, Hinojosa, Huffman, Jackson, Lucio, Ogden, Patrick, Rodriguez, Seliger, Shapiro, Uresti, Van de Putte, Watson, Wentworth, West, Whitmire, Williams, Zaffirini.

Nays: Hegar, Nelson, Nichols.

#### **COMMITTEE SUBSTITUTE HOUSE BILL 397 ON SECOND READING**

Senator Uresti moved to suspend the regular order of business to take up for consideration **CSHB 397** at this time on its second reading:

**CSHB 397**, Relating to the creation of the Bureau for Economic Development of the Border Region.

The motion prevailed.

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

The bill was read second time and was passed to 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: Birdwell, Hegar, Nelson, Patrick, Shapiro.

#### **COMMITTEE SUBSTITUTE HOUSE BILL 397 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 **CSHB 397** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 27, Nays 4.

Yeas: Carona, Davis, Deuell, Duncan, Ellis, Eltife, Estes, Fraser, Gallegos, Harris, Hegar, Hinojosa, Huffman, Jackson, Lucio, Nichols, Ogden, Rodriguez, Seliger, Uresti, Van de Putte, Watson, Wentworth, West, Whitmire, Williams, Zaffirini.

Nays: Birdwell, Nelson, Patrick, Shapiro.

The bill was read third time.

Senator Uresti offered the following amendment to the bill:

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

Amend **CSHB 397** (senate committee printing) on third reading in SECTION 2 of the bill (page 3, lines 35, 38, and 41), by striking "2014" each place it appears and substituting "2012".

The amendment to **CSHB 397** 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 Uresti and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

**CSHB 397** as amended was finally passed by the following vote: Yeas 26, Nays 5.

Yeas: Carona, Davis, Deuell, Duncan, Ellis, Eltife, Estes, Fraser, Gallegos, Harris, Hinojosa, Huffman, Jackson, Lucio, Nichols, Ogden, Rodriguez, Seliger, Uresti, Van de Putte, Watson, Wentworth, West, Whitmire, Williams, Zaffirini.

Nays: Birdwell, Hegar, Nelson, Patrick, Shapiro.

**(President Pro Tempore Ogden in Chair)**

**COMMITTEE SUBSTITUTE  
HOUSE BILL 3616 ON SECOND READING**

On motion of Senator Ellis and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 3616** at this time on its second reading:

**CSHB 3616**, Relating to designating October as Persons with Disabilities History and Awareness Month.

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 3616 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 **CSHB 3616** 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 2971 ON SECOND READING**

On motion of Senator Davis and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 2971** at this time on its second reading:

**HB 2971**, Relating to the confidentiality of documents evaluating the performance of public school teachers and administrators.

The bill was read second time.

Senator Davis offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **HB 2971** (senate committee printing) as follows:

(1) In SECTION 1 of the bill, in amended Section 21.355, Education Code (page 1, line 13), between "CONFIDENTIALITY." and "A document", insert "(a)".

(2) In SECTION 1 of the bill, in amended Section 21.355, Education Code (page 1, lines 14 and 15), strike ", including a teacher or administrator employed by and open-enrollment charter school.".

(3) In SECTION 1 of the bill, in amended Section 21.355, Education Code (page 1, between lines 16 and 17), add Subsections (b) and (c) to read as follows:

(b) Subsection (a) applies to a teacher or administrator employed by an open-enrollment charter school regardless of whether the teacher or administrator is certified under Subchapter B.

(c) At the request of a school district or open-enrollment charter school at which a teacher or administrator has applied for employment, an open-enrollment charter school may give the requesting district or school a document evaluating the performance of a teacher or administrator employed by the school.

The amendment to **HB 2971** 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 Davis and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

**HB 2971** 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 2971 ON THIRD READING**

Senator Davis moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2971** 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 442 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 442** at this time on its second reading:

**HB 442**, Relating to the establishment of an emergency radio infrastructure account.

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 442 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 442** 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 2118 ON SECOND READING**

On motion of Senator Estes and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 2118** at this time on its second reading:

**HB 2118**, Relating to adding certain synthetic compounds to Penalty Group 2 of the Texas Controlled Substances Act.

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 2118 ON THIRD READING**

Senator Estes moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2118** 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 592 ON SECOND READING**

Senator Birdwell moved to suspend the regular order of business to take up for consideration **CSHB 592** at this time on its second reading:

**CSHB 592**, Relating to certain counties that are not required to operate a juvenile justice alternative education program.

The motion prevailed.

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

The bill was read second time.

Senator Birdwell offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **CSHB 592** (senate committee report) as follows:

(1) In SECTION 1 of the bill, in added Section 37.011(a-2)(1), Education Code (page 1, line 18), strike "250,000" and substitute "180,000".

(2) In SECTION 1 of the bill, in added Section 37.011(a-2)(2), Education Code (page 1, lines 20 and 21), strike ", or is adjacent to two counties, each of which has a population of less than 150,000".

The amendment to **CSHB 592** 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 Birdwell and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

**CSHB 592** 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: Shapiro, Watson.

**COMMITTEE SUBSTITUTE  
HOUSE BILL 592 ON THIRD READING**

Senator Birdwell moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 592** be placed on its third reading and final passage.

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

Yeas: Birdwell, Carona, Davis, Deuell, Duncan, Ellis, Eltife, Estes, Fraser, Gallegos, Harris, Hegar, Hinojosa, Huffman, Jackson, Lucio, Nelson, Nichols, Ogden, Patrick, Rodriguez, Seliger, Uresti, Van de Putte, Wentworth, West, Whitmire, Williams, Zaffirini.

Nays: Shapiro, Watson.

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

**COMMITTEE SUBSTITUTE  
HOUSE BILL 1201 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 1201** at this time on its second reading:

**CSHB 1201**, Relating to repeal of authority for the establishment and operation of the Trans-Texas Corridor.

The bill was read second time.

Senator Hegar offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **CSHB 1201** (senate committee printing) as follows:

(1) In SECTION 2 of the bill, in amended Section 25.06(c), Tax Code (page 1, line 33), between "91" and the bracket, insert "or 223".

(2) In SECTION 3 of the bill, in amended Section 25.07(c), Tax Code (page 1, line 47), between "91" and the bracket, insert "or 223".

The amendment to **CSHB 1201** 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 Hegar and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

**CSHB 1201** 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 1201 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 1201** 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 1278 ON SECOND READING**

On motion of Senator Seliger and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 1278** at this time on its second reading:

**HB 1278**, Relating to regulation by a property owners' association of certain religious displays.

The bill was read second time.

Senator Seliger offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **HB 1278**, in SECTION 1 of the bill, in added Section 202.018(a), Property Code (senate committee printing, page 1, lines 19 and 20), by striking "that are expected to be displayed by a tenet of the owner's or resident's religion" and substituting "the display of which is motivated by the owner's or resident's sincere religious belief".

The amendment to **HB 1278** was read and was adopted by a viva voce vote.

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

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

**HB 1278** 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 1278 ON THIRD READING**

Senator Seliger moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1278** 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 499 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 499** at this time on its second reading:

**HB 499**, Relating to the additional penalty for collection costs for certain delinquent ad valorem taxes.

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 499 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 499** 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 CONCURRENT RESOLUTION 57**

The President Pro Tempore laid before the Senate the following resolution:

WHEREAS, The Senate of the State of Texas has passed House Bill No. 2277 and returned it to the House of Representatives of the State of Texas; and

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

RESOLVED by the Senate of the State of Texas, the House of Representatives of the State of Texas concurring, That the senate hereby respectfully request that the Chief Clerk of the House of Representatives be authorized to return House Bill No. 2277 to the senate for further consideration.

WILLIAMS

The resolution was read.

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

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

**(President in Chair)**

### **HOUSE BILL 150 ON THIRD READING**

Senator Seliger moved to suspend the regular order of business to take up for consideration **HB 150** at this time on its third reading and final passage:

**HB 150**, Relating to the composition of the districts for the election of members of the Texas House of Representatives.

The motion prevailed.

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

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

Yeas: Birdwell, Carona, Duncan, Eltife, Estes, Fraser, Harris, Hegar, Hinojosa, Huffman, Jackson, Lucio, Nelson, Nichols, Ogden, Patrick, Seliger, Shapiro, Uresti, Van de Putte, Watson, Wentworth, West, Williams.

Nays: Davis, Deuell, Ellis, Gallegos, Rodriguez, Whitmire, Zaffirini.

### **REASON FOR VOTE**

Senator Davis submitted the following reason for vote on **HB 150**:

Although I respect the right of the House to draw its own plan, I must vote against the HB 150 plan because it is retrogressive and does not respect minority communities of interest, both statewide and in Tarrant County. In short, I believe the plan violates both Section 2 and Section 5 of the Voting Rights Act.

DAVIS

### **REASON FOR VOTE**

Senator Gallegos submitted the following reason for vote on **HB 150**:

As a Senator from Harris County representing my constituents from Senate District 6, I am opposed to House Bill 150. It is neither a fair nor legal plan as it does not take into consideration the Voting Rights Act and it divides communities of interest.

HB 150 does not create a single new minority opportunity district, even though 89% of the state's population growth was driven by minorities. Given the 2010 census demographics, it is possible to create minority opportunity districts and preserve effective districts. Instead, this plan effectively denies representation for the fastest growing populations in Texas.

The minority population of Harris County is growing rapidly and the Anglo population of Harris County is now only 33%, yet this plan does not reflect this new growth. 14 out of 24 of the districts, or 58%, will be controlled by Anglo voters, denying representation for the people responsible for the population increase.



District 149, which is eliminated as a minority coalition opportunity district, currently has a 73.4% non-Anglo voting age population that has elected their candidate of choice in four consecutive Texas House elections. District 149 is relocated as a district that connects two rural counties via a narrow pathway that shreds the Williamson County communities of Round Rock, Hutto, and Cedar Park.

In the remaining District 137, where two incumbents Representative Hochberg (House District 137) and Representative Vo (House District 149) are paired, retrogression occurs in the Hispanic population. District 137 is currently 63.8% Hispanic and 59.1% Hispanic Voting Age Population, which is reduced by 4% to 59.8% Hispanic and 55.5% Hispanic Voting Age Population. Instead of two effective districts, this pairing creates only one majority-minority district where retrogression is a concern.

Another existing Hispanic opportunity district, HD 148, which is represented by Representative Farrar, retains only 38.3% of its current constituents because the district's core is shifted dramatically north and west. This dilutes minority representation.

I have strong concerns that the Voting Rights Act is being violated and ignored. My duty and obligation is to represent the constituents of my county and voice my reservations about HB 150.

GALLEGOS

**COMMITTEE SUBSTITUTE  
HOUSE BILL 2135 ON SECOND READING**

On motion of Senator Patrick and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 2135** at this time on its second reading:

**CSHB 2135**, Relating to the administration of end-of-course and other assessment instruments to certain public school students enrolled below the high school level.

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 2135 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 **CSHB 2135** 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 JOINT RESOLUTION 109 ON SECOND READING**

On motion of Senator Ogden and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHJR 109** at this time on its second reading:

**CSHJR 109**, Proposing a constitutional amendment to clarify references to the permanent school fund, to allow the General Land Office to distribute revenue derived from permanent school fund land or other properties to the available school fund, and to provide for an increase in the market value of the permanent school fund for the purpose of allowing increased distributions from the available school fund.

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

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

**COMMITTEE SUBSTITUTE  
HOUSE JOINT RESOLUTION 109 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 **CSHJR 109** be placed on its third reading and final passage.

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

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

**COMMITTEE SUBSTITUTE  
HOUSE BILL 2603 ON SECOND READING**

Senator Hegar moved to suspend the regular order of business to take up for consideration **CSHB 2603** at this time on its second reading:

**CSHB 2603**, Relating to the distribution of universal service funds to certain small and rural local exchange companies.

The motion prevailed.

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

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

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

Nays: Jackson.

**COMMITTEE SUBSTITUTE  
HOUSE BILL 2603 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 2603** be placed on its third reading and final passage.

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

Nays: Jackson.

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

**MOTION TO PLACE  
COMMITTEE SUBSTITUTE  
SENATE BILL 677 ON SECOND READING**

Senator Gallegos moved to suspend the regular order of business to take up for consideration **CSSB 677** at this time on its second reading:

**CSSB 677**, Relating to the enforcement of the public information law; providing for the imposition of a civil penalty.

The motion was lost by the following vote: Yeas 18, Nays 13. (Not receiving two-thirds vote of Members present)

Yeas: Davis, Duncan, Ellis, Eltife, Estes, Gallegos, Hinojosa, Huffman, Lucio, Rodriguez, Seliger, Uresti, Van de Putte, Wentworth, West, Whitmire, Williams, Zaffirini.

Nays: Birdwell, Carona, Deuell, Fraser, Harris, Hegar, Jackson, Nelson, Nichols, Ogden, Patrick, Shapiro, Watson.

**HOUSE BILL 2518 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 2518** at this time on its second reading:

**HB 2518**, Relating to the transfer of certain state property from the Texas Board of Criminal Justice to the board of regents of The Texas A&M University System for the use and benefit of the Texas Forest Service.

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

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

**HOUSE BILL 2518 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 2518** 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 1964 ON SECOND READING**

On motion of Senator Van de Putte and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 1964** at this time on its second reading:

**CSHB 1964**, Relating to discharging fines and costs assessed against certain juvenile defendants through community service.

The bill was read second time.

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

**Floor Amendment No. 1**

Amend **CSHB 1964** (Senate committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Article 45.057(b), Code of Criminal Procedure, is amended to read as follows:

(b) On a finding by a justice or municipal court that a child committed an offense that the court has jurisdiction of under Article 4.11 or 4.14, the court has jurisdiction to enter an order:

(1) referring the child or the child's parent for services under Section 264.302, Family Code;

(2) requiring that the child attend a special program that the court determines to be in the best interest of the child and, if the program involves the expenditure of municipal or county funds, that is approved by the governing body of the municipality or county commissioners court, as applicable, including a rehabilitation, counseling, self-esteem and leadership, work and job skills training, job interviewing and work preparation, self-improvement, parenting, manners, violence avoidance, tutoring, sensitivity training, parental responsibility, community service, restitution, advocacy, or mentoring program; or

(3) requiring that the child's parent do any act or refrain from doing any act that the court determines will increase the likelihood that the child will comply with the orders of the court and that is reasonable and necessary for the welfare of the child, including:

- (A) attend a parenting class or parental responsibility program; and
- (B) attend the child's school classes or functions.

The amendment to **CSHB 1964** was read and was adopted by a viva voce vote.

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

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

**CSHB 1964** 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 1964 ON THIRD READING**

Senator Van de Putte moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 1964** 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.

**MESSAGE FROM THE HOUSE**

HOUSE CHAMBER  
Austin, Texas  
Saturday, May 21, 2011 - 1  
(Revised Message)

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 31** Seliger Sponsor: Solomons  
Relating to the composition of the districts for the election of members of the Texas Senate.

**SB 1811** Duncan Sponsor: Pitts  
Relating to certain state fiscal matters; providing penalties.  
(Committee Substitute/Amended)

**SCR 57** Williams  
Recalling H.B. No. 2277 from the house for further consideration.

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

**SB 201** (non-record vote)  
House Conferees: Callegari - Chair/Berman/Farias/Miller, Sid/Pickett

THE HOUSE HAS TAKEN THE FOLLOWING OTHER ACTION:

**HB 2277**, Pursuant to adoption of SCR 57, the House returns HB 2277 to the Senate for further consideration.

Respectfully,

/s/Robert Haney, Chief Clerk  
House of Representatives

**HOUSE BILL 338 ON SECOND READING**

Senator Seliger moved to suspend the regular order of business to take up for consideration **HB 338** at this time on its second reading:

**HB 338**, Relating to disclaimers by certain entities promulgating lists of noxious or invasive terrestrial plant species.

The motion prevailed.

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

The bill was read second time.

Senator Seliger offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **HB 338** (senate committee printing) as follows:

(1) In SECTION 2 of the bill, in Section 71.154, Agriculture Code, page 1, line 39, between "published" and "distributed, strike "or" and replace with "and".

The amendment to **HB 338** was read and was adopted by a viva voce vote.

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

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

**HB 338** 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: Watson.

**HOUSE BILL 338 ON THIRD READING**

Senator Seliger moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 338** be placed on its third reading and final passage.

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

Nays: Watson.

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

(Senator Eltife in Chair)

**HOUSE BILL 364 ON SECOND READING**

Senator Ellis moved to suspend the regular order of business to take up for consideration **HB 364** at this time on its second reading:

**HB 364**, Relating to condominiums in certain municipalities, including the exercise of eminent domain authority by those municipalities with respect to certain condominiums.

The motion prevailed.

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

The bill was read second time.

Senator Ellis offered the following amendment to the bill:

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

Amend **HB 364** (senate committee printing), in SECTION 5 of the bill, by striking proposed Section 214.303(2), Property Code (page 2, lines 44-48) and substituting the following:

(2) the property:

(A) contains uninhabitable, unsafe, and unsanitary units that are not fit for their intended use because the utilities, sewerage, plumbing, or heating or a similar service or facility of the units has been destroyed, removed, or rendered ineffective; or

(B) contained units described by Paragraph (A) that were demolished in accordance with a court order issued under Section 54.018, Local Government Code; and

The amendment to **HB 364** was read and was adopted by a viva voce vote.

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

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

**HB 364** 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: Birdwell, Harris, Nelson, Patrick, Shapiro.

### **HOUSE BILL 364 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 364** be placed on its third reading and final passage.

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

Yeas: Carona, Davis, Deuell, Duncan, Ellis, Eltife, Estes, Fraser, Gallegos, Hegar, Hinojosa, Huffman, Jackson, Lucio, Nichols, Ogden, Rodriguez, Seliger, Uresti, Van de Putte, Watson, Wentworth, West, Whitmire, Williams, Zaffirini.

Nays: Birdwell, Harris, Nelson, Patrick, Shapiro.

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

### **COMMITTEE SUBSTITUTE HOUSE BILL 2017 ON SECOND READING**

On motion of Senator Williams and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 2017** at this time on its second reading:

**CSHB 2017**, Relating to the organization, governance, duties, and functions of the Texas Department of Motor Vehicles.

The bill was read second time.

Senator Williams offered the following committee amendment to the bill:

**Committee Amendment No. 1**

Amend **CSHB 2017** (senate committee report) as follows:

(1) On page 7, line 47 to line 60, strike Subsection (b) and (c) and substitute the following:

(b) The department may collect a fee for processing a title or registration payment by electronic funds transfer, credit card, or debit card. The amount of the fee must not exceed the charges incurred by the state because of the use of the electronic funds transfer, credit card, or debit card.

(c) For online transactions the department may collect from a person making payment by electronic funds transfer, credit card, or debit card an amount equal to any fee charged in accordance with Government Code, Section 2054.2591.

(2) On page 12, line 68 by striking "may [~~shall~~] establish" and substituting "shall retain or establish one or more".

The amendment to **CSHB 2017** was read and was adopted by a viva voce vote.

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

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

**CSHB 2017** 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 2017 ON THIRD READING**

Senator Williams moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 2017** 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 3727 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 3727** at this time on its second reading:

**HB 3727**, Relating to the appraisal for ad valorem tax purposes of certain commercial aircraft that are temporarily located in this state for manufacturing or assembly purposes.

The bill was read second time.



Senator Uresti offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **HB 3727** in SECTION 1 of the bill, at the end of added Section 23.1211, Tax Code (senate committee printing, page 1, between lines 39 and 40), by inserting the following:

(c) The legislature finds that there is a lack of information that reliably establishes the market value of temporary production aircraft. Accordingly, the legislature has enacted this section to specify the method to be used in determining the appraised value of such aircraft.

The amendment to **HB 3727** was read and was adopted by a viva voce vote.

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

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

**HB 3727** 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 3727 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 3727** 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 1075 ON SECOND READING**

Senator Davis moved to suspend the regular order of business to take up for consideration **HB 1075** at this time on its second reading:

**HB 1075**, Relating to an alert for a missing person with an intellectual disability.

The motion prevailed.

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

The bill was read second time and was passed to 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: Shapiro.

**HOUSE BILL 1075 ON THIRD READING**

Senator Davis moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1075** be placed on its third reading and final passage.

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

Nays: Shapiro.

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

#### **HOUSE BILL 2383 ON SECOND READING**

On motion of Senator Harris and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 2383** at this time on its second reading:

**HB 2383**, Relating to a study regarding the reenactment of the franchise tax credit or providing other incentives for certain research and development activities.

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 2383 ON THIRD READING**

Senator Harris moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2383** 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 441 ON SECOND READING**

Senator Williams moved to suspend the regular order of business to take up for consideration **HB 441** at this time on its second reading:

**HB 441**, Relating to the fees for certain commercial vehicles.

The motion prevailed.

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

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

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

Nays: Birdwell, Fraser.

#### **HOUSE BILL 441 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 441** be placed on its third reading and final passage.

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

Yeas: Carona, Davis, Deuell, Duncan, Ellis, Eltife, Estes, Gallegos, Harris, Hegar, Hinojosa, Huffman, Jackson, Lucio, Nelson, Nichols, Ogden, Patrick, Rodriguez, Seliger, Shapiro, Uresti, Van de Putte, Watson, Wentworth, West, Whitnire, Williams, Zaffirini.

Nays: Birdwell, Fraser.

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

**COMMITTEE SUBSTITUTE  
HOUSE BILL 1242 ON SECOND READING**

On motion of Senator Harris and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 1242** at this time on its second reading:

**CSHB 1242**, Relating to the regulation of certain metal dealers; providing criminal penalties.

The bill was read second time.

Senator West offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **CSHB 1242** (senate committee printing) as follows:

(1) In the recital to SECTION 1 of the bill (page 1, line 13, strike "Section 1956.001(8), Occupations Code, is" and substitute "Sections 1956.001(8) and (10), Occupations Code, are".

(2) In SECTION 1 of the bill, in amended Section 1956.001, Occupations Code (page 1, between lines 26 and 27), insert the following:

(10) "Regulated metal" means:

(A) manhole covers;

(B) guardrails;

(C) metal cylinders designed to contain compressed air, oxygen, gases, or liquids;

(D) beer kegs made from metal other than aluminum;

(E) historical markers or cemetery vases, receptacles, or memorials made from metal other than aluminum;

(F) unused rebar;

(G) street signs;

(H) drain gates;

(I) safes;

(J) communication, transmission, and service wire or cable;

(K) condensing or evaporator coils for central heating or air conditioning units;

(L) utility structures, including the fixtures and hardware;

(M) aluminum or stainless steel containers designed to hold propane for fueling forklifts; ~~and~~

(N) metal railroad equipment, including tie plates, signal houses, control boxes, signs, signals, traffic devices, traffic control devices, traffic control signals, switch plates, e-clips, and rail tie functions;

(O) catalytic converters not attached to a vehicle;

(P) fire hydrants;

(Q) metal bleachers or other seating facilities used in recreational areas or sporting arenas;

(R) any metal item clearly and conspicuously marked with any form of the name, initials, or logo of a governmental entity, utility, cemetery, or railroad;

(S) insulated utility, communications, or electrical wire that has been burned in whole or in part to remove the insulation;

(T) backflow valves; and

(U) metal in the form of commonly recognized products of the industrial metals recycling process, including bales, briquettes, billets, sows, ingots, pucks, and chopped or shredded metals.

(3) Strike SECTION 8 of the bill (page 2, line 48) and substitute the following:

SECTION 8. (a) Except as provided by Subsection (b) of this section, this Act takes effect September 1, 2011.

(b) Subsection (f), Section 1956.003, Section 1956.004, and Subsections (b) and (e), Section 1956.038, Occupations Code, as added by this Act, take effect March 1, 2012.

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

SECTION \_\_\_\_\_. The heading to Section 1956.003, Occupations Code, is amended to read as follows:

Sec. 1956.003. LOCAL LAW; CRIMINAL PENALTY.

SECTION \_\_\_\_\_. Section 1956.003, Occupations Code, is amended by adding Subsections (a-1), (a-2), (f), (g), and (h) to read as follows:

(a-1) A county, municipality, or other political subdivision may require the record of purchase described under Section 1956.033 to contain a clear and legible thumbprint of a seller of regulated material.

(a-2) A county, municipality, or other political subdivision that, as authorized under Subsection (a), requires a metal recycling entity to report to the county, municipality, or political subdivision information relating to a sale of regulated material shall:

(1) include in any contract entered into by the county, municipality, or political subdivision relating to the reporting of the information a provision that:

(A) requires any contractor, subcontractor, or third party that has access to, comes into possession of, or otherwise obtains information relating to a sale of regulated material to maintain the confidentiality of all information received, including the name of the seller, the price paid for a purchase of regulated material, and the quantity of regulated material purchased; and

(B) allows the county, municipality, or political subdivision to terminate the contract of any contractor, subcontractor, or third party that violates the confidentiality provision required by Paragraph (A); and

(2) investigate a complaint alleging that a contractor, subcontractor, or third party has failed to maintain the confidentiality of information relating to a sale of regulated material.

(f) A person commits an offense if the person owns or operates a metal recycling entity and does not hold a license or permit required by a county, municipality, or other political subdivision as authorized under Subsection (b). An offense under this subsection is a Class B misdemeanor unless it is shown on the trial of the offense that the person has been previously convicted under this subsection, in which event the offense is a Class A misdemeanor.

(g) It is an exception to the application of Subsection (f) that:

(1) the person held a license or permit issued by the appropriate county, municipality, or other political subdivision at one point during the 12-month period preceding the date of the alleged offense; and

(2) the person obtains or submits an application for the appropriate license or permit not later than the 15th day after the date the person receives notice from the appropriate county, municipality, or other political subdivision informing the person that the metal recycling entity is operating without the required license or permit.

(h) This subsection and Subsection (g) expire March 1, 2013.

SECTION \_\_\_\_\_. Subchapter A, Chapter 1956, Occupations Code, is amended by adding Section 1956.004 to read as follows:

Sec. 1956.004. CIVIL PENALTY. (a) A person who owns or operates a metal recycling entity and does not hold a license or permit required by a county, municipality, or other political subdivision as authorized under Section 1956.003(b) is subject to a civil penalty of not more than \$1,000 for each violation. In determining the amount of the civil penalty, the court shall consider:

(1) any other violations by the person; and

(2) the amount necessary to deter future violations.

(b) A district attorney, county attorney, or municipal attorney may institute an action to collect the civil penalty provided by this section.

(c) Each day a violation occurs or continues to occur is a separate violation.

(d) The district attorney, county attorney, or municipal attorney may recover reasonable expenses incurred in obtaining a civil penalty under this section, including court costs, reasonable attorney's fees, investigative costs, witness fees, and deposition expenses.

(e) It is an exception to the application of this section that:

(1) the person held a license or permit issued by the appropriate county, municipality, or other political subdivision at one point during the 12-month period preceding the date of the alleged violation; and

(2) the person obtains or submits an application for the appropriate license or permit not later than the 15th day after the date the person receives notice from the appropriate county, municipality, or other political subdivision informing the person that the metal recycling entity is operating without the required license or permit.

(f) This subsection and Subsection (e) expire March 1, 2013.

SECTION \_\_\_\_\_. Section 1956.015, Occupations Code, is amended by amending Subsection (d) and adding Subsections (e) and (f) to read as follows:

(d) Information provided under this section is not subject to disclosure under Chapter 552, Government Code. The department may use information provided under this section for law enforcement purposes. Except as provided by this subsection, the department shall maintain the confidentiality of all information provided under this section, including the name of the seller, the price paid for a purchase of regulated material, and the quantity of regulated material purchased [that relates to the financial condition or business affairs of a metal recycling entity or that is otherwise commercially sensitive. The confidential information is not subject to disclosure under Chapter 552, Government Code].

(e) The department may enter into contracts relating to the operation of the statewide electronic reporting system established by this section. A contract under this subsection must:

(1) require that any contractor, subcontractor, or third party that has access to, comes into possession of, or otherwise obtains information provided under this section maintain the confidentiality of all information provided under this section, including the name of the seller, the price paid for a purchase of regulated material, and the quantity of regulated material purchased; and

(2) provide that the department may terminate the contract of any contractor, subcontractor, or third party that violates the confidentiality provision required by Subdivision (1).

(f) The department shall investigate a complaint alleging that a contractor, subcontractor, or third party has failed to maintain the confidentiality of information relating to a sale of regulated material.

SECTION \_\_\_\_. Subchapter A-1, Chapter 1956, Occupations Code, is amended by adding Sections 1956.016 and 1956.017 to read as follows:

Sec. 1956.016. REGISTRATION DATABASE. The department shall make available on its Internet website a publicly accessible list of all registered metal recycling entities. The list must contain the following for each registered metal recycling entity:

(1) the entity's name;

(2) the entity's physical address; and

(3) the name of and contact information for a representative of the entity.

Sec. 1956.017. ADVISORY COMMITTEE. (a) The department shall establish an advisory committee to advise the department on matters related to the department's regulation of metal recycling entities under this chapter.

(b) The advisory committee consists of 12 members appointed by the director as follows:

(1) one representative of the department;

(2) two representatives of local law enforcement agencies located in different municipalities, each with a population of 500,000 or more;

(3) two representatives of local law enforcement agencies located in different municipalities, each with a population of 200,000 or more but less than 500,000;

(4) one representative of a local law enforcement agency located in a municipality with a population of less than 200,000;

(5) four representatives of metal recycling entities; and

(6) two members who represent industries that are impacted by theft of regulated material.

(c) The director shall ensure that the members of the advisory committee reflect the diverse geographic regions of this state.

(d) The advisory committee shall elect a presiding officer from among its members to serve a two-year term. A member may serve more than one term as presiding officer.

(e) The advisory committee shall meet annually and at the call of the presiding officer or the director.

(f) An advisory committee member is not entitled to compensation or reimbursement of expenses.

(g) Chapter 2110, Government Code, does not apply to the size, composition, or duration of the advisory committee or to the appointment of the committee's presiding officer.

SECTION \_\_\_\_\_. The heading to Section 1956.032, Occupations Code, is amended to read as follows:

Sec. 1956.032. INFORMATION REGARDING ~~[PROVIDED BY]~~ SELLER.

SECTION \_\_\_\_\_. Section 1956.032, Occupations Code, is amended by amending Subsection (a) and adding Subsection (g) to read as follows:

(a) Except as provided by Subsection (f), a person attempting to sell regulated material to a metal recycling entity shall:

(1) display to the metal recycling entity the person's personal identification document;

(2) provide to the metal recycling entity the make, model, color, and license plate number of the motor vehicle used to transport the regulated material and the name of the state issuing the license plate; ~~and~~

(3) either:

(A) present written documentation evidencing that the person is the legal owner or is lawfully entitled to sell the regulated material; or

(B) sign a written statement provided by the metal recycling entity that the person is the legal owner of or is lawfully entitled to sell the regulated material offered for sale; and

(4) if the regulated material includes condensing or evaporator coils for central heating or air conditioning units, display to the metal recycling entity:

(A) the person's air conditioning and refrigeration contractor license issued under Subchapter F or G, Chapter 1302;

(B) the person's air conditioning and refrigeration technician registration issued under Subchapter K, Chapter 1302;

(C) a receipt, bill of sale, or other documentation showing that the seller purchased the coils the seller is attempting to sell; or

(D) a receipt, bill of sale, or other documentation showing that the seller has purchased a replacement central heating or air conditioning unit.

(g) Notwithstanding Section 1956.002, the metal recycling entity shall verify the registration of a person attempting to sell regulated material who represents that the person is a metal recycling entity as follows:

(1) by using the database described by Section 1956.016; or

(2) by obtaining from the person a copy of the person's certificate of registration issued under Section 1956.022 in addition to the information required under Subsection (a).

SECTION \_\_\_\_\_. Section 1956.033, Occupations Code, is amended to read as follows:

Sec. 1956.033. RECORD OF PURCHASE. (a) Each metal recycling entity in this state shall keep an accurate electronic record or an accurate and legible written record of each purchase of regulated material made in the course of the entity's business from an individual ~~of:~~

~~[(1) copper or brass material;~~

~~[(2) bronze material;~~

~~[(3) aluminum material; or~~

~~[(4) regulated metal].~~

(b) The record must be in English and include:

(1) the place and date of the purchase;

(2) the name and address of the seller in possession of ~~[each individual from whom]~~ the regulated material ~~[is]~~ purchased ~~[or obtained]~~;

(3) the identifying number of the seller's personal identification document;

(4) a description made in accordance with the custom of the trade of the commodity type and quantity of regulated material purchased; ~~and]~~

(5) the information required by Sections 1956.032(a)(2) and (3);

(6) as applicable:

(A) the identifying number of the seller's air conditioning and refrigeration contractor license displayed under Section 1956.032(a)(4)(A);

(B) a copy of the seller's air conditioning and refrigeration technician registration displayed under Section 1956.032(a)(4)(B);

(C) a copy of the documentation described by Section 1956.032(a)(4)(C); or

(D) a copy of the documentation described by Section 1956.032(a)(4)(D); and

(7) a copy of the documentation described by Section 1956.032(g) [Section 1956.032(a)(3)].

SECTION \_\_\_\_\_. Subchapter A-3, Chapter 1956, Occupations Code, is amended by adding Section 1956.0331 to read as follows:

Sec. 1956.0331. PHOTOGRAPH OR RECORDING REQUIREMENT FOR REGULATED METAL TRANSACTION. (a) In addition to the requirements of Sections 1956.032 and 1956.033, for each purchase by a metal recycling entity of an item of regulated metal, the entity shall obtain a digital photograph or video recording that accurately depicts the seller's entire face and each type of regulated metal purchased.

(b) A metal recycling entity shall preserve a photograph or recording required under Subsection (a) as follows:

(1) for a video recording, until the 91st day after the date of the transaction;  
and

(2) for a digital photograph, until the 181st day after the date of the transaction.



(c) The photograph or recording must be made available for inspection as provided by Section 1956.035 not later than 72 hours after the time of purchase.

SECTION \_\_\_\_\_. Section 1956.034, Occupations Code, is amended to read as follows:

Sec. 1956.034. PRESERVATION OF RECORDS. A metal recycling entity shall preserve each record required by Sections 1956.032 and 1956.033 until the second [~~third~~] anniversary of the date the record was made. The records must be kept in an easily retrievable format and must be available for inspection as provided by Section 1956.035 not later than 72 hours after the time of purchase.

SECTION \_\_\_\_\_. Section 1956.035, Occupations Code, is amended to read as follows:

Sec. 1956.035. INSPECTION OF RECORDS [~~BY PEACE OFFICER~~]. (a) On request, a metal recycling entity shall permit a peace officer of this state, a representative of the department, or a representative of a county, municipality, or other political subdivision that issues a license or permit under Section 1956.003(b) to inspect, during the entity's usual business hours:

- (1) a record required by Section 1956.033; [~~or~~]
- (2) a digital photograph or video recording required by Section 1956.0331;

or

- (3) regulated material in the entity's possession.

(b) The person seeking to inspect a record or material [~~inspecting officer~~] shall:

- (1) inform the entity of the officer's status as a peace officer; or
- (2) if the person is a representative of the department or a representative of a

county, municipality, or other political subdivision, inform the entity of the person's status and display to the entity an identification document or other appropriate documentation establishing the person's status as a representative of the department or of the appropriate county, municipality, or political subdivision.

SECTION \_\_\_\_\_. Section 1956.036, Occupations Code, is amended by amending Subsections (a) and (b) and adding Subsections (d) and (e) to read as follows:

(a) Except as provided by Subsections [~~Subsection~~] (b) and (d), not later than the close of business on a metal recycling entity's second working [~~seventh~~] day after the date of the purchase or other acquisition of material for which a record is required under Section 1956.033, the [a metal recycling] entity shall send an electronic transaction report to the department via the department's Internet website. The [by facsimile or electronic mail to or file with the department a] report must contain [containing] the information required to be recorded under Section 1956.033 [that section].

(b) If a metal recycling entity purchases bronze material that is a cemetery vase, receptacle, memorial, or statuary or a pipe that can reasonably be identified as aluminum irrigation pipe, the entity shall:

(1) not later than the close of business on the entity's first working day after the purchase date, notify the department by telephone, by e-mail, or via the department's Internet website; and

(2) not later than the close of business on the entity's second working ~~[fifth]~~ day after the purchase date, submit to the department electronically via the department's Internet website ~~[mail to]~~ or file with the department a report containing the information required to be recorded under Section 1956.033.

(d) A metal recycling entity may submit the transaction report required under Subsection (a) by facsimile if:

(1) the entity submits to the department annually:

(A) an application requesting an exception to the electronic reporting requirement; and

(B) an affidavit stating that the entity does not have an available and reliable means of submitting the transaction report electronically; and

(2) the department approves the entity's application under this subsection.

(e) The department, after notice and an opportunity for a hearing, may prohibit a metal recycling entity from paying cash for a purchase of regulated material for a period determined by the department if the department finds that the entity has failed to comply with this section.

SECTION \_\_\_\_\_. Section 1956.038, Occupations Code, is amended to read as follows:

Sec. 1956.038. PROHIBITED ACTS. (a) A person may not, with the intent to deceive:

(1) display to a metal recycling entity a false or invalid personal identification document in connection with the person's attempted sale of regulated material;

(2) make a false, material statement or representation to a metal recycling entity in connection with:

(A) that person's execution of a written statement required by Section 1956.032(a)(3); or

(B) the entity's efforts to obtain the information required under Section 1956.033(b); ~~[or]~~

(3) display or provide to a metal recycling entity any information required under Section 1956.032 that the person knows is false or invalid; or

(4) display another individual's personal identification document in connection with the sale of regulated material.

(b) A metal recycling entity may not pay for a purchase of regulated material in cash if:

(1) the entity does not hold a certificate of registration under Subchapter A-2 and, if applicable, a license or permit required by a county, municipality, or other political subdivision as authorized under Section 1956.003(b); or

(2) the entity has been prohibited by the department from paying cash under Section 1956.036(e).

(c) Notwithstanding Section 1956.003(a) or any other law, a county, municipality, or other political subdivision may not adopt or enforce a rule, charter, or ordinance or issue an order or impose standards that limit the use of cash by a metal recycling entity in a manner more restrictive than that provided by Subsection (b).

(d) Subsection (c) does not apply to a rule, charter, ordinance, or order of a county, municipality, or other political subdivision in effect on January 1, 2011.

(d-1) Not later than January 1, 2012, the department shall issue a notice to each known owner or operator of a metal recycling entity in this state informing the owner or operator of the requirement to obtain a certificate of registration under Subchapter A-2 and, if applicable, to obtain a license or permit required by a county, municipality, or other political subdivision under Section 1956.003. The notice must also state:

(1) that the owner or operator shall submit an application for a certificate of registration and the appropriate license or permit required by a county, municipality, or other political subdivision on or before March 1, 2012; and

(2) the penalties under this chapter for failure to comply with Subdivision (1).

(d-2) This subsection and Subsection (d-1) expire March 1, 2012.

(e) The department or a county, municipality, or other political subdivision may bring an action in the county in which a metal recycling entity is located to enjoin the business operations of the owner or operator of the metal recycling entity for a period of not less than 30 days and not more than 90 days if the owner or operator has not submitted an application for a certificate of registration or the appropriate license or permit required by a county, municipality, or other political subdivision.

(f) An action under Subsection (e) must be brought in the name of the state. If judgment is in favor of the state, the court shall:

(1) enjoin the owner or operator from maintaining or participating in the business of a metal recycling entity for a definite period of not less than 30 days and not more than 90 days, as determined by the court; and

(2) order that the place of business of the owner or operator be closed for the same period.

SECTION \_\_\_\_ . Section 1956.040, Occupations Code, is amended by adding Subsections (a-1), (a-2), (a-3), and (a-4) to read as follows:

(a-1) A person commits an offense if the person knowingly violates Section 1956.021, 1956.023(d), 1956.036(a), or 1956.039.

(a-2) An offense under Subsection (a-1) is a misdemeanor punishable by a fine not to exceed \$10,000, unless it is shown on trial of the offense that the person has previously been convicted of a violation of Subsection (a-1), in which event the offense is a state jail felony.

(a-3) It is an affirmative defense to prosecution of a violation of Section 1956.021 or 1956.023(d) that the person made a diligent effort to obtain or renew a certificate of registration at the time of the violation.

(a-4) A municipality or county may retain 10 percent of the money collected from a fine for a conviction of an offense under Subsection (a-1) as a service fee for that collection and the clerk of the court shall remit the remainder of the fine collected for conviction of an offense under Subsection (a-1) to the comptroller in the manner provided for the remission of fees to the comptroller under Subchapter B, Chapter 133, Local Government Code. The comptroller shall deposit proceeds received under this subsection to the credit of an account in the general revenue fund, and those proceeds may be appropriated only to the department and used to:

(1) finance the department's administration of Subchapters A, A-1, A-2, and A-3; and

(2) fund grants distributed under the prevention of scrap metal theft grant program established under Subchapter N, Chapter 411, Government Code.

SECTION \_\_\_\_\_. Subsection (a), Section 1956.103, Occupations Code, is amended to read as follows:

(a) A person may not sell or otherwise transfer to a metal recycling entity:

(1) a lead-acid battery, fuel tank, or PCB-containing capacitor that is included with another type of scrap, used, or obsolete metal without first obtaining from the metal recycling entity a written and signed acknowledgment that the scrap, used, or obsolete metal includes one or more lead-acid batteries, fuel tanks, or PCB-containing capacitors;

(2) any of the following items that contain or enclose a lead-acid battery, fuel tank, or PCB-containing capacitor or of which a lead-acid battery, fuel tank, or PCB-containing capacitor is a part:

(A) a motor vehicle;

(B) a motor vehicle that has been junked, flattened, dismantled, or changed so that it has lost its character as a motor vehicle;

(C) an appliance; or

(D) any other item of scrap, used, or obsolete metal; [~~or~~]

(3) a motor vehicle or a motor vehicle that has been junked, flattened, dismantled, or changed so that it has lost its character as a motor vehicle if the motor vehicle includes, contains, or encloses a tire or scrap tire; or

(4) a metal alcoholic beverage keg, regardless of condition, unless the seller is the manufacturer of the keg, the brewer or distiller of the beverage that was contained in the keg, or an authorized representative of the manufacturer, brewer, or distiller.

SECTION \_\_\_\_\_. Section 1956.151, Occupations Code, is amended to read as follows:

Sec. 1956.151. DENIAL OF CERTIFICATE; DISCIPLINARY ACTION. The department shall deny an application for a certificate of registration, suspend or revoke a certificate of registration, or reprimand a person who is registered under this chapter if the person:

(1) obtains a certificate of registration by means of fraud, misrepresentation, or concealment of a material fact;

(2) sells, barter, or offers to sell or barter a certificate of registration;

(3) violates a provision of this chapter or a rule adopted under this chapter;

or

(4) violates Section 1956.021.

SECTION \_\_\_\_\_. Subsection (d), Section 1956.202, Occupations Code, is amended to read as follows:

(d) A civil penalty may not be assessed under this section for conduct described by Section 1956.021, 1956.023(d), 1956.036(a), 1956.038, or 1956.039.

SECTION \_\_\_\_\_. Chapter 411, Government Code, is amended by adding Subchapter N to read as follows:

SUBCHAPTER N. PREVENTION OF SCRAP METAL THEFT GRANT  
PROGRAM

Sec. 411.421. DEFINITION. In this subchapter, "regulated material" has the meaning assigned by Section 1956.001, Occupations Code.

Sec. 411.422. GRANTS TO FUND SCRAP METAL THEFT PREVENTION.  
(a) From fines collected and distributed to the department under Sections 1956.040(a-2) and (a-4), Occupations Code, the commission by rule shall establish and implement a grant program to provide funding to assist local law enforcement agencies in preventing the theft of regulated material.

(b) To be eligible for a grant, a recipient must be a local law enforcement agency that has established a program designed to prevent the theft of regulated material.

(c) Rules adopted under this section must:

(1) include accountability measures for grant recipients and provisions for loss of eligibility for grant recipients that fail to comply with the measures; and

(2) require grant recipients to provide to the department information on program outcomes.

SECTION \_\_\_\_. Subsection (e), Section 31.03, Penal Code, is amended to read as follows:

(e) Except as provided by Subsection (f), an offense under this section is:

(1) a Class C misdemeanor if the value of the property stolen is less than:

(A) \$50; or

(B) \$20 and the defendant obtained the property by issuing or passing a check or similar sight order in a manner described by Section 31.06;

(2) a Class B misdemeanor if:

(A) the value of the property stolen is:

(i) \$50 or more but less than \$500; or

(ii) \$20 or more but less than \$500 and the defendant obtained the property by issuing or passing a check or similar sight order in a manner described by Section 31.06;

(B) the value of the property stolen is less than:

(i) \$50 and the defendant has previously been convicted of any grade of theft; or

(ii) \$20, the defendant has previously been convicted of any grade of theft, and the defendant obtained the property by issuing or passing a check or similar sight order in a manner described by Section 31.06; or

(C) the property stolen is a driver's license, commercial driver's license, or personal identification certificate issued by this state or another state;

(3) a Class A misdemeanor if the value of the property stolen is \$500 or more but less than \$1,500;

(4) a state jail felony if:

(A) the value of the property stolen is \$1,500 or more but less than \$20,000, or the property is less than 10 head of sheep, swine, or goats or any part thereof under the value of \$20,000;

(B) regardless of value, the property is stolen from the person of another or from a human corpse or grave, including property that is a military grave marker;

(C) the property stolen is a firearm, as defined by Section 46.01;

(D) the value of the property stolen is less than \$1,500 and the defendant has been previously convicted two or more times of any grade of theft;

(E) the property stolen is an official ballot or official carrier envelope for an election; or

(F) the value of the property stolen is less than \$20,000 and the property stolen is ~~[insulated or noninsulated tubing, rods, water gate stems, wire, or cable that consists of at least 50 percent]:~~

- (i) aluminum;
- (ii) bronze; ~~[or]~~
- (iii) copper; or
- (iv) brass;

(5) a felony of the third degree if the value of the property stolen is \$20,000 or more but less than \$100,000, or the property is:

(A) cattle, horses, or exotic livestock or exotic fowl as defined by Section 142.001, Agriculture Code, stolen during a single transaction and having an aggregate value of less than \$100,000; or

(B) 10 or more head of sheep, swine, or goats stolen during a single transaction and having an aggregate value of less than \$100,000;

(6) a felony of the second degree if the value of the property stolen is \$100,000 or more but less than \$200,000; or

(7) a felony of the first degree if the value of the property stolen is \$200,000 or more.

SECTION \_\_\_\_\_. The enhancement of the punishment of an offense provided under Subsection (a-2), Section 1956.040, Occupations Code, as added by this Act, applies only to an offense committed on or after January 1, 2012. For purposes of this subsection, an offense is committed before January 1, 2012, if any element of the offense occurs before that date. An offense committed before January 1, 2012, is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose.

SECTION \_\_\_\_\_. Not later than January 1, 2012, the public safety director of the Department of Public Safety of the State of Texas shall appoint the members of the advisory committee established under Section 1956.017, Occupations Code, as added by this Act, and designate the time and place of the committee's first meeting.

The amendment to **CSHB 1242** 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 Harris and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

**CSHB 1242** 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 1242 ON THIRD READING**

Senator Harris moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 1242** 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 Presiding Officer announced the signing of the following enrolled bills and resolutions in the presence of the Senate after the captions had been read:

**SB 27, SB 82, SB 101, SB 179, SB 191, SB 199, SB 227, SB 283, SB 324, SB 373, SB 412, SB 434, SB 470, SB 485, SB 490, SB 493, SB 508, SB 510, SB 524, SB 543, SB 579, SB 580, SB 587, SB 613, SB 633, SB 710, SB 778, SB 866, SB 880, SB 888, SB 990, SB 1008, SB 1065, SB 1100, SB 1132, SB 1184, SB 1197, SB 1243, SB 1291, SB 1291, SB 1378, SB 1518, SB 1518, SB 1618, SB 1630, SB 1635, SB 1661, SB 1739, SB 1882, SB 1895, SB 1922, SCR 5, SCR 10, SCR 18, SCR 39, SCR 55.**

**HOUSE BILL 3803 ON SECOND READING**

On motion of Senator Estes and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 3803** at this time on its second reading:

**HB 3803**, Relating to the creation of the Cottonwood Municipal Utility District No. 2 of Grayson County; providing authority to impose a tax and issue bonds; granting a limited power of eminent domain.

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

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

**HOUSE BILL 3803 ON THIRD READING**

Senator Estes moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 3803** 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 2729 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 2729** at this time on its second reading:

**HB 2729**, Relating to local government contracts with private entities for civil works projects and improvements to real property.

The bill was read second time.

Senator Jackson offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **HB 2729** (senate committee report version) as follows:

(1) In SECTION 2 of the bill (page 1, line 36), strike "This Act" and substitute "Section 271.908, Local Government Code, as added by this Act,".

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

SECTION \_\_\_\_\_. Subtitle F, Title 10, Government Code, is amended by adding Chapters 2267 and 2268 to read as follows:

CHAPTER 2267. PUBLIC AND PRIVATE FACILITIES AND  
INFRASTRUCTURE

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 2267.001. DEFINITIONS. In this chapter:

(1) "Affected jurisdiction" means any county or municipality in which all or a portion of a qualifying project is located.

(2) "Comprehensive agreement" means the comprehensive agreement authorized by Section 2267.058 between the contracting person and the responsible governmental entity.

(3) "Contracting person" means a person who enters into a comprehensive or interim agreement with a responsible governmental entity under this chapter.

(4) "Develop" means to plan, design, develop, finance, lease, acquire, install, construct, or expand a qualifying project.

(5) "Governmental entity" means:

(A) a board, commission, department, or other agency of this state, including an institution of higher education as defined by Section 61.003, Education Code, that elects to operate under this chapter through the adoption of a resolution by the institution's board of regents; and

(B) a political subdivision of this state that elects to operate under this chapter by the adoption of a resolution by the governing body of the political subdivision.

(6) "Interim agreement" means an agreement authorized by Section 2267.059 between a contracting person and a responsible governmental entity that proposes the development or operation of the qualifying project.

(7) "Lease payment" means any form of payment, including a land lease, by a governmental entity to the contracting person for the use of a qualifying project.

(8) "Material default" means any default by a contracting person in the performance of duties imposed under Section 2267.057(f) that jeopardizes adequate service to the public from a qualifying project.

(9) "Operate" means to finance, maintain, improve, equip, modify, repair, or operate a qualifying project.

(10) "Qualifying project" means:

(A) any ferry, mass transit facility, vehicle parking facility, port facility, power generation facility, fuel supply facility, oil or gas pipeline, water supply facility, public work, waste treatment facility, hospital, school, medical or nursing care facility, recreational facility, public building, or other similar facility currently available or to be made available to a governmental entity for public use, including any structure,



parking area, appurtenance, and other property required to operate the structure or facility and any technology infrastructure installed in the structure or facility that is essential to the project's purpose; or

(B) any improvements necessary or desirable to unimproved real estate owned by a governmental entity.

(11) "Responsible governmental entity" means a governmental entity that has the power to develop or operate an applicable qualifying project.

(12) "Revenue" means all revenue, income, earnings, user fees, lease payments, or other service payments that support the development or operation of a qualifying project, including money received as a grant or otherwise from the federal government, a governmental entity, or any agency or instrumentality of the federal government or governmental entity in aid of the project.

(13) "Service contract" means a contract between a governmental entity and a contracting person under Section 2267.054.

(14) "Service payment" means a payment to a contracting person of a qualifying project under a service contract.

(15) "User fee" means a rate, fee, or other charge imposed by a contracting person for the use of all or part of a qualifying project under a comprehensive agreement.

Sec. 2267.002. DECLARATION OF PUBLIC PURPOSE; CONSTRUCTION OF CHAPTER. (a) The legislature finds that:

(1) there is a public need for timely acquisition, design, construction, improvement, renovation, expansion, equipping, maintenance, operation, implementation, and installation of education facilities, technology and other public infrastructure, and government facilities in this state that serve a public need and purpose;

(2) the public need may not be wholly satisfied by existing methods of procurement in which qualifying projects are acquired, designed, constructed, improved, renovated, expanded, equipped, maintained, operated, implemented, or installed;

(3) there are inadequate resources to develop new education facilities, technology and other public infrastructure, and government facilities for the benefit of the citizens of this state, and there is demonstrated evidence that partnerships between public entities and private entities or other persons can meet these needs by improving the schedule for delivery, lowering the cost, and providing other benefits to the public;

(4) financial incentives exist under state and federal tax provisions that encourage public entities to enter into partnerships with private entities or other persons to develop qualifying projects; and

(5) authorizing private entities or other persons to develop or operate one or more qualifying projects may serve the public safety, benefit, and welfare by making the projects available to the public in a more timely or less costly fashion.

(b) An action authorized under Section 2267.053 serves the public purpose of this chapter if the action facilitates the timely development or operation of a qualifying project.

(c) The purposes of this chapter include:

(1) encouraging investment in this state by private entities and other persons;

(2) facilitating bond financing or other similar financing mechanisms, private capital, and other funding sources that support the development or operation of qualifying projects in order to expand and accelerate financing for qualifying projects that improve and add to the convenience of the public; and

(3) providing governmental entities with the greatest possible flexibility in contracting with private entities or other persons to provide public services through qualifying projects subject to this chapter.

(d) This chapter shall be liberally construed in conformity with the purposes of this section.

(e) The procedures in this chapter are not exclusive. This chapter does not prohibit a responsible governmental entity from entering into an agreement for or procuring public and private facilities and infrastructure under other statutory authority.

Sec. 2267.003. APPLICABILITY. This chapter does not apply to:

(1) the financing, design, construction, maintenance, or operation of a highway in the state highway system;

(2) a transportation authority created under Chapter 451, 452, 453, or 460, Transportation Code; or

(3) any telecommunications, cable television, video service, or broadband infrastructure other than technology installed as part of a qualifying project that is essential to the project.

Sec. 2267.004. APPLICABILITY OF EMINENT DOMAIN LAW. This chapter does not alter the eminent domain laws of this state or grant the power of eminent domain to any person who is not expressly granted that power under other state law.

[Sections 2267.005-2267.050 reserved for expansion]

#### SUBCHAPTER B. QUALIFYING PROJECTS

Sec. 2267.051. APPROVAL REQUIRED; SUBMISSION OF PROPOSAL FOR QUALIFYING PROJECT. (a) A person may not develop or operate a qualifying project unless the person obtains the approval of and contracts with the responsible governmental entity under this chapter. The person may initiate the approval process by submitting a proposal requesting approval under Section 2267.053(a), or the responsible governmental entity may request proposals or invite bids under Section 2267.053(b).

(b) A person submitting a proposal requesting approval of a qualifying project shall specifically and conceptually identify any facility, building, infrastructure, or improvement included in the proposal as a part of the qualifying project.

(c) On receipt of a proposal submitted by a person initiating the approval process under Section 2267.053(a), the responsible governmental entity shall determine whether to accept the proposal for consideration in accordance with Sections 2267.052 and 2267.065 and the guidelines adopted under those sections. A responsible governmental entity that determines not to accept the proposal for consideration shall return the proposal, all fees, and the accompanying documentation to the person submitting the proposal.

(d) The responsible governmental entity may at any time reject a proposal initiated by a person under Section 2267.053(a).

Sec. 2267.052. ADOPTION OF GUIDELINES BY RESPONSIBLE GOVERNMENTAL ENTITIES. (a) Before requesting or considering a proposal for a qualifying project, a responsible governmental entity must adopt and make publicly available guidelines that enable the governmental entity to comply with this chapter. The guidelines must be reasonable, encourage competition, and guide the selection of projects under the purview of the responsible governmental entity.

(b) The guidelines for a responsible governmental entity described by Section 2267.001(5)(A) must:

(1) require the responsible governmental entity to:

(A) make a representative of the entity available to meet with persons who are considering submitting a proposal; and

(B) provide notice of the representative's availability;

(2) provide reasonable criteria for choosing among competing proposals;

(3) contain suggested timelines for selecting proposals and negotiating an interim or comprehensive agreement;

(4) allow the responsible governmental entity to accelerate the selection, review, and documentation timelines for proposals involving a qualifying project considered a priority by the entity;

(5) include financial review and analysis procedures that at a minimum consist of:

(A) a cost-benefit analysis;

(B) an assessment of opportunity cost;

(C) consideration of the degree to which functionality and services similar to the functionality and services to be provided by the proposed project are already available in the private market; and

(D) consideration of the results of all studies and analyses related to the proposed qualifying project;

(6) allow the responsible governmental entity to consider the nonfinancial benefits of a proposed qualifying project;

(7) include criteria for:

(A) the qualifying project, including the scope, costs, and duration of the project and the involvement or impact of the project on multiple public entities;

(B) the creation of and the responsibilities of an oversight committee, with members representing the responsible governmental entity, that acts as an advisory committee to review the terms of any proposed interim or comprehensive agreement; and

(C) compliance with the requirements of Chapter 2268;

(8) require the responsible governmental entity to analyze the adequacy of the information to be released by the entity when seeking competing proposals and require that the entity provide more detailed information, if the entity determines necessary, to encourage competition, subject to Section 2267.053(g);

(9) establish criteria, key decision points, and approvals required to ensure that the responsible governmental entity considers the extent of competition before selecting proposals and negotiating an interim or comprehensive agreement; and

(10) require the posting and publishing of public notice of a proposal requesting approval of a qualifying project, including:

(A) specific information and documentation regarding the nature, timing, and scope of the qualifying project, as required under Section 2267.053(a);

(B) a reasonable period of not less than 45 days, as determined by the responsible governmental entity, to encourage competition and partnerships with private entities and other persons in accordance with the goals of this chapter, during which the responsible governmental entity must accept submission of competing proposals for the qualifying project; and

(C) a requirement for advertising the notice on the governmental entity's Internet website and on TexasOnline or the state's official Internet website.

(c) The guidelines of a responsible governmental entity described by Section 2267.001(5)(B):

(1) may include the provisions required under Subsection (b); and

(2) must include a requirement that the governmental entity engage the services of qualified professionals, including an architect, professional engineer, or certified public accountant, not otherwise employed by the governmental entity, to provide independent analyses regarding the specifics, advantages, disadvantages, and long-term and short-term costs of any proposal requesting approval of a qualifying project unless the governing body of the governmental entity determines that the analysis of the proposal is to be performed by employees of the governmental entity.

Sec. 2267.053. APPROVAL OF QUALIFYING PROJECTS BY RESPONSIBLE GOVERNMENTAL ENTITY. (a) A private entity or other person may submit a proposal requesting approval of a qualifying project by the responsible governmental entity. The proposal must be accompanied by the following, unless waived by the responsible governmental entity:

(1) a topographic map, with a 1:2,000 or other appropriate scale, indicating the location of the qualifying project;

(2) a description of the qualifying project, including:

(A) the conceptual design of any facility or a conceptual plan for the provision of services or technology infrastructure; and

(B) a schedule for the initiation of and completion of the qualifying project that includes the proposed major responsibilities and timeline for activities to be performed by the governmental entity and the person;

(3) a statement of the method the person proposes for securing necessary property interests required for the qualifying project;

(4) information relating to any current plans for the development of facilities or technology infrastructure to be used by a governmental entity that are similar to the qualifying project being proposed by the person for each affected jurisdiction;

(5) a list of all permits and approvals required for the development and completion of the qualifying project from local, state, or federal agencies and a projected schedule for obtaining the permits and approvals;

(6) a list of any facilities that will be affected by the qualifying project and a statement of the person's plans to accommodate the affected facilities;

(7) a statement on the person's general plans for financing the qualifying project, including the sources of the person's funds and identification of any dedicated revenue source or proposed debt or equity investment for the person;

(8) the name and address of each individual who may be contacted for further information concerning the request;

(9) user fees, lease payments, and other service payments over the term of any applicable interim or comprehensive agreement and the methodology and circumstances for changes to the user fees, lease payments, and other service payments over time; and

(10) any additional material and information the responsible governmental entity reasonably requests.

(b) A responsible governmental entity may request proposals or invite bids from persons for the development or operation of a qualifying project. A responsible governmental entity shall consider the total project cost as one factor in evaluating the proposals received, but is not required to select the proposal that offers the lowest total project cost. The responsible governmental entity may consider the following factors:

(1) the proposed cost of the qualifying project;

(2) the general reputation, industry experience, and financial capacity of the person submitting a proposal;

(3) the proposed design of the qualifying project;

(4) the eligibility of the project for accelerated selection, review, and documentation timelines under the responsible governmental entity's guidelines;

(5) comments from local citizens and affected jurisdictions;

(6) benefits to the public;

(7) the person's good faith effort to comply with the goals of a historically underutilized business plan;

(8) the person's plans to employ local contractors and residents;

(9) for a qualifying project that involves a continuing role beyond design and construction, the person's proposed rate of return and opportunities for revenue sharing; and

(10) other criteria that the responsible governmental entity considers appropriate.

(c) The responsible governmental entity may approve as a qualifying project the development or operation of a facility needed by the governmental entity, or the design or equipping of a qualifying project, if the responsible governmental entity determines that the project serves the public purpose of this chapter. The responsible governmental entity may determine that the development or operation of the project as a qualifying project serves the public purpose if:

(1) there is a public need for or benefit derived from the project of the type the person proposes as a qualifying project;

(2) the estimated cost of the project is reasonable in relation to similar facilities; and

(3) the person's plans will result in the timely development or operation of the qualifying project.

(d) The responsible governmental entity may charge a reasonable fee to cover the costs of processing, reviewing, and evaluating the proposal, including reasonable legal fees and fees for financial, technical, and other necessary advisors or consultants.

(e) The approval of a responsible governmental entity described by Section 2267.001(5)(A) is subject to the private entity or other person entering into an interim or comprehensive agreement with the responsible governmental entity.

(f) On approval of the qualifying project, the responsible governmental entity shall establish a date by which activities related to the qualifying project must begin. The responsible governmental entity may extend the date.

(g) The responsible governmental entity shall take action appropriate under Section 552.153 to protect confidential and proprietary information provided by the contracting person under an agreement.

(h) Before entering into the negotiation of an interim or comprehensive agreement, each responsible governmental entity described by Section 2267.001(5)(A) must submit copies of detailed proposals to the Partnership Advisory Commission in accordance with Chapter 2268.

(i) This chapter and an interim or comprehensive agreement entered into under this chapter do not enlarge, diminish, or affect any authority a responsible governmental entity has to take action that would impact the debt capacity of this state.

Sec. 2267.054. SERVICE CONTRACTS. A responsible governmental entity may contract with a contracting person for the delivery of services to be provided as part of a qualifying project in exchange for service payments and other consideration as the governmental entity considers appropriate.

Sec. 2267.055. AFFECTED JURISDICTIONS. (a) A person submitting a proposal to a responsible governmental entity under Section 2267.053 shall notify each affected jurisdiction by providing a copy of its proposal to the affected jurisdiction.

(b) Not later than the 60th day after the date an affected jurisdiction receives the notice required by Subsection (a), the affected jurisdiction that is not the responsible governmental entity for the respective qualifying project shall submit in writing to the responsible governmental entity any comments the affected jurisdiction has on the proposed qualifying project and indicate whether the facility or project is compatible with the local comprehensive plan, local infrastructure development plans, the capital improvements budget, or other government spending plan. The responsible governmental entity shall consider the submitted comments before entering into a comprehensive agreement with a contracting person.

Sec. 2267.056. DEDICATION AND CONVEYANCE OF PUBLIC PROPERTY. (a) After obtaining any appraisal of the property interest that is required under other law in connection with the conveyance, a governmental entity may dedicate any property interest, including land, improvements, and tangible personal property, for public use in a qualifying project if the governmental entity finds that the dedication will serve the public purpose of this chapter by minimizing the cost of a qualifying project to the governmental entity or reducing the delivery time of a qualifying project.

(b) In connection with a dedication under Subsection (a), a governmental entity may convey any property interest, including a license, franchise, easement, or another right or interest the governmental entity considers appropriate, subject to the conditions imposed by general law governing such conveyance and subject to the rights of an existing utility under a license, franchise, easement, or other right under law, to the contracting person for the consideration determined by the governmental entity. The consideration may include the agreement of the contracting person to develop or operate the qualifying project.

Sec. 2267.057. POWERS AND DUTIES OF CONTRACTING PERSON.

(a) The contracting person has:

(1) the power granted by:

(A) general law to a person that has the same form of organization as the contracting person; and

(B) a statute governing the business or activity of the contracting person; and

(2) the power to:

(A) develop or operate the qualifying project; and

(B) collect lease payments, impose user fees subject to Subsection (b), or enter into service contracts in connection with the use of the project.

(b) The contracting person may not impose a user fee or increase the amount of a user fee until the fee or increase is approved by the responsible governmental entity.

(c) The contracting person may own, lease, or acquire any other right to use or operate the qualifying project.

(d) The contracting person may finance a qualifying project in the amounts and on the terms determined by the contracting person. The contracting person may issue debt, equity, or other securities or obligations, enter into sale and leaseback transactions, and secure any financing with a pledge of, security interest in, or lien on any or all of its property, including all of its property interests in the qualifying project.

(e) In operating the qualifying project, the contracting person may:

(1) establish classifications according to reasonable categories for assessment of user fees; and

(2) with the consent of the responsible governmental entity, adopt and enforce reasonable rules for the qualifying project to the same extent as the responsible governmental entity.

(f) The contracting person shall:

(1) develop or operate the qualifying project in a manner that is acceptable to the responsible governmental entity and in accordance with any applicable interim or comprehensive agreement;

(2) subject to Subsection (g), keep the qualifying project open for use by the public at all times, or as appropriate based on the use of the project, after its initial opening on payment of the applicable user fees, lease payments, or service payments;

(3) maintain, or provide by contract for the maintenance or upgrade of, the qualifying project, if required by any applicable interim or comprehensive agreement;

(4) cooperate with the responsible governmental entity to establish any interconnection with the qualifying project requested by the responsible governmental entity; and

(5) comply with any applicable interim or comprehensive agreement and any lease or service contract.

(g) The qualifying project may be temporarily closed because of emergencies or, with the consent of the responsible governmental entity, to protect public safety or for reasonable construction or maintenance activities.

(h) This chapter does not prohibit a contracting person of a qualifying project from providing additional services for the qualifying project to the public or persons other than the responsible governmental entity, provided that the provision of additional service does not impair the contracting person's ability to meet the person's commitments to the responsible governmental entity under any applicable interim or comprehensive agreement.

Sec. 2267.058. COMPREHENSIVE AGREEMENT. (a) Before developing or operating the qualifying project, the contracting person must enter into a comprehensive agreement with a responsible governmental entity. The comprehensive agreement shall provide for:

(1) delivery of letters of credit or other security in connection with the development or operation of the qualifying project, in the forms and amounts satisfactory to the responsible governmental entity, and delivery of performance and payment bonds in compliance with Chapter 2253 for all construction activities;

(2) review of plans and specifications for the qualifying project by the responsible governmental entity and approval by the responsible governmental entity if the plans and specifications conform to standards acceptable to the responsible governmental entity, except that the contracting person may not be required to complete the design of a qualifying project before the execution of a comprehensive agreement;

(3) inspection of the qualifying project by the responsible governmental entity to ensure that the contracting person's activities are acceptable to the responsible governmental entity in accordance with the comprehensive agreement;

(4) maintenance of a public liability insurance policy, copies of which must be filed with the responsible governmental entity accompanied by proofs of coverage, or self-insurance, each in the form and amount satisfactory to the responsible governmental entity and reasonably sufficient to ensure coverage of tort liability to the public and project employees and to enable the continued operation of the qualifying project;

(5) monitoring of the practices of the contracting person by the responsible governmental entity to ensure that the qualifying project is properly maintained;

(6) reimbursement to be paid to the responsible governmental entity for services provided by the responsible governmental entity;

(7) filing of appropriate financial statements on a periodic basis; and

(8) policies and procedures governing the rights and responsibilities of the responsible governmental entity and the contracting person if the comprehensive agreement is terminated or there is a material default by the contracting person, including conditions governing:



(A) assumption of the duties and responsibilities of the contracting person by the responsible governmental entity; and

(B) the transfer or purchase of property or other interests of the contracting person to the responsible governmental entity.

(b) The comprehensive agreement shall provide for any user fee, lease payment, or service payment established by agreement of the parties. In negotiating a user fee under this section, the parties shall establish a payment or fee that is the same for persons using a facility of the qualifying project under like conditions and that will not materially discourage use of the qualifying project. The execution of the comprehensive agreement or an amendment to the agreement is conclusive evidence that the user fee, lease payment, or service payment complies with this chapter. A user fee or lease payment established in the comprehensive agreement as a source of revenue may be in addition to, or in lieu of, a service payment.

(c) A comprehensive agreement may include a provision that authorizes the responsible governmental entity to make grants or loans to the contracting person from money received from the federal, state, or local government or any agency or instrumentality of the government.

(d) The comprehensive agreement must incorporate the duties of the contracting person under this chapter and may contain terms the responsible governmental entity determines serve the public purpose of this chapter. The comprehensive agreement may contain:

(1) provisions that require the responsible governmental entity to provide notice of default and cure rights for the benefit of the contracting person and the persons specified in the agreement as providing financing for the qualifying project;

(2) other lawful terms to which the contracting person and the responsible governmental entity mutually agree, including provisions regarding unavoidable delays or providing for a loan of public money to the contracting person to develop or operate one or more qualifying projects; and

(3) provisions in which the authority and duties of the contracting person under this chapter cease and the qualifying project is dedicated for public use to the responsible governmental entity or, if the qualifying project was initially dedicated by an affected jurisdiction, to the affected jurisdiction.

(e) Any change in the terms of the comprehensive agreement that the parties agree to must be added to the comprehensive agreement by written amendment.

(f) The comprehensive agreement may provide for the development or operation of phases or segments of the qualifying project.

Sec. 2267.059. INTERIM AGREEMENT. Before or in connection with the negotiation of the comprehensive agreement, the responsible governmental entity may enter into an interim agreement with the contracting person proposing the development or operation of the qualifying project. The interim agreement may:

(1) authorize the contracting person to begin project phases or activities for which the contracting person may be compensated relating to the proposed qualifying project, including project planning and development, design, engineering, environmental analysis and mitigation, surveying, and financial and revenue analysis, including ascertaining the availability of financing for the proposed facility or facilities of the qualifying project;

(2) establish the process and timing of the negotiation of the comprehensive agreement; and

(3) contain any other provision related to any aspect of the development or operation of a qualifying project that the parties consider appropriate.

Sec. 2267.060. FEDERAL, STATE, AND LOCAL ASSISTANCE. (a) The contracting person and the responsible governmental entity may use any funding resources that are available to the parties, including:

(1) accessing any designated trust funds; and

(2) borrowing or accepting grants from any state infrastructure bank.

(b) The responsible governmental entity may take any action to obtain federal, state, or local assistance for a qualifying project that serves the public purpose of this chapter and may enter into any contracts required to receive the assistance.

(c) If the responsible governmental entity is a state agency, any money received from the state or federal government or any agency or instrumentality of the state or federal government is subject to appropriation by the legislature.

(d) The responsible governmental entity may determine that it serves the public purpose of this chapter for all or part of the costs of a qualifying project to be directly or indirectly paid from the proceeds of a grant or loan made by the local, state, or federal government or any agency or instrumentality of the government.

Sec. 2267.061. MATERIAL DEFAULT; REMEDIES. (a) If the contracting person commits a material default, the responsible governmental entity may assume the responsibilities and duties of the contracting person of the qualifying project. If the responsible governmental entity assumes the responsibilities and duties of the contracting person, the responsible governmental entity has all the rights, title, and interest in the qualifying project, subject to any liens on revenue previously granted by the contracting person to any person providing financing for the project.

(b) A responsible governmental entity that has the power of eminent domain under state law may exercise that power to acquire the qualifying project in the event of a material default by the contracting person. Any person who has provided financing for the qualifying project, and the contracting person to the extent of its capital investment, may participate in the eminent domain proceedings with the standing of a property owner.

(c) The responsible governmental entity may terminate, with cause, any applicable interim or comprehensive agreement and exercise any other rights and remedies available to the governmental entity at law or in equity.

(d) The responsible governmental entity may make any appropriate claim under the letters of credit or other security or the performance and payment bonds required by Section 2267.058(a)(1).

(e) If the responsible governmental entity elects to assume the responsibilities and duties for a qualifying project under Subsection (a), the responsible governmental entity may:

(1) develop or operate the qualifying project;

(2) impose user fees;

(3) impose and collect lease payments for the use of the project; and

(4) comply with any applicable contract to provide services.

(f) The responsible governmental entity shall collect and pay to secured parties any revenue subject to a lien to the extent necessary to satisfy the contracting person's obligations to secured parties, including the maintenance of reserves. The liens shall be correspondingly reduced and, when paid off, released.

(g) Before any payment is made to or for the benefit of a secured party, the responsible governmental entity may use revenue to pay the current operation and maintenance costs of the qualifying project, including compensation to the responsible governmental entity for its services in operating and maintaining the qualifying project. The right to receive any payment is considered just compensation for the qualifying project.

(h) The full faith and credit of the responsible governmental entity may not be pledged to secure any financing of the contracting person that was assumed by the governmental entity when the governmental entity assumed responsibility for the qualifying project.

Sec. 2267.062. EMINENT DOMAIN. (a) At the request of the contracting person, the responsible governmental entity may exercise any power of eminent domain that it has under law to acquire any land or property interest to the extent that the responsible governmental entity dedicates the land or property interest to public use and finds that the action serves the public purpose of this chapter.

(b) Any amounts to be paid in any eminent domain proceeding shall be paid by the contracting person.

Sec. 2267.063. AFFECTED FACILITY OWNER. (a) The contracting person and each facility owner, including a public utility, a public service company, or a cable television provider, whose facilities will be affected by a qualifying project shall cooperate fully in planning and arranging the manner in which the facilities will be affected.

(b) The contracting person and responsible governmental entity shall ensure that a facility owner whose facility will be affected by a qualifying project does not suffer a disruption of service as a result of the construction or improvement of the qualifying project.

(c) A governmental entity possessing the power of eminent domain may exercise that power in connection with the relocation of facilities affected by the qualifying project or facilities that must be relocated to the extent that the relocation is necessary or desirable by construction of, renovation to, or improvements to the qualifying project, which includes construction of, renovation to, or improvements to temporary facilities to provide service during the period of construction or improvement. The governmental entity shall exercise its power of eminent domain to the extent required to ensure an affected facility owner does not suffer a disruption of service as a result of the construction or improvement of the qualifying project during the construction or improvement or after the qualifying project is completed or improved.

(d) The contracting person shall pay any amount owed for the crossing, constructing, or relocating of facilities.

Sec. 2267.064. POLICE POWERS; VIOLATIONS OF LAW. A peace officer of this state or of any affected jurisdiction has the same powers and jurisdiction within the area of the qualifying project as the officer has in the officer's area of jurisdiction. The officer may access the qualifying project at any time to exercise the officer's powers and jurisdiction.

Sec. 2267.065. PROCUREMENT GUIDELINES. (a) Chapters 2155, 2156, and 2166, any interpretations, rules, or guidelines of the comptroller and the Texas Facilities Commission, and interpretations, rules, or guidelines developed under Chapter 2262 do not apply to a qualifying project under this chapter.

(b) A responsible governmental entity may enter into a comprehensive agreement only in accordance with guidelines that require the contracting person to design and construct the qualifying project in accordance with procedures that do not materially conflict with those specified in:

(1) Section 2166.2531;

(2) Section 44.036, Education Code;

(3) Section 271.119, Local Government Code; or

(4) Subchapter J, Chapter 271, Local Government Code, for civil works projects as defined by 271.181(2), Local Government Code.

(c) This chapter does not authorize a responsible governmental entity or a contracting person to obtain professional services through any process except in accordance with Subchapter A, Chapter 2254.

(d) Identified team members, including the architect, engineer, or builder, may not be substituted or replaced once a project is approved and an interim or comprehensive agreement is executed without the written approval of the responsible governmental entity.

Sec. 2267.066. POSTING OF PROPOSALS; PUBLIC COMMENT; PUBLIC ACCESS TO PROCUREMENT RECORDS. (a) Not later than the 10th day after the date a responsible governmental entity accepts a proposal submitted in accordance with Section 2267.053(a) or (b), the responsible governmental entity shall provide notice of the proposal as follows:

(1) for a responsible governmental entity described by Section 2267.001(5)(A), by posting the proposal on the entity's Internet website; and

(2) for a responsible governmental entity described by Section 2267.001(5)(B), by:

(A) posting a copy of the proposal on the entity's Internet website; or

(B) publishing in a newspaper of general circulation in the area in which the qualifying project is to be performed a summary of the proposal and the location where copies of the proposal are available for public inspection.

(b) The responsible governmental entity shall make available for public inspection at least one copy of the proposal. This section does not prohibit the responsible governmental entity from posting the proposal in another manner considered appropriate by the responsible governmental entity to provide maximum notice to the public of the opportunity to inspect the proposal.

(c) Trade secrets, financial records, or other records of the contracting person excluded from disclosure under Section 552.101 may not be posted or made available for public inspection except as otherwise agreed to by the responsible governmental entity and the contracting person.

(d) The responsible governmental entity shall hold a public hearing on the proposal during the proposal review process not later than the 30th day before the date the entity enters into an interim or comprehensive agreement.

(e) On completion of the negotiation phase for the development of an interim or comprehensive agreement and before an interim agreement or comprehensive agreement is entered into, a responsible governmental entity must make available the proposed agreement in a manner provided by Subsection (a) or (b).

(f) A responsible governmental entity that has entered into an interim agreement or comprehensive agreement shall make procurement records available for public inspection on request. For purposes of this subsection, procurement records do not include the trade secrets of the contracting person or financial records, including balance sheets or financial statements of the contracting person, that are not generally available to the public through regulatory disclosure or other means.

(g) Cost estimates relating to a proposed procurement transaction prepared by or for a responsible governmental entity are not open to public inspection.

(h) Any inspection of procurement transaction records under this section is subject to reasonable restrictions to ensure the security and integrity of the records.

(i) This section applies to any accepted proposal regardless of whether the process of bargaining results in an interim or comprehensive agreement.

## CHAPTER 2268. PARTNERSHIP ADVISORY COMMISSION

### SUBCHAPTER A. GENERAL PROVISIONS

Sec. 2268.001. DEFINITIONS. In this chapter:

(1) "Commission" means the Partnership Advisory Commission.

(2) "Comprehensive agreement" has the meaning assigned by Section 2267.001.

(3) "Detailed proposal" means a proposal for a qualifying project accepted by a responsible governmental entity beyond a conceptual level of review that defines and establishes periods related to fixing costs, payment schedules, financing, deliverables, and project schedule.

(4) "Interim agreement" has the meaning assigned by Section 2267.001.

(5) "Qualifying project" has the meaning assigned by Section 2267.001.

(6) "Responsible governmental entity" has the meaning assigned by Section 2267.001.

Sec. 2268.002. APPLICABILITY. This chapter applies only to responsible governmental entities described by Section 2267.001(5)(A).

[Sections 2268.003-2268.050 reserved for expansion]

### SUBCHAPTER B. COMMISSION

Sec. 2268.051. ESTABLISHMENT OF COMMISSION. The Partnership Advisory Commission is an advisory commission in the legislative branch that advises responsible governmental entities described by Section 2267.001(5)(A) on proposals received under Chapter 2267.

Sec. 2268.052. COMPOSITION AND TERMS. (a) The commission consists of the following 11 members:

(1) the chair of the House Appropriations Committee or the chair's designee;

(2) three representatives appointed by the speaker of the house of representatives;

(3) the chair of the Senate Finance Committee or the chair's designee;

(4) three senators appointed by the lieutenant governor; and

(5) three representatives of the executive branch, appointed by the governor.

(b) The legislative members serve on the commission until the expiration of their terms of office or until their successors qualify.

(c) The members appointed by the governor serve at the will of the governor.

Sec. 2268.053. PRESIDING OFFICER. The members of the commission shall elect from among the legislative members a presiding officer and an assistant presiding officer to serve two-year terms.

Sec. 2268.054. COMPENSATION; REIMBURSEMENT. A member of the commission is not entitled to compensation for service on the commission but is entitled to reimbursement for all reasonable and necessary expenses incurred in performing duties as a member.

Sec. 2268.055. MEETINGS. The commission shall hold meetings quarterly or on the call of the presiding officer.

Sec. 2268.056. ADMINISTRATIVE, LEGAL, RESEARCH, TECHNICAL, AND OTHER SUPPORT. (a) The legislative body that the presiding officer serves shall provide administrative staff support for the commission.

(b) The Texas Legislative Council shall provide legal, research, and policy analysis services to the commission.

(c) The staffs of the House Appropriations Committee, Senate Finance Committee, and comptroller shall provide technical assistance.

(d) The comptroller or a state agency shall provide additional assistance as needed.

Sec. 2268.057. COMMISSION PROCEEDINGS. A copy of the proceedings of the commission shall be filed with the legislative body that the presiding officer serves.

Sec. 2268.058. SUBMISSION OF DETAILED PROPOSALS FOR QUALIFYING PROJECTS; EXEMPTION; COMMISSION REVIEW. (a) Before beginning to negotiate an interim or comprehensive agreement, each responsible governmental entity receiving a detailed proposal for a qualifying project must provide copies of the proposal to:

(1) the presiding officer of the commission; and

(2) the chairs of the House Appropriations Committee and Senate Finance Committee or their designees.

(b) The following qualifying projects are not subject to review by the commission:

(1) any proposed qualifying project with a total cost of less than \$5 million;  
and

(2) any proposed qualifying project with a total cost of more than \$5 million but less than \$50 million for which money has been specifically appropriated as a public-private partnership in the General Appropriations Act.

(c) The commission may undertake additional reviews of any qualifying project that will be completed in phases and for which an appropriation has not been made for any phase other than the current phase of the project.

(d) Not later than the 10th day after the date the commission receives a complete copy of the detailed proposal for a qualifying project, the commission shall determine whether to accept or decline the proposal for review and notify the responsible governmental entity of the commission's decision.

(e) If the commission accepts a proposal for review, the commission shall provide its findings and recommendations to the responsible governmental entity not later than the 45th day after the date the commission receives complete copies of the detailed proposal. If the commission does not provide its findings or recommendations to the responsible governmental entity by that date, the commission is considered to have declined review of the proposal and to not have made any findings or recommendations on the proposal.

(f) The responsible governmental entity on request of the commission shall provide any additional information regarding a qualifying project reviewed by the commission if the information is available to or can be obtained by the responsible governmental entity.

(g) The commission shall review accepted detailed proposals and provide findings and recommendations to the responsible governmental entity that include:

(1) a determination on whether the terms of the proposal and proposed qualifying project create state tax-supported debt, taking into consideration the specific findings of the comptroller with respect to the recommendation;

(2) an analysis of the potential financial impact of the qualifying project;

(3) a review of the policy aspects of the detailed proposal and the qualifying project; and

(4) proposed general business terms.

(h) Review by the commission does not constitute approval of any appropriations necessary to implement a subsequent interim or comprehensive agreement.

(i) Except as provided by Subsection (e), the responsible governmental entity may not begin negotiation of an interim or comprehensive agreement until the commission has submitted its recommendations or declined to accept the detailed proposals for review.

(j) Not later than the 30th day before the date a comprehensive or interim agreement is executed, the responsible governmental entity shall submit to the commission and the chairs of the House Appropriations Committee and Senate Finance Committee or their designees:

(1) a copy of the proposed interim or comprehensive agreement; and

(2) a report describing the extent to which the commission's recommendations were addressed in the proposed interim or comprehensive agreement.

Sec. 2268.059. CONFIDENTIALITY OF CERTAIN RECORDS SUBMITTED TO COMMISSION. Records and information afforded protection under Section 552.153 that are provided by a responsible governmental entity to the commission shall continue to be protected from disclosure when in the possession of the commission.

SECTION \_\_\_\_ . Subchapter C, Chapter 552, Government Code, is amended by adding Section 552.153 to read as follows:

Sec. 552.153. PROPRIETARY RECORDS AND TRADE SECRETS INVOLVED IN CERTAIN PARTNERSHIPS. (a) In this section, "affected jurisdiction," "comprehensive agreement," "contracting person," "interim agreement," "qualifying project," and "responsible governmental entity" have the meanings assigned those terms by Section 2267.001.

(b) Information in the custody of a responsible governmental entity that relates to a proposal for a qualifying project authorized under Chapter 2267 is excepted from the requirements of Section 552.021 if:

(1) the information consists of memoranda, staff evaluations, or other records prepared by the responsible governmental entity, its staff, outside advisors, or consultants exclusively for the evaluation and negotiation of proposals filed under Chapter 2267 for which:

(A) disclosure to the public before or after the execution of an interim or comprehensive agreement would adversely affect the financial interest or bargaining position of the responsible governmental entity; and

(B) the basis for the determination under Paragraph (A) is documented in writing by the responsible governmental entity; or

(2) the records are provided by a contracting person to a responsible governmental entity or affected jurisdiction under Chapter 2267 and contain:

(A) trade secrets of the contracting person;

(B) financial records of the contracting person, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or other means; or

(C) other information submitted by the contracting person that, if made public before the execution of an interim or comprehensive agreement, would adversely affect the financial interest or bargaining position of the responsible governmental entity or the person.

(c) Except as specifically provided by Subsection (b), this section does not authorize the withholding of information concerning:

(1) the terms of any interim or comprehensive agreement, service contract, lease, partnership, or agreement of any kind entered into by the responsible governmental entity and the contracting person or the terms of any financing arrangement that involves the use of any public money; or

(2) the performance of any person developing or operating a qualifying project under Chapter 2267.

The amendment to **HB 2729** 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: Nichols.



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

**HB 2729** 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 2729 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 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.

#### **COMMITTEE SUBSTITUTE**

#### **HOUSE BILL 2604 ON SECOND READING**

On motion of Senator Harris and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 2604** at this time on its second reading:

**CSHB 2604**, Relating to unencumbered assets held by title agents.

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 2604 ON THIRD READING**

Senator Harris moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 2604** be placed on its third reading and final passage.

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

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

#### **HOUSE BILL 2080 ON SECOND READING**

Senator Uresti moved to suspend the regular order of business to take up for consideration **HB 2080** at this time on its second reading:

**HB 2080**, Relating to certification of a person as eligible for disabled parking privileges.

The motion prevailed.

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

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

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

Nays: Harris, Wentworth.

#### **HOUSE BILL 2080 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 2080** be placed on its third reading and final passage.

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

Yeas: Birdwell, Carona, Davis, Deuell, Duncan, Ellis, Eltife, Estes, Fraser, Gallegos, Hegar, Hinojosa, Huffman, Jackson, Lucio, Nelson, Nichols, Ogden, Patrick, Rodriguez, Seliger, Shapiro, Uresti, Van de Putte, Watson, West, Whitmire, Williams, Zaffirini.

Nays: Harris, Wentworth.

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

#### **GUEST PRESENTED**

Senator Gallegos was recognized and introduced to the Senate his sister, Lillian Gallegos Villarreal.

The Senate welcomed its guest.

#### **(President Pro Tempore Ogden in Chair)**

#### **HOUSE BILL 886 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 886** at this time on its second reading:

**HB 886**, Relating to the creation of the Harris County Municipal Utility District No. 528; providing authority to impose a tax and issue bonds; granting a limited power of eminent domain.

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

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

#### **HOUSE BILL 886 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 886** 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 1610 ON SECOND READING**

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

**CSHB 1610**, Relating to employment termination procedures applicable to a teacher who is convicted of or receives deferred adjudication for a felony.

The motion prevailed.

Senators Davis, Ellis, Gallegos, Lucio, Van de Putte, and Watson asked to be recorded as voting "Nay" on suspension of the regular order of business.

The bill was read second time.

Senator Patrick offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **CSHB 1610** (senate committee printing) by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_ . Sections 21.12(a) and (b-1), Penal Code, are amended to read as follows:

(a) An employee of a public or private primary or secondary school commits an offense if the employee:

(1) engages in ~~in~~ ~~+~~ sexual contact, sexual intercourse, or deviate sexual intercourse with a person who is enrolled in a public or private primary or secondary school at which the employee works; ~~or~~

(2) holds a certificate or permit issued as provided by Subchapter B, Chapter 21, Education Code, or is a person who is required to be licensed by a state agency as provided by Section 21.003(b), Education Code, and engages in sexual contact, sexual intercourse, or deviate sexual intercourse with a person the employee knows is:

(A) enrolled in a public primary or secondary school in the same school district as the school at which the employee works; or

(B) a student participant in an educational activity that is sponsored by a school district or a public or private primary or secondary school, if:

(i) students enrolled in a public or private primary or secondary school are the primary participants in the activity; and

(ii) the employee provides education services to those participants;

or

(3) engages in conduct described by Section 33.021, with a person described by Subdivision (1), or a person the employee knows is a person described by Subdivision (2)(A) or (B), regardless of the age of that person.

(b-1) It is an affirmative defense to prosecution under this section that:

(1) the actor was the spouse of the enrolled person at the time of the offense;

or

(2) the actor was not more than three years older than the enrolled person and, at the time of the offense, the actor and the enrolled person were in a relationship that began before the actor's employment at a public or private primary or secondary school.

SECTION \_\_\_\_. Section 21.006, Education Code, is amended by adding Subsection (b-1) to read as follows:

(b-1) A superintendent or director of a school district shall complete an investigation of an educator that is based on reasonable cause to believe the educator may have engaged in misconduct described by Subsection (b)(2)(A), despite the educator's resignation from district employment before completion of the investigation.

SECTION \_\_\_\_. Section 21.006(b-1), Education Code, as added by this Act, applies to an investigation of possible public school educator misconduct begun on or after the effective date of this Act, regardless of whether the alleged misconduct occurred before, on, or after the effective date of this Act.

SECTION \_\_\_\_. The change in law made by this Act to Section 21.12, Penal Code, applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

The amendment to **CSHB 1610** was read and was adopted by a viva voce vote.

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

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

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

Amend **CSHB 1610** as follows:

In subsection (c-1), on page 1, lines 44-45, strike "or received deferred adjudication for" and on line 45 after words "felony offense" insert the phrase "related to the performance of the person's employment duties".

The amendment to **CSHB 1610** was read.

On motion of Senator Patrick, Floor Amendment No. 2 was tabled by the following vote: Yeas 19, Nays 12.

Yeas: Birdwell, Carona, Deuell, Duncan, Eltife, Estes, Fraser, Harris, Hegar, Huffman, Jackson, Nelson, Nichols, Ogden, Patrick, Seliger, Shapiro, Wentworth, Williams.

Nays: Davis, Ellis, Gallegos, Hinojosa, Lucio, Rodriguez, Uresti, Van de Putte, Watson, West, Whitmire, Zaffirini.

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

**CSHB 1610** as amended was passed to third reading by the following vote: Yeas 22, Nays 9.

Yeas: Birdwell, Carona, Deuell, Duncan, Eltife, Estes, Fraser, Harris, Hegar, Huffman, Jackson, Nelson, Nichols, Ogden, Patrick, Seliger, Shapiro, Wentworth, West, Whitmire, Williams, Zaffirini.

Nays: Davis, Ellis, Gallegos, Hinojosa, Lucio, Rodriguez, Uresti, Van de Putte, Watson.

**MESSAGE FROM THE HOUSE**

HOUSE CHAMBER

Austin, Texas

Saturday, May 21, 2011 - 2

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 36**                                      Zaffirini                                      Sponsor: Castro  
Relating to methods for increasing student success and degree completion at public institutions of higher education.

**SB 41**                                      Zaffirini                                      Sponsor: Davis, John  
Relating to the use of restraints in state supported living centers.

**SB 58**                                      Zaffirini                                      Sponsor: Raymond  
Relating to the designation of segments of State Highway 359, State Highway 16, and State Highway 285 as the Veterans of the Korean War Memorial Highway.

**SB 74**                                      Nelson    Sponsor: Branch  
Relating to the disposition of surplus or salvage data processing equipment of a university system or an institution or agency of higher education.

**SB 80**                                      Nelson    Sponsor: King, Susan  
Relating to public health laboratories administered by the Department of State Health Services.

**SB 122**                                      Ellis    Sponsor: Gallego  
Relating to postconviction forensic DNA analysis.

**SB 131**                                      Wentworth                                      Sponsor: Kuempel  
Relating to cemeteries in certain municipalities.

**SB 155**                                      Huffman    Sponsor: Zerwas  
Relating to the eligibility of certain school district employees to participate or be enrolled in certain group health benefit programs.

**SB 219**                                      Nelson    Sponsor: Gonzalez, Naomi  
Relating to health and mental health services for children in foster care and kinship care.

**SB 246**                                      Shapiro    Sponsor: Harper-Brown  
Relating to toll collection services provided by a regional tollway authority.

- SB 247** Shapiro Sponsor: Hochberg  
Relating to the authority of the Texas Holocaust and Genocide Commission to participate in the establishment and operation of an affiliated nonprofit organization and provide grants.
- SB 256** Nelson Sponsor: King, Susan  
Relating to requiring a private autopsy facility to post a notice for filing a complaint against a physician; providing a penalty.
- SB 258** Hegar Sponsor: Zerwas  
Relating to the pledge of allegiance to the state flag during a state flag retirement ceremony.
- SB 264** Zaffirini Sponsor: Guillen  
Relating to certain information provided by local workforce development boards regarding certain child-care providers.
- SB 310** Seliger Sponsor: Smithee  
Relating to the Dallam-Hartley Counties Hospital District.
- SB 311** Seliger Sponsor: Chisum  
Relating to the authority of the board of directors of the Ochiltree County Hospital District to employ physicians and other health care providers.
- SB 315** Carona Sponsor: Madden  
Relating to the agencies and entities responsible for compiling and maintaining information pertaining to criminal combinations and criminal street gangs.
- SB 387** Williams Sponsor: Eiland  
Relating to the sale and consumption in this state of raw oysters harvested from Texas waters.
- SB 400** Shapiro Sponsor: Hopson  
Relating to the entities eligible to make purchases using the cooperative purchasing program administered by the comptroller.
- SB 402** West Sponsor: Oliveira  
Relating to community land trusts.
- SB 419** West Sponsor: Patrick, Diane  
Relating to prohibiting state funding to public junior colleges for physical education courses offered for joint high school and junior college credit.
- SB 431** Jackson Sponsor: Smith, Wayne  
Relating to the use of fraudulent or fictitious military records; creating an offense.
- SB 432** Jackson Sponsor: Bonnen  
Relating to the penalty for failure to make a timely installment payment of ad valorem taxes on property in a disaster area.
- SB 436** Nelson Sponsor: Naishtat  
Relating to the authority of a county to inspect day-care centers and group day-care homes.
- SB 514** Birdwell Sponsor: Anderson, Charles "Doc"  
Relating to the acquisition of land and facilities by the Texas State Technical College System.

- SB 520** Hegar Sponsor: Zerwas  
Relating to the creation, administration, powers, and duties of a county assistance district.
- SB 540** Van de Putte Sponsor: Gonzalez, Naomi  
Relating to a study of the fiscal impact of adjusting the amount of the ad valorem tax exemption to which disabled veterans and the surviving spouses and children of disabled veterans and certain members of the armed forces are entitled.
- SB 545** Seliger Sponsor: Driver  
Relating to employment records for law enforcement officers, including procedures to correct employment termination reports; providing an administrative penalty.
- SB 558** Duncan Sponsor: Chisum  
Relating to the Swisher Memorial Hospital District.
- SB 601** Rodriguez Sponsor: Gonzalez, Naomi  
Relating to the authority of the El Paso County Hospital District to employ and commission peace officers.
- SB 794** Nelson Sponsor: King, Susan  
Relating to the use of money from the permanent fund for health-related programs to provide grants to nursing education programs.
- SB 795** Nelson Sponsor: Naishtat  
Relating to regulation of nurse aides.
- SB 813** Gallegos Sponsor: Smith, Wayne  
Relating to the creation of the Harris County Municipal Utility District No. 528; providing authority to impose a tax and issue bonds; granting a limited power of eminent domain.
- SB 822** Watson Sponsor: Zerwas  
Relating to expedited credentialing of certain physicians by managed care plans.
- SB 860** Rodriguez Sponsor: Gonzalez, Naomi  
Relating to the authority of the El Paso County Hospital District to appoint, contract for, or employ physicians, dentists, and other health care providers.
- SB 882** Whitmire Sponsor: Madden  
Relating to the filing of a copy of certain records related to the release of accused persons on personal bond.
- SB 896** Estes Sponsor: Laubenberg  
Relating to the issuance of specialty license plates to certain family members of a person who dies while serving in the United States armed forces.
- SB 910** Lucio Sponsor: Lozano  
Relating to certain state attorneys called into active duty military service.
- SB 953** Whitmire Sponsor: Madden  
Relating to the conditions for granting an occupational license to certain persons, the monitoring of those persons by a local community supervision and corrections department, and the fees associated with department services.
- SB 992** Lucio Sponsor: Lucio III  
Relating to the allocation of loans made under the owner-builder loan program.

- SB 1047** Jackson Sponsor: Davis, John  
Relating to the eligibility of an innovation and commercialization organization associated with the Lyndon B. Johnson Space Center to receive funding from the Texas emerging technology fund.
- SB 1057** Wentworth Sponsor: Harper-Brown  
Relating to the transfer of certain vehicle registrations at the time of sale of the vehicle.
- SB 1154** Uresti Sponsor: McClendon  
Relating to a task force for the development of a strategy to reduce child abuse and neglect and improve child welfare.
- SB 1187** Watson Sponsor: Hartnett  
Relating to the effect of indexing notices of lis pendens.
- SB 1208** Whitmire Sponsor: Madden  
Relating to the age until which juveniles placed on determinate sentence probation may be on probation.
- SB 1248** Lucio Sponsor: Lucio III  
Relating to the designation of a portion of State Highway 499 as the Colonel Bill Card Boulevard.
- SB 1295** Hegar Sponsor: Beck  
Relating to the mining and reclamation of certain land previously affected by surface coal mining operations.
- SB 1311** Lucio Sponsor: Lozano  
Relating to the designation of certain highways as part of the Purple Heart Trail.
- SB 1352** Watson Sponsor: Naishtat  
Relating to the lease of property or hospital facilities by certain hospital districts.
- SB 1410** Duncan Sponsor: Patrick, Diane  
Relating to reporting student enrollment in tech-prep programs and evaluating tech-prep consortia.
- SB 1414** Duncan Sponsor: Eiland  
Relating to sexual abuse and child molestation training and examination for employees of certain programs for minors held on campuses of institutions of higher education; providing penalties.
- SB 1578** Williams Sponsor: Deshotel  
Relating to the addition of a county to a freight rail district.
- SB 1598** Carona Sponsor: Smithee  
Relating to the inspection of portable fire extinguishers.
- SB 1660** Lucio Sponsor: Alvarado  
Relating to certain unclaimed property of veterans and veterans' families.
- SB 1667** Duncan Sponsor: Truitt  
Relating to the administration of and benefits payable by the Teacher Retirement System of Texas and to certain domestic relations orders.
- SB 1668** Duncan Sponsor: Truitt  
Relating to purchase of service credit in the Teacher Retirement System of Texas.



- SB 1669** Duncan Sponsor: Truitt  
Relating to the resumption of service by retirees under the Teacher Retirement System of Texas.
- SB 1687** Ellis Sponsor: Coleman  
Relating to information on turnover among licensed jailers at jails under the jurisdiction of the Commission on Jail Standards.
- SB 1692** Lucio Sponsor: Alvarado  
Relating to municipal and county budgets on the Internet.
- SB 1719** Williams Sponsor: Fletcher  
Relating to certain comprehensive development agreements of the Texas Department of Transportation.
- SB 1755** Van de Putte Sponsor: Smith, Wayne  
Relating to the issuance of certain specialty license plates.
- SB 1831** Wentworth Sponsor: Miller, Doug  
Relating to the designation of the El Camino Real de los Tejas National Historic Trail as a historic highway.

Respectfully,

/s/Robert Haney, Chief Clerk  
House of Representatives

### HOUSE BILL 159 ON SECOND READING

Senator Zaffirini moved to suspend the regular order of business to take up for consideration **HB 159** at this time on its second reading:

**HB 159**, Relating to the resumption of employment by certain retirees within the Texas Municipal Retirement System.

The motion prevailed.

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

The bill was read second time and was passed to 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: Birdwell, Nelson, Ogden, Shapiro.

### HOUSE BILL 159 ON THIRD READING

Senator Zaffirini moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 159** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 27, Nays 4.

Yeas: Carona, Davis, Deuell, Duncan, Ellis, Eltife, Estes, Fraser, Gallegos, Harris, Hegar, Hinojosa, Huffman, Jackson, Lucio, Nichols, Patrick, Rodriguez, Seliger, Uresti, Van de Putte, Watson, Wentworth, West, Whitmire, Williams, Zaffirini.

Nays: Birdwell, Nelson, Ogden, Shapiro.

The bill was read third time and was passed by the following vote: Yeas 27, Nays 4. (Same as previous roll call)

#### **HOUSE BILL 1469 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 1469** at this time on its second reading:

**HB 1469**, Relating to exempting certain fraternal and veterans organizations from certain bond requirements to obtain an alcoholic beverage 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.

#### **HOUSE BILL 1469 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 1469** 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 1315 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 1315** at this time on its second reading:

**CSHB 1315**, Relating to the use of municipal hotel occupancy tax revenue in certain 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.

#### **COMMITTEE SUBSTITUTE**

#### **HOUSE BILL 1315 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 1315** 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 1610 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 **CSHB 1610** be placed on its third reading and final passage:

**CSHB 1610**, Relating to employment termination procedures applicable to a teacher who is convicted of or receives deferred adjudication for a felony.

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

Yeas: Birdwell, Carona, Deuell, Duncan, Eltife, Estes, Fraser, Gallegos, Harris, Hegar, Hinojosa, Huffman, Jackson, Nelson, Nichols, Ogden, Patrick, Seliger, Shapiro, Uresti, Watson, Wentworth, Whitmire, Williams, Zaffirini.

Nays: Davis, Ellis, Lucio, Rodriguez, Van de Putte, West.

The bill was read third time and was passed by the following vote: Yeas 22, Nays 9.

Yeas: Birdwell, Carona, Deuell, Duncan, Ellis, Eltife, Estes, Fraser, Harris, Hegar, Huffman, Jackson, Nelson, Nichols, Ogden, Patrick, Seliger, Shapiro, Wentworth, Whitmire, Williams, Zaffirini.

Nays: Davis, Gallegos, Hinojosa, Lucio, Rodriguez, Uresti, Van de Putte, Watson, West.

**HOUSE BILL 254 ON SECOND READING**

Senator Wentworth moved to suspend the regular order of business to take up for consideration **HB 254** at this time on its second reading:

**HB 254**, Relating to establishing the Texas Derbies.

The motion prevailed.

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

The bill was read second time.

Senator Wentworth offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **HB 254** (senate committee printing) as follows:

(1) In SECTION 1 of the bill, in added Section 9A.003, Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes), immediately following Subsection (d) (page 2, between lines 16-17), insert the following:

(e) The commission may not:

(1) use funds from the Accredited Texas-bred program under Article 9 of this Act or the escrowed purse account under Section 6.091(e) of this Act to fund the Texas Derby escrow purse fund; or

(2) order a breed registry to fund a purse for a Texas Derby, make contributions to the Texas Derby escrow purse fund, or pay the expenses of a Texas Derby race.

(2) In SECTION 1 of the bill, in added Section 9A.003, Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes), reletter the subsequent subsections accordingly (page 1, line 17).

The amendment to **HB 254** was read and was adopted by a viva voce vote.

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

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

**HB 254** 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: Huffman, Patrick.

#### **HOUSE BILL 254 ON THIRD READING**

Senator Wentworth moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 254** be placed on its third reading and final passage.

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

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

Nays: Huffman, Patrick.

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

#### **HOUSE BILL 2507 ON SECOND READING**

Senator Seliger moved to suspend the regular order of business to take up for consideration **HB 2507** at this time on its second reading:

**HB 2507**, Relating to the offense of installing an irrigation system without a license.

The motion prevailed.

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

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

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

Nays: Patrick.

#### **HOUSE BILL 2507 ON THIRD READING**

Senator Seliger moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2507** be placed on its third reading and final passage.

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

Nays: Patrick.

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

#### **COMMITTEE SUBSTITUTE SENATE BILL 1193 ON SECOND READING**

On motion of Senator Rodriguez and by unanimous consent, the regular order of business was suspended to take up for consideration **CSSB 1193** at this time on its second reading:

**CSSB 1193**, Relating to coordination of services provided by Medicaid managed care organizations and certain community centers and local mental health or mental retardation authorities.

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

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

#### **COMMITTEE SUBSTITUTE SENATE BILL 1193 ON THIRD READING**

Senator Rodriguez moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSSB 1193** be placed on its third reading and final passage.

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

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

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

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

**HB 971, HB 2643, HB 3117.**

#### **RECESS**

On motion of Senator Whitmire, the Senate at 1:41 p.m. recessed until 2:00 p.m. today.

**AFTER RECESS**

The Senate met at 2:07 p.m. and was called to order by Senator Eltife.

**MESSAGE FROM THE HOUSE**

HOUSE CHAMBER

Austin, Texas

Saturday, May 21, 2011 - 3

(Revised Message)

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 CONCURRED IN THE SENATE AMENDMENTS TO THE FOLLOWING MEASURES:

**HB 8** (142 Yeas, 1 Nays, 2 Present, not voting)

**HB 92** (138 Yeas, 1 Nays, 2 Present, not voting)

**HB 240** (140 Yeas, 1 Nays, 2 Present, not voting)

**HB 252** (136 Yeas, 0 Nays, 3 Present, not voting)

**HB 350** (140 Yeas, 0 Nays, 2 Present, not voting)

**HB 417** (143 Yeas, 0 Nays, 2 Present, not voting)

**HB 1057** (138 Yeas, 2 Nays, 2 Present, not voting)

**HB 1127** (138 Yeas, 0 Nays, 2 Present, not voting)

**HB 1573** (140 Yeas, 0 Nays, 2 Present, not voting)

**HB 1814** (143 Yeas, 0 Nays, 2 Present, not voting)

**HB 1899** (142 Yeas, 0 Nays, 2 Present, not voting)

**HB 2476** (141 Yeas, 0 Nays, 3 Present, not voting)

**HB 2488** (141 Yeas, 0 Nays, 2 Present, not voting)

**HB 2609** (142 Yeas, 0 Nays, 2 Present, not voting)

**HB 2716** (142 Yeas, 0 Nays, 2 Present, not voting)

**HB 2907** (142 Yeas, 0 Nays, 2 Present, not voting)

**HB 2959** (139 Yeas, 0 Nays, 2 Present, not voting)

**HB 2973** (141 Yeas, 0 Nays, 2 Present, not voting)

**HB 3342** (141 Yeas, 0 Nays, 2 Present, not voting)

**HB 3372** (139 Yeas, 0 Nays, 2 Present, not voting)

**HB 3510** (143 Yeas, 0 Nays, 2 Present, not voting)

**HB 3531** (142 Yeas, 0 Nays, 2 Present, not voting)

**HJR 130** (141 Yeas, 0 Nays, 2 Present, not voting)

THE HOUSE HAS REFUSED TO CONCUR IN THE SENATE AMENDMENTS TO THE FOLLOWING MEASURES AND REQUESTS THE APPOINTMENT OF A CONFERENCE COMMITTEE TO ADJUST THE DIFFERENCES BETWEEN THE TWO HOUSES:

**HB 200** (non-record vote)

House Conferees with Instructions: Parker - Chair/Madden/Marquez/Perry/White

**HB 2457** (non-record vote)

House Conferees: Davis, John - Chair/Murphy/Pena/Reynolds/Strama

**HB 3302** (non-record vote)

House Conferees: Reynolds - Chair/Anderson, Rodney/Miles/Murphy/Vo

Respectfully,

/s/Robert Haney, Chief Clerk  
House of Representatives

### COMMITTEE SUBSTITUTE HOUSE BILL 725 ON SECOND READING

The Presiding Officer laid before the Senate **CSHB 725** sponsored by Senator Fraser on its second reading. The bill had been read second time, amended, a point of order raised, and further consideration postponed:

**CSHB 725**, Relating to the operation, powers, and duties of certain water districts.

Question — Shall the point of order on Floor Amendment No. 3 to **CSHB 725** be sustained?

Senator Hegar withdrew the point of order.

Senator Fraser withdrew Floor Amendment No. 3.

Senator Nichols offered the following amendment to the bill:

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

Amend **CSHB 725** by adding the following SECTIONS and renumbering the subsequent SECTIONS accordingly:

SECTION \_\_\_\_\_. Section 13.254, Water Code, is amended by amending Subsections (a) and (a-2) and adding Subsections (a-5) and (a-6) to read as follows:

(a) The commission at any time after notice and hearing may~~], on its own motion or on receipt of a petition described by Subsection (a-1),]~~ revoke or amend any certificate of public convenience and necessity with the written consent of the certificate holder or if it finds that:

(1) the certificate holder has never provided, is no longer providing, is incapable of providing, or has failed to provide continuous and adequate service in the area, or part of the area, covered by the certificate;

(2) in an affected county as defined in Section 16.341, the cost of providing service by the certificate holder is so prohibitively expensive as to constitute denial of service, provided that, for commercial developments or for residential developments started after September 1, 1997, in an affected county as defined in Section 16.341, the fact that the cost of obtaining service from the currently certificated retail public utility makes the development economically unfeasible does not render such cost prohibitively expensive in the absence of other relevant factors;

(3) the certificate holder has agreed in writing to allow another retail public utility to provide service within its service area, except for an interim period, without amending its certificate; or

(4) the certificate holder has failed to file a cease and desist action pursuant to Section 13.252 within 180 days of the date that it became aware that another retail public utility was providing service within its service area, unless the certificate holder demonstrates good cause for its failure to file such action within the 180 days.

(a-2) A landowner is not entitled to make the election described in Subsection (a-1) or (a-5) but is entitled to contest under Subsection (a) the involuntary certification of its property in a hearing held by the commission if the landowner's property is located:

(1) within the boundaries of any municipality or the extraterritorial jurisdiction of a municipality with a population of more than 500,000 and the municipality or retail public utility owned by the municipality is the holder of the certificate; or

(2) in a platted subdivision actually receiving water or sewer service.

(a-5) As an alternative to decertification under Subsection (a) and expedited release under Subsection (a-1), the owner of a tract of land that is at least 25 acres and that is not receiving water or sewer service may petition for expedited release of the area from a certificate of public convenience and necessity and is entitled to that release if the landowner's property is located in a county with a population of at least one million, a county adjacent to a county with a population of at least one million, or a county with a population of more than 200,000 and less than 220,000.

(a-6) The commission shall grant a petition received under Subsection (a-5) not later than the 60th day after the date the landowner files the petition. The commission may not deny a petition received under Subsection (a-5) based on the fact that a certificate holder is a borrower under a federal loan program. The commission may require an award of compensation by the petitioner to a decertified retail public utility that is the subject of a petition filed under Subsection (a-5) as otherwise provided by this section.

The amendment to **CSHB 725** was read and was adopted by the following vote: Yeas 18, Nays 11.

Yeas: Birdwell, Carona, Davis, Eltife, Fraser, Gallegos, Harris, Hegar, Huffman, Jackson, Nelson, Nichols, Ogden, Patrick, Shapiro, Watson, Wentworth, Williams.

Nays: Deuell, Ellis, Estes, Hinojosa, Lucio, Rodriguez, Seliger, Uresti, Van de Putte, Whitmire, Zaffirini.

Absent: Duncan, West.



Senator Huffman offered the following amendment to the bill:

**Floor Amendment No. 5**

Amend **CSHB 725** (senate committee printing) as follows:

(1) Before SECTION 1 of the bill, between the enacting clause and "SECTION 1." (page 1, between lines 12 and 13), insert the following:

ARTICLE 1. GENERAL PROVISIONS

(2) Renumber the SECTIONS of ARTICLE 1 (page 1, line 13, through page 14, line 1) appropriately.

(3) In SECTION 39 of the bill (page 13, line 63), strike "Act" and substitute "article".

(4) In SECTION 40 of the bill (page 13, line 65), strike "this Act" and substitute "this article".

(5) In SECTION 40 of the bill (page 13, line 67), strike "this Act, take" and substitute "this article, take".

(6) After SECTION 40 of the bill (page 14, line 2), add the following appropriately numbered ARTICLES and SECTIONS:

ARTICLE \_\_\_. IMPERIAL REDEVELOPMENT DISTRICT

SECTION \_\_\_.01. Section 8150.001, Special District Local Laws Code, is amended by adding Subdivision (2-a) to read as follows:

(2-a) "County" means Fort Bend County, Texas.

SECTION \_\_\_.02. Section 8150.002, Special District Local Laws Code, is amended to read as follows:

Sec. 8150.002. NATURE OF DISTRICT. The district is a municipal utility district in Fort Bend County created under Section 59, Article XVI, Texas Constitution, and is essential to accomplish the purposes of Sections [Section] 52 and 52-a, Article III, Section 1-g, Article VIII, and Section 59, Article XVI, Texas Constitution, and other public purposes stated in this chapter.

SECTION \_\_\_.03. Subchapter A, Chapter 8150, Special District Local Laws Code, is amended by adding Section 8150.0025 to read as follows:

Sec. 8150.0025. DECLARATION OF INTENT. (a) By creating the district and in authorizing the city, the county, and other political subdivisions to contract with the district, the legislature has established a program to accomplish the public purposes set out in Section 52-a, Article III, Texas Constitution.

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

(c) This chapter and the creation of the district may not be interpreted to relieve the city or the county from providing services to the area in the district. The district is created to supplement and not to supplant city and county services provided in the district.

SECTION \_\_\_.04. Section 8150.003, Special District Local Laws Code, is amended to read as follows:

Sec. 8150.003. FINDINGS OF BENEFIT AND PUBLIC PURPOSE. (a) All land and other property included in the district will benefit from the improvements and services to be provided by the district under powers conferred by Sections ~~[Section]~~ 52 and 52-a, Article III, Section 1-g, Article VIII, and Section 59, Article XVI, Texas Constitution, and other powers granted under this chapter.

(b) The district is created for the ~~[same]~~ purposes of ~~[as]~~:

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

(2) ~~[a road utility district created under]~~ Section 52, Article III, Texas Constitution, that relate to the construction, acquisition, improvement, operation, or maintenance of macadamized, graveled, or paved roads, or improvements in aid of those roads, including drainage improvements ~~[and operating under Chapter 441, Transportation Code, including the purpose of constructing, acquiring, improving, maintaining, and operating roads and road facilities]~~; and

(3) the purchase, construction, acquisition, ownership, improvement, maintenance, and operation of the public works and public improvements authorized for a tax increment reinvestment zone operating under Chapter 311, Tax Code, and a municipal management district operating under Chapter 375, Local Government Code.

(c) The district is created to serve a public use and benefit.

(d) The creation of the district is in the public interest and is essential to further the public purposes of:

(1) developing and diversifying the economy of the state;

(2) eliminating unemployment and underemployment; and

(3) developing or expanding transportation and commerce.

(e) The district will:

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

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

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

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

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

SECTION \_\_.05. Subchapter A, Chapter 8150, Special District Local Laws Code, is amended by adding Section 8150.0035 to read as follows:

Sec. 8150.0035. FINDING ON SPORTS AND COMMUNITY VENUES. A sports and community venue facility is considered to be a park and recreational facility.

SECTION \_\_.06. Subchapter C, Chapter 8150, Special District Local Laws Code, is amended by adding Sections 8150.1025, 8150.105, 8150.106, 8150.107, 8150.108, 8150.109, and 8150.110 to read as follows:

Sec. 8150.1025. MUNICIPAL MANAGEMENT DISTRICT PROJECTS AND SERVICES. The district may provide, design, construct, acquire, improve, relocate, operate, maintain, or finance an improvement, improvement project, or service using money available to the district, or contract with a governmental or private entity to provide, design, construct, acquire, improve, relocate, operate, maintain, or finance an improvement, improvement project, or service authorized under this chapter or Chapter 375, Local Government Code.

Sec. 8150.105. DEVELOPMENT CORPORATION POWERS. The district, using money available to the district, may exercise the powers given to a development corporation under Chapter 505, Local Government Code, including the power to own, operate, acquire, construct, lease, improve, or maintain a project under that chapter.

Sec. 8150.106. NONPROFIT CORPORATION. (a) The board by resolution may authorize the creation of a nonprofit corporation to assist and act for the district in implementing a project or providing a service authorized by this chapter.

(b) The nonprofit corporation:

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

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

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

Sec. 8150.107. MEMBERSHIP IN CHARITABLE ORGANIZATIONS. The district may join and pay dues to a charitable or nonprofit organization that performs a service or provides an activity consistent with the furtherance of a district purpose.

Sec. 8150.108. ECONOMIC DEVELOPMENT. (a) The district may engage in activities that accomplish the economic development purposes of the district.

(b) The district may establish and provide for the administration of one or more programs to promote state or local economic development and to stimulate business and commercial activity in the district, including programs to:

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

(2) provide district personnel and services.

(c) The district may create economic development programs and exercise the economic development powers that:

(1) Chapter 380, Local Government Code, provides to a municipality; and

(2) Subchapter A, Chapter 1509, Government Code, provides to a municipality.

Sec. 8150.109. PARKING FACILITIES. (a) The district may acquire, lease as lessor or lessee, construct, develop, own, operate, and maintain parking facilities or a system of parking facilities, including lots, garages, parking terminals, or other structures or accommodations for parking motor vehicles off the streets and related appurtenances.

(b) The district's parking facilities serve the public purposes of the district and are owned, used, and held for a public purpose even if leased or operated by a private entity for a term of years.

(c) The district's parking facilities are parts of and necessary components of a street and are considered to be a street or road improvement.

(d) The development and operation of the district's parking facilities may be considered an economic development program.

Sec. 8150.110. SPORTS AND COMMUNITY VENUE FACILITIES. (a) The district may acquire, sell, lease as lessor or lessee, convey, construct, finance, develop, own, operate, maintain, acquire real property interests for, demolish, or reconstruct a sports and community venue facility.

(b) A sports and community venue facility authorized under this section includes:

(1) an arena, coliseum, stadium, or other type of area or facility that is used or is planned for use for one or more professional or amateur sports events, community events, other sports events, promotional events, and other civic or charitable events;

(2) a convention center facility or related improvement such as a convention center, civic center, civic center building, civic center hotel, auditorium, theater, opera house, music hall, exhibition hall, rehearsal hall, park, performing arts center, museum, aquarium, or plaza that is located in the vicinity of a convention center or facility owned by a municipality or a county; and

(3) a facility related to a sports and community venue facility, including a store, restaurant, on-site hotel, concession, or other on-site or off-site improvement that relates to and enhances the use, value, or appeal of a sports and community venue, including an area adjacent to the venue, and any other expenditure reasonably necessary to construct, improve, renovate, or expand a venue, including an expenditure for environmental remediation.

SECTION \_\_.07. Section 8150.151, Special District Local Laws Code, is amended to read as follows:

Sec. 8150.151. ROAD PROJECTS. (a) As authorized by Section 52, Article III, Texas Constitution, the district may construct, acquire, improve, maintain, or operate, inside and outside the district, roads and road improvements ~~[facilities as defined by Chapter 441, Transportation Code].~~

(b) The roads and road improvements ~~[facilities]~~ authorized by Subsection (a) may include drainage, landscaping, pedestrian improvements, lights, signs, or signals that are incidental to the roads and their construction, maintenance, or operation.

(c) The roads and road improvements ~~[facilities]~~ authorized by this section must meet all applicable construction standards, zoning and subdivision requirements, and regulatory ordinances of the city.

(d) On completion of a road or road improvement [facility] authorized by this section, the district, with the consent of the city, may convey the road or road improvement [facility] to the city if the conveyance is free of all indebtedness of the district. If the city becomes the owner of a road or road improvement [facility], the city is responsible for all future maintenance and upkeep and the district has no further responsibility for the road or road improvement [facility] or its maintenance or upkeep, unless otherwise agreed to by the district and the city.

SECTION \_\_.08. Section 8150.153, Special District Local Laws Code, is amended to read as follows:

Sec. 8150.153. REIMBURSEMENT FOR ROAD PROJECT. (a) The district may:

(1) reimburse a private person for money spent to construct a road or road improvement [facility] that is dedicated or otherwise transferred to public use; or

(2) purchase a road or road improvement [facility] constructed by a private person.

(b) The amount paid for the reimbursement or for the purchase of a road or road improvement [facility] under Subsection (a) may:

(1) include all construction costs, including engineering, legal, financing, and other expenses incident to the construction; or

(2) be at a price not to exceed the replacement cost of the road or road improvement [facility] as determined by the board.

(c) The reimbursement or purchase of a road or road improvement [facility] may be paid for with proceeds from the sale of the district's bonds or from any other money available to the district.

(d) The district may enter into an agreement to use the proceeds of a subsequent bond sale to reimburse a private person under this section. The agreement may provide the terms and conditions under which the road or road improvement [facility] is to be dedicated or transferred for the benefit of the public.

SECTION \_\_.09. Subsection (a), Section 8150.201, Special District Local Laws Code, is amended to read as follows:

(a) The district may issue, without an election, bonds and other obligations secured by:

(1) revenue [or contract payments] from any source other than ad valorem taxation; or

(2) contract payments described by Section 8150.203.

SECTION \_\_.10. The heading to Section 8150.202, Special District Local Laws Code, is amended to read as follows:

Sec. 8150.202. OPERATION AND MAINTENANCE [~~AD VALOREM~~] TAX.

SECTION \_\_.101. Section 8150.202, Special District Local Laws Code, is amended by amending Subsection (a) and adding Subsection (c) to read as follows:

(a) If authorized by a majority of the district voters voting at an election held for that purpose [~~under Section 8150.201~~], the district may impose an operation and maintenance [annual ad valorem] tax on taxable property in the district in accordance with Section 49.107, Water Code, for any district purpose, including to:

(1) operate and maintain the district;

(2) construct or acquire improvements; and

~~(3) provide a service [for the provision of services or for the maintenance and operation of the district, including the improvements constructed or acquired by the district].~~

(c) Section 49.107(h), Water Code, does not apply to the district.

SECTION \_\_\_\_ .012. Subchapter E, Chapter 8150, Special District Local Laws Code, is amended by adding Sections 8150.203, 8150.204, 8150.205, 8150.206, 8150.207, and 8150.208 to read as follows:

Sec. 8150.203. CONTRACT TAXES. (a) In accordance with Section 49.108, Water Code, the district may impose a tax other than an operation and maintenance tax and use the revenue derived from the tax to make payments under a contract after the provisions of the contract have been approved by a majority of the district voters voting at an election held for that purpose.

(b) A contract approved by the district voters may contain a provision stating that the contract may be modified or amended by the board without further voter approval.

Sec. 8150.204. MONEY USED FOR IMPROVEMENTS OR SERVICES. The district may acquire, construct, finance, operate, or maintain any improvement or service authorized under this chapter or Chapter 375, Local Government Code, using any money available to the district.

Sec. 8150.205. PETITION REQUIRED FOR FINANCING SERVICES AND IMPROVEMENTS WITH ASSESSMENTS. (a) The board may not finance a service or improvement project with assessments under this chapter unless a written petition requesting that service or improvement has been filed with the board.

(b) The petition must be signed by the owners of a majority of the assessed value of real property in the district subject to assessment according to the most recent certified tax appraisal roll for the county.

Sec. 8150.206. METHOD OF NOTICE FOR HEARING. The district may mail the notice required by Section 375.115(c), Local Government Code, by certified or first class United States mail. The board shall determine the method of notice.

Sec. 8150.207. ASSESSMENTS; LIENS FOR ASSESSMENTS. (a) The board by resolution may impose and collect an assessment under Subchapter F, Chapter 375, Local Government Code, for any purpose authorized by this chapter or Chapter 375, Local Government Code, in all or any part of the district.

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

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

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

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

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

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

Sec. 8150.208. TAX AND ASSESSMENT ABATEMENTS. The district may designate reinvestment zones and may grant abatements of a tax or assessment on property in the zones.

SECTION \_\_.013. Section 8150.251, Special District Local Laws Code, is amended by amending Subsection (a) and adding Subsection (c) to read as follows:

(a) The district may issue bonds or other obligations payable wholly or partly from ad valorem taxes, assessments, impact fees, revenue, contract payments, grants, or other district money, or any combination of those sources, to pay for any authorized district purpose.

(c) The limitation on the outstanding principal amount of bonds, notes, and other obligations provided by Section 49.4645, Water Code, does not apply to the district.

SECTION \_\_.014. Section 8150.252, Special District Local Laws Code, is amended to read as follows:

Sec. 8150.252. TAXES FOR BONDS AND OTHER OBLIGATIONS. At the time the district issues bonds [~~or other obligations~~] payable wholly or partly from ad valorem taxes, [~~are issued~~]:

~~[(1)]~~ the board shall provide for the annual imposition of [impose] a continuing direct annual ad valorem tax, without limit as to rate or amount, while [for each year that] all or part of the bonds are outstanding as required and in the manner provided by Sections 54.601 and 54.602, Water Code[; and

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

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

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

~~[(C)]~~ pay the expenses of imposing the taxes].

SECTION \_\_.015. Subchapter F, Chapter 8150, Special District Local Laws Code, is amended by adding Section 8150.257 to read as follows:

Sec. 8150.257. APPROVAL OF CERTAIN BONDS BY TEXAS COMMISSION ON ENVIRONMENTAL QUALITY. Section 375.208, Local Government Code, applies to the district.

SECTION \_\_.016. (a) The Imperial Redevelopment District may not exercise a power granted by Section 8150.105, 8150.106, 8150.107, 8150.108, 8150.109, 8150.110, 8150.203, or 8150.208, Special District Local Laws Code, as added by this article, until the governing body of the City of Sugar Land consents to the power by adopting a resolution or ordinance. The governing body may consent to some or all of the sections through the resolution or ordinance. The governing body may not modify a section.

(b) This section does not affect any consent or authorization granted by the City of Sugar Land to the Imperial Redevelopment District before the effective date of this article.

SECTION \_\_\_\_.017. This article does not affect bonds or other obligations issued before the effective date of this article. Bonds or other obligations issued before the effective date of this article are governed by the law in effect when the bonds or other obligations were issued, and that law is continued in effect for that purpose.

SECTION \_\_\_\_.018. Sections 8150.253, 8150.255, and 8150.256, Special District Local Laws Code, are repealed.

SECTION \_\_\_\_.019. (a) The legislature validates and confirms all acts and proceedings of the Board of Directors of the Imperial Redevelopment District that were taken before the effective date of this article.

(b) Subsection (a) of this section does not apply to any matter that on the effective date of this article:

(1) is involved in litigation if the litigation ultimately results in the matter being held invalid by a final judgment of a court; or

(2) has been held invalid by a final judgment of a court.

SECTION \_\_\_\_.020. (a) The legal notice of the intention to introduce this article, setting forth the general substance of this article, has been published as provided by law, and the notice and a copy of this article have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished under Section 59, Article XVI, Texas Constitution, and Chapter 313, Government Code.

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

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

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

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

SECTION \_\_\_\_.021. This article takes effect immediately if this Act 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 article takes effect September 1, 2011.

The amendment to **CSHB 725** was read and was adopted by a viva voce vote.

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



Senator Fraser offered the following amendment to the bill:

**Floor Amendment No. 6**

Amend **CSHB 725** (senate committee printing) by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS accordingly:

SECTION \_\_\_\_\_. Subchapter H, Chapter 49, Water Code, is amended by adding Section 49.2127 to read as follows:

Sec. 49.2127. WATER MANAGEMENT PLANS FOR CERTAIN SPECIAL WATER AUTHORITIES. (a) In this section:

(1) "Authority" means a special water authority to which this section applies under Subsection (b).

(2) "Firm water" means a supply of stored water that could be supplied without shortage during each year of a simulated repeat of the drought of record, while honoring all senior water rights. During a drought of record, the supply of water for firm water customers has a higher priority than that of interruptible water customers.

(3) "Interruptible water" means a stored supply of water for customers of an authority that must be curtailed before the authority curtails firm water supplies.

(b) This section applies only to a special water authority whose water management plan consists of a reservoir operation plan for the operation of two water supply reservoirs and was:

(1) developed by an applicant for a permit under Chapter 11; and

(2) originally required by a court order adjudicating the water rights for those reservoirs.

(c) An authority's water management plan must:

(1) ensure that adequate firm water supplies are available to meet the existing and projected demands of firm water customers to the extent:

(A) provided by previously adjudicated water rights; and

(B) other supplies are not available to the authority to meet those firm water customer demands; and

(2) provide for curtailing water supplies under interruptible commitments before requesting that firm water customers institute voluntary drought contingency measures.

SECTION \_\_\_\_\_. A special water authority to which Section 49.2127, Water Code, as added by this Act, applies shall adopt or amend its rules and its water management plan as required to implement Section 49.2127, Water Code, as added by this Act.

The amendment to **CSHB 725** was read.

On motion of Senator Hegar, Floor Amendment No. 6 was tabled by the following vote: Yeas 16, Nays 14.

Yeas: Deuell, Duncan, Ellis, Estes, Gallegos, Hegar, Hinojosa, Huffman, Nichols, Patrick, Rodriguez, Uresti, Van de Putte, Wentworth, Whitmire, Williams.

Nays: Birdwell, Carona, Davis, Eltife, Fraser, Harris, Jackson, Lucio, Nelson, Ogden, Seliger, Shapiro, Watson, Zaffirini.

Absent: West.

Senator Deuell offered the following amendment to the bill:

**Floor Amendment No. 7**

Amend **CSHB 725** (Senate Committee printing) by adding a new appropriately numbered SECTION as follows:

SECTION \_\_\_\_\_. Subsection (j), Section 13.255, Water Code, is amended as follows:

(j) This section shall apply only in a case where:

(1) the retail public utility that is authorized to serve in the certificated area that is annexed or incorporated by the municipality is a nonprofit water supply or sewer service corporation, a special utility district under Chapter 65, Water Code, a fresh water supply district under Chapter 53 Water Code; or

(2) the retail public utility that is authorized to serve in the certificated area that is annexed or incorporated by the municipality is a retail public utility, other than a nonprofit water supply or sewer service corporation, and whose service area is located entirely within the boundaries of a municipality with a population of 1.7 million or more according to the most recent federal census; or

(3) the retail public utility that is authorized to serve in the certificated area that is annexed or incorporated by the municipality is a retail public utility, other than a nonprofit water supply or sewer service corporation, and the service area to be acquired is located entirely within the boundaries of a municipality with a population of more than 30,000 that is in a county that has population of less than 90,000 and borders Lake Ray Hubbard according to the most recent federal census.

Senator Deuell temporarily withdrew Floor Amendment No. 7.

Senator Harris offered the following amendment to the bill:

**Floor Amendment No. 8**

Amend **CSHB 725** (Senate Committee Substitute) by Amending Section 36.0151(c), Water Code, in SECTION 7 of the bill by inserting the following between the words "district" and "under" on page 3, line 22:  
", before September 1, 2015,"

The amendment to **CSHB 725** was read and was adopted by a viva voce vote.

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

Senator Watson offered the following amendment to the bill:

**Floor Amendment No. 9**

Amend **CSHB 725** by adding the following section to the bill, numbered appropriately:

SECTION \_\_\_\_\_. Subchapter H, Chapter 49, Water Code, is amended to add Section 49.239 to read as follows:

Sec. 49.239. WATER RATES. (a) In this section "utility" means any person or entity or any combination of persons or entities, other than a district, a water supply corporation that has adopted and is operating in accordance with by-laws or articles of

incorporation which ensure that it is member-owned and member-controlled, or a political subdivision of the state, or their lessees, trustees, and receivers, providing potable water service to a district or to the residents of such district.

(b) Notwithstanding the provisions of any agreement, a district may appeal the rate it is charged by a utility for potable water service by filing a petition with the commission. The commission shall hear the appeal de novo and the utility shall have the burden of proof to establish that the rate is just and reasonable and does not adversely affect the public interest. The commission shall presume that the rate adversely affects the public interest if the rate the utility charges at the time the petition is filed is at least 200 percent higher than the rate charged at any time during the 36-month period before the date of the petition. The commission shall fix the rates to be charged by the utility and the utility may not increase such rates without the approval of the commission.

The amendment to **CSHB 725** 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. 9.

Senator Deuell again offered the following amendment to the bill:

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

Amend **CSHB 725** (Senate Committee printing) by adding a new appropriately numbered SECTION as follows:

SECTION \_\_\_\_\_. Subsection (j), Section 13.255, Water Code, is amended as follows:

(j) This section shall apply only in a case where:

(1) the retail public utility that is authorized to serve in the certificated area that is annexed or incorporated by the municipality is a nonprofit water supply or sewer service corporation, a special utility district under Chapter 65, Water Code, a fresh water supply district under Chapter 53 Water Code; or

(2) the retail public utility that is authorized to serve in the certificated area that is annexed or incorporated by the municipality is a retail public utility, other than a nonprofit water supply or sewer service corporation, and whose service area is located entirely within the boundaries of a municipality with a population of 1.7 million or more according to the most recent federal census-; or

(3) the retail public utility that is authorized to serve in the certificated area that is annexed or incorporated by the municipality is a retail public utility, other than a nonprofit water supply or sewer service corporation, and the service area to be acquired is located entirely within the boundaries of a municipality with a population of more than 30,000 that is in a county that has population of less than 90,000 and borders Lake Ray Hubbard according to the most recent federal census.

The amendment to **CSHB 725** was read and was adopted by the following vote: Yeas 31, Nays 0.

Senator Seliger offered the following amendment to the bill:

**Floor Amendment No. 10**

Amend the senate committee printing of **CSHB 725** by adding the following SECTIONS and renumbering the subsequent SECTIONS accordingly:

SECTION \_\_\_\_\_. Section 36.1071, Water Code, is amended by amending Subsections (c) and (f) and adding Subsection (f-1) to read as follows:

(c) The commission and the Texas Water Development Board shall provide technical assistance to a district in the development of the management plan required under Subsection (a) that [which] may include, if requested by the district, a preliminary review and comment on the plan prior to final approval by the Texas Water Development Board [board]. If such review and comment by the commission is requested, the commission shall provide comment not later than 30 days from the date the request is received.

(f) ~~[The district shall adopt rules necessary to implement the management plan.]~~ Prior to the development of the district's first management plan and ~~[its]~~ approval of that plan under Section 36.1072, the district:

~~(1) [may not adopt rules other than rules pertaining to the registration and interim permitting of new and existing wells and rules governing spacing and procedure before the district's board; however, the district may not adopt any rules limiting the production of wells, except rules requiring that groundwater produced from a well be put to a nonwasteful, beneficial use. The district] may accept applications for permits under Section 36.113, provided the district does not act on any such application until the district's management plan is approved as provided in Section 36.1072;~~

~~(2) may adopt rules pertaining to the registration, interim permitting, metering, production reporting, spacing, and, where applicable, fee payment for authorized or actual production of water from new and existing wells;~~

~~(3) may adopt rules governing procedure before the district's board; and~~

~~(4) may not adopt any rules limiting the production of wells, except rules requiring that groundwater produced from a well be put to a nonwasteful, beneficial use.~~

(f-1) After a management plan is finally approved under Section 36.1072, the district shall adopt or amend rules limiting the production of wells or allocating groundwater as necessary to implement the management plan and achieve the applicable desired future condition. A district may not adopt or amend rules limiting the production of wells or allocating groundwater if the district fails to:

(1) adopt a management plan as required by this section;

(2) submit a management plan to the executive administrator as required by Section 36.1072; and

(3) receive approval of the management plan under Section 36.1072.

SECTION \_\_\_\_\_. Section 36.1072, Water Code, is amended by amending Subsection (c) and adding Subsection (c-1) to read as follows:

(c) Once the executive administrator has granted administrative approval to [approved] a management plan:

(1) the executive administrator may not revoke but may require revisions to the approved [~~groundwater conservation district~~] management plan as provided by Subsection (g); and

(2) the executive administrator may request additional information from the district if the information is necessary to clarify, modify, or supplement previously submitted material[~~, but a request for additional information does not render the management plan unapproved~~].

(c-1) Not later than the 60th day after the date of the administrative approval of a district's management plan under Subsection (c), the executive administrator shall review the management plan to determine whether goals of the management plan are consistent with the achievement of the desired future conditions established under Section 36.108(d) that are applicable to all or part of the district, considering any available information regarding groundwater levels, and:

(1) request additional information from the district;

(2) recommend that the district make substantive changes to the management plan; or

(3) approve the management plan.

SECTION \_\_\_\_\_. Section 36.1073, Water Code, is amended to read as follows:

Sec. 36.1073. AMENDMENT TO MANAGEMENT PLAN. Any amendment to a district's [~~the~~] management plan shall be submitted to the executive administrator within 60 days following adoption of the amendment by the district's board. The executive administrator shall review and approve any amendment that [which] substantially affects the management plan in accordance with the procedures established under Section 36.1072.

SECTION \_\_\_\_\_. Subsection (n), Section 36.108, Water Code, is amended to read as follows:

(n) The districts shall prepare [~~a~~] revised conditions [~~plan~~] in accordance with development board recommendations and hold, after notice, at least one public hearing at a central location in the groundwater management area. After consideration of all public and development board comments, the districts shall revise the conditions and submit the conditions to the development board for review.

SECTION \_\_\_\_\_. Section 36.207, Water Code, is amended to read as follows:

Sec. 36.207. USE OF PRODUCTION [PERMIT] FEES AUTHORIZED BY SPECIAL LAW. A district may use funds obtained from production [permit] fees collected pursuant to the special law governing the district for any purpose consistent with the district's approved [certified water] management plan including, without limitation, making grants, loans, or contractual payments to achieve, facilitate, or expedite reductions in groundwater pumping or the development or distribution of alternative water supplies.

SECTION \_\_\_\_\_. Section 36.301, Water Code, is amended to read as follows:

Sec. 36.301. VIOLATIONS RELATED TO [FAILURE TO SUBMIT A] MANAGEMENT PLAN. The commission shall take appropriate action under Section 36.303 if:

(1) a district adopts or amends a rule in violation of Section 36.1071(f-1);

(2) [~~H~~] a district [board] fails to submit a management plan or to receive approval [certification] of the [~~its~~] management plan under Section 36.1072;

(3) a district fails to timely readopt the management plan or to submit the readopted management plan to the executive administrator for approval in accordance with Section 36.1072(f);

(4) the executive administrator determines that a readopted management plan does not meet the requirements for approval, and the district has exhausted all appeals; or

(5) a district fails to submit or receive approval [certification] of an amendment to the management plan under Section 36.1073[~~the commission shall take appropriate action under Section 36.303~~].

SECTION \_\_\_\_\_. (a) Section 36.1071, Water Code, as amended by this Act, applies only to the rulemaking authority of a groundwater conservation district related to a management plan or an amendment to a management plan that is submitted by the district to the executive administrator of the Texas Water Development Board for review and approval on or after the effective date of this Act. A district's rulemaking authority related to a management plan or an amendment to a management plan that is submitted to the executive administrator of the Texas Water Development Board before the effective date of this Act is governed by the law in effect when the management plan or amendment was submitted, and the former law is continued in effect for that purpose.

(b) The change in law made by this Act to Section 36.301, Water Code, applies only to a violation by a groundwater conservation district that occurs on or after the effective date of this Act. A violation that occurs before the effective date of this Act is governed by the law in effect on the date the violation occurred, and the former law is continued in effect for that purpose.

The amendment to **CSHB 725** 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. 10.

Senator Hegar offered the following amendment to the bill:

### **Floor Amendment No. 11**

Amend **CSHB 725** (Senate Committee Report) by adding the appropriately numbered SECTIONS to the bill and renumbering the subsequent SECTIONS accordingly:

SECTION \_\_\_\_\_. Section 1.03, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, is amended by amending Subdivisions (6), (9), (10), (20), (21), and (25) and adding Subdivision (28) to read as follows:

(6) "Commission" means the Texas ~~[Natural Resource Conservation]~~ Commission on Environmental Quality.

(9) "Domestic ~~[or livestock]~~ use" means the use of water for:

(A) drinking, washing, or culinary purposes;

(B) irrigation of a family garden or orchard the produce of which is for household consumption only; or

(C) the watering of residential landscape of one-half acre or less or any other purpose incidental to and associated with domestic activities, provided that the primary purpose of the well is for the purposes of Paragraph (A) [watering of animals].

(10) "Existing user" means a person who has withdrawn and beneficially used groundwater [~~underground water~~] from the aquifer on or before June 1, 1993.

(20) "Groundwater" means water percolating beneath the surface of the earth [~~"Underground water" has the meaning assigned by Section 52.001, Water Code~~].

(21) "Waste" means:

(A) withdrawal of groundwater [~~underground water~~] from the aquifer at a rate and in an amount that causes or threatens to cause intrusion into the reservoir of water unsuitable for agricultural, gardening, domestic, or stock raising purposes;

(B) the flowing or producing of wells from the aquifer if the water produced is not used for a beneficial purpose;

(C) escape of groundwater [~~underground water~~] from the aquifer to any other reservoir that does not contain groundwater [~~underground water~~];

(D) pollution or harmful alteration of groundwater [~~underground water~~] in the aquifer by salt water or other deleterious matter admitted from another stratum or from the surface of the ground;

(E) wilfully or negligently causing, suffering, or permitting groundwater [~~underground water~~] from the aquifer to escape into any river, creek, natural watercourse, depression, lake, reservoir, drain, sewer, street, highway, road, or road ditch, or onto any land other than that of the owner of the well unless such discharge is authorized by permit, rule, or order issued by the commission under Chapter 26, Water Code;

(F) groundwater [~~underground water~~] pumped from the aquifer for irrigation that escapes as irrigation tailwater onto land other than that of the owner of the well unless permission has been granted by the occupant of the land receiving the discharge; or

(G) for water produced from an artesian well, "waste" has the meaning assigned by Section 11.205, Water Code.

(25) "Withdrawal" means an act or a failure to act that results in taking water from the aquifer by or through man-made facilities, including pumping, withdrawing, or diverting groundwater [~~underground water~~].

(28) "Livestock use" means the use of water for watering livestock or poultry.

SECTION \_\_\_\_\_. Section 1.07, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, is amended to read as follows:

Sec. 1.07. OWNERSHIP OF GROUNDWATER [~~UNDERGROUND WATER~~]. The ownership and rights of the owner of the land and the owner's lessees and assigns, including holders of recorded liens or other security interests in the land, in groundwater [~~underground water~~] and the contract rights of any person who purchases water for the provision of potable water to the public or for the resale of potable water to the public for any use are recognized. However, action taken pursuant to this Act may not be construed as depriving or divesting the owner or the owner's lessees and

assigns, including holders of recorded liens or other security interests in the land, of these ownership rights or as impairing the contract rights of any person who purchases water for the provision of potable water to the public or for the resale of potable water to the public for any use, subject to the rules adopted by the authority ~~[or a district exercising the powers provided by Chapter 52, Water Code]~~. The legislature intends that just compensation be paid if implementation of this article causes a taking of private property or the impairment of a contract in contravention of the Texas or federal constitution.

SECTION \_\_\_\_\_. Sections 1.08(a) and (b), Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, are amended to read as follows:

(a) The authority has all of the powers, rights, and privileges necessary to manage, conserve, preserve, and protect the aquifer and to increase the recharge of, and prevent the waste or pollution of water in, the aquifer. The authority has all of the rights, powers, privileges, authority, functions, and duties provided by the general law of this state, including Chapters 49 and ~~[50,]~~ 51, ~~[and 52,]~~ Water Code, applicable to an authority created under Article XVI, Section 59, of the Texas Constitution. This article prevails over any provision of general law that is in conflict or inconsistent with this article regarding the area of the authority's jurisdiction. Chapter 36, Water Code, does not apply to the authority.

(b) The authority's powers regarding groundwater ~~[underground water]~~ apply only to groundwater ~~[underground water]~~ within or withdrawn from the aquifer. This section ~~[subsection]~~ is not intended to allow the authority to regulate surface water.

SECTION \_\_\_\_\_. Section 1.09, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, is amended by amending Subsection (d) and adding Subsection (i) to read as follows:

(d) Section [Sections 41.003 and] 41.008, Election Code, does [do] not apply to an election held under this article.

(i) A member of a governing body of another political subdivision is ineligible for appointment or election as a director of the authority. A director of the authority is disqualified and vacates the office of director if the director is appointed or elected as a member of the governing body of another political subdivision.

SECTION \_\_\_\_\_. Section 1.10(h), Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, is amended to read as follows:

(h) The presiding officer of the advisory committee shall submit a report assessing the effectiveness of the authority to the commission and the authority by December [March] 31 of each even-numbered year. The report must assess the effect on downstream water rights of the management of the aquifer. The authority shall consider the report in managing the authority's affairs.

SECTION \_\_\_\_\_. Sections 1.11(d) and (g), Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, are amended to read as follows:

(d) The authority may:

- (1) issue or administer grants, loans, or other financial assistance to water users for water conservation and water reuse;
- (2) enter into contracts;
- (3) sue and be sued only in its own name;



(4) receive gifts, grants, awards, and loans for use in carrying out its powers and duties;

(5) hire an executive director to be the chief administrator of the authority and other employees as necessary to carry out its powers and duties;

(6) delegate the power to hire employees to the executive director of the authority;

(7) own real and personal property;

(8) close abandoned, wasteful, or dangerous wells;

(9) hold permits under state law or under federal law pertaining to the Endangered Species Act of 1973 (16 U.S.C. Section 1531 et seq.) and its amendments;

(10) enforce Chapter 1901 ~~[32]~~, Occupations Code ~~[Water Code]~~, and Texas Department of Licensing and Regulation ~~[commission]~~ rules adopted under that chapter ~~[Act]~~ within the authority's boundaries; and

(11) require to be furnished to the authority water well drillers' logs that are required by Chapter 1901 ~~[32]~~, Occupations Code ~~[Water Code]~~, to be kept and furnished to the Texas Department of Licensing and Regulation ~~[commission]~~.

(g) The authority has the power of eminent domain. The authority may not acquire rights to groundwater ~~[underground water]~~ by the power of eminent domain.

SECTION \_\_\_\_\_. Section 1.13, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, is amended to read as follows:

Sec. 1.13. REUSE AUTHORIZED. Any regulation of the withdrawal of water from the aquifer must allow for credit to be given for certified reuse of the water. For regulatory credit, the authority ~~[or a local underground water conservation district]~~ must certify:

(1) the lawful use and reuse of aquifer water;

(2) the amount of aquifer water to be used; and

(3) the amount of aquifer withdrawals replaced by reuse.

SECTION \_\_\_\_\_. Section 1.14(e), Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, is amended to read as follows:

(e) The authority may not allow withdrawals from the aquifer through wells drilled after June 1, 1993, except for replacement or [5] test~~[, or exempt]~~ wells or wells exempt under Section 1.33 of this article or to the extent that the authority approves an amendment to an initial regular permit to authorize a change in the point of withdrawal under that permit.

SECTION \_\_\_\_\_. Section 1.15, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, is amended by amending Subsection (d) and adding Subsection (d-1) to read as follows:

(d) A permit issued by the authority to an applicant must state the terms and provisions prescribed by the authority. Each groundwater withdrawal permit must specify the maximum rate and total volume of water that the water user may withdraw in a calendar year.

(d-1) A permit may include:

(1) the name and address of the person to whom the permit is issued;

(2) the location of the well;

(3) the term of the permit, including the date the permit is to expire;

(4) a statement of the purpose for which the well is to be used;  
(5) a requirement that the water withdrawn under the permit be put to beneficial use at all times;  
(6) the location at which the water from the well will be used;  
(7) a water well closure plan or a declaration that the applicant will comply with the authority's well closure requirements and notify the authority of the closure;  
(8) conditions and restrictions on the rate and amount of withdrawal;  
(9) conservation requirements prescribed by the authority;  
(10) a drought contingency plan prescribed by the authority; and  
(11) other terms and conditions the authority determines reasonable and appropriate.

SECTION \_\_\_\_\_. Sections 1.16(a), (b), and (d), Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, are amended to read as follows:

(a) An existing user may apply for an initial regular permit by filing a declaration of historical use of groundwater [~~underground water~~] withdrawn from the aquifer during the historical period from June 1, 1972, through May 31, 1993.

(b) An existing user's declaration of historical use must be filed on or before December 30, 1996 [~~March 1, 1994~~], on a form prescribed by the board. An applicant for a permit must timely pay all application fees required by the board. An owner of a well used for irrigation must include additional documentation of the number of acres irrigated during the historical period provided by Subsection (a) of this section.

(d) The board shall grant an initial regular permit to an existing user who:

(1) files a declaration and pays fees as required by this section; and

(2) establishes by convincing evidence beneficial use of groundwater [~~underground water~~] from the aquifer.

SECTION \_\_\_\_\_. Sections 1.17(a) and (d), Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, are amended to read as follows:

(a) A person who, on the effective date of this article, owns a producing well that withdraws water from the aquifer may continue to withdraw and beneficially use water without waste until final action on permits by the authority, if:

(1) the well is in compliance with all statutes and rules relating to well construction, approval, location, spacing, and operation; and

(2) by December 30, 1996 [~~March 1, 1994~~], the person files a declaration of historical use on a form as required by the authority.

(d) Interim authorization for a well under this section ends on:

(1) entry of a final and appealable order by the authority acting on the application for the well; or

(2) December 30, 1996 [~~March 1, 1994~~], if the well owner has not filed a declaration of historical use.

SECTION \_\_\_\_\_. Article 1, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, is amended by adding Sections 1.21 and 1.211 to read as follows:

Sec. 1.21. CONTESTED CASE HEARINGS; REQUEST FOR REHEARING OR FINDINGS AND CONCLUSIONS. (a) The authority, by rule, shall define under what circumstances an application is considered contested and shall limit participation in a hearing on a contested application held in accordance with authority rules to

persons who have a personal justiciable interest related to a legal right, duty, privilege, power, or economic interest affected by an application, not including persons who have an interest common to members of the public.

(b) Except as provided by Subsection (c) of this section, an applicant or a party to a contested hearing may file a request for rehearing not later than the 20th day after the date of the board's decision.

(c) An applicant or a party to a contested hearing may request written findings of fact and conclusions of law not later than the 20th day after the date of the board's decision on the application. On receipt of a timely filed written request under this subsection, the board shall make written findings of fact and conclusions of law regarding a decision of the board on the application. The board shall provide copies of the findings of fact and conclusions of law to the person who requested them, and to each person who provided comments at the initial hearing or each designated party, not later than the 35th day after the date the board received the request. A person who receives a copy of the findings of fact and conclusions of law from the board may request a rehearing before the board not later than the 20th day after the date the board issues the findings of fact and conclusions of law.

(d) A request for rehearing on a contested matter must be filed in the authority's office and must state the grounds for the request.

(e) If the board grants a request for rehearing, the board shall schedule the rehearing not later than the 45th day after the date the request is granted.

(f) The failure of the board to grant or deny a request for rehearing before the 91st day after the date the request is submitted constitutes a denial of the request.

Sec. 1.211. APPLICATION DECISION; WHEN FINAL. (a) A decision by the board on an application is final:

(1) if a request for rehearing is not timely filed, on the expiration of the period for filing a request for rehearing; or

(2) if a request for rehearing is timely filed, on the date:

(A) the board denies the request for rehearing; or

(B) the board renders a written decision after rehearing.

(b) A timely filed motion for rehearing challenging a decision in a contested hearing is a prerequisite to a suit against the authority under Section 1.46 of this article. A suit under that section may be filed not later than the 60th day after the date on which the decision becomes final.

SECTION \_\_\_\_. Section 1.22(b), Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, is amended to read as follows:

(b) The authority may acquire, ~~and~~ hold, and transfer permits or rights to appropriate surface water or groundwater from sources inside or outside of the authority's boundaries. The authority may transport and distribute surface water or groundwater as necessary to accomplish the powers and duties authorized by this article or other applicable law.

SECTION \_\_\_\_. Section 1.25, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, is amended to read as follows:

Sec. 1.25. GROUNDWATER [COMPREHENSIVE] MANAGEMENT PLAN. (a) Consistent with Section 1.14 of this article, after notice and hearing, the authority shall develop[, by September 1, 1995,] and implement a groundwater [comprehensive

~~water~~] management plan that includes conservation, future supply, and demand management plans. The authority may not delegate the development of the plan under Section 1.42 of this article.

(b) The authority shall develop the groundwater management plan, and any amendment to the plan, using the best available data that the authority has obtained and forward the plan, and any amendment to the plan, to the appropriate regional water planning group for use in the group's planning process [The authority, in conjunction with the South Central Texas Water Advisory Committee, the Texas Water Development Board, and underground water conservation districts within the authority's boundaries, shall develop a 20-year plan for providing alternative supplies of water to the region, with five-year goals and objectives, to be implemented by the authority and reviewed annually by the appropriate state agencies and the Edwards Aquifer Legislative Oversight Committee. The authority, advisory committee, Texas Water Development Board, and districts, in developing the plan, shall:

[(1) thoroughly investigate all alternative technologies;

[(2) investigate mechanisms for providing financial assistance for alternative supplies through the Texas Water Development Board; and

[(3) perform a cost-benefit analysis and an environmental analysis].

(c) On request by the authority, the commission and the Texas Water Development Board shall provide technical assistance to the authority in the development of the groundwater management plan. The technical assistance provided may include a preliminary review and comment on the plan prior to final certification by the executive administrator of the Texas Water Development Board. If such review and comment by the commission is requested, the commission shall provide comment not later than the 30th day after the date the request is received.

(d) On request of the executive director of the commission or the executive administrator of the Texas Water Development Board, the authority shall make available information that it acquires concerning the aquifer and information concerning its plans and activities in conserving and protecting the aquifer. On request of the authority, the executive director and the executive administrator shall provide information they acquire concerning the aquifer within the authority's jurisdiction.

(e) In the groundwater management plan, the authority shall:

(1) identify the performance standards and management objectives under which the authority will operate to achieve its aquifer management goals;

(2) specify the actions, procedures, performance, and avoidance that are or may be necessary to effect the plan, including specifications and proposed rules;

(3) include estimates of the following:

(A) the amount of groundwater being used within the authority on an annual basis;

(B) the annual amount of recharge to the aquifer;

(C) the annual volume of water that discharges from the aquifer to springs;

(D) the annual volume of flow into and out of the authority's jurisdiction within the aquifer and between the aquifer and other aquifers within the authority's boundaries, if an appropriate groundwater availability model is available;

(E) the projected surface water supply in the authority according to the most recently adopted state water plan; and

(F) the projected total demand for water in the authority according to the most recently adopted state water plan; and

(4) consider the water supply needs and water management strategies included in the adopted state water plan.

(f) The authority shall adopt amendments to the groundwater management plan as necessary. An amendment to the plan may be adopted only after notice and hearing. An amendment to the plan shall be submitted to the executive administrator of the Texas Water Development Board not later than the 60th day after the date the amendment is adopted by the board. The executive administrator shall review and certify any amendment in accordance with the procedures established in this section.

(g) The authority shall, not later than December 31, 2015, submit its next groundwater management plan to the executive administrator of the Texas Water Development Board for review and certification.

(h) Not later than the 60th day after the date of receipt of the groundwater management plan adopted by the board, the executive administrator of the Texas Water Development Board shall certify the plan if the plan is administratively complete. The plan is administratively complete if it contains the information required by this section. Once the executive administrator has certified the plan, the executive administrator may not decertify the plan.

(i) The groundwater management plan takes effect on certification by the executive administrator of the Texas Water Development Board.

(j) The authority shall review its groundwater management plan annually and must review and readopt the plan with or without amendments at least once every five years. The authority shall provide the readopted plan to the executive administrator of the Texas Water Development Board not later than the 60th day after the date on which the plan was readopted by the board. Certification of the preceding plan remains in effect until the executive administrator has certified the readopted plan.

(k) If the executive administrator of the Texas Water Development Board does not certify the groundwater management plan, the executive administrator shall provide to the authority, in writing, the reasons for the action. Not later than the 180th day after the date the authority receives notice that its plan has not been certified, the authority may submit a revised plan for review and certification. The executive administrator's decision may be appealed to the Texas Water Development Board. If the Texas Water Development Board decides not to certify the plan on appeal, the authority may request that the conflict be mediated. The authority and the Texas Water Development Board may seek the assistance of the Center for Public Policy Dispute Resolution at The University of Texas at Austin School of Law or an alternative dispute resolution system established under Chapter 152, Civil Practice and Remedies Code, in obtaining a qualified impartial third party to mediate the conflict. The cost of the mediation services must be specified in the agreement between the parties and the Center for Public Policy Dispute Resolution or the alternative dispute resolution system. If the parties do not resolve the conflict through mediation, the decision of the

Texas Water Development Board not to certify the plan may be appealed to a district court in Travis County. Costs for the appeal shall be set by the court hearing the appeal. An appeal under this subsection is by trial de novo.

SECTION \_\_\_\_\_. Section 1.29, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, is amended by amending Subsections (f), (g), (h), and (i) to read as follows:

(f) In addition to the fees assessed under Subsection (b) of this section, the authority may assess fees to recover administrative costs such as filing and processing applications and registrations. The fees may not unreasonably exceed the administrative costs. ~~[The authority shall impose a permit application fee not to exceed \$25.]~~

(g) ~~[The authority may impose a registration application fee not to exceed \$10.]~~

~~[(h)]~~ Fees assessed by the authority may not be used to fund the cost of reducing withdrawals or retiring permits or of judgments or claims related to withdrawals or permit retirements.

~~[(h)]~~ ~~[(+)]~~ The authority and other stakeholders, including state agencies, listed under Section 1.26A of this article shall provide money as necessary to finance the activities of the steering committee and any subcommittees appointed by the steering committee and the program director of the recovery implementation program under Section 1.26A of this article. The authority shall provide, as necessary, up to \$75,000 annually, adjusted for changes in the consumer price index, to finance the South Central Texas Water Advisory Committee's administrative expenses and programs authorized under this article.

SECTION \_\_\_\_\_. Section 1.30(e), Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, is amended to read as follows:

(e) Section [Sections 11.028 and] 11.033, Water Code, does [do] not apply to a permit issued under this section.

SECTION \_\_\_\_\_. Section 1.31(b), Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, is amended to read as follows:

(b) The authority is responsible for the costs of purchasing, installing, and maintaining measuring devices, if required, for an irrigation well in existence on June 28, 1996 ~~[September 1, 1993]~~.

SECTION \_\_\_\_\_. Section 1.33, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, is amended to read as follows:

Sec. 1.33. WELL METERING EXEMPTION. (a) Except as provided by Subsections (d) and (e) of this section, a [A] well that is drilled, completed, or equipped so that it is incapable of producing more than [produces] 25,000 gallons of water per [a] day and is and will be used exclusively [or less] for domestic use or livestock use is exempt from metering and withdrawal permit requirements.

(b) A well drilled on or before June 1, 2011, that is incapable of producing more than 1,250 gallons of water per day or that is metered and does not produce more than 1,250 gallons of water per day for any purpose authorized in this article is exempt from withdrawal permit requirements. Multiple wells may not be used in combination in a manner to satisfy a single water use or purpose, that when combined, would not come within the requirements of this subsection.

(c) A well that is exempt under Subsection (a) or (b) of this section [~~Exempt wells~~] must be registered [~~register~~] with the authority [~~or with an underground water conservation district in which the well is located~~].

(d) [~~(e)~~] A well that meets the requirements of Subsection (a) of this section [~~within or serving a subdivision requiring platting~~] does not qualify for an exemption if the well:

(1) serves a subdivision of land requiring plat approval under Chapter 232, Local Government Code;

(2) supplies water to a public water system as defined by 30 T.A.C. Section 290.38; or

(3) produces groundwater for domestic use, was drilled on or before June 1, 2011, and is on a tract of land with a residence that receives water service from a retail public utility as defined by Section 13.002, Water Code [~~exempt use~~].

(e) A well drilled after June 1, 2011, that meets the requirements of Subsection (a) of this section, is exempt from metering and withdrawal permit requirements only if the well is on a tract of land larger than 10 acres.

SECTION \_\_\_\_ . Article 1, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, is amended by adding Section 1.361 to read as follows:

Sec. 1.361. ABANDONED, OPEN, UNCOVERED, OR DETERIORATED WELLS. (a) If the owner or lessee of land on which an abandoned, open, uncovered, or deteriorated well is located fails or refuses to close, cap, or plug the well in compliance with Chapter 1901, Occupations Code, and the authority's rules, the authority or its authorized employees, representatives, or agents may enter the land and close, cap, or plug the well in a safe and secure manner.

(b) Reasonable expenses incurred by the authority in closing, capping, or plugging a well constitute a lien on the land on which the well is located.

(c) A lien described by Subsection (b) of this section arises and attaches after an affidavit executed by any person with knowledge of the facts of the closing, capping, or plugging is recorded in the deed records of the county where the well is located. The affidavit must contain:

(1) a statement or photograph confirming the existence of the well;

(2) the legal description of the property on which the well is located;

(3) a description of the approximate location of the well on the property;

(4) a statement confirming the failure or refusal of the owner or lessee, after notification, to close or cap the well within 10 days after the notification;

(5) a statement confirming the closing, capping, or plugging of the well by the authority, or by an authorized agent, representative, or employee of the authority; and

(6) a statement of the expenses incurred by the authority in closing, capping, or plugging the well.

(d) Nothing in this section affects the enforcement of Subchapter A, Chapter 756, Health and Safety Code.

SECTION \_\_\_\_ . Sections 1.37(j), (n), and (r), Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, are amended to read as follows:

(j) Within 30 days after the date the authority's order is final as provided by Section 2001.144(a), Government Code [~~Subsection (e), Section 16, Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes)~~], the person shall:

- (1) pay the amount of the penalty;
- (2) pay the amount of the penalty and file a petition for judicial review contesting the occurrence of the violation, the amount of the penalty, or both the occurrence of the violation and the amount of the penalty; or
- (3) without paying the amount of the penalty, file a petition for judicial review contesting the occurrence of the violation, the amount of the penalty, or both the occurrence of the violation and the amount of the penalty.

(n) Judicial review of the order of the authority:

(1) is instituted by filing a petition as provided by Subchapter G, Chapter 2001, Government Code [Section 19, Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes)]; and

(2) is under the substantial evidence rule.

(r) All proceedings under this section are subject to Chapter 2001, Government Code [the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes)].

SECTION \_\_\_\_\_. Section 1.38, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, is amended to read as follows:

Sec. 1.38. INJUNCTION BY AUTHORITY. (a) The authority may file a civil suit in a state district court for an injunction or mandatory injunction to enforce this article. The authority may recover reasonable attorney fees in a suit under this section.

(b) In an enforcement action by the authority against a governmental entity for a violation of authority rules, the limits on the amount of fees, costs, and penalties that the authority may impose under this section constitute a limit of the governmental entity's liability for the violation. This subsection shall not be construed to prohibit the recovery by the authority of fees and costs under this article in an action against a governmental entity.

SECTION \_\_\_\_\_. Sections 1.42(a), (b), and (c), Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, are amended to read as follows:

(a) A groundwater [~~An underground water~~] conservation district other than the authority may manage and control water that is a part of the aquifer after the effective date of this article only as provided in this section. This article does not affect a water reclamation or conservation district that manages and controls only water from a resource other than the aquifer.

(b) A groundwater [~~An underground water~~] conservation district other than the authority may manage and control water that is a part of the aquifer to the extent that those management activities do not conflict with and are not duplicative of this article or the rules and orders of the authority.

(c) Except as otherwise provided by this article, the board may delegate the powers and duties granted to it under this article. The board shall delegate all or part of its powers or duties to a groundwater [~~an underground water~~] conservation district on the district's request if the district demonstrates to the satisfaction of the board that:



(1) the district has statutory powers necessary for full enforcement of the rules and orders to be delegated;

(2) the district has implemented all rules and policies necessary to fully implement the programs to be delegated; and

(3) the district has implemented a system designed to provide the authority with adequate information with which to monitor the adequacy of the district's performance in enforcing board rules and orders.

SECTION \_\_\_\_\_. Section 1.43, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, is amended to read as follows:

Sec. 1.43. CREATION OF GROUNDWATER [~~UNDERGROUND WATER~~] CONSERVATION DISTRICT. A groundwater [~~An underground water~~] conservation district may be created in any county affected by this article as provided by Subchapter B, Chapter 36 [~~52~~], Water Code.

SECTION \_\_\_\_\_. Article 1, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, is amended by adding Section 1.46 to read as follows:

Sec. 1.46. SUITS. (a) An affected person dissatisfied with any authority rule, order, or act is entitled to file suit against the authority or its directors to challenge the validity of the rule, order, or act. The suit may be filed in any county in which the authority is located. The suit may be filed only after all administrative appeals to the authority are final. The burden of proof is on the petitioner, and the challenged rule, order, or act shall be deemed prima facie valid. The review on appeal is governed by Section 2001.038 or 2001.174, Government Code, as appropriate.

(b) If the authority prevails in a suit to enforce this article or its rules, orders, or acts, or in a suit other than a suit in which it voluntarily intervenes, the authority may seek and the court shall grant, in the same action, recovery for attorney's fees, costs for expert witnesses, and other costs incurred by the authority before the court. The court shall set the amount of the attorney's fees.

SECTION \_\_\_\_\_. Section 4.02, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, is transferred to Article 1 of that Act, redesignated as Section 1.47, and amended to read as follows:

Sec. 1.47 [~~4.02~~]. ORIGINAL EFFECTIVE DATES. This article [~~Act~~] takes effect June 28, 1996 [~~September 1, 1993~~], except Section 1.35 of Article 1 takes effect December 30, 1996 [~~March 1, 1994~~].

SECTION \_\_\_\_\_. Section 3.02, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, is amended to read as follows:

Sec. 3.02. NOTICE OF AVAILABLE WATER. The Texas [~~Natural Resource Conservation~~] Commission on Environmental Quality shall notify the Edwards Aquifer Authority of any water available for appropriation in the Guadalupe-Blanco River Basin as the commission discovers the available water.

SECTION \_\_\_\_\_. Section 36.205(e), Water Code, is amended to read as follows:

(e) Subsection (c) does not apply to the following districts:

(1) [~~the Edwards Aquifer Authority;~~

[(2)] the Fort Bend Subsidence District;

(2) [(3)] the Harris-Galveston Coastal Subsidence District;

(3) [(4)] the Barton Springs-Edwards Aquifer Conservation District; or

(4) [~~5~~] any district that collects a property tax and that was created before September 1, 1999, unless otherwise authorized by special law.

SECTION \_\_\_\_\_. The following laws are repealed:

(1) Section 1.41(d), Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993; and

(2) Sections 36.101(l), 36.1011(e), and 36.419, Water Code.

SECTION \_\_\_\_\_. (a) A suit based on or derived from Chapter 36, Water Code, contesting the validity or implementation of Article 1, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, or a rule, order, or other action of the Edwards Aquifer Authority under that article may not be instituted in a state court.

(b) A person may not institute or maintain a suit against the Edwards Aquifer Authority based on or derived from Chapter 36, Water Code, for any injury or potential injury, including any injury or potential injury caused by an action taken by the authority to implement or enforce Article 1, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, or a rule, order, or other action of the authority under that article.

(c) The changes in law made by this Act to Chapter 36, Water Code, apply only to a cause of action against the Edwards Aquifer Authority filed on or after the effective date of this Act. A cause of action filed before the effective date of this Act is governed by the law in effect when the cause of action was filed, and the former law is continued in effect for that purpose.

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

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

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

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

The amendment to **CSHB 725** was read and was adopted by the following vote: Yeas 20, Nays 8.

Yeas: Davis, Ellis, Eltife, Estes, Gallegos, Hegar, Huffman, Jackson, Lucio, Nelson, Patrick, Rodriguez, Seliger, Uresti, Van de Putte, Watson, Wentworth, West, Whitmire, Zaffirini.

Nays: Birdwell, Carona, Deuell, Fraser, Harris, Hinojosa, Nichols, Shapiro.

Absent: Duncan, Ogden, Williams.

Senator Jackson offered the following amendment to the bill:

### Floor Amendment No. 12

Amend **CSHB 725** by adding the following appropriately numbered SECTION to the bill and renumbering the remaining SECTIONS of the bill accordingly:

SECTION \_\_\_\_ . Chapter 3875, Special District Local Laws Code, is repealed.

The amendment to **CSHB 725** was read.

Senator Jackson withdrew Floor Amendment No. 12.

Senator Seliger offered the following amendment to the bill:

### Floor Amendment No. 13

Amend **CSHB 725** by adding the following SECTIONS and renumbering the subsequent SECTIONS accordingly:

SECTION \_\_\_\_ . Subtitle I, Title 6, Special District Local Laws Code, is amended by adding Chapter 9016 to read as follows:

#### CHAPTER 9016. MIDLAND COUNTY UTILITY DISTRICT

##### SUBCHAPTER A. GENERAL PROVISIONS

Sec. 9016.001. DEFINITIONS. In this chapter:

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

(2) "Commission" means the Texas Commission on Environmental Quality.

(3) "County" means Midland County.

(4) "Director" means a board member.

(5) "District" means the Midland County Utility District.

(6) "Municipality" means a municipality in whose corporate limits or extraterritorial jurisdiction any part of the district is located.

Sec. 9016.002. NATURE OF DISTRICT. The district is a water control and improvement district created under Section 59, Article XVI, Texas Constitution.

Sec. 9016.003. CONFIRMATION AND DIRECTORS' ELECTION REQUIRED. The temporary directors shall hold an election to confirm the creation of the district and to elect five permanent directors as provided by Section 49.102, Water Code.

Sec. 9016.004. CONSENT OF MUNICIPALITY REQUIRED. The temporary directors may not hold an election under Section 9016.003 until each municipality has consented by ordinance or resolution to the creation of the district and to the inclusion of land in the district.

Sec. 9016.005. FINDINGS OF PUBLIC PURPOSE AND BENEFIT. (a) The district is created to serve a public purpose and benefit.

(b) The district is created to accomplish the purposes of a water control and improvement district as provided by general law and Section 59, Article XVI, Texas Constitution.

Sec. 9016.006. INITIAL DISTRICT TERRITORY. (a) The district is initially composed of the territory described by Section 2 of the Act enacting this chapter.

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

(1) organization, existence, or validity;

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

(3) right to impose a tax; or

(4) legality or operation.

[Sections 9016.007-9016.050 reserved for expansion]

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 9016.051. GOVERNING BODY; TERMS. (a) Except as provided by Subsection (c), the district is governed by a board of five elected directors.

(b) Except as provided by Section 9016.052, directors serve staggered four-year terms.

(c) If the municipality annexes any part of the territory of the district, the municipality shall appoint one ex officio member to the board to serve as a sixth director.

Sec. 9016.052. TEMPORARY DIRECTORS. (a) The temporary board consists of:

(1) Shelton Viney;

(2) Susie Hitchcock-Hall;

(3) Alan Lang;

(4) David Orr; and

(5) Israel Rodriguez.

(b) Temporary directors serve until the earlier of:

(1) the date permanent directors are elected under Section 9016.003; or

(2) September 1, 2015.

(c) If permanent directors have not been elected under Section 9016.003 and the terms of the temporary directors have expired, successor temporary directors shall be appointed or reappointed as provided by Subsection (d) to serve terms that expire on the earlier of:

(1) the date permanent directors are elected under Section 9016.003; or

(2) the fourth anniversary of the date of the appointment or reappointment.

(d) If Subsection (c) applies, the owner or owners of a majority of the assessed value of the real property in the district may submit a petition to the commission requesting that the commission appoint as successor temporary directors the five persons named in the petition. The commission shall appoint as successor temporary directors the five persons named in the petition.

Sec. 9016.053. NOTICE OF MEETINGS. The district shall provide the municipality with written notice before a meeting of the board.

[Sections 9016.054-9016.100 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

Sec. 9016.101. GENERAL POWERS AND DUTIES. The district has the powers and duties necessary to accomplish the purposes for which the district is created.

Sec. 9016.102. WATER CONTROL AND IMPROVEMENT DISTRICT POWERS AND DUTIES. The district has the powers and duties provided by the general law of this state, including Chapters 49 and 51, Water Code, applicable to water control and improvement districts created under Section 59, Article XVI, Texas Constitution.

Sec. 9016.103. COMPLIANCE WITH MUNICIPAL CONSENT ORDINANCE OR RESOLUTION. The district shall comply with all applicable requirements of any ordinance or resolution that is adopted under Section 42.042, Local Government Code, and Section 9016.004 and that consents to the creation of the district or to the inclusion of land in the district.

Sec. 9016.104. COMPLIANCE WITH MUNICIPAL REGULATIONS. (a) Any water, sanitary sewer, drainage, or other infrastructure or public facilities constructed, acquired, improved, maintained, or operated by the district shall comply with any applicable regulations of the municipality in whose corporate limits or extraterritorial jurisdiction the infrastructure or facilities are located.

(b) Any water system constructed, acquired, improved, maintained, or operated by the district shall:

(1) comply with any applicable regulations of the municipality regarding specifications for rural density; and

(2) contain distribution lines that are:

(A) four inches or more in diameter; and

(B) sufficient to provide fire hydrant service according to the municipality's specifications for rural density.

Sec. 9016.105. COUNTY RIGHT-OF-WAY. The district must obtain the approval of the county's governing body of the plans and specifications of any facilities to be installed on property located in a county right-of-way.

Sec. 9016.106. LIABILITY. (a) Neither the county nor the municipality is liable for any claims arising from the operation of the district's water system or other actions or inactions of the district, including labor, safety, or signage, or contamination or other environmental issues.

(b) Any action taken by the municipality is a governmental function.

Sec. 9016.107. COSTS OF LINE RELOCATION. (a) The district is solely responsible for the expense associated with the relocation of any district water line required by:

(1) the county or a municipality; or

(2) a state or federal highway authority, including the Texas Department of Transportation and the Federal Highway Administration.

(b) The district will not unreasonably delay any requested line relocation.

Sec. 9016.108. SERVICES TO BE PROVIDED BY THE DISTRICT, COUNTY, OR MUNICIPALITY. (a) The district may enter into an interlocal contract with the county or municipality to provide governmental functions, including fire protection, trash collection and disposal, and ambulance service.

(b) Notwithstanding Subsection (a), the municipality is authorized to provide sewer and drainage service in the district. The municipality shall establish the amount of the fees to be charged to recipients of sewer and drainage service under this subsection.

(c) Notwithstanding Subsection (a), the district may not provide any services within the territorial limits of the municipality as those limits exist on September 1, 2011.

Sec. 9016.109. ANNEXATION BY MUNICIPALITY. (a) The municipality may annex a part of the territory of the district without annexing the entire territory of the district.

(b) If the municipality annexes all or part of the district:

(1) the annexed territory is not removed from the district; and

(2) the district is not:

(A) dissolved; or

(B) prevented from providing district services to the annexed territory.

(c) If any territory inside the district is annexed, the owner of the property shall pay the same rate of ad valorem tax to the municipality as other residents of the municipality.

(d) By annexing territory in the district, the municipality does not assume any debt of the district.

(e) The district may not contest an annexation by the municipality.

Sec. 9016.110. WATER SERVICE DEADLINE. The district must begin operation of a water system serving at least a part of the district not later than the sixth anniversary of the date that district voters approve the issuance of bonds to provide for the development of the water system.

Sec. 9016.111. LIMITATION ON USE OF EMINENT DOMAIN. The district may not exercise the power of eminent domain:

(1) outside the district to acquire a site or easement for a recreational facility as defined by Section 49.462, Water Code; or

(2) in the corporate limits of the municipality as those limits exist on September 1, 2011.

Sec. 9016.112. PROHIBITION ON DIVISION OF DISTRICT. The district may not divide into two or more districts.

[Sections 9016.113-9016.150 reserved for expansion]

#### SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

Sec. 9016.151. ELECTIONS REGARDING TAXES OR BONDS. (a) The district may issue, without an election, bonds and other obligations secured by:

(1) revenue other than ad valorem taxes; or

(2) contract payments described by Section 9016.153.

(b) The district must hold an election in the manner provided by Chapters 49 and 51, Water Code, to obtain voter approval before the district may impose an ad valorem tax or issue bonds payable from ad valorem taxes.

(c) The district may not issue bonds payable from ad valorem taxes to finance a road project unless the issuance is approved by a vote of a two-thirds majority of the district voters voting at an election held for that purpose.

Sec. 9016.152. OPERATION AND MAINTENANCE TAX. (a) If authorized at an election held under Section 9016.151, the district may impose an operation and maintenance tax on taxable property in the district in accordance with Section 49.107, Water Code.

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

Sec. 9016.153. CONTRACT TAXES. (a) In accordance with Section 49.108, Water Code, the district may impose a tax other than an operation and maintenance tax and use the revenue derived from the tax to make payments under a contract after the provisions of the contract have been approved by a majority of the district voters voting at an election held for that purpose.

(b) A contract approved by the district voters may contain a provision stating that the contract may be modified or amended by the board without further voter approval.

[Sections 9016.154-9016.200 reserved for expansion]

#### SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

Sec. 9016.201. AUTHORITY TO ISSUE BONDS AND OTHER OBLIGATIONS. The district may issue bonds or other obligations payable wholly or partly from ad valorem taxes, impact fees, revenue, contract payments, grants, or other district money, or any combination of those sources, to pay for any authorized district purpose.

Sec. 9016.202. TAXES FOR BONDS. At the time the district issues bonds payable wholly or partly from ad valorem taxes, the board shall provide for the annual imposition of a continuing direct ad valorem tax, without limit as to rate or amount, while all or part of the bonds are outstanding as required and in the manner provided by Section 51.433, Water Code.

Sec. 9016.203. LIMITATION ON TAX RATE. Notwithstanding any other provision of this chapter, the projected combined operation, maintenance, and debt service tax rates as of the date of the issuance of any bonds, as described by the commission in a commission order approving the issuance of the bonds, may not exceed 65 cents for each \$100 of assessed valuation of property in the district.

Sec. 9016.204. BONDS AND OTHER OBLIGATIONS NOT TO BE PAID BY MUNICIPALITY OR COUNTY. Bonds or other obligations of the district:

(1) may not be paid wholly or partly by taxes imposed by the county or the municipality;

(2) are not debts of the county or municipality; and

(3) do not give rise to a claim against the county or municipality.

SECTION \_\_\_\_\_. The Midland County Utility District initially includes all the territory contained in the following area:

54,050 Acres of Land

Located in Various Sections and Blocks,

T&P RR Co. Survey, Midland County, Texas.

Boundary Being More Fully Described By Metes and Bounds As Follows:

BEGINNING at (Y= 10,677,038' and X= 1,736,917') a point in the west line of Section 7, Block 39, T2S and a southerly line of Midland city limits and being the most westerly northwest corner of this tract;

THENCE S 14°19' E, a distance of 2685 feet to the southwest corner of said Section 7 and being an ell corner of this tract;

THENCE N 75°10' E with the south right-of-way line of West County Road 120, a distance of 7031 feet to a point in the north line of Section 17 this block for a point of deflection of this tract;

THENCE S 64°46' E, a distance of 4725 feet to a point in the east line of said Section 17 and in the west right-of-way line of South County Road 1210 also being a point of deflection of this tract;

THENCE S 14°23' E with the west right-of-way line of said South County Road 1210, a distance of 6340 feet to a point in the north right-of-way line of West County Road 138 and being an ell corner of this tract;

THENCE S 75°41' W with the north right-of-way line of said West County Road 138, a distance of 3340 feet to a point in the west right-of-way line of South County Road 1216 and being an ell corner of this tract;

THENCE S 14°52' E with the west right-of-way line of said South County Road 1216, a distance of 1272 feet to a point in the north right-of-way line of West County Road 140 and being an ell corner of this tract;

THENCE S 75°29' W with the north right-of-way line of said West County Road 140, a distance of 1974 feet to a point near the northwest corner of Section 29, Block 39, T2S and being an ell corner of this tract;

THENCE S 14°16' E, a distance of 26,411 feet to a point near the southwest corner of Section 6, Block 39, T3S and being the most southerly southwest corner of this tract;

THENCE N 75°59' E, a distance of 15,901 feet to a point in the east right-of-way line of State Highway 349 and being the most southerly southeast corner of this tract;

THENCE N 14°08' W with the east right-of-way line of said State Highway 349, a distance of 18,548 feet to a point near the southwest corner of Condor Aviation Co. Inc. tract and being an ell corner of this tract;

THENCE N 75°17' E, a distance of 5227 feet to a point in the east line of Section 35, Block 39, T2S and being an ell corner of this tract;

THENCE N 14°23' W, a distance of 1604 feet to a point for an ell corner of this tract;

THENCE N 76°20' E, a distance of 5414 feet to a point in the east right-of-way line of Farm to Market Road 715 and being an ell corner of this tract;

THENCE N 14°21' W with the east right-of-way line of said Farm to Market Road 715, a distance of 664 feet to a point for an ell corner of this tract;

THENCE N 75°23' E, a distance of 2628 feet to a point in the west half of Section 24, Block 38, T2S and being an ell corner of this tract;

THENCE S 14°03' E, a distance of 8251 feet to a point for an ell corner of this tract;

THENCE N 76°09' E, a distance of 2658 feet to a point in the east right-of-way line of South County Road 1160 and being an ell corner of this tract;

N 14°22' W with the east right-of-way line of said South County Road 1160, a distance of 3359 feet to a point in the south right-of-way line of East County Road 160 and being an ell corner of this tract;

THENCE N 75°38' E with the south right-of-way line of said East County Road 160, a distance of 10,581 feet to a point near the southeast corner of Section 22, Block 38, T2S and being an ell corner of this tract;

THENCE N 14°07' W with the east line of said Section 22, a distance of 5353 feet to a point near the northeast corner of said Section 22 and being an ell corner of this tract;

THENCE N 75°40' E, a distance of 1381 feet to a point near the southeast corner of George V. Anderson Jr. tract and the southwest corner of Donna Johnson tract also being an ell corner of this tract;



THENCE N 14°03' W with the west line of said Donna Johnson tract and the east line of said George V. Anderson Jr. tract, a distance of 1926 feet to a point near the northwest corner of said Donna Johnson tract and being an ell corner of this tract;

THENCE N 75°43' E, a distance of 1355 feet to a point in the east right-of-way line of South County Road 1136 and being an ell corner this tract;

THENCE N 13°52' W with the east right-of-way line of said South County Road 1136, a distance of 8663 feet to a point in the southwesterly right-of-way of State Highway 158 and the south right-of-way line of East County Road 130 also being an ell corner of this tract;

THENCE N 75°27' E with the south right-of-way line of said East County Road 130, a distance of 3996 feet to a point for an ell corner of this tract;

THENCE N 13°57' W, a distance of 5272 feet to a point in the south right-of-way line of East County Road 120 and being an ell corner of this tract;

THENCE N 75°41' E with the south right-of-way line of said East County road 120, a distance of 14,750 feet to a point for an ell corner of this tract;

THENCE N 14°17' W, a distance of 5276 feet to a point near the northwest corner of Section 51, Block 37, T2S and being an ell corner of this tract;

THENCE N 74°54' E, a distance of 10,567 feet to a point in the east right-of-way line of Farm to Market Road 1379 and being the most easterly southeast corner of this tract;

THENCE N 13°59' W with the east right-of-way line of said Farm to Market Road 1379, a distance of 3955 feet to a point of deflection of this tract;

THENCE N 14°17' W, a distance of 20,565 feet to a point in the southeasterly right-of-way of Interstate Highway 20 and being the most easterly northeast corner of this tract;

THENCE S 59°40' W with the southeasterly right-of-way of said Interstate Highway 20, a distance of 22,345 feet to a point in the projection of North County Road 1120 and being a point of deflection of this tract;

THENCE N 14°09' W, a distance of 8118 feet to a point near the northeast Section 26, Block 38, T1S and being an ell corner of this tract;

THENCE S 75°33' W with the north line of said Section 26, a distance of 2741 feet to a point for an ell corner of this tract;

THENCE N 13°46' W, a distance of 3300 feet to a point for an ell corner of this tract;

THENCE S 75°45' W, a distance of 2696 feet to a point in the west line of Section 23 and the east line of Section 22, Block 38, T1S and being an ell corner of this tract;

THENCE S 14°37' E with the west line of said Section 23 and the east line of said Section 22, a distance of 668 feet to a point for an ell corner of this tract;

THENCE S 75°34' W, a distance of 7949 feet to a point near the middle of Section 21, Block 38, T1S and being an ell corner of this tract;

THENCE N 14°18' W, a distance of 2716 feet to a point in the north line of said Section 21 and being an ell corner of this tract;

THENCE S 75°23' W, a distance of 4294 feet to a point in the north line of Section 20, Block 38, T1S and being a point of deflection of this tract;

THENCE S 66°10' W, a distance of 3034 feet to a point in an easterly line of the Midland city limits and being the most northerly northwest corner of this tract;

THENCE S 14°33' E with said city limits, a distance of 5372 feet to an ell corner of said city limits and being an ell corner of this tract;

THENCE S 75°36' W with said city limits, a distance of 2511 feet to an ell corner of said city limits and being an ell corner of this tract;

THENCE S 14°34' E with said city limits, a distance of 180 feet to an ell corner of said city limits and being an ell corner of this tract;

THENCE S 75°36' W with said city limits, a distance of 835 feet to an ell corner of said city limits and being an ell corner of this tract;

THENCE S 14°34' E with said city limits, a distance of 3832 feet to an ell corner of said city limits and being an ell corner of this tract;

THENCE N 75°36' E with said city limits, a distance of 2208 feet to an ell corner of said city limits and being an ell corner of this tract;

THENCE N 14°34' W with said city limits, a distance of 1204 feet to an ell corner of said city limits and being an ell corner of this tract;

THENCE N 75°36' E with said city limits, a distance of 1138 feet to an ell corner of said city limits and being an ell corner of this tract;

THENCE S 15°14' E with said city limits, a distance of 645 feet to an ell corner of said city limits and being an ell corner of this tract;

THENCE N 75°36' E with said city limits, a distance of 4603 feet to an ell corner of said city limits and being an ell corner of this tract;

THENCE S 14°35' E with said city limits, a distance of 5122 feet to an ell corner of said city limits and being an ell corner of this tract;

THENCE N 75°37' E with said city limits, a distance of 659 feet to an ell corner of said city limits and being an ell corner of this tract;

THENCE S 14°36' E with said city limits, a distance of 2879 feet to a point in the northwesterly right-of-way line of Business Interstate Highway 20 (US Highway 80) and the most easterly southeast corner of said city limits also being a point of deflection of this tract;

THENCE N 59°41' E with the northwesterly right-of-way line of said Business Interstate Highway 20, a distance of 4829 feet to a point near the northwest corner of Section 40, Block 38, T1S and being a point of deflection of this tract;

THENCE S 14°24' E, a distance of 7260 feet to a point in the east line of Section 45, Block 38, T1S and being 1000 feet southerly of the southeasterly right-of-way line of Interstate Highway 20 and being a point of deflection of this tract;

THENCE S 45°05' W 1000 feet southerly and parallel to the southeasterly right-of-way line of said Interstate Highway 20, a distance of 6527 feet to a point in the north line of Section 5, Block 38, T2S and in the south right-of-way line of Farm to Market Road 307 also being a point of deflection of this tract;

THENCE N 76°37' E with the south right-of-way line of said Farm to Market Road 307, a distance of 2882 feet to a point near the northeast corner of a 320 acre City of Midland tract in Section 4, Block 38, T2S and being an ell corner of this tract;

THENCE S14°25' E with the east line of said 320 acre tract, a distance of 5252 feet to a point in the south line of said Section 4 and the north line of Section 9, Block 38, T2S and being an ell corner of this tract;

THENCE N 75°36' E with the north line of said Section 9, a distance of 2768 feet to a point near the northeast corner of said Section 9 and in the west right-of-way South County Road 1140 also being an ell corner of this tract;

THENCE S 14°36' E with the west right-of-way line of said South County Road 1140, a distance of 5313 feet to a point in the north right-of-way line of East County Road 120 and being an ell corner of this tract;

THENCE S 75°56' W with the north right-of-way line of said East County Road 120, a distance of 5150 to a point in the northeasterly right-of-way line of State Highway 158 and being a point of deflection of this tract;

THENCE N 70°55' W with the northeasterly right-of-way line of said State Highway 158, a distance of 4453 to a point near the most southerly southwest corner of a 365.58 acre City of Midland tract as described in Volume 2308, Page 3, Official Public Records of Midland County and the southeast corner of Ralph H White tract also being a point of deflection of this tract;

THENCE N 15°31' W with the east line of said Ralph H White tract and a west line of said City of Midland Tract, a distance of 732 feet to a point near the northeast corner of said Ralph H White tract and being a point of deflection of this tract;

THENCE N 70°36' W with the north line of said Ralph H White tract, a distance of 171 feet to a point near the northwest corner of said Ralph H White tract and in the east line of a 1.00 acre City of Midland tract as described in Volume 2308, Page 3, Official Public Records of Midland County and being a point of deflection of this tract;

THENCE S 15°31' E with the west line of said Ralph H White tract and the east line of said 1.00 acre City of Midland tract, a distance of 733 feet to a point in the northeasterly right of-way line of said State Highway 158 and being a point of deflection of this tract;

THENCE N 70°55' W with the south line of said 1.00 acre City of Midland tract and the northeasterly right-of-way line of said State Highway 158, a distance of 415 feet to the southwest corner of said 1.00 acre City of Midland tract and being a point of deflection of this tract;

THENCE N 15°31' W with the west line of said 1.00 acre City of Midland tract, a distance of 1252 feet to the northwest corner of said 1.00 acre City of Midland and being a point of deflection of said 365.58 acre City of Midland tract also being a point of deflection of this tract;

THENCE S 75°57' W with a south line of said 365.58 acre City of Midland tract, a distance of 1419 feet to a point in the west line of Section 8, Block 38, T2S and being an ell corner of this tract;

THENCE N 14°10' W with the west line of said Section 8, a distance of 1274 feet to a point near the northwest corner of said Section 8 and being an ell corner of this tract;

THENCE N 75°49' E with the north line of said Section 8, a distance of 36 feet to a point near the southeast corner of Section 6, Block 38, T2S and being an ell corner of this tract;

THENCE N 14°12' W with the east line of said Section 6, a distance of 2124 feet to a point 1000 feet southerly of the southeasterly right-of-way line of said Interstate Highway 20 and being a point of deflection of this tract;

THENCE S 44°40' W southerly and parallel to the southeasterly right-of-way line of said Interstate Highway 20, a distance of 3968 feet to a point in the Midland city limits and being a point of deflection of this tract;

THENCE S 14°09' E with said city limits, a distance of 611 feet to the most southerly southeast corner of said city limits and being an ell corner of this tract;

THENCE S 75°32' W with the south line of said city limits, a distance of 10,595 feet to an ell corner of said city limits and being an ell corner of this tract;

THENCE S 14°23' E with the said city limits, a distance of 750 feet to an ell corner of said city limits and being an ell corner of this tract;

THENCE S 75°29' W with said city limits, a distance of 677 feet to an ell corner of said city limits and being an ell corner of this tract;

THENCE S 14°32' E with said city limits, a distance of 781 feet to an ell corner of said city limits and being an ell corner of this tract;

THENCE S 75°24' W with said city limits, a distance of 1675 feet to an ell corner of said city limits and being an ell corner of this tract;

THENCE N 14°23' W with said city limits, a distance of 1041 feet to an ell corner of said city limits and being an ell corner of this tract;

THENCE S 75°29' W with said city limits, a distance of 1000 feet to an ell corner of said city limits and being an ell corner of this tract;

THENCE N 14°23' W said city limits, a distance of 500 feet to an ell corner of said city limits and being an ell corner of this tract;

THENCE S 75°37' W with said city limits, a distance of 3137 feet to an ell corner of said city limits and being an ell corner of this tract;

THENCE S 14°18' E with said city limits, a distance of 570 feet to an ell corner of said city limits and being an ell corner of this tract;

THENCE S 75°42' W with said city limits, a distance of 1660 feet to an ell corner of said city limits and being an ell corner of this tract;

THENCE N 14°18' W with said city limits, a distance of 567 feet to an ell corner of said city limits and being an ell corner of this tract;

THENCE S 75°37' W with said city limits, a distance of 3390 feet to an ell corner of said city limits and being an ell corner of this tract;

THENCE S 15°02' E with said city limits, a distance of 709 feet to an ell corner of said city limits and being an ell corner of this tract;

THENCE S 74°54' W with said city limits, a distance of 1040 feet to an ell corner of said city limits and being an ell corner of this tract;

THENCE S 15°03' E with said city limits, a distance of 90 feet to an ell corner of said city limits and being an ell corner of this tract;

THENCE S 75°34' W with said city limits, a distance of 1064 feet to an ell corner of said city limits and being an ell corner of this tract;

THENCE N 14°40' W with said city limits, a distance of 817 feet to an ell corner of said city limits and being an ell corner of this tract;

THENCE S 75°44' W with said city limits, a distance of 559 feet to a point of curvature of said city limits and this tract;

THENCE around a curve to the left in a southwesterly direction and with said city limits, said curve having a radius length of 10,509 feet, a delta angle of 16°04', an arc length of 2947 feet and a chord length of 2937 feet bearing S 67°42" W to a point of tangency of said city limits and this tract;

THENCE S 59°40' W with said city limits, a distance of 6362 feet to the Point of Beginning, containing approximately 54,050 acres of land, more or less.

Bearings, distances and coordinates are relative to the Texas Coordinate System, 1983 NAD, Central Zone based on City of Midland's G.I.S Digital Map.

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

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

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

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

SECTION \_\_\_\_\_. (a) Section 9016.111, Special District Local Laws Code, as added by Section 1 of this Act, takes effect only if this Act receives a two-thirds vote of all the members elected to each house.

(b) If this Act does not receive a two-thirds vote of all the members elected to each house, Subchapter C, Chapter 9016, Special District Local Laws Code, as added by Section 1 of this Act, is amended by adding Section 9016.111 to read as follows:

Sec. 9016.111. NO EMINENT DOMAIN POWER. The district may not exercise the power of eminent domain.

(c) This section is not intended to be an expression of a legislative interpretation of the requirements of Section 17(c), Article I, Texas Constitution.

The amendment to **CSHB 725** was read.

Senator Uresti offered the following amendment to Floor Amendment No. 13:

#### **Floor Amendment No. 14**

Amend Amendment No. 13 by Seliger to **CSHB 725** as follows:

(1) At the end of added Subdivision (1), Section 9016.1111, Special District Local Laws Code (on page 6 of the amendment, line 28), strike "or".

(2) At the end of added Subdivision (2), Section 9016.1111, Special District Local Laws Code (on page 6 of the amendment, line 30), between "2011" and the period, insert the following:

; or

(3) outside the county

The amendment to Floor Amendment No. 13 to **CSHB 725** 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. 14.

Question recurring on the adoption of Floor Amendment No. 13 to **CSHB 725**, the amendment as amended was adopted by a viva voce vote.

All Members are deemed to have voted "Yea" on the adoption of Floor Amendment No. 13 as amended.

Senator Hinojosa offered the following amendment to the bill:

**Floor Amendment No. 15**

Amend **CSHB 725** (senate committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering the remaining SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Chapter 49, Water Code, is amended by adding Subchapter K-1 to read as follows:

SUBCHAPTER K-1. DISSOLUTION OF CERTAIN DISTRICTS

Sec. 49.335. DEFINITIONS. In this subchapter:

(1) "City" means a municipality described by Section 49.336.

(2) "City council" means the governing body of a city.

(3) "District" means a district named in an ordinance adopted under Section 49.339.

(4) "District board" means the district's board of directors.

Sec. 49.336. APPLICABILITY. This subchapter applies only to:

(1) the district; and

(2) a municipality:

(A) with a population greater than 100,000;

(B) located in a county that is within 25,000 feet of the Rio Grande;

(C) that is not a county seat; and

(D) that contains within its corporate boundaries or extraterritorial jurisdiction more than half of the district's territory.

Sec. 49.337. DISSOLUTION OF DISTRICT; FINDINGS PREREQUISITE TO MOTION TO TRANSFER. (a) The district is dissolved on the later of:

(1) September 1, 2011; or

(2) the date a transfer ordinance adopted under Section 49.339 takes effect under Section 49.342.

(b) At a regularly scheduled meeting of the city council, a city may propose an ordinance to allow the city to accept a transfer of the obligations, liabilities, and assets of the district if the city council finds that as of the date of the meeting:

(1) at least 80 percent of the raw water diverted by the district in the preceding 12 months was diverted for use by the city;

(2) the city is capable of assuming all rights and obligations of the district;

(3) the city is capable of assuming responsibility for operating the district's facilities to benefit the district's existing customers and performing the services and functions performed by the district;

(4) dissolution of the district will result in an overall cost savings to city residents; and

(5) dissolution of the district will result in a more stable water supply for residents of the city and surrounding communities.

Sec. 49.338. HEARING REQUIRED. (a) Before a city may propose an ordinance described by Section 49.339, the city must conduct a public hearing on the issue.

(b) Notice of the public hearing must be:

(1) posted in accordance with the laws that apply to regular meetings of the city council; and

(2) mailed to each district board member.

Sec. 49.339. TRANSFER ORDINANCE. (a) After a city council has made the findings required by Section 49.337(b) and has conducted a public hearing as required by Section 49.338, the city council may adopt an ordinance allowing the city to accept a transfer of the district's obligations, liabilities, and assets.

(b) The ordinance must contain provisions that:

(1) eliminate the required payment of any flat tax or assessments paid to the district by landowners in the district;

(2) ensure that all water rights are held in trust by the city for the uses previously adjudicated;

(3) ensure that all individual water users are entitled to continue to use or have access to the same amount of water they were entitled to before the dissolution of the district;

(4) require the city to perform all the functions of the district, including the provision of services; and

(5) ensure delivery of water to landowners at or below the lowest comparable delivery charge imposed by any other irrigation district wholly located in the county in which the city is located.

(c) The ordinance takes effect only if two-thirds of the city council votes in favor of the ordinance.

Sec. 49.340. CITY CONSENT; DISTRICT DUTIES. (a) On or before the effective date of the ordinance described by Section 49.339, the district board shall provide the district's management and operational records to the city that passed the ordinance to ensure the orderly transfer of management and operational responsibility to the city.

(b) Without the consent of a majority of the members of a city council that publishes notice under Section 49.338(b), the district may not:

(1) sell, transfer, or encumber any district asset;

(2) issue debt or acquire additional obligations; or

(3) default on or fail to honor financial, legal, or other obligations of the district.

(c) Unless a majority of the members of a city council that publishes notice under Section 49.338(b) agree otherwise, the district shall:

(1) maintain assets of the district in an appropriate condition reflective of good stewardship and proper repair; and

(2) preserve district records, including information maintained by the district in electronic format.

(d) Any action undertaken by the district that does not comply with Subsection (b) is void.

(e) This section expires on the date a city that has published notice under Section 49.338(b) repeals the city's ordinance described by Section 49.339.

Sec. 49.341. PETITION BY VOTERS; SUSPENSION OR REPEAL OF ORDINANCE; ELECTION. (a) The voters of the district and of a city that enacts a transfer ordinance under this subchapter may object to the ordinance by filing a petition with the secretary of the city.

(b) The petition must be signed by at least five percent of the combined total of registered voters who reside in the city or any part of the district outside the city.

(c) The petition must be filed not later than the 30th day after the date the city council votes in favor of the transfer ordinance under Section 49.339(c).

(d) The city secretary shall verify the signatures on the petition and shall present the verified petition to the city council at the council's next scheduled meeting.

(e) On receipt of the petition, the city council shall suspend the effectiveness of the ordinance, and the city may not take action under the ordinance unless the ordinance is approved by the voters under Subsection (f).

(f) The city council shall reconsider the suspended ordinance at the next scheduled meeting of the council. If the city council does not repeal the transfer ordinance, the city council shall submit a proposition for or against enactment of the ordinance to the voters of the city and the district at an election held jointly by the city and the district on the next uniform election date. The transfer ordinance takes effect if a majority of the voters voting in that election vote in favor of the transfer.

Sec. 49.342. EFFECTIVE DATE OF TRANSFER. A transfer ordinance under this subchapter takes effect on the date:

(1) the period for filing a voter petition expires under Section 49.341(c), if a voter petition is not filed under that section; or

(2) the voters approve the transfer ordinance under Section 49.341(f).

Sec. 49.343. TRANSFER OF ASSETS. (a) On or before the effective date of a transfer ordinance under Section 49.342, the district shall:

(1) transfer to the city the ownership of any water rights and certificates of adjudication;

(2) transfer the assets, debts, and contractual rights and obligations of the district to the city; and

(3) provide notice and make recordings of the transfers under this section as required by the Water Code and other law.

(b) On receipt of notice of the transfer of a district certificate of adjudication, the Texas Commission on Environmental Quality shall note in its records that the certificate of adjudication is owned and held by the city. The Texas Commission on Environmental Quality shall transfer the district's certificate to the city as a ministerial act without further application, notice, or hearing. A person or other legal entity does not have a right to object to or to request an administrative review of a transfer made in accordance with this subchapter.

(c) The transfer of the district's water rights and any certificate of adjudication to the city does not affect or impair the priority, extent, validity, or purpose of the water rights or certificate.



Sec. 49.344. EXPIRATION. This subchapter expires January 1, 2016.

The amendment to **CSHB 725** 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. 15.

Senator Watson offered the following amendment to the bill:

**Floor Amendment No. 16**

Amend **CSHB 725** by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS accordingly:

SECTION \_\_\_\_\_. Subchapter D, Chapter 54, Water Code, is amended by adding Section 54.204 to read as follows:

Sec. 54.204. PUBLIC MEETINGS BEFORE CERTAIN WATER RATE INCREASES. (a) A wholesale supplier of water to a district that proposes to increase the rate the district pays for water must conduct at least two public meetings on the proposed rate increase in the district.

(b) The district may pass the increase along to the district's customers only after the public meetings have been held under Subsection (a).

(c) This section applies only to a proposed rate that is at least 200 percent higher than the rate the wholesale supplier charged the district at any time in the preceding 36-month period.

The amendment to **CSHB 725** 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. 16.

Senator Seliger offered the following amendment to the bill:

**Floor Amendment No. 17**

Amend the senate committee printing of **CSHB 725** by adding the following SECTIONS and renumbering the subsequent SECTIONS accordingly:

SECTION \_\_\_\_\_. Section 36.118, Water Code, is amended by adding Subsections (e-1) and (e-2) to read as follows:

(e-1) Except as provided by Subsection (e-2), in addition to other remedies provided by law, the district is entitled to recover the district's attorney's fees, court costs, and reasonable expenses incurred in closing or capping the well from the owner of the land on which the well is located.

(e-2) An entity that drills a well to develop subsurface resources not owned by the landowner is liable for expenses incurred in closing or capping the well, unless the landowner assumes responsibility for the well.

SECTION \_\_\_\_\_. This Act takes effect September 1, 2011.

The amendment to **CSHB 725** 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. 17.

Senator Lucio offered the following amendment to the bill:

### Floor Amendment No. 18

Amend **CSHB 725** (senate committee printing) in SECTION 3 of the bill, in the recital to Section 3 of the bill (page 1, lines 38-39), by striking the recital and substituting the following new recital and new Section 43.0751(f-1), Local Government Code, as follows:

SECTION 3. Section 43.0751, Local Government Code, is amended by adding Subsections (f-1) and (r) to read as follows:

(f-1) If a municipality regulates fireworks through a strategic partnership agreement entered into under this section, only the municipality's fire chief may issue a citation for a violation of a fireworks regulation entered into the agreement. If a municipality has multiple fire chiefs, the municipality must designate a single fire chief to issue the citations. This subsection does not affect any county authority related to the regulation of fireworks under Section 352.051 when drought conditions exist.

The amendment to **CSHB 725** was read.

Senator Lucio withdrew Floor Amendment No. 18.

Senator Wentworth offered the following amendment to the bill:

### Floor Amendment No. 19

Amend **CSHB 725** (senate committee printing) as follows:

(1) Before SECTION 1 of the bill, between the enacting clause and "SECTION 1." (page 1, between lines 12 and 13), insert the following:

#### ARTICLE 1. GENERAL PROVISIONS

(2) Renumber the SECTIONS of ARTICLE 1 (page 1, line 13, through page 14, line 1) appropriately.

(3) In SECTION 39 of the bill (page 13, line 63), strike "Act" and substitute "article".

(4) In SECTION 40 of the bill (page 13, line 65), strike "this Act" and substitute "this article".

(5) In SECTION 40 of the bill (page 13, line 67), strike "this Act, take" and substitute "this article, take".

(6) After SECTION 40 of the bill (page 14, line 2), add the following appropriately numbered ARTICLES and SECTIONS:

#### ARTICLE \_\_. HAYS COUNTY DEVELOPMENT DISTRICT NO. 1

SECTION \_\_.01. Section 1, Chapter 1503, Acts of the 77th Legislature, Regular Session, 2001, is amended by amending Subsections (a) and (c) and adding Subsection (d) to read as follows:

(a) The legislature finds that the creation of Hays County Development District No. 1 (the "district"), ~~and~~ the project approved by the Hays County Commissioners Court on January 11, 2000 (the "project"), and other improvement projects described by Section 5A will serve the public purpose of attracting visitors and tourists to Hays County and will result in employment and economic activity in the manner contemplated by Section 52-a, Article III, Texas Constitution, and Chapter 383, Local Government Code.

(c) The legislature further finds that the creation and operation of the district and the acquisition or financing of the project or an improvement project described by Section 5A by the district serve the purpose of Section 59, Article XVI, and Section 52, Article III, Texas Constitution, and that all steps necessary to create the district have been taken.

(d) The legislature further finds that the creation and continued operation of the district is essential to accomplish the purposes of Sections 52 and 52-a, Article III, and Section 59, Article XVI, Texas Constitution, and other public purposes stated in this Act.

SECTION \_\_.02. Section 5, Chapter 1503, Acts of the 77th Legislature, Regular Session, 2001, is amended to read as follows:

Sec. 5. POWERS. (a) The district has all of the rights, powers, privileges, authority, functions, and duties provided by Chapters 375 and 383, Local Government Code, to county development districts and municipal management districts and by Chapters 49 and 54, Water Code, to municipal utility districts.

(b) The district's rights, powers, privileges, authority, functions, and duties include, [including] but are not limited to:

(1) the authority to levy, assess, and collect ad valorem taxes for the purposes approved at the elections conducted on November 7, 2000;

(2) the authority, after approval by voters at an election conducted within the boundaries of the district, to levy, assess and collect taxes for maintenance and operating purposes in the manner set forth in Sections 49.107(a)-(e), Water Code, and for the repayment of bonds, notes, warrants, lease purchase agreements, certificates of assessment, certificates of participation in lease purchase agreements, and other interest-bearing obligations in the manner set forth in Sections 49.106(a)-(d), Water Code, and for all of the purposes for which the district may expend funds;

(3) to establish, levy, and collect special assessments in the manner specified in Sections 375.111-375.124, Local Government Code; provided, however, that Sections 375.161-375.163, Local Government Code, shall not apply to the assessments imposed by the district;

(4) to utilize funds, whether the funds are derived from ad valorem taxes, sales and use taxes, hotel occupancy taxes, assessments, revenues from the project, or any other source, for payment of projects or services in the manner authorized by Section 375.181, Local Government Code, Chapter 54, Water Code, and Chapter 383, Local Government Code;

(5) to enter into obligations, including, but not limited to, lease purchase agreements, certificates of participation in lease purchase agreements, general obligation bonds and notes and revenue bonds and notes, and combination general obligation and revenue bonds and notes and other interest-bearing obligations, in the manner specified in Sections 375.201-375.205 [~~375.201-375.204~~], Local Government Code. To enter into these obligations, the district shall obtain only those approvals required for the issuance of obligations by Hays County by Chapter 53, Acts of the 70th Legislature, Second Called Session, 1987, and the approval of the attorney general;

(6) except as provided by Sections 5B and 5C, to adopt the powers of a road district under Section 52(b)(3), Article III, Texas Constitution, in the manner specified in Sections 53.029(c) and (d), Water Code;

(7) to levy, assess, and collect ad valorem taxes to make payments on a contract under Sections 49.108(a)-(d), Water Code, after obtaining those approvals specified in Section 1, Chapter 778, Acts of the 74th Legislature, Regular Session, 1995;

(8) to exercise all of the rights, powers, and authority of a road district, a municipal management district, and a municipal utility district [~~water control and improvement district which are not specifically contradicted by Chapter 383, Local Government Code~~]; and

(9) to exercise all of the rights, powers, and authority granted to the district by this Act, and all of the rights, powers, and authority granted to the district by Chapters 383 and 375, Local Government Code, and to a municipal utility district by Chapters 49 and 54, Water Code, which are not contrary to [any provisions of] this Act, to finance, construct, or otherwise acquire an improvement project described by Section 5A or the project or any element of the project identified in the Commissioners Court Order Upon Hearing and Granting Petition Requesting the Creation of Hays County Development District No. 1 and Appointing Temporary Directors dated January 11, 2000, including, but not limited to, a [the] hotel, a residential area of a development, a trail or related feature, a commercial activity or endeavor, a [the] golf course, [the] water, sewer, drainage, and road improvements, [the] organizational costs, and [the] costs of issuance of the obligations of the district.

SECTION \_\_.03. Chapter 1503, Acts of the 77th Legislature, Regular Session, 2001, is amended by adding Sections 5A, 5B, 5C, 5D, and 5E to read as follows:

Sec. 5A. IMPROVEMENT PROJECTS. The district may provide, or it may contract with a governmental or private entity to provide, the following types of improvement projects or activities in support of or incidental to those projects:

(1) the project approved by the Hays County Commissioners Court on January 11, 2000, wholly or partly; or

(2) a public improvement, facility, or service provided by a municipal utility district or municipal management district.

Sec. 5B. ROAD DISTRICT POWERS; BALLOT. If the district adopts the powers described by Section 5(b)(6), a ballot authorized by Section 53.029(c), Water Code, must reference the "Hays County Development District No. 1."

Sec. 5C. ROAD STANDARDS AND REQUIREMENTS. (a) A road project must meet all applicable construction standards, zoning and subdivision requirements, and regulations of each municipality in whose corporate limits or extraterritorial jurisdiction the road project is located.

(b) If a road project is not located in the corporate limits or extraterritorial jurisdiction of a municipality, the road project must meet all applicable construction standards, subdivision requirements, and regulations of each county in which the road project is located.

(c) If the state will maintain and operate the road, the Texas Transportation Commission must approve the plans and specifications of the road project.

Sec. 5D. LIMIT ON POWERS GRANTED BY OTHER SPECIAL DISTRICT LAWS. Except as provided by this Act, the rights, powers, and authority of a road district, county development district, municipal management district, or municipal utility district granted by this Act may be exercised only in the manner provided by:

(1) Chapter 375, Local Government Code, to a municipal management district;

(2) Chapter 383, Local Government Code, to a county development district; and

(3) Chapters 49 and 54, Water Code, to a municipal utility district, including review and approval by the Texas Commission on Environmental Quality for water and wastewater improvements.

Sec. 5E. LIMIT ON EMINENT DOMAIN POWER. The district may not exercise the power of eminent domain outside the district and in the corporate limits or extraterritorial jurisdiction of a municipality unless the governing body of the municipality consents by ordinance or resolution.

SECTION \_\_.04. Section 8, Chapter 1503, Acts of the 77th Legislature, Regular Session, 2001, is amended to read as follows:

Sec. 8. LEGISLATIVE FINDINGS. [~~The legislature finds that the principal function of the district is to provide for development and operation of the project, to facilitate economic development, and to attract visitors and tourists, which will result in employment and economic activity in Hays County.~~] The legislature finds that the district may provide water and sewer, landscaping, road, drainage, and reclamation services to residential retail or commercial customers in the district. Except for purposes of Section 49.052, Water Code, the [The] district is a district described in Section 49.181(h)(4), Water Code.

SECTION \_\_.05. Section 9, Chapter 1503, Acts of the 77th Legislature, Regular Session, 2001, is amended to read as follows:

Sec. 9. ADDITION AND EXCLUSION OF LANDS. (a) Except as provided by Subsection (b), in [H] addition to the authority granted to the district by Section 383.084, Local Government Code, the district may add lands in the manner provided by Section 49.301, Water Code, and may exclude lands in the methods provided by Sections 49.303 through 49.308, Water Code.

(b) Section 42.0425, Local Government Code, applies to the annexation of property in the extraterritorial jurisdiction of a municipality.

SECTION \_\_.06. The legislature confirms and validates all actions of the Hays County Development District No. 1 that were taken before May 1, 2011, including any elections conducted by the district, including any election to impose maintenance and operation taxes or to adopt the powers of a road district.

SECTION \_\_.07. (a) The legal notice of the intention to introduce this article, setting forth the general substance of this article, has been published as provided by law, and the notice and a copy of this article have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished under Section 59, Article XVI, Texas Constitution, and Chapter 313, Government Code.

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

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

SECTION \_\_.08. This article takes effect immediately if this Act 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 article takes effect September 1, 2011.

The amendment to **CSHB 725** was read and was adopted by the following vote: Yeas 31, Nays 0.

### **VOTE RECONSIDERED**

Senator Nichols moved to reconsider the vote by which Floor Amendment No. 6 to **CSHB 725** was tabled.

The motion prevailed by the following vote: Yeas 18, Nays 13.

Yeas: Birdwell, Carona, Davis, Deuell, Ellis, Eltife, Estes, Fraser, Harris, Jackson, Nelson, Nichols, Ogden, Seliger, Shapiro, Watson, West, Zaffirini.

Nays: Duncan, Gallegos, Hegar, Hinojosa, Huffman, Lucio, Patrick, Rodriguez, Uresti, Van de Putte, Wentworth, Whitmire, Williams.

Question — Shall Floor Amendment No. 6 to **CSHB 725** be adopted?

Floor Amendment No. 6 to **CSHB 725** was adopted by the following vote: Yeas 18, Nays 13.

Yeas: Birdwell, Carona, Davis, Deuell, Ellis, Eltife, Estes, Fraser, Harris, Jackson, Nelson, Nichols, Ogden, Seliger, Shapiro, Watson, West, Zaffirini.

Nays: Duncan, Gallegos, Hegar, Hinojosa, Huffman, Lucio, Patrick, Rodriguez, Uresti, Van de Putte, Wentworth, Whitmire, Williams.

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

**CSHB 725** as amended was passed to third reading by the following vote: Yeas 29, Nays 2.

Yeas: Birdwell, Carona, Davis, Deuell, Duncan, Ellis, Eltife, Estes, Fraser, Gallegos, Harris, Hinojosa, Huffman, Jackson, Lucio, Nichols, Ogden, Patrick, Rodriguez, Seliger, Shapiro, Uresti, Van de Putte, Watson, Wentworth, West, Whitmire, Williams, Zaffirini.

Nays: Hegar, Nelson.

### **COMMITTEE SUBSTITUTE HOUSE BILL 725 ON THIRD READING**

Senator Fraser moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 725** be placed on its third reading and final passage.

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

Yeas: Birdwell, Carona, Davis, Deuell, Duncan, Ellis, Eltife, Estes, Fraser, Gallegos, Harris, Hinojosa, Huffman, Jackson, Lucio, Nichols, Ogden, Patrick, Rodriguez, Seliger, Shapiro, Uresti, Van de Putte, Watson, Wentworth, West, Whitmire, Williams, Zaffirini.

Nays: Hegar, Nelson.

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

**COMMITTEE SUBSTITUTE  
HOUSE BILL 3595 ON SECOND READING**

Senator Carona moved to suspend the regular order of business to take up for consideration **CSHB 3595** at this time on its second reading:

**CSHB 3595**, Relating to energy efficiency goals and energy efficiency programs.

The motion prevailed.

Senators Birdwell, Estes, Fraser, Harris, Jackson, Nichols, Patrick, and Shapiro asked to be recorded as voting "Nay" on suspension of the regular order of business.

The bill was read second time.

Senator Fraser offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **CSHB 3595** (senate committee printing) as follows:

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

SECTION \_\_\_\_\_. (a) This section may be cited as the Energy Policy Act.

(b) The Utilities Code is amended by adding Title 6 to read as follows:

TITLE 6. ENERGY POLICY ACT  
CHAPTER 300. STRATEGIC ENERGY PLANNING  
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 300.001. PURPOSE AND FINDINGS. (a) This title is enacted to promote, in accordance with the public interest, the strategic planning of energy development, production, delivery, commercialization, and utilization in this state.

(b) The purpose of this title is to establish a statewide energy policy planning entity and process that recognizes:

(1) public health and general welfare as a critical concern in the development of energy policies;

(2) energy as a valuable and vital commodity in the state's economy;

(3) protection of the environment as a major consideration in the production of energy and utilization of natural resources;

(4) cost-effective, market-based solutions as a preferred policy for energy planning;

(5) utilization of Texas-based resources to help provide energy security, stability, and reliability; and

(6) the importance of portfolio diversity in promoting energy system flexibility, affordability, and efficiency.

Sec. 300.002. DEFINITIONS. In this title:

- (1) "Commission" means the Public Utility Commission of Texas.
- (2) "Council" means the Texas Energy Policy Council.
- (3) "Plan" means the statewide energy policy plan.

Sec. 300.003. TEXAS ENERGY POLICY COUNCIL. (a) The Texas Energy Policy Council is created to develop and present a statewide energy policy plan to the legislature. The plan must include a 20-year planning horizon and be updated to reflect changing conditions and should be considered a living document.

(b) The council is composed of 13 members as follows:

- (1) the chairman of the Public Utility Commission of Texas;
- (2) the chairman of the Railroad Commission of Texas;
- (3) the chairman of the Texas Commission on Environmental Quality;
- (4) the president and chief executive officer of the Electric Reliability

Council of Texas;

(5) the commissioner of the General Land Office;

(6) two members of the senate appointed by the lieutenant governor;

(7) two members of the house of representatives appointed by the speaker of

the house of representatives;

(8) one member of the academic community with expertise in energy appointed by the governor;

(9) one member of the academic community with expertise in environmental issues related to energy appointed by the governor;

(10) the director of the State Energy Conservation Office; and

(11) one member of the public with expertise in low-income energy issues, including the needs of low-income and vulnerable ratepayers, appointed by the governor.

(c) The governor shall designate the presiding officer from among the members of the council.

(d) An appointed member of the council serves for a full planning cycle and may be reappointed at the pleasure of the appointing official.

(e) The council shall meet at least quarterly in even-numbered years while developing a plan for submission to the legislature. The council may meet annually in odd-numbered years after submitting plans to the legislature.

(f) The council shall develop and implement policies and procedures that provide the public with reasonable opportunity to appear before the council and to speak on issues under the jurisdiction of the council.

(g) The commission is designated as the state agency responsible for administering the council. Staff from the commission shall be tasked, as necessary, with assisting the council in carrying out its duties.

Sec. 300.004. POWERS, DUTIES, AND RESPONSIBILITIES OF COUNCIL.

(a) In developing the plan, the council shall:

(1) encourage cooperation and coordination between public and private entities regarding energy usage, planning, research and development, and commercialization;

(2) seek policies that promote a diverse portfolio of clean, reliable, and competitively priced energy sources;



(3) promote research, pilot projects, and market-based incentives to explore and expand long-term energy options;

(4) develop policies to prevent supply interruptions and infrastructure failure;

(5) examine the impact on the environment of energy exploration, production, and use;

(6) take into account the statewide and regional water planning process;

(7) make recommendations for increasing public knowledge of energy use issues and public awareness of the importance of more efficient consumption of energy; and

(8) take into account the needs of low-income and vulnerable Texans.

(b) The council shall submit to the legislature the initial plan by December 1, 2012. Thereafter, the council shall report to the legislature by December 1 of each even-numbered year the status of the plan's implementation and make any recommendations for legislative action as necessary to implement or revise the plan. The council may update the plan as necessary to reflect evolving conditions.

Sec. 300.005. FUELS AND TECHNOLOGIES. (a) The council shall consider the following fuel sources, types of generation, and innovative technologies associated with these fuels and types of generation when creating the plan. These fuels, types of generation, and technologies include:

(1) oil and natural gas;

(2) coal and lignite;

(3) nuclear;

(4) renewable energy technologies;

(5) geothermal;

(6) methane;

(7) distributed generation;

(8) fuel cells and storage;

(9) water conservation technologies that could be utilized in the exploration, production, and generation of energy resources; and

(10) any other fuels and technologies as defined in Section 39.904(d), including solar and wind technologies.

(b) The council shall develop policies that ensure fuel resources available to the state are utilized in a balanced and efficient manner. The council shall consider the economic viability, price stability and volatility, and environmental impact of types of fuel and technology when making its recommendations. The council shall also consider all types of generation technology to identify in its recommendations current or potential operational or administrative advantages or disadvantages of each type of technology to which a protocol of the Electric Reliability Council of Texas applies.

Sec. 300.006. ENERGY EFFICIENT TECHNOLOGY. (a) In order to reduce the energy demand of customers in this state, the council shall consider energy-efficient technologies when formulating the plan and include them in its recommendations. Energy-efficient technologies shall be considered for the following:

(1) residential, commercial, industrial, and state and local energy users; and

(2) any other user group or application the council deems appropriate.

(b) The council shall consider the economic viability and competitiveness of new technologies when making its recommendations.

(c) The council shall consider the ability of energy-efficient technologies to reduce the demand for energy and the need for additional transmission capacity in the state and shall consider opportunities for reducing transmission constraints by using these technologies.

Sec. 300.007. TRANSMISSION. (a) The council shall consider and recommend strategies to ensure that customers in this state have access to reliable energy.

(b) The council shall consider transmission constraints, and make recommendations in the plan to alleviate or prevent those constraints, for the following sources of energy:

- (1) oil and natural gas;
- (2) coal and lignite;
- (3) wind and solar; and
- (4) electricity.

Sec. 300.008. ALTERNATIVE FUEL VEHICLES. (a) The council shall consider and make recommendations on strategies and incentives that promote the use of alternative fuel vehicles such as natural gas vehicles and plug-in electric vehicles.

(b) The council shall consider the economic feasibility of alternative fuel vehicles and infrastructure constraints and may make recommendations on incentives to incorporate and promote these vehicles as a component of the plan.

Sec. 300.009. ENVIRONMENT. (a) The council, when creating the plan or in formulating recommendations, shall consider the effects of energy exploration, production, and consumption on the environment.

(b) The council shall recommend strategies that protect and preserve the environment of the state and allow for access to and the production of safe, economically viable, and reliable sources of energy. The council shall consider:

- (1) air quality;
- (2) water quality;
- (3) water supply; and
- (4) waste disposal.

SECTION \_\_\_\_\_. Chapter 39, Utilities Code, is amended by adding Subchapter L to read as follows:

SUBCHAPTER L. REPORT ON RESERVES AND VOLUNTARY EMISSIONS  
REDUCTIONS PLAN

Sec. 39.551. STATEMENT OF INTENT. It is not the intent of this subchapter to:

- (1) transfer environmental regulation from the Railroad Commission of Texas or the Texas Commission on Environmental Quality to the commission; or
- (2) reduce the competitiveness of the existing energy market in Texas by re-regulating the market or requiring the decommissioning of any lawfully operating generating plant.

Sec. 39.552. REPORT ON RESERVES. (a) Not later than December 1, 2011, the Railroad Commission of Texas shall prepare and submit to the commission a report on coal and gas reserves in this state that includes information relating to:

(1) natural gas reserves in this state proven and probable on November 1, 2011;

(2) estimates of the proven and probable natural gas reserves in this state for each of the next 15 years;

(3) estimates of natural gas prices and potential price volatility for each of the next 15 years;

(4) coal reserves in this state proven and probable on November 1, 2011;

(5) estimates of the proven and probable coal reserves in this state for each of the next 15 years; and

(6) estimates of coal prices and potential price volatility for each of the next 15 years.

(b) The Railroad Commission of Texas may request financial information and forecasts from the comptroller to assist the Railroad Commission of Texas in carrying out its duties under this section. The comptroller shall provide that information and those forecasts to the Railroad Commission of Texas as quickly as possible after receiving such request.

Sec. 39.553. REPORT AND PLAN. (a) The commission shall prepare a report on electric energy generation in this state. The report must include an analysis of and policy recommendations for how to most cost-effectively comply with environmental regulation.

(b) In preparing the report, the commission shall:

(1) analyze information from the reports submitted under this subchapter by electric generating facilities and the Railroad Commission of Texas; and

(2) use information already in the possession of existing regulators by consulting with the Railroad Commission of Texas, the Texas Commission on Environmental Quality, the Electric Reliability Council of Texas, the Southwest Power Pool, the Southeastern Electric Reliability Council, and the Western Electricity Coordinating Council.

(c) The report must evaluate and consider measures that will:

(1) maintain electric grid reliability;

(2) ensure the availability of electric energy at reasonable rates;

(3) reduce air pollution, as defined by Section 382.003, Health and Safety

Code;

(4) increase the state's ability to comply with state and federal clean air standards in nonattainment and near-nonattainment areas; and

(5) reduce the use of water for electricity generation in this state.

(d) The report must identify the 10 percent of electric generation capacity that will be most impacted by compliance with environmental regulation.

(e) The report must identify combinations of market factors, plant operating characteristics, federal and state environmental regulations promulgated after January 1, 2011, and other conditions that might make it more economically attractive for the electric generation capacity identified in the report to be retired rather than comply with the regulations. The market factors considered in the analysis must include:

(1) long-term prices and price volatility for fuel sources used to generate electricity in this state;

(2) price projections for the cost of electricity going forward and factors that are relevant to determining the market price of electricity; and

(3) the potential impact of the voluntary decommissioning of existing units of electric generation capacity from facilities in this state.

(f) The report must consider plant operating characteristics including variable and fixed operating costs of electric generation facilities identified in the report. The analysis must also incorporate a range of costs projected by credible sources for complying with the specified federal and state air pollution regulations. In conducting this analysis, the commission shall consider electric generation facilities in this state of various vintages, sizes, fuel types, conversion efficiencies, and emission characteristics. The analysis must:

(1) estimate the amount of electric generation capacity that is likely to voluntarily be retired rather than incur the additional expense of complying with the federal and state air pollution regulations;

(2) provide an analysis of the cost and the impact on electric rates, and provide price projections, associated with voluntarily retiring electric generation facilities included in the report;

(3) identify any additional barriers to the retirement of the types of electric generation capacity identified and provide recommendations on how to most cost-effectively and voluntarily reduce air pollution, including recommendations to accelerate the permitting process for certain types of low-polluting generation; and

(4) identify the types, costs, and effects of incentives to promote the goals of this section.

(g) Not later than October 1, 2012, the commission shall make a draft of the report available for public review and comment for a period of not less than 30 days.

(h) Not later than December 1, 2012, the commission shall finalize and publish the report.

(i) Implementation of the requirements of this section shall be contingent upon receiving gifts, grants, or donations sufficient to cover the expenses incurred by the commission.

SECTION \_\_\_\_\_. As soon as practicable after the effective date of this Act, the designated appointing officials shall appoint the members to the Texas Energy Policy Council established under Chapter 300, Utilities Code, as added by this Act.

SECTION \_\_\_\_\_. This Act takes effect September 1, 2011.

(2) Strike SECTION 4 of the bill (page 4, lines 51-55).

The amendment to **CSHB 3595** was read.

Senator Fraser withdrew Floor Amendment No. 1.

**CSHB 3595** was passed to third reading by the following vote: Yeas 23, Nays 8.

Yeas: Carona, Davis, Deuell, Duncan, Ellis, Eltife, Gallegos, Hegar, Hinojosa, Huffman, Lucio, Nelson, Ogden, Rodriguez, Seliger, Uresti, Van de Putte, Watson, Wentworth, West, Whitmire, Williams, Zaffirini.

Nays: Birdwell, Estes, Fraser, Harris, Jackson, Nichols, Patrick, Shapiro.

**HOUSE BILL 3864 REREFERRED**  
**(Motion In Writing)**

Senator Deuell submitted a Motion In Writing requesting that **HB 3864** be withdrawn from the Committee on Intergovernmental Relations and rereferred to the Committee on International Relations and Trade.

The Motion In Writing prevailed without objection.

**SENATE BILL 1811 WITH HOUSE AMENDMENTS**

Senator Duncan called **SB 1811** from the President's table for consideration of the House amendments to the bill.

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

**Amendment**

Amend **SB 1811** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED  
AN ACT

relating to certain state fiscal matters; providing penalties.

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

ARTICLE 1. REDUCTION OF EXPENDITURES AND IMPOSITION OF  
CHARGES GENERALLY

SECTION 1.01. This article applies to each state agency, as that term is defined by Section 317.001, Government Code.

SECTION 1.02. Notwithstanding any other statute of this state, each state agency to which this article applies is authorized to reduce or recover expenditures by:

(1) consolidating any reports or publications the agency is required to make and filing or delivering any of those reports or publications exclusively by electronic means;

(2) extending the effective period of any license, permit, or registration the agency grants or administers;

(3) entering into a contract with another governmental entity or with a private vendor to carry out any of the agency's duties;

(4) modifying eligibility requirements for, the processes used to determine eligibility for, and the services provided to persons who receive benefits under any law the agency administers, including benefits and services required by federal law, to ensure that those benefits are received by the most deserving persons consistent with the purposes for which the benefits are provided;

(5) providing that any communication between the agency and another person and any document required to be delivered to or by the agency, including any application, notice, billing statement, receipt, or certificate, may be made or delivered by e-mail or through the Internet; and

(6) adopting and collecting fees or charges to cover any costs the agency incurs in performing its lawful functions.

ARTICLE 2. FISCAL MATTERS REGARDING REGULATION AND TAXATION  
OF INSURERS

SECTION 2.01. Section 463.160, Insurance Code, is amended to read as follows:

Sec. 463.160. PREMIUM TAX CREDIT FOR CLASS A ASSESSMENT. The amount of a Class A assessment paid by a member insurer in each taxable year shall be allowed as a credit on the amount of premium taxes due ~~[in the same manner as a credit is allowed under Section 401.151(e)].~~

SECTION 2.02. Sections 221.006, 222.007, 223.009, 401.151(e), and 401.154, Insurance Code, are repealed.

SECTION 2.03. This article takes effect immediately if this Act 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 article takes effect September 1, 2011.

ARTICLE 3. TEMPORARY ASSISTANCE FOR NEEDY FAMILIES AND  
SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAMS

SECTION 3.01. Subchapter B, Chapter 31, Human Resources Code, is amended by adding Section 31.0326 to read as follows:

Sec. 31.0326. VERIFICATION OF IDENTITY AND PREVENTION OF DUPLICATE PARTICIPATION. The Health and Human Services Commission shall use appropriate technology to:

(1) confirm the identity of applicants for benefits under the financial assistance program; and

(2) prevent duplicate participation in the program by a person.

SECTION 3.02. Chapter 33, Human Resources Code, is amended by adding Section 33.0231 to read as follows:

Sec. 33.0231. VERIFICATION OF IDENTITY AND PREVENTION OF DUPLICATE PARTICIPATION. The department shall use appropriate technology to:

(1) confirm the identity of applicants for benefits under the supplemental nutrition assistance program; and

(2) prevent duplicate participation in the program by a person.

SECTION 3.03. Section 31.0325, Human Resources Code, is repealed.

SECTION 3.04. If before implementing Section 31.0326 or 33.0231, Human Resources Code, as added by this article, a state agency determines that a waiver or authorization from a federal agency is necessary for implementation of that law, the agency shall request the waiver or authorization and may delay implementing that law until the waiver or authorization is granted.

SECTION 3.05. This article takes effect immediately if this Act 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 article takes effect September 1, 2011.

ARTICLE 4. TAX RECORDS

SECTION 4.01. Section 2153.201, Occupations Code, is amended by amending Subsection (b) and adding Subsection (c) to read as follows:

(b) A record required under Subsection (a) must:

(1) be available at all times for inspection by the attorney general, the comptroller, or an authorized representative of the attorney general or comptroller as provided by Subsection (c);

(2) include information relating to:

(A) the kind of each machine;

(B) the date each machine is:

(i) acquired or received in this state; and

(ii) placed in operation;

(C) the location of each machine, including the:

(i) county;

(ii) municipality, if any; and

(iii) street or rural route number;

(D) the name and complete address of each operator of each machine;

(E) if the owner is an individual, the full name and address of the owner; and

(F) if the owner is not an individual, the name and address of each principal officer or member of the owner; and

(3) be maintained[~~:-~~

~~[(A)] at a permanent address in this state designated on the application for a license under Section 2153.153[~~:-and~~~~

~~[(B) until the second anniversary of the date the owner ceases ownership of the machine that is the subject of the record].~~

(c) A record required under Subsection (a) must be available for inspection under Subsection (b) for at least four years and as required by Section 111.0041, Tax Code.

SECTION 4.02. Section 111.0041, Tax Code, is amended to read as follows:

Sec. 111.0041. RECORDS; BURDEN TO PRODUCE AND SUBSTANTIATE CLAIMS. (a) Except as provided by Subsection (b), a [Any] taxpayer who is required by this title to keep records shall keep those records open to inspection by the comptroller, the attorney general, or the authorized representatives of either of them for at least four years.

(b) A taxpayer is required to keep records open for inspection under Subsection (a) for more than four years throughout any period when:

(1) any tax, penalty, or interest may be assessed, collected, or refunded by the comptroller; or

(2) an administrative hearing is pending before the comptroller, or a judicial proceeding is pending, to determine the amount of the tax, penalty, or interest that is to be assessed, collected, or refunded.

(c) A taxpayer shall produce contemporaneous records and supporting documentation appropriate to the tax or fee for the period in question to substantiate and enable verification of the taxpayer's claim related to the amount of tax, penalty, or interest to be assessed, collected, or refunded in an administrative or judicial proceeding. Contemporaneous records and supporting documentation appropriate to the tax or fee include invoices, vouchers, checks, shipping records, contracts, and other written documentation reflecting legal relationships and taxes collected or paid.

(d) Summary records submitted by the taxpayer, including accounting journals and ledgers, without supporting contemporaneous records and documentation for the period in question are not sufficient to substantiate and enable verification of the taxpayer's claim regarding the amount of tax, penalty, or interest that may be assessed, collected, or refunded.

(e) This section prevails over any other conflicting provision of this title.

SECTION 4.03. Section 112.052, Tax Code, is amended by adding Subsection (d) to read as follows:

(d) A taxpayer shall produce contemporaneous records and supporting documentation appropriate to the tax or fee for the period in question to substantiate and enable verification of a taxpayer's claim relating to the amount of the tax, penalty, or interest that is to be assessed, collected, or refunded, as required by Section 111.0041.

SECTION 4.04. Section 112.151, Tax Code, is amended by adding Subsection (f) to read as follows:

(f) A taxpayer shall produce contemporaneous records and supporting documentation appropriate to the tax or fee for the period in question to substantiate and enable verification of a taxpayer's claim relating to the amount of the tax, penalty, or interest that is to be assessed, collected, or refunded, as required by Section 111.0041.

SECTION 4.05. Section 151.025(b), Tax Code, is amended to read as follows:

(b) A record required by Subsection (a) [~~of this section~~] shall be kept for not less than four years from the date [~~day~~] that it is made unless:

- (1) the comptroller authorizes in writing its destruction at an earlier date; or
- (2) Section 111.0041 requires that the record be kept for a longer period.

SECTION 4.06. Section 152.063, Tax Code, is amended by adding Subsection (h) to read as follows:

(h) Section 111.0041 applies to a person required to keep records under this chapter.

SECTION 4.07. Section 152.0635, Tax Code, is amended by adding Subsection (e) to read as follows:

(e) Section 111.0041 applies to a person required to keep records under this chapter.

SECTION 4.08. Section 154.209(a), Tax Code, is amended to read as follows:

(a) Except as provided by Section 111.0041, each [~~Each~~] permit holder shall keep records available for inspection and copying by the comptroller and the attorney general for at least four years.

SECTION 4.09. Section 155.110(a), Tax Code, is amended to read as follows:

(a) Except as provided by Section 111.0041, each [~~Each~~] permit holder shall keep records available for inspection and copying by the comptroller and the attorney general for at least four years.

SECTION 4.10. Section 160.046, Tax Code, is amended by adding Subsection (g) to read as follows:

(g) A person required to keep records under this section shall also keep the records as required by Section 111.0041.



SECTION 4.11. Subchapter A, Chapter 162, Tax Code, is amended by adding Section 162.0125 to read as follows:

Sec. 162.0125. DUTY TO KEEP RECORDS. A person required to keep a record under this chapter shall also keep the record as required by Section 111.0041.

SECTION 4.12. This article takes effect immediately if this Act 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 article takes effect September 1, 2011.

#### ARTICLE 5. COLLECTION IMPROVEMENT PROGRAM

SECTION 5.01. Articles 103.0033(f), (h), (i), and (j), Code of Criminal Procedure, are amended to read as follows:

(f) The ~~[comptroller, in cooperation with the]~~ office~~[-]~~ shall develop a methodology for determining the collection rate of counties and municipalities described by Subsection (e) before implementation of a program. The office ~~[comptroller]~~ shall determine the rate for each county and municipality not later than the first anniversary of the county's or municipality's adoption of a program.

(h) The office~~[-, in consultation with the comptroller,]~~ may:

(1) use case dispositions, population, revenue data, or other appropriate measures to develop a prioritized implementation schedule for programs; and

(2) determine whether it is not cost-effective to implement a program in a county or municipality and grant a waiver to the county or municipality.

(i) Each county and municipality shall at least annually submit to the office ~~[and the comptroller]~~ a written report that includes updated information regarding the program, as determined by the office ~~[in cooperation with the comptroller]~~. The report must be in a form approved by the office ~~[in cooperation with the comptroller]~~.

(j) The office ~~[comptroller]~~ shall periodically audit counties and municipalities to verify information reported under Subsection (i) and confirm that the county or municipality is conforming with requirements relating to the program. ~~[The comptroller shall consult with the office in determining how frequently to conduct audits under this section.]~~

SECTION 5.02. Section 133.058(e), Local Government Code, is amended to read as follows:

(e) A municipality or county may not retain a service fee if, during an audit under ~~[Section 133.059 of this code or]~~ Article 103.0033(j), Code of Criminal Procedure, the Office of Court Administration of the Texas Judicial System ~~[comptroller]~~ determines that the municipality or county is not in compliance with Article 103.0033, Code of Criminal Procedure. The municipality or county may continue to retain a service fee under this section on receipt of a written confirmation from the Office of Court Administration of the Texas Judicial System ~~[comptroller]~~ that the municipality or county is in compliance with Article 103.0033, Code of Criminal Procedure.

SECTION 5.03. Section 133.103(c-1), Local Government Code, is amended to read as follows:

(c-1) The treasurer shall send 100 percent of the fees collected under this section to the comptroller if, during an audit under ~~[Section 133.059 of this code or]~~ Article 103.0033(j), Code of Criminal Procedure, the Office of Court Administration of the

Texas Judicial System [comptroller] determines that the municipality or county is not in compliance with Article 103.0033, Code of Criminal Procedure. The municipality or county shall continue to dispose of fees as otherwise provided by this section on receipt of a written confirmation from the Office of Court Administration of the Texas Judicial System [comptroller] that the municipality or county is in compliance with Article 103.0033, Code of Criminal Procedure.

SECTION 5.04. This article takes effect September 1, 2011.

ARTICLE 6. PENALTIES FOR FAILURE TO REPORT OR REMIT  
CERTAIN TAXES OR FEES

SECTION 6.01. Section 111.00455(b), Tax Code, is amended to read as follows:

(b) The following are not contested cases under Subsection (a) and Section 2003.101, Government Code:

(1) a show cause hearing or any hearing not related to the collection, receipt, administration, or enforcement of the amount of a tax or fee imposed, or the penalty or interest associated with that amount, except for a hearing under Section 151.157(f), 151.1575(c), 151.712(g), 154.1142, or 155.0592;

(2) a property value study hearing under Subchapter M, Chapter 403, Government Code;

(3) a hearing in which the issue relates to:

(A) Chapters 72-75, Property Code;

(B) forfeiture of a right to do business;

(C) a certificate of authority;

(D) articles of incorporation;

(E) a penalty imposed under Section 151.703(d) [~~151.7034~~];

(F) the refusal or failure to settle under Section 111.101; or

(G) a request for or revocation of an exemption from taxation; and

(4) any other hearing not related to the collection, receipt, administration, or enforcement of the amount of a tax or fee imposed, or the penalty or interest associated with that amount.

SECTION 6.02. Section 151.433(f), Tax Code, is amended to read as follows:

(f) If a person fails to file a report required by this section or fails to file a complete report, the comptroller may suspend or cancel one or more permits issued to the person under Section 151.203 and may impose a civil or criminal penalty, or both, under Section 151.703(d) [~~151.7034~~] or 151.709.

SECTION 6.03. Section 151.703, Tax Code, is amended by adding Subsection (d) to read as follows:

(d) In addition to any other penalty authorized by this section, a person who fails to file a report as required by this chapter shall pay a penalty of \$50. The penalty provided by this subsection is assessed without regard to whether the taxpayer subsequently files the report or whether any taxes were due from the taxpayer for the reporting period under the required report.

SECTION 6.04. Section 152.045, Tax Code, is amended by adding Subsection (d) to read as follows:

(d) In addition to any other penalty provided by law, the owner of a motor vehicle subject to the tax on gross rental receipts who is required to file a report as provided by this chapter and who fails to timely file the report shall pay a penalty of \$50. The penalty provided by this subsection is assessed without regard to whether the taxpayer subsequently files the report or whether any taxes were due from the taxpayer for the reporting period under the required report.

SECTION 6.05. Section 152.047, Tax Code, is amended by adding Subsection (j) to read as follows:

(j) In addition to any other penalty provided by law, the seller of a motor vehicle sold in a seller-financed sale who is required to file a report as provided by this chapter and who fails to timely file the report shall pay a penalty of \$50. The penalty provided by this subsection is assessed without regard to whether the taxpayer subsequently files the report or whether any taxes were due from the taxpayer for the reporting period under the required report.

SECTION 6.06. Section 156.202, Tax Code, is amended by amending Subsection (c) and adding Subsection (d) to read as follows:

(c) The minimum penalty under Subsections (a) and (b) [~~this section~~] is \$1.

(d) In addition to any other penalty authorized by this section, a person who fails to file a report as required by this chapter shall pay a penalty of \$50. The penalty provided by this subsection is assessed without regard to whether the taxpayer subsequently files the report or whether any taxes were due from the taxpayer for the reporting period under the required report.

SECTION 6.07. Section 162.401, Tax Code, is amended by adding Subsection (c) to read as follows:

(c) In addition to any other penalty authorized by this section, a person who fails to file a report as required by this chapter shall pay a penalty of \$50. The penalty provided by this subsection is assessed without regard to whether the taxpayer subsequently files the report or whether any taxes were due from the taxpayer for the reporting period under the required report.

SECTION 6.08. Section 171.362, Tax Code, is amended by amending Subsection (c) and adding Subsection (f) to read as follows:

(c) The minimum penalty under Subsections (a) and (b) [~~this section~~] is \$1.

(f) In addition to any other penalty authorized by this section, a taxable entity who fails to file a report as required by this chapter shall pay a penalty of \$50. The penalty provided by this subsection is assessed without regard to whether the taxable entity subsequently files the report or whether any taxes were due from the taxable entity for the reporting period under the required report.

SECTION 6.09. Subchapter B, Chapter 183, Tax Code, is amended by adding Section 183.024 to read as follows:

Sec. 183.024. FAILURE TO PAY TAX OR FILE REPORT. (a) A permittee who fails to file a report as required by this chapter or who fails to pay a tax imposed by this chapter when due shall pay five percent of the amount due as a penalty, and if the permittee fails to file the report or pay the tax within 30 days after the day the tax or report is due, the permittee shall pay an additional five percent of the amount due as an additional penalty.

(b) The minimum penalty under Subsection (a) is \$1.

(c) A delinquent tax draws interest beginning 60 days from the due date.

(d) In addition to any other penalty authorized by this section, a permittee who fails to file a report as required by this chapter shall pay a penalty of \$50. The penalty provided by this subsection is assessed without regard to whether the permittee subsequently files the report or whether any taxes were due from the permittee for the reporting period under the required report.

SECTION 6.10. Section 771.0712, Health and Safety Code, is amended by adding Subsections (c) and (d) to read as follows:

(c) A seller who fails to file a report or remit a fee collected or payable as provided by this section and comptroller rules shall pay five percent of the amount due and payable as a penalty, and if the seller fails to file the report or remit the fee within 30 days after the day the fee or report is due, the seller shall pay an additional five percent of the amount due and payable as an additional penalty.

(d) In addition to any other penalty authorized by this section, a seller who fails to file a report as provided by this section shall pay a penalty of \$50. The penalty provided by this subsection is assessed without regard to whether the seller subsequently files the report or whether any taxes were due from the seller for the reporting period under the required report.

SECTION 6.11. Section 151.7031, Tax Code, is repealed.

SECTION 6.12. The change in law made by this article applies only to a report due or a tax or fee due and payable on or after the effective date of this article. A report due or a tax or fee due and payable before the effective date of this article is governed by the law in effect at that time, and that law is continued in effect for that purpose.

SECTION 6.13. This article takes effect immediately if this Act 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 article takes effect September 1, 2011.

#### ARTICLE 7. CERTAIN FOUNDATION SCHOOL PROGRAM PAYMENTS

SECTION 7.01. Sections 42.259(c), (d), and (f), Education Code, are amended to read as follows:

(c) Payments from the foundation school fund to each category 2 school district shall be made as follows:

(1) 22 percent of the yearly entitlement of the district shall be paid in an installment to be made on or before the 25th day of September of a fiscal year;

(2) 18 percent of the yearly entitlement of the district shall be paid in an installment to be made on or before the 25th day of October;

(3) 9.5 percent of the yearly entitlement of the district shall be paid in an installment to be made on or before the 25th day of November;

(4) 7.5 percent of the yearly entitlement of the district shall be paid in an installment to be made on or before the 25th day of April;

(5) five percent of the yearly entitlement of the district shall be paid in an installment to be made on or before the 25th day of May;

(6) 10 percent of the yearly entitlement of the district shall be paid in an installment to be made on or before the 25th day of June;

(7) 13 percent of the yearly entitlement of the district shall be paid in an installment to be made on or before the 25th day of July; and

(8) 15 percent of the yearly entitlement of the district shall be paid in an installment to be made after the 5th day of September and not later than the 10th day of September of the calendar year following the calendar year of the payment made under Subdivision (1) [on or before the 25th day of August].

(d) Payments from the foundation school fund to each category 3 school district shall be made as follows:

(1) 45 percent of the yearly entitlement of the district shall be paid in an installment to be made on or before the 25th day of September of a fiscal year;

(2) 35 percent of the yearly entitlement of the district shall be paid in an installment to be made on or before the 25th day of October; and

(3) 20 percent of the yearly entitlement of the district shall be paid in an installment to be made after the 5th day of September and not later than the 10th day of September of the calendar year following the calendar year of the payment made under Subdivision (1) [on or before the 25th day of August].

(f) Except as provided by Subsection (c)(8) or (d)(3), any ~~[Any]~~ previously unpaid additional funds from prior fiscal years owed to a district shall be paid to the district together with the September payment of the current fiscal year entitlement.

SECTION 7.02. Section 466.355(c), Government Code, is repealed.

SECTION 7.03. The changes made by this article to Section 42.259, Education Code, apply only to a payment from the foundation school fund that is made on or after the effective date of this article. A payment to a school district from the foundation school fund that is made before that date is governed by Section 42.259, Education Code, as it existed before amendment by this article, and the former law is continued in effect for that purpose.

SECTION 7.04. This article takes effect September 1, 2011.

#### ARTICLE 8. UNCLAIMED PROPERTY

SECTION 8.01. Section 74.101(a), Property Code, is amended to read as follows:

(a) Each holder who on June 1 ~~[30]~~ holds property that is presumed abandoned under Chapter 72, 73, or 75 of this code or under Chapter 154, Finance Code, shall file a report of that property on or before the following July ~~[November]~~ 1. The comptroller may require the report to be in a particular format, including a format that can be read by a computer.

SECTION 8.02. Section 74.1011(a), Property Code, is amended to read as follows:

(a) Except as provided by Subsection (b), a holder who on June 1 ~~[30]~~ holds property valued at more than \$250 that is presumed abandoned under Chapter 72, 73, or 75 of this code or Chapter 154, Finance Code, shall, on or before the preceding May ~~[following August]~~ 1, mail to the last known address of the known owner written notice stating that:

(1) the holder is holding the property; and

(2) the holder may be required to deliver the property to the comptroller on or before July ~~[November]~~ 1 if the property is not claimed.

SECTION 8.03. Sections 74.301(a) and (c), Property Code, are amended to read as follows:

(a) Except as provided by Subsection (c), each holder who on June 1 ~~[30]~~ holds property that is presumed abandoned under Chapter 72, 73, or 75 shall deliver the property to the comptroller on or before the following July ~~[November]~~ 1 accompanied by the report required to be filed under Section 74.101.

(c) If the property subject to delivery under Subsection (a) is the contents of a safe deposit box, the comptroller may instruct a holder to deliver the property on a specified date before July ~~[November]~~ 1 of the following year.

SECTION 8.04. Section 74.708, Property Code, is amended to read as follows:

Sec. 74.708. PROPERTY HELD IN TRUST. A holder who on June 1 ~~[30]~~ holds property presumed abandoned under Chapters 72-75 holds the property in trust for the benefit of the state on behalf of the missing owner and is liable to the state for the full value of the property, plus any accrued interest and penalty. A holder is not required by this section to segregate or establish trust accounts for the property provided the property is timely delivered to the comptroller in accordance with Section 74.301.

SECTION 8.05. (a) Except as provided by Subsection (b) of this section, this article takes effect September 1, 2011.

(b) Sections 74.101(a), 74.1011(a), 74.301(a) and (c), and 74.708, Property Code, as amended by this article, take effect January 1, 2013.

#### ARTICLE 9. FISCAL MATTERS RELATED TO VOTER REGISTRATION

SECTION 9.01. Sections 18.065(b), (c), and (d), Election Code, are amended to read as follows:

(b) On determining that a registrar is not in substantial compliance, the secretary shall deliver written notice of the noncompliance to~~[-~~

~~[(1) the registrar and include[-, including] in the notice a description of the violation and an explanation of the action necessary for substantial compliance and of the consequences of noncompliance[- and~~

~~[(2) the comptroller of public accounts, including in the notice the identity of the noncomplying registrar].~~

(c) On determining that a noncomplying registrar has corrected the violation and is in substantial compliance, the secretary shall deliver written notice to the registrar ~~[and to the comptroller]~~ that the registrar is in substantial compliance.

(d) ~~[The comptroller shall retain a notice received under this section on file until July 1 following the voting year in which it is received.]~~ The secretary shall retain a copy of each notice the secretary delivers under this section for two years after the date the notice is delivered.

SECTION 9.02. Section 19.001(a), Election Code, is amended to read as follows:

(a) Before May 15 of each year, the registrar shall prepare and submit to the secretary of state ~~[comptroller of public accounts]~~ a statement containing:

(1) the total number of initial registrations for the previous voting year;

(2) the total number of registrations canceled under Sections 16.031(a)(1), 16.033, and 16.0332 for the previous voting year; and

(3) the total number of registrations for which information was updated for the previous voting year.

SECTION 9.03. The heading to Section 19.002, Election Code, is amended to read as follows:

Sec. 19.002. PAYMENTS [~~ISSUANCE OF WARRANTS BY COMPTROLLER~~].

SECTION 9.04. Sections 19.002(b) and (d), Election Code, are amended to read as follows:

(b) After June 1 of each year, the secretary of state [~~comptroller of public accounts~~] shall make payments [~~issue warrants~~] pursuant to vouchers submitted by the registrar and approved by the secretary of state in amounts that in the aggregate do not exceed the registrar's entitlement. The secretary of state shall prescribe the procedures necessary to implement this subsection.

(d) The secretary of state [~~comptroller~~] may not make a payment under Subsection (b) [~~issue a warrant~~] if on June 1 of the year in which the payment [~~warrant~~] is to be made [~~issued the most recent notice received by the comptroller from the secretary of state under Section 18.065 indicates that~~] the registrar is not in substantial compliance with Section 15.083, 16.032, 18.042, or 18.065 or with rules implementing the registration service program.

SECTION 9.05. The heading to Section 19.0025, Election Code, is amended to read as follows:

Sec. 19.0025. ELECTRONIC ADMINISTRATION OF VOUCHERS AND PAYMENTS [~~WARRANTS~~].

SECTION 9.06. Section 19.0025(a), Election Code, is amended to read as follows:

(a) The secretary of state shall establish and maintain an online electronic system for administering vouchers submitted and payments made [~~warrants issued~~] under Section 19.002.

SECTION 9.07. Section 19.002(c), Election Code, is repealed.

SECTION 9.08. This article takes effect September 1, 2011.

## ARTICLE 10. CERTAIN POWERS AND DUTIES OF THE COMPTROLLER OF PUBLIC ACCOUNTS

SECTION 10.01. Section 403.0551(d), Government Code, is amended to read as follows:

(d) This section does not authorize the comptroller to deduct the amount of a state employee's indebtedness to a state agency from any amount of compensation owed by the agency to the employee, the employee's successor, or the assignee of the employee or successor. In this subsection, "compensation" has the meaning assigned by Section 403.055 and [~~"compensation,"~~] "indebtedness," "state agency," "state employee," and "successor" have the meanings assigned by Section 666.001.

SECTION 10.02. Section 404.022(h), Government Code, is amended to read as follows:

(h) The comptroller may execute a simplified version of a depository agreement with an eligible institution desiring to hold [~~\$98,000 or less in~~] state deposits that are fully insured by the Federal Deposit Insurance Corporation or the National Credit Union Share Insurance Fund.

SECTION 10.03. Section 411.109(a), Government Code, is amended to read as follows:

(a) The comptroller is entitled to obtain from the department criminal history record information maintained by the department that the comptroller believes is necessary for the enforcement or administration of Chapter 151, 152, ~~[153,]~~ 154, ~~[or]~~ 155, or 162, Tax Code, including criminal history record information that relates to a person who is:

- (1) an applicant for a permit under any of those chapters;
- (2) a permit holder under any of those chapters;
- (3) an officer, director, stockholder owning 10 percent or more of the outstanding stock, partner, owner, or managing employee of an applicant or permit holder under any of those chapters that is a corporation, association, joint venture, syndicate, partnership, or proprietorship;
- (4) believed to have violated any of those chapters; or
- (5) being considered by the comptroller for employment as a peace officer.

SECTION 10.04. Section 403.051(d), Government Code, as amended by this article, applies to a deduction made on or after the effective date of this Act for an indebtedness to a state agency regardless of:

- (1) the date the indebtedness accrued; or
- (2) the dates of the pay period for which the compensation from which the indebtedness is deducted is earned.

#### ARTICLE 11. PREPARATION AND PUBLICATION OF CERTAIN REPORTS AND OTHER MATERIALS

SECTION 11.01. Section 61.539(c), Education Code, is amended to read as follows:

(c) As soon as practicable after each state fiscal year, the board ~~[comptroller]~~ shall prepare a report for that fiscal year of the number of students registered in a medical branch, school, or college, the total amount of tuition charges collected by each institution, the total amount transferred to the comptroller under this section, and the total amount available in the physician education loan repayment program account for the repayment of student loans of physicians under this subchapter. The board ~~[comptroller]~~ shall deliver a copy of the report to ~~[the board and to]~~ the governor, lieutenant governor, and speaker of the house of representatives not later than January 1 following the end of the fiscal year covered by the report.

SECTION 11.02. Section 5.05(c), Tax Code, is amended to read as follows:

(c) The comptroller shall electronically publish all materials under this section ~~[provide without charge one copy of all materials to officials of local government who are responsible]~~ for administering the property tax system. ~~[If a local government official requests more than one copy, the comptroller may charge a reasonable fee to offset the costs of printing and distributing the materials.]~~ The comptroller shall make the materials available to local governmental officials and members of the public but may charge a reasonable fee to offset the costs of preparing, printing, and distributing the materials.

SECTION 11.03. Section 5.06, Tax Code, is amended to read as follows:



Sec. 5.06. EXPLANATION OF TAXPAYER REMEDIES. ~~[(a)]~~ The comptroller shall prepare and electronically publish a pamphlet explaining the remedies available to dissatisfied taxpayers and the procedures to be followed in seeking remedial action. The comptroller shall include in the pamphlet advice on preparing and presenting a protest.

~~[(b) The comptroller shall provide without charge a reasonable number of copies of the pamphlet to any person on request. The comptroller may charge a person who requests multiple copies of the pamphlet a reasonable fee to offset the costs of printing and distributing those copies. The comptroller at its discretion shall determine the number of copies that a person may receive without charge.]~~

SECTION 11.04. Section 5.09, Tax Code, is amended to read as follows:

Sec. 5.09. BIENNIAL ~~[ANNUAL]~~ REPORTS. (a) The comptroller shall prepare a biennial ~~[publish an annual]~~ report of ~~[the operations of the appraisal districts. The report shall include for each appraisal district, each county, and each school district and may include for other taxing units]~~ the total appraised values~~[- assessed values,]~~ and taxable values of taxable property by category ~~[class of property, the assessment ratio,]~~ and the tax rates of each county, municipality, and school district in effect for the two years preceding the year in which the report is prepared [rate].

(b) Not later than December 31 of each even-numbered year, the [The] comptroller shall:

(1) electronically publish on the comptroller's Internet website the [deliver a copy of each annual] report required by [published under] Subsection (a); and

(2) notify [of this section to] the governor, the lieutenant governor, and each member of the legislature that the report is available on the website.

SECTION 11.05. The following are repealed:

(1) Sections 51.607, 403.030, and 552.143(e), Government Code; and

(2) Subchapter F, Chapter 379A, Local Government Code.

#### ARTICLE 12. SALES AND USE TAX HOLIDAY

SECTION 12.01. The heading to Section 151.326, Tax Code, is amended to read as follows:

Sec. 151.326. CLOTHING AND FOOTWEAR FOR LIMITED PERIOD UNDER CERTAIN CIRCUMSTANCES.

SECTION 12.02. Section 151.326, Tax Code, is amended by amending Subsection (a) and adding Subsections (c), (d), (e), and (f) to read as follows:

(a) Subject to Subsection (e), the [The] sale of an article of clothing or footwear designed to be worn on or about the human body is exempted from the taxes imposed by this chapter if:

(1) the sales price of the article is less than \$100; and

(2) the sale takes place during a period beginning at 12:01 a.m. on the third Friday in August and ending at 12 midnight on the following Sunday.

(c) On or after January 1, but not later than January 31, of each odd-numbered year, the comptroller shall determine the following:

(1) whether a deficit exists in the current state fiscal biennium in the general revenue-related funds used for certification; and

(2) whether general revenue-related funds used for certification and estimated to be available for the succeeding state fiscal biennium are less than the general revenue-related funds used for certification and available for the current state fiscal biennium.

(d) The comptroller shall base the determinations required by Subsection (c) on the statement required by Section 49a, Article III, Texas Constitution, and submitted to the legislature convening in regular session the year the determination is made and shall assume that the exemptions provided by this section and Section 151.327 apply.

(e) The exemptions provided by this section do not apply:

(1) in the state fiscal year in which the comptroller makes the determination required by Subsection (c) if the comptroller determines that the condition specified by Subsection (c)(1) exists; and

(2) in the state fiscal year following the year in which the comptroller makes the determination required by Subsection (c) if the comptroller determines that the condition specified by Subsection (c)(2) exists.

(f) Not later than February 15 of each odd-numbered year, the comptroller shall provide notice of whether the exemptions provided by this section apply during that state fiscal year and the subsequent state fiscal year. The comptroller shall provide the notice to each sales tax permit holder and shall clearly post the information on the comptroller's Internet website.

SECTION 12.03. The heading to Section 151.327, Tax Code, is amended to read as follows:

Sec. 151.327. SCHOOL SUPPLIES AND SCHOOL BACKPACKS BEFORE START OF SCHOOL UNDER CERTAIN CIRCUMSTANCES.

SECTION 12.04. Section 151.327, Tax Code, is amended by amending Subsection (a-1) and adding Subsection (c) to read as follows:

(a-1) Subject to Subsection (c), the ~~The~~ sale or storage, use, or other consumption of a school supply or a school backpack is exempted from the taxes imposed by this chapter if the school supply or backpack is purchased:

(1) for use by a student in a public or private elementary or secondary school;

(2) during the period described by Section 151.326(a)(2); and

(3) for a sales price of less than \$100.

(c) An exemption under this section does not apply to the sale or storage, use, or other consumption of a taxable item that occurs during a state fiscal year during which the exemptions provided by Section 151.326 do not apply.

SECTION 12.05. The comptroller of public accounts shall make the initial determinations required by Section 151.326(c), Tax Code, as added by this article, not later than January 31, 2013.

SECTION 12.06. Notwithstanding Sections 151.326 and 151.327, Tax Code, as amended by this article, the sale or storage, use, or other consumption of a taxable item is not exempt from the taxes imposed by Chapter 151, Tax Code, under those sections if the sale occurs:

(1) during the state fiscal year ending August 31, 2011, if this Act receives enough votes to take effect immediately in accordance with Section 12.07 of this article; or

(2) during the state fiscal year ending August 31, 2012.

SECTION 12.07. This article takes effect immediately if this Act 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 article takes effect September 1, 2011.

ARTICLE 13. SURPLUS LINES AND INDEPENDENTLY PROCURED  
INSURANCE

SECTION 13.01. Section 101.053(b), Insurance Code, is amended to read as follows:

(b) Sections 101.051 and 101.052 do not apply to:

(1) the lawful transaction of surplus lines insurance under Chapter 981;

(2) the lawful transaction of reinsurance by insurers;

(3) a transaction in this state that:

(A) involves a policy that:

(i) is lawfully solicited, written, and delivered outside this state; and

(ii) covers, at the time the policy is issued, only subjects of

insurance that are not resident, located, or expressly to be performed in this state; and

(B) takes place after the policy is issued;

(4) a transaction:

(A) that involves an insurance contract independently procured by the insured from an insurance company not authorized to do insurance business in this state through negotiations occurring entirely outside this state;

(B) that is reported; and

(C) on which premium tax, if applicable, is paid in accordance with

Chapter 226;

(5) a transaction in this state that:

(A) involves group life, health, or accident insurance, other than credit insurance, and group annuities in which the master policy for the group was lawfully issued and delivered in a state in which the insurer or person was authorized to do insurance business; and

(B) is authorized by a statute of this state;

(6) an activity in this state by or on the sole behalf of a nonadmitted captive insurance company that insures solely:

(A) directors' and officers' liability insurance for the directors and officers of the company's parent and affiliated companies;

(B) the risks of the company's parent and affiliated companies; or

(C) both the individuals and entities described by Paragraphs (A) and

(B);

(7) the issuance of a qualified charitable gift annuity under Chapter 102; or

(8) a lawful transaction by a servicing company of the Texas workers' compensation employers' rejected risk fund under Section 4.08, Article 5.76-2, as that article existed before its repeal.

SECTION 13.02. Section 225.001, Insurance Code, is amended to read as follows:

Sec. 225.001. DEFINITIONS [~~DEFINITION~~]. In this chapter:

(1) "Affiliate" means, with respect to an insured, a person that controls, is controlled by, or is under common control with the insured.

(2) "Affiliated group" means a group of entities whose members are affiliated.

(3) "Control" means, with respect to determining the home state of an affiliated entity:

(A) to directly or indirectly, acting through one or more persons, own, control, or hold the power to vote at least 25 percent of any class of voting security of the affiliated entity; or

(B) to control in any manner the election of the majority of directors or trustees of the affiliated entity.

(4) "Home state" means:

(A) for an insured that is not an affiliated group described by Paragraph (B):

(i) the state in which the insured resides, if the insured is an individual;

(ii) the state in which an insured that is not an individual maintains its principal place of business; or

(iii) if 100 percent of the insured risk is located outside of the state in which the insured resides or maintains its principal place of business, as applicable, the state to which the largest percentage of the insured's taxable premium for the insurance contract that covers the risk is allocated; or

(B) for an affiliated group with respect to which more than one member is a named insured on a single insurance contract subject to this chapter, the home state of the member, as determined under Paragraph (A), that has the largest percentage of premium attributed to it under the insurance contract.

(5) "Premium" means any payment made in consideration for insurance and [,"premium"] includes:

(A) [~~(1)~~] a premium;

(B) premium deposits;

(C) [~~(2)~~] a membership fee;

(D) a registration fee;

(E) [~~(3)~~] an assessment;

(F) [~~(4)~~] dues; and

(G) [~~(5)~~] any other compensation given in consideration for surplus lines insurance.

SECTION 13.03. Section 225.002, Insurance Code, is amended to read as follows:

Sec. 225.002. APPLICABILITY OF CHAPTER. This chapter applies to a surplus lines agent who collects gross premiums for surplus lines insurance for any risk in which this state is the home state of the insured.

SECTION 13.04. Section 225.004, Insurance Code, is amended by adding Subsections (a-1) and (f) and amending Subsections (b), (c), and (e) to read as follows:

(a-1) Consistent with the Nonadmitted and Reinsurance Reform Act of 2010, contained in the Dodd-Frank Wall Street Reform and Consumer Protection Act (Pub. L. No. 111-203), this state may not impose a premium tax on nonadmitted insurance premiums other than premiums paid for insurance in which this state is the home state of the insured.

(b) Taxable gross premiums under this section are based on gross premiums written or received for surplus lines insurance placed through an eligible surplus lines insurer during a calendar year. Notwithstanding the tax basis described by this subsection, the comptroller by rule may establish an alternate basis for taxation for multistate and single-state policies for the purpose of achieving uniformity.

(c) If a surplus lines insurance policy covers risks or exposures only partially located in this state, and this state has not entered into a cooperative agreement, reciprocal agreement, or compact with another state for the collection of surplus lines tax as authorized by Chapter 229, the tax is computed on the entire policy [portion of the] premium for any policy in which this state is the home state of the insured [that is properly allocated to a risk or exposure located in this state].

(e) Premiums [The following premiums are not taxable in this state:

(1) premiums properly allocated to another state that are specifically exempt from taxation in that state; and

(2) premiums] on risks or exposures that are properly allocated to federal or international waters or are under the jurisdiction of a foreign government are not taxable in this state.

(f) If this state enters a cooperative agreement, reciprocal agreement, or compact with another state for the allocation of surplus lines tax as authorized by Chapter 229, taxes due on multistate policies shall be allocated and reported in accordance with the agreement or compact.

SECTION 13.05. Section 225.005, Insurance Code, is amended to read as follows:

Sec. 225.005. TAX EXCLUSIVE. The tax imposed by this chapter is a transaction tax collected by the surplus lines agent of record and is in lieu of any [all] other transaction [insurance] taxes on these premiums.

SECTION 13.06. Section 225.009, Insurance Code, is amended by adding Subsection (d) to read as follows:

(d) Notwithstanding Subsections (a), (b), and (c), if this state enters a cooperative agreement, reciprocal agreement, or compact with another state for the allocation of surplus lines tax as authorized by Chapter 229, the tax shall be allocated and reported in accordance with the terms of the agreement or compact.

SECTION 13.07. Section 226.051, Insurance Code, is amended to read as follows:

Sec. 226.051. DEFINITIONS [DEFINITION]. In this subchapter:

(1) "Affiliate" means, with respect to an insured, a person that controls, is controlled by, or is under common control with the insured.

(2) "Affiliated group" means a group of entities whose members are affiliated.

(3) "Control" means, with respect to determining the home state of an affiliated entity:

(A) to directly or indirectly, acting through one or more persons, own, control, or hold the power to vote at least 25 percent of any class of voting security of the affiliated entity; or

(B) to control in any manner the election of the majority of directors or trustees of the affiliated entity.

(4) "Home state" means:

(B):

(i) the state in which the insured resides, if the insured is an individual;

(ii) the state in which an insured that is not an individual maintains its principal place of business; or

(iii) if 100 percent of the insured risk is located outside of the state in which the insured resides or maintains its principal place of business, as applicable, the state to which the largest percentage of the insured's taxable premium for the insurance contract that covers the risk is allocated; or

(B) for an affiliated group with respect to which more than one member is a named insured on a single insurance contract subject to this chapter, the home state of the member, as determined under Paragraph (A), that has the largest percentage of premium attributed to it under the insurance contract.

(5) "Independently procured insurance" means insurance procured directly by an insured from a nonadmitted insurer.

(6) "Premium" means any payment made in consideration for insurance and [,"premium" includes [any consideration for insurance, including]:

(A) [~~(1)~~] a premium;

(B) premium deposits;

(C) [~~(2)~~] a membership fee; [~~or~~]

(D) a registration fee;

(E) an assessment;

(F) [~~(3)~~] dues; and

(G) any other compensation given in consideration for insurance.

SECTION 13.08. Section 226.052, Insurance Code, is amended to read as follows:

Sec. 226.052. APPLICABILITY OF SUBCHAPTER. This subchapter applies to an insured who procures an independently procured insurance contract for any risk in which this state is the home state of the insured [in accordance with Section 101.053(b)(4)].

SECTION 13.09. Section 226.053, Insurance Code, is amended by amending Subsections (a) and (b) and adding Subsection (d) to read as follows:

(a) A tax is imposed on each insured at the rate of 4.85 percent of the premium paid for the insurance contract procured in accordance with Section 226.052 [101.053(b)(4)].

(b) If an independently procured insurance policy [contract] covers risks or exposures only partially located in this state and this state has not joined a cooperative agreement, reciprocal agreement, or compact with another state for the allocation of nonadmitted insurance taxes as authorized by Chapter 229, the tax is computed on the

entire policy [portion of the] premium for any policy in which this state is the home state of the insured [that is properly allocated to a risk or exposure located in this state].

(d) If this state enters into a cooperative agreement, reciprocal agreement, or compact with another state for the allocation of nonadmitted insurance taxes as authorized by Chapter 229, the tax due on multistate policies shall be allocated and reported in accordance with the agreement or compact.

SECTION 13.10. Section 981.008, Insurance Code, is amended to read as follows:

Sec. 981.008. SURPLUS LINES INSURANCE PREMIUM TAX. The premiums charged for surplus lines insurance are subject to the premium tax, if applicable, imposed under Chapter 225.

SECTION 13.11. The following provisions are repealed:

- (1) Sections 225.004(d) and (d-1), Insurance Code; and
- (2) Sections 226.053(b-1) and (c), Insurance Code.

SECTION 13.12. The changes in law made by this article to Chapters 225 and 226, Insurance Code, apply only to an insurance policy that is delivered, issued for delivery, or renewed on or after July 11, 2011. A policy that is delivered, issued for delivery, or renewed before July 11, 2011, is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 13.13. This article takes effect immediately if this Act 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 article takes effect September 1, 2011.

#### ARTICLE 14. OBESITY INTERVENTION AND PREVENTION PROGRAM

SECTION 14.01. Chapter 403, Government Code, is amended by adding Subchapter Q to read as follows:

##### SUBCHAPTER Q. OBESITY INTERVENTION AND PREVENTION PROGRAM

Sec. 403.451. PURPOSE. The purpose of this subchapter is to:

- (1) address the economic costs associated with obesity in this state, including increased medical costs and loss of economic productivity;
  - (2) promote obesity intervention and obesity prevention awareness among school-age children;
  - (3) address the disproportionate rate of obesity in low-income populations;
- and

(4) assist public schools and school districts to provide obesity intervention and obesity prevention awareness programs, obesity intervention and prevention programs, and related training.

Sec. 403.452. TEXAS OBESITY INTERVENTION AND PREVENTION GRANT PROGRAM AND STUDY. (a) The comptroller shall establish and administer the obesity intervention and prevention grant program and study to:

- (1) award grants for obesity intervention and prevention and related programs as provided by this subchapter; and
- (2) study obesity in this state as provided by this subchapter.

(b) The program and study shall be funded with money appropriated by the legislature for the purposes of this subchapter.

(c) The comptroller may solicit and accept gifts, grants, and donations for the purposes of this subchapter.

Sec. 403.453. GRANT PROGRAM. (a) The comptroller shall establish and administer the obesity intervention and prevention grant program to award grants to public school programs and other entities that provide obesity intervention or prevention, nutrition education, and other educational programs to combat obesity in this state.

(b) In awarding grants under this section, the comptroller shall identify and give preference to geographic areas of this state where student populations have been identified, using the geographic information system map created under Section 403.454, as being at high risk for obesity.

(c) In awarding grants under this section, the comptroller shall consider awarding grants only to programs that obtain matching funds. Matching funds under this section, if required, may be obtained from any source available to a public school or other entity, including in-kind contributions, community or foundation grants, and individual contributions.

(d) The comptroller shall award grants on a competitive basis.

Sec. 403.454. COMPILATION OF DATA CONCERNING OBESITY RISK; GEOGRAPHIC INFORMATION SYSTEM. (a) The comptroller shall cooperate with the Texas Education Agency, the Department of State Health Services, or any other state agency as necessary to compile the data required to identify areas in which children are at risk for obesity.

(b) The Texas Education Agency shall provide the physical fitness assessment results compiled under Section 38.103, Education Code, to the comptroller. The comptroller shall use the fitness assessment data to produce an interactive geographic information system map of this state that shows the compiled physical fitness assessment results for each school district in the state and identifies areas in which students are at risk for obesity.

(c) In creating the interactive map under Subsection (b), the comptroller and each state agency involved shall comply with state and federal laws, rules, and regulations that protect the confidentiality of student information and shall protect confidential information.

Sec. 403.455. REPORT OF PROGRAM RESULTS. (a) A public school or other entity that is awarded a grant under Section 403.453 for a program shall collect data regarding the effectiveness of the program and report that information to the comptroller. The comptroller shall by rule determine the form and content of the reporting requirements.

(b) In collecting the data required by this section, a grantee shall protect the confidentiality of students and student information and shall comply with applicable state and federal laws, rules, and regulations that protect the confidentiality of student information.



Sec. 403.456. OBESITY AND WELLNESS INFORMATION PORTAL. The comptroller shall establish and maintain an obesity and wellness information portal on the comptroller's Internet website to provide information to the public regarding obesity and wellness, including the economic impact obesity has on this state.

Sec. 403.457. ADDITIONAL REPORTING AND MAPPING SYSTEMS. The comptroller may establish obesity reporting and mapping systems in addition to the systems described by this subchapter as necessary to implement this subchapter.

Sec. 403.458. REPORT TO LEGISLATURE. (a) The comptroller shall submit a report to the legislature not later than January 1 of each odd-numbered year regarding the effectiveness of the grant program.

(b) The comptroller may collect information regarding other state and federal obesity prevention initiatives in this state and include that information in the report.

Sec. 403.459. RULES. The comptroller shall adopt rules as necessary for the administration of this subchapter.

#### ARTICLE 15. EFFECTIVE DATE

SECTION 15.01. Except as otherwise provided by this Act, this Act takes effect September 1, 2011.

#### Floor Amendment No. 1

Amend **CSSB 1811** (house committee printing) as follows:

(1) Strike page 1, lines 4-24, and page 2, lines 1-8.

(2) On page 2, strike lines 20-24 and substitute:

SECTION 2.03. The changes in law made by this article apply only to a tax credit for an examination or evaluation fee paid on or after January 1, 2012. Tax credits for examination or evaluation fees paid before January 1, 2012, are governed by the law in effect immediately before the effective date of this Act, and that law is continued in effect for that purpose.

(3) On page 6, lines 8-9, strike "written documentation" and substitute: equivalent records, such as electronically stored images of such documents,

(4) Strike page 8, lines 25-27, page 9, lines 1-27, and page 10, lines 1-26, and substitute the following:

SECTION 5.01. Articles 103.0033(b), (c), (e), (f), (h), (i), and (j), Code of Criminal Procedure, are amended to read as follows:

(b) This article applies ~~[only]~~ to each~~[-~~

~~[(1) a]~~ county in this state ~~[with a population of 50,000 or greater;]~~ and to each

~~[(2) a]~~ municipality with a population of 100,000 or greater.

(c) Unless granted a waiver under Subsection (h), each ~~[county and]~~ municipality shall develop and implement a program that complies with the prioritized implementation schedule under Subsection (h). A county may develop and implement a program that complies with the prioritized implementation schedule under Subsection (h) ~~[program must include district, county, and justice courts].~~

(e) Not later than June 1 of each year, the office shall identify those counties and municipalities that:

(1) have not implemented a program; and

(2) are planning ~~[able]~~ to implement a program before April 1 of the following year.

(f) The ~~[comptroller, in cooperation with the]~~ office ~~[;]~~ shall develop a methodology for determining the collection rate of counties and municipalities described by Subsection (e) before implementation of a program. The office [comptroller] shall determine the rate for each county and municipality not later than the first anniversary of the county's or municipality's adoption of a program.

(h) The office~~[, in consultation with the comptroller,]~~ may:

(1) use case dispositions, population, revenue data, or other appropriate measures to develop a prioritized implementation schedule for programs; and

(2) for a municipality, determine whether it is not actually cost-effective to implement a program in the ~~[a county or]~~ municipality and grant a waiver to the ~~[county or]~~ municipality.

(i) Each county that implements a program and each municipality shall at least annually submit to the office ~~[and the comptroller]~~ a written report that includes updated information regarding the program, as determined by the office ~~[in cooperation with the comptroller]~~. The report must be in a form approved by the office ~~[in cooperation with the comptroller]~~.

(j) The office ~~[comptroller]~~ shall periodically audit ~~[counties and]~~ municipalities to verify information reported under Subsection (i) and confirm that the ~~[county or]~~ municipality is conforming with requirements relating to the program. ~~[The comptroller shall consult with the office in determining how frequently to conduct audits under this section.]~~

SECTION 5.02. Section 133.058(e), Local Government Code, is amended to read as follows:

(e) A municipality ~~[or county]~~ may not retain a service fee if, during an audit under ~~[Section 133.059 of this code or]~~ Article 103.0033(j), Code of Criminal Procedure, the Office of Court Administration of the Texas Judicial System [comptroller] determines that the municipality ~~[or county]~~ is not in compliance with Article 103.0033, Code of Criminal Procedure. The municipality ~~[or county]~~ may continue to retain a service fee under this section on receipt of a written confirmation from the office ~~[comptroller]~~ that the municipality ~~[or county]~~ is in compliance with Article 103.0033, Code of Criminal Procedure.

SECTION 5.03. Section 133.103(c-1), Local Government Code, is amended to read as follows:

(c-1) The treasurer shall send to the comptroller 100 percent of the fees collected under this section by a municipality [to the comptroller] if, during an audit under ~~[Section 133.059 of this code or]~~ Article 103.0033(j), Code of Criminal Procedure, the Office of Court Administration of the Texas Judicial System [comptroller] determines that the municipality ~~[or county]~~ is not in compliance with Article 103.0033, Code of Criminal Procedure. The municipality ~~[or county]~~ shall continue to dispose of fees as otherwise provided by this section on receipt of a written confirmation from the office [comptroller] that the municipality ~~[or county]~~ is in compliance with Article 103.0033, Code of Criminal Procedure.

(5) On page 18, line 12, strike "June 1 ~~[30]~~" and substitute "March 1 [June 30]".

(6) On page 18, line 21, strike "June 1 ~~[30]~~" and substitute "March 1 [June 30]".

(7) On page 19, line 6, strike "June 1 ~~[30]~~" and substitute "March 1 [June 30]".

(8) On page 19, lines 16-17, strike "June 1 [30]" and substitute "March 1 [June 30]".

(9) On page 26, line 15, strike "51.607, 403.030," and substitute " 403.030".

(10) Strike page 26, lines 18-27, page 27, lines 1-27, page 28, lines 1-27, and page 29, lines 1-22.

(11) On page 31, line 18, between "person" and "that", insert "or entity".

(12) On page 31, line 21, between "are" and "affiliated", insert "all".

(13) On page 32, line 5, strike "resides" and substitute "maintains the insured's principal residence".

(14) On page 32, lines 10-11, strike "resides or maintains its" and substitute "maintains the insured's principal residence or maintains the insured's".

(15) On page 33, lines 11-13, strike "the Nonadmitted and Reinsurance Reform Act of 2010, contained in the Dodd-Frank Wall Street Reform and Consumer Protection Act (Pub. L. No. 111-203)" and substitute "15 U.S.C. Section 8201 et seq."

(16) On page 35, line 8, between "person" and "that", insert "or entity".

(17) On page 35, line 11, between "are" and "affiliated", insert "all".

(18) On page 35, line 22, strike "resides" and substitute "maintains the insured's principal residence".

(19) On page 35, line 27, strike "resides" and substitute "maintains the insured's principal residence".

(20) On page 36, line 1, strike "its" and substitute "the insured's".

(21) On page 38, line 2, strike "Sections 226.053(b-1) and (c)," and substitute "Section 226.053(b-1),".

(22) On page 38, line 6, strike "July 11" and substitute "July 21".

(23) On page 38, line 7, strike "July 11" and substitute "July 21".

(24) Renumber the articles and sections of the bill appropriately.

## **Floor Amendment No. 2**

Amend Amendment No. 1, amending **CSSB 1811** by adding the following appropriately numbered ARTICLE and renumbering existing ARTICLES of the bill accordingly:

### ARTICLE \_\_\_\_ . SALE OF CERTAIN REAL PROPERTY HELD BY CERTAIN STATE AGENCIES

SECTION \_\_\_\_ .01. AUTHORIZATION FOR SALE. (a) Except as provided by Section 2 of this Act, the General Land Office shall, not later than August 31, 2013, offer for sale on behalf of each holder of real property the tracts of real property described by Section 3 of this Act.

(b) Except as otherwise provided by this Act, the sale shall be conducted as provided by Section 31.158, Natural Resources Code.

SECTION \_\_\_\_ .02. SPECIFIC TERMS. (a) The General Land Office may not offer for sale the property described by Section 3(b) of this Act held by the Texas Department of Transportation until after the date the agency completes the relocation of the agency operations to another location.

(b) The General Land Office is required to implement this Act with respect to the property held by the Texas Department of Criminal Justice described in Section 3(a)(2) of this Act only if the legislature prohibits the use of appropriated money to operate the Central Unit, Sugar Land, Fort Bend County. If the legislature does not

prohibit the use of appropriated money specifically for the operation of the Central Unit, Sugar Land, Fort Bend County, the General Land Office may not implement this Act with respect to the property described in Section 3(a)(2) of this Act.

(c) Before the sale of a parcel of real property described by SECTION 3 of this Act may be made, a survey of the parcel must be conducted by or under the direction of the General Land Office.

SECTION \_\_\_\_\_.03. PROPERTY DESCRIPTIONS. (a) Property held by the Texas Department of Criminal Justice is described as follows:

(1) Estelle Unit (part), Parcel B, 895.99 acres out of a 5,458.73 acre tract, GLO ID #702, located at FM 980 and FM 3478, Huntsville, Walker County, Texas, more particularly described as follows:

Being all that certain tract or parcel of land situated in the Stephen Manning Survey, Abstract Number 31 and being a part of a 2507.09 acre tract of land called Second Tract conveyed by the W. L. Smither Estate to the State of Texas Department of Corrections and described in deed of record in Volume 392, Pages 124 - 130 of the Walker County Deed Records (W.C.D.R.) and more particularly described as follows:

BEGINNING at a found 1 1/4" galvanized iron pipe in the Right of Way of F.M. 980 having Texas State Plane Coordinate Value of X = 3,522,562.7595 ft. (3,522,562.78'), Y = 468,762.5719 ft. (468,762.63') for the lower southwest corner of a 4928.35 acre tract described in a deed from the Trinity River Authority to the State of Texas Department of Corrections of record in Volume 223, Page 745 W.C.D.R. and the southeast corner of said 2507.09 acre tract and of this tract, from which U.S. Coast and Geodetic Triangulation Station "PRAIRIE 1943" bears S 58° 13' 35" W 11,117.22 ft. THE SOURCE OF BEARINGS FOR THIS SURVEY IS THE GRID BEARING BETWEEN THE SAID STATION AND ITS AZIMUTH MARK;

THENCE, S 59° 56' 38" W (N 59° 57' 20" E 275.57') with a southerly line of said 2507.09 acre tract and within the said Right of Way of F.M. 980 a distance of 275.58 ft. to another found 1 1/4" galvanized iron pipe for an angle corner of said tract and this tract;

THENCE, S 64° 54' 28" W (N 64° 54' 20" E 6629.24') continuing with another southerly line of said 2507.09 acre tract and generally with fence a distance of 5431.97 ft. to a found concrete monument for an angle corner of this tract and the northerly Right of Way of F.M. 980;

THENCE, S 75° 40' 07" W (N 75° 59' 50" E 101.98') leaving the southerly line of said 2507.09 acre tract, with a northerly Right of Way line of said F.M. 980 and generally with fence a distance of 102.04 ft. to another found concrete monument for an angle corner of said right of way and of this tract;

THENCE, S 64° 52' 22" W (N 64° 41' 15" E 600.00') with another northerly Right of Way line of F.M. 980 and generally with fence a distance of 599.80 ft. to another found concrete monument at the intersection of said right of way line and the easterly Right of Way line of F.M. 3478 for a corner of this tract, from which a found 5/8" iron rod on the northerly Right of Way line of F.M. 980 and on the west line of said 2507.09 acre tract bears S 63° 46' 57" W 499.19;

THENCE, N 35° 21' 01" W (S 35° 22' 19" E 113.76') with an easterly Right of Way line of said F.M. 3478 and generally with fence a distance of 113.49 ft. to another found concrete monument for a corner of this tract;

THENCE, N 7° 24' 35" W (S 7° 28' 45" E 5335.18') with another easterly Right of Way line of said F.M. 3478 and generally with fence a distance of 5331.22 ft. to a found concrete monument at the Point of Curve to the left, for a corner of this tract;

THENCE, with said curve to the left, and generally with fence, having the following data: Delta - 5° 14' 08" Lt. (5° 14' Lt.), Radius - 2924.79 ft. (2924.79'), Length - 267.26 ft. (267.14'), Long Chord - N 10° 06' 46" W 267.17 ft. (S 10° 05' 45" E 267.05') and a Radial Bearing In - S 82° 30' 11" W, to another found concrete monument at the Point of Tangent for a corner of this tract;

THENCE, N 12° 39' 43" W (S 12° 42' 45" E 2703.16') continuing with the easterly Right of Way of said F.M. 3478 and generally with fence a distance of 2699.86 ft. to another found concrete monument for the north corner of this tract and an angle corner of said right of way line, from which another found concrete monument bears N 29° 12' 28" E 127.67 ft. (S29° 32' 39" W 129.31');

THENCE, N 84° 36' 29" E, leaving said right of way line, a distance of 4368.03 ft. to a set 5/8" iron rod with cap "TEXAS GLO" on an easterly line of said 2507.09 acre tract and a westerly line of said 4928.35 acre tract, 4.12 ft. northeast of fence, for the northeast corner of this tract, from which a set 5/8" iron rod with cap "TEXAS GLO" for an angle corner of said tracts bears N 24° 30' 10" W 681.98 ft.;

THENCE, S 24° 30' 10" E (N 24° 30' 10" W 1028.50') with said line a distance of 346.66 ft. to a found old car axle 0.90' northeast of fence for an angle corner of said tracts and of this tract;

THENCE, S 25° 21' 25" E (N 25° 21' 25" W 2803.75') with another line of said tracts a distance of 2804.12 ft. to another found old car axle 0.90' southwest of fence for an angle corner of said tracts and this tract;

THENCE, S 25° 57' 35" E (N 25° 57' 35" W 975.68') with another line of said tracts a distance of 975.81 ft. to a set 5/8" iron rod with cap "TEXAS GLO" 7.10' northeast of fence for an angle corner of said tracts and of this tract;

THENCE, S 25° 34' 15" E (N 25° 34' 15" W 2481.39') with another line of said tracts, at 2475.7 ft. pass fence, in all a distance of 2481.72 ft. to the Place of Beginning and containing 895.99 acres of land.

This description was prepared from an actual survey performed on the ground on June 3, 2003 and is accompanied by a survey plat with the same date and is made a part hereof. The Coordinates and Bearings shown are Grid based on the Texas State Plane Coordinate System - NAD 1927, South Zone. Distances shown are Horizontal Surface Measurements in feet. Record information is shown in parenthesis. Record information was obtained from the Walker County Clerk's Office, the State of Texas Department of Criminal Justice, and the State of Texas General Land Office.

; and

(2) Central Unit, Sugar Land, Fort Bend County, Texas, generally described as:

M.M. Battle League, Abstract No. 9, Alexander Hodge League, Abstract No. 32, Fort Bend County 325.74 acres Parcel A (229.58 acres) is located on the north side of US Highway 90A west of the Sugar Land Municipal Airport. Parcel B (96.16 acres) is located at the northwest corner of State Highway 6 and US Highway 90A in Sugar Land.

(b) Property held by the Texas Department of Transportation is described as follows:

Bull Creek Camp Hubbard Annex State Headquarters, 28.912 acres, GLO ID #747, located at 4305 Bull Creek Road, Austin, Travis County, Texas, more particularly described as follows:

BEING A 28.912 ACRE TRACT OF LAND SITUATED IN THE GEORGE W. SPEAR SURVEY, LEAGUE NO. 7, ABSTRACT NO. 697 IN TRAVIS COUNTY, TEXAS, BEING PART OF THAT CERTAIN 75.79 ACRE TRACT OF LAND, AS DESCRIBED IN A DEED TO THE STATE OF TEXAS, STATE DEPARTMENT OF HIGHWAYS AND PUBLIC TRANSPORTATION OF RECORD IN VOLUME 1086, PAGE 452, REAL PROPERTY RECORDS TRAVIS COUNTY, TEXAS, DATED OCTOBER 28, 1988, SAID 28.912 ACRE TRACT BEING DESCRIBED BY METES AND BOUNDS AS FOLLOWS AND AS SHOWN ON THE ATTACHED SKETCH: BEGINNING at a brass disk in concrete found for the most southerly corner of said 75.79 acre tract, being also the northwest corner of Lot 1, Ridgelea a subdivision of record in Book 4, Page 258 of the Plat Records of Travis County, Texas and being in the east line of Bull Creek Road, a 60 foot wide right-of-way, said monument having a Texas State Plane Coordinate, Central Zone coordinate of N=10,087,759.67 and E=3,111,175.08;

(1) THENCE N 23°52'30" W, with the west line of said 75.79 acre tract and the east line of said Bull Creek Road, for a distance of 2033.82 feet to a brass disk in concrete found at the beginning of a curve to the right;

(2) THENCE in a northerly direction with the west line of said 75.79 acre tract and the east line of said Bull Creek Road, along said curve to the right, same having a central angle 50°33'42", and a radius of 199.11 feet, an arc distance of 175.71 feet to a brass disk in concrete found at the end of said curve

(3) THENCE N 26°42'45" E, with the west line of said 75.79 acre tract and the east line of said Bull Creek Road, for a distance of 261.64 feet to a 1/2 inch iron rod with cap found for an angle point;

(4) THENCE S 62°31'59" E, departing the east line of said Bull Creek Road and over and across said 75.79 acre tract, with the east line of the herein described tract, for a distance of 89.17 feet to a 1/2 inch iron rod with cap found for an angle point;

(5) THENCE S 81°57'55" E, continuing with over and across said 75.79 acre tract, with the east line of the herein described tract, for a distance of 278.39 feet to a 1/2 inch iron rod with cap found for an angle point;

(6) THENCE N 25°54'29" E, continuing with over and across said 75.79 acre tract, with the east line of the herein described tract, for a distance of 209.60 feet to a 1/2 inch iron rod with aluminum cap stamped "TxDOT" set for an angle point;

(7) THENCE S 63°17'24" E, continuing with over and across said 75.79 acre tract, with the east line of the herein described tract, for a distance of 128.50 feet to a brass disk in concrete found for an angle point;

(8) THENCE S 14°01'54" E, continuing with over and across said 75.79 acre tract, with the east line of the herein described tract, for a distance of 894.06 feet to a brass disk in concrete found for an angle point;

(9) THENCE S 06°28'23" W, continuing with over and across said 75.79 acre tract, with the east line of the herein described tract, for a distance of 308.12 feet to a brass disk in concrete found for an angle point;

(10) THENCE S 23°53'13" E, continuing with over and across said 75.79 acre tract, with the east line of the herein described tract, at a distance of 649.77 feet pass a brass disk in concrete found, for a total distance of 654.91 feet to a 1/2 inch iron rod with aluminum cap stamped "TxDOT" found for the southeast corner of the herein described tract, being also in the southeast line of said 75.79 acre tract and being in the northwest line of Lot 11 of said Ridgelea subdivision;

(11) THENCE S 31°33'51" W, with the southeast line of said 75.79 acre tract and the northwest line of said Ridgelea subdivision, for a distance of 257.58 feet to a 1/2 inch iron pipe found for an angle point;

(12) THENCE S 28°06'08" W, with the southeast line of said 75.79 acre tract and the northwest line of said Ridgelea subdivision, for a distance of 365.51 feet to the POINT OF BEGINNING and containing 28.912 acres of land.

NOTE: Bearings are based on NAD 83, Datum, Texas State Plane Coordinate System, North Central Zone, with all distances and coordinates adjusted to the surface by a combined scale factor of 1.0001.

(c) Property held by the Texas Facilities Commission is described as follows:

(1) Bull Creek New State Cemetery, 46.19 acres, GLO ID #2402, located at 4203 Bull Creek Road, Austin, Travis County, Texas, more particularly described as follows:

BEING 44.07 ACRES OF LAND OUT OF THE GEORGE W. SPEAR LEAGUE IN THE CITY OF AUSTIN, TRAVIS COUNTY, TEXAS, AND BEING OUT OF AND A PORTION OF THAT CERTAIN TRACT OF LAND DESCRIBED BY DEED TO THE STATE OF TEXAS AS RECORDED IN VOLUME 776, PAGE 225, OF THE DEED RECORDS OF TRAVIS COUNTY, TEXAS. SAID 44.07 ACRES OF LAND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING at a set brass cap in concrete for the northwest corner of said State of Texas tract, same being the west corner of Lot 34 of Shoal Village, Section Two, a subdivision in the City of Austin, Texas, as recorded in Book 5, Page 150, of the Plat Records of Travis County, Texas, and being on the east right-of-way line of Bull Creek Road (an existing 60' R/W) and being the northwest corner of this tract;

(1) THENCE S 62° 05' 02" E, along the north line of said State of Texas tract of land, same being the south line of said subdivision, a distance of 919.08 feet to a set brass cap in concrete for an angle point in the north line of said State of Texas, tract of land same being an angle point in the south line of Lot 45 of Shoal Village, Section Three, a subdivision of record in the City of Austin, Texas, as recorded in Book 6, Page 71, of the Plat Records of Travis County, Texas;

(2) THENCE along the north line of said State of Texas, tract of land, same being the south line of the following subdivisions in the City of Austin, Texas, said Shoal Village, Section Three, Shoal Village, Sec. 5, as recorded in Plat Book 6, Page 72, of the Plat Records of Travis County, Texas, Shoal Village, Sec. 6, as recorded in Plat Book 7, Page 7, of the Plat Records of Travis County, Texas, Shoal Village,

Section Seven, as recorded in Plat Book 14, Page 80, of the Plat Records of Travis County, Texas, Oak Haven, Section Three, as recorded in Book 11, Page 40, of the Plat Records of Travis County, Texas, the following two (2) courses and distances:

1. S 63° 02' 45" E, a distance of 306.61 feet, a 1/2" iron rod found, and

2. S 63° 11' 57" E, a distance of 327.57 feet to the point of intersection with the centerline of Shoal Creek for the northeast corner of this tract;

(3) THENCE along the centerline of Shoal Creek with it's meanders, same being the east line of this tract, the following seven (7) courses and distances:

1. S 03° 49' 32" E, a distance of 146.37 feet, a 1/2" I. R. set,

2. S 11° 51' 40" W, a distance of 68.56 feet, a 1/2" I. R. set,

3. S 17° 44' 58" E, a distance of 255.55 feet, a 1/2" I. R. set,

4. S 11° 22' 50" W, a distance of 433.59 feet, a 1/2" I. R. set,

5. S 01° 30' 40" E, a distance of 208.10 feet, a 1/2" I. R. set,

6. S 03° 34' 39" E, a distance of 163.82 feet, a 1/2" I. R. set, and

7. S 12° 53' 44" E, a distance of 44.69 feet, to a P. K. nail set in concrete for the southeast corner of this tract;

(4) THENCE N 62° 12' 25" W, departing from said Shoal Creek, passing the northeast corner of Lot 24 of Ridgelea, a subdivision in the City of Austin, Texas, as recorded in Book 4, Page 258, of the Plat Records of Travis County, Texas, at 59.90 feet, a total distance of 414.19 feet to a found 1/2" iron rod under concrete for the most northerly corner of Lot 21 of said Ridgelea subdivision, said point also being a re-entrant corner of this tract;

(5) THENCE S 31° 29' 35" W, along the most southerly east line of said State of Texas tract of land, same being the west line of said Ridgelea subdivision, a distance of 715.50 feet to a 1/2" iron rod set for a southwest corner of this tract, from this point the northwest corner of Lot 11, same being the southwest corner of Lot 12, of said Ridgelea subdivision bears N 31° 29' 35" E, a distance of 10.64 feet;

(6) THENCE through said State of Texas tract of land the following four (4) courses and distances:

1. N 23° 52' 33" W, passing a brass cap in concrete set at 5.00 feet, a total distance of 654.65 feet to a brass cap in concrete set for a corner,

2. N 06° 26' 42" E, a distance of 308.11 feet, a brass cap in concrete set for a corner,

3. N 14° 01' 31" W, a distance of 894.05 feet, a brass cap in concrete set for a corner, and

4. N 63° 17' 00" W, a distance of 478.50 feet to a brass cap set in concrete at the point of intersection with the east right-of-way line of Bull Creek Road, same being the west line of said State of Texas tract of land, and being the most northerly southwest corner of this tract;

(7) THENCE N 26° 43' 00" E, along said right-of-way line, a distance of 496.30 feet to the Point of Beginning, and containing 44.07 acres of land, more or less; and

BEING A 2.120 ACRE (92,350 SQUARE FEET) TRACT OF LAND OUT OF THE GEORGE W. SPEAR LEAGUE IN TRAVIS COUNTY, TEXAS. SAID 2.120 ACRE TRACT OF LAND ALSO BEING OUT OF A 31.12 ACRE TRACT HAVING BEEN CONVEYED TO THE STATE OF TEXAS BY INSTRUMENT OF



RECORD IN VOLUME 776, PAGE 225, DEED RECORDS OF TRAVIS COUNTY, TEXAS. SAID 2.120 ACRE TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING, at a brass disk in concrete found on the southeasterly right of way line of Bull Creek Road. Said disk also being at the northernmost corner of said 31.12 acre tract and the westernmost corner of a 44.07 acre tract also out of the tract described in volume 776, page 225 for the northernmost corner of the herein described tract;

Thence, S63° 17' 00"E, 350.00 feet with the northeasterly line of said 31.12 acre tract and a southwesterly line of said 44.07 acre tract to a 1/2" iron rod set for the easternmost corner of the herein described tract;

Thence, S26° 42' 58"W, 205.49 feet with the southeast line of this 2.120 acre tract to a 1/2" iron rod set for the herein described tract, nearby a concrete driveway;

Thence, N82° 57' 38"W, 276.95 feet following a concrete driveway to a 1/2" iron rod set for an angle point of the herein described tract;

Thence, N62° 30' 47"W, 89.24 feet continuing along a concrete driveway to a 1/2" iron rod set on the southeasterly right of way line of Bull Creek Road and the westernmost corner of the herein described tract;

THENCE, N26° 43' 00"E, 297.55 feet with the southeasterly line of Bull Creek Road and the northwesterly line of this 2.120 acre tract to the POINT OF BEGINNING and containing 2.120 acre (92,350 square feet) of land.

(2) Parking Lot 19, 0.7887 acres, GLO ID #1905, located at 203 Martin Luther King Boulevard, Austin, Travis County, Texas, more particularly described as follows:

METES AND BOUNDS DESCRIPTION OF A SURVEY OF 34,354 SQUARE FEET OF LAND OR 0.7887 OF ONE ACRE OF LAND, BEING THE NORTHEAST ONE-QUARTER (1/4), THE NORTH ONE-HALF (1/2) OF THE SOUTHEAST ONE-QUARTER (1/4), THE EAST FIVE (5) FEET OF THE NORTHWEST ONE-QUARTER (1/4) AND THE EAST FIVE (5) FEET OF THE NORTH ONE-HALF (1/2) OF THE SOUTHWEST ONE-QUARTER (1/4) OF OUTLOT 42, DIVISION "E" OF THE GOVERNMENT TRACT ADJOINING THE ORIGINAL CITY OF AUSTIN, TRAVIS COUNTY, TEXAS, ACCORDING TO THE PLAT ON FILE IN THE GENERAL LAND OFFICE OF THE STATE OF TEXAS, SAID TRACT OF LAND BEING DESCRIBED IN A DEED FROM TEXAS KAPPA SIGMA EDUCATIONAL FOUNDATION, INC. TO THE STATE OF TEXAS IN VOLUME 4794, PAGE 2010, DEED RECORDS OF TRAVIS COUNTY, TEXAS, AS SURVEYED FOR THE GENERAL LAND OFFICE OF THE STATE OF TEXAS BY METCALFE & SANDERS, INC., LAND SURVEYORS, 4800 SOUTH CONGRESS AVENUE, AUSTIN, TEXAS, SAID 34,354 SQUARE FEET OF LAND OR 0.7887 OF ONE ACRE OF LAND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

Commencing for reference at City of Austin 1/4" brass pin in concrete found at the intersection of the monumented base line of West 18th Street with the monumented base line of Colorado Street, and from which 1/4" brass pin in concrete

found a City of Austin 1/4" brass pin in concrete found at the intersection of the monumented base line of West 18th Street with the monumented base line of Congress Avenue bears, S 70°44'00" E 440.19 feet;

Thence with the monumented base line of West 18th Street, N 70°43'55" W 40.00 feet to a calculated point;

Thence with a line forty (40) feet west of and parallel with the reconstructed base line of Colorado Street and with the east line of Outlot 42, Division "E" of the Government Tract Adjoining the Original City of Austin, Travis County, Texas, according to the plat on file in the General Land Office of the State of Texas, being also with the west line of Colorado Street and with the most southerly east line of that 1.242 acre tract of land, described as being a portion of the west one-half (1/2) and the south one-half (1/2) of the southeast one-quarter (1/4) of said Outlot 42, Division "E", in a Correction Deed from James H. Coker to Cambridge Tower Corporation in Volume 6769, Page 11, Deed Records of Travis County, Texas, N 18°58'55" E at 29.99 feet passing a 3/4" iron pipe found 0.02 of one foot west of line, at 30.00 feet passing a calculated point at the southeast corner of said Outlot 42, Division "E" and the intersection of the west line of Colorado Street with the north line of West 18th Street, said calculated point being also the southeast corner of the said Cambridge Tower Corporation 1.242 acre tract, in all 110.03 feet to a 1/2" iron pipe found at the most southerly northeast corner of the said Cambridge Tower Corporation 1.242 acre tract and the southeast corner of that tract of land, described as being the northeast one-quarter (1/4), the north one-half (1/2) of the southeast one-quarter (1/4), the east five (5) feet of the northwest one-quarter (1/4) and the east five (5) feet of the north one-half (1/2) of the southwest one-quarter (1/4) of said Outlot 42, Division "E" in a deed from Kappa Sigma Educational Foundation, Inc. to The State of Texas in Volume 4794, Page 2010, Deed Records of Travis County, Texas, for the POINT OF BEGINNING and southeast corner of the herein described tract;

(1) THENCE with the north line of the south one-half (1/2) of the southeast one-quarter (1/4) of said Outlot 42, Division "E", the south line of the north one-half (1/2) of the southeast one-quarter (1/4) of said Outlot 42, Division "E" and the south line of the east five (5) feet of the north one-half (1/2) of the southwest one-quarter (1/4) of said Outlot 42, Division "E", and being also with the south line of the said The State of Texas tract and the most southerly north line of the said Cambridge Tower Corporation 1.242 acre tract, N 70°43'50" W at 138.10 feet passing a 1/2" steel pin previously set and found this date at the intersection of the west line of the east one-half (1/2) of said Outlot 42, Division "E" and the east line of the west one-half (1/2) of said Outlot 42, Division "E" with the north line of the south one-half (1/2) of the south one-half (1/2) of said Outlot 42, Division "E" and the south line of the north one-half (1/2) of the south one-half (1/2) of said Outlot 42, Division "E", in all 143.10 feet to a calculated point for the southwest corner of the said The State of Texas tract and an interior corner of the said Cambridge Tower Corporation 1.242 acre tract, for the southwest corner of the herein described tract;

(2) THENCE with the west line of the said The State of Texas tract and the most northerly east line of the said Cambridge Tower Corporation 1.242 acre tract, being also with the west line of the east five (5) feet of the north one-half (1/2) of the southwest one-quarter (1/4) of said Outlot 42, Division "E" and with the west line of

the east five (5) feet of the northwest one-quarter (1/4) of said Outlot 42, Division "E", N 18°59'15" E 240.10 feet to a 1/2" steel pin found in the north line of said Outlot 42, Division "E" and the south line of West Martin Luther King, Jr. Boulevard (West 19th Street) at the northwest corner of the said The State of Texas tract and the most northerly northeast corner of the said Cambridge Tower Corporation 1.242 acre tract, said 1/2" steel pin found being also the northwest corner of the east five (5) feet of the northwest one-quarter (1/4) of said Outlot 42, Division "E", for the northwest corner of the herein described tract;

(3) THENCE with the south line of West Martin Luther King, Jr. Boulevard and the north line of said Outlot 42, Division "E", being also with the north line of the said The State of Texas tract, S 70°43'35" E a 5.00 feet passing a 1/2" steel pin previously set and found this date for the northeast corner of the northwest one-quarter (1/4) of said Outlot 42, Division "E" and the northwest corner of the northeast one-quarter (1/4) of said Outlot 42, Division "E", in all 143.07 feet to a PK nail previously set and found this date in the north face of a brick step at the intersection of the south line of West Martin Luther King, Jr. Boulevard with the west line of Colorado Street for the northeast corner of said Outlot 42, Division "E" and the northeast corner of the said The State of Texas tract, for the northeast corner of the herein described tract;

(4) THENCE with the west line of Colorado Street and the east line of said Outlot 42, Division "E", being also with the east line of the said The State of Texas tract, S 18°58'55" W 240.09 feet to the POINT OF BEGINNING of the herein described tract, containing 34,354 square feet of land or 0.7887 of one acre of land.

(3) Service Station, GLO ID #1913, located at 1500 San Jacinto Street, Austin, Travis County, Texas, more particularly described as follows:  
LOTS 6 & 7 BLK. 54, DIV E ORIGINAL CITY OF AUSTIN, TRAVIS COUNTY, TX.

(4) Parking Garage B/G/Lot 22, more particularly described as follows:  
76,032 square feet of land, being Outlot 55, Division "E", of the Government Outlots adjoining the Original City of Austin, Texas, according to the map or plat of record in the General Land Office.

BEGINNING at an iron pin set at the most Southerly corner of the tract herein described, said iron pin set bears N 71° 08' W, 40.00' and N 19° 01' E, 50.00' from a monument found at the intersection of the centerlines of East 15th Street and Trinity Street;

THENCE; N 71° 08' W, 275.82' along the Northerly R.O.W. line of East 15th Street, 50' North of and parallel to the monumented centerline of East 15th Street to a concrete nail at the intersection of the Northerly R.O.W. line of East 15th Street and the Easterly R.O.W. line of San Jacinto Street;

THENCE; N 19° 01' E, 275.54' along the Easterly R.O.W. line of San Jacinto Street to an "X" in concrete at the intersection of the Easterly R.O.W. line of San Jacinto Street and the Southerly R.O.W. line of East 16th Street;

THENCE; S 71° 11' E, 275.80' along the Southerly R.O.W. line of East 16th Street to an iron pin set at the intersection of the Southerly R.O.W. line of East 16th Street and the Westerly R.O.W. line of Trinity Street;

THENCE; S 19° 01' W, 275.82' along the Westerly R.O.W. line of Trinity Street to the PLACE OF BEGINNING, containing 76,032 square feet of land as surveyed November, 1973, by Otis B. Autry, Registered Public Surveyor.  
; and

(5) Austin Bolm Road Warehouse, more particularly described as follows:  
Lot 25-A, Capitol Business Park, 1-A, a Subdivision of Travis County according to the plat recorded Volume 81 page 110 Plat records. The property was purchased by the State of Texas on June 19, 1989 from STRAFCO INC recorded Volume 10963 page 1000, Travis County Deed Records

(d) Property held by the Health and Human Services Commission is described as follows:

(1) Abilene State Supported Living Center (part), Parcel A, 33.039 acres, GLO ID #752, located at 2501 Maple Street, Abilene, Taylor County, Texas, more particularly described as follows:

BEING 33.039 ACRES OF LAND SITUATED IN THE EAST HALF OF SECTION 51, CITY OF ABILENE, TAYLOR COUNTY, TEXAS AND THAT CERTAIN 637.337 ACRE TRACT DESCRIBED IN INSTRUMENT TO THE TEXAS DEPARTMENT OF MENTAL HEALTH AND MENTAL RETARDATION AS RECORDED IN VOLUME 14, PAGE 127 OF THE COUNTY RECORDS OF TAYLOR COUNTY, TEXAS AND FURTHER DESCRIBED AS FOLLOWS:

BEGINNING AT A STANDARD TYPE II TEXAS DEPARTMENT OF TRANSPORTATION (TXDOT) MARKER FOUND ON THE APPARENT NORTHERLY RIGHT-OF-WAY LINE OF SOUTH 27TH STREET (A CALLED 100-FOOT WIDE RIGHT-OF-WAY) AND ON THE WESTERLY RIGHT-OF-WAY LINE OF OLDHAM ROAD [~~FARM TO MARKET ROAD No. 1750~~] (A CALLED 100-FOOT WIDE RIGHT-OF-WAY) AND BEING 5,096.4 FEET EAST AND 2,631.0 FEET SOUTH OF A CONCRETE MONUMENT WITH BRASS CAP STAMPED ABILENE STATE HOSPITAL No. 1 FOUND BEING A CALLED 70-FOOT OFFSET FROM THE NORTHWEST CORNER OF THE SOUTH HALF OF SECTION 51;

THENCE SOUTH 89°56'02" WEST ALONG SAID NORTHERLY LINE OF SOUTH 27TH STREET, 326.03 FEET TO A CONCRETE MARKER WITH BRASS DISK FOUND FOR THE BEGINNING OF A CURVE TO THE LEFT;

THENCE WESTERLY CONTINUING ALONG SAID NORTHERLY LINE AND THE ARC OF SAID CURVE TO THE LEFT PASSING A 1-1/2-INCH IRON PIPE FOUND AT 379.04 FEET AND CONTINUING FOR A TOTAL DISTANCE OF 390.10 FEET, HAVING A CENTRAL ANGLE OF 16°16'29", A RADIUS OF 1,373.35 AND WHOSE LONG CHORD BEARS SOUTH 81°47'47" WEST, 388.79 FEET TO A 5/8-INCH IRON ROD WITH PLASTIC CAP STAMPED "SURVCON INC" SET;

THENCE NORTH 00°00'00" EAST PARALLEL TO SAID WESTERLY LINE OF OLDHAM ROAD, 2,063.60 FEET TO A 5/8-INCH IRON ROD WITH PLASTIC CAP STAMPED "SURVCON INC" SET;

THENCE NORTH 88°56'07" EAST, 710.96 FEET TO A 5/8-INCH IRON ROD WITH PLASTIC CAP STAMPED "SURVCON INC" SET ON SAID WESTERLY LINE OF OLDHAM ROAD;

THENCE SOUTH 00°00'00" WEST ALONG SAID WESTERLY LINE OF OLDHAM ROAD, PASSING A STANDARD TYPE II TXDOT MARKER AT 867.79 FEET AND CONTINUING FOR A TOTAL DISTANCE OF 2,020.96 FEET TO THE POINT OF BEGINNING AND CONTAINING A COMPUTED AREA OF 33.039 ACRES OF LAND.

(2) Rio Grande State Center (part), Parcel B, 14.18 acres, GLO ID #736, located at 1401 South Rangerville Road, Harlingen, Cameron County, Texas, more particularly described as follows:

Lying and situated in the City of Harlingen, Cameron County, Texas, said land being described by metes and bounds as follows:

Beginning at the Southwest corner of Block 93 of the Harlingen Land and Water Company Subdivision, Cameron County, Texas, as the map of said subdivision is recorded in Vol. 1, Page 12, of the Map Records of Cameron County, Texas;

Thence, North 00 deg. 12 min. West a distance of 10 feet to a point of beginning for the tract herewith described, and being the Southwest corner of the tract herewith described; said point being on the West boundary line of said Block 93, such boundary line being also the East boundary line of the right-of-way of Canal No. 3 of the Cameron County Water Control and Improvement District No. 1, Cameron County, Texas, said point also being on the North right-of-way line of Rio Hondo Road, a public road of Cameron County, Texas;

Thence, North 89 deg. 48 min. East a distance of 859.0 feet to a point, this boundary line being parallel to and 10 feet North of the South boundary line of said Block 93, and also being the North right-of-way line of said Rio Hondo Road;

Thence, North 00 deg. 12 min. West a distance of 719 feet to a point;

Thence, South 89 deg. 48 min. West a distance of 859 feet to a point, said point being on the line being the West boundary line of said Block 93 and the East boundary line of said right-of-way for said Canal No. 3;

Thence, South 00 deg. 12 min. East along said West boundary line of said Block 93 (being also the East boundary line of said right-of-way for Canal No. 3) a distance of 719 feet to the point of beginning of the tract herewith described and herein being conveyed, and containing 14.18 acres of land, more or less.

(3) San Angelo State Supported Living Center (part), Parcel B, 0.3214 acres GLO ID #767, located on US HWY 87 North, Carlsbad, Tom Green County, Texas, generally described as follows:

The 0.3214 acre tract consists of 2 (50' X 140') town lots legally described as Lots 10 and 11, Block 137, unincorporated Town of Carlsbad, Tom Green County, Texas.

(4) Marlin Robert E. Lee Group Home, 0.247 acres, GLO ID #2139, located at 1606 Robert E. Lee Drive, Marlin, Falls County, Texas, more particularly described as follows:

All that certain lot or parcel of land, situated in the Northeast portion of the City of Marlin, Falls County, Texas, out of the T J Chambers and A De La Serda conflicting grants, and being part of that certain Cullen Rogers 9.553 acre tract, more particularly described as Lot 11, Block 2, Plantation Acres Subdivision as shown per final plat of record in Vol. 2, Page 47, Fall County Plat Records;

Beginning at an iron rod for the Northeast corner of Rogers 9.553 acres and Northeast corner of Lot 11, Block 2 mentioned above;

Thence S 29°46'29" E 95.91 ft. with center line 15 ft. utility easement to an iron rod for the Southeast corner of Lot 11;

Thence S 61°52'30" W 115.5 ft. to an iron rod for the Southwest corner of said Lot 11, in the East line of Robert E. Lee Drive;

Thence N 28°07'30" W 92.63 ft. along the East line of Robert E. Lee Drive to an iron rod for the Northwest corner of Lot 11, a point in the North line of Rogers 9.553 acres;

Thence N 60°13'33" E 112.79 ft. to the place of beginning containing 0.247 acres of land.

; and

(5) Wortham Twin Circle Group Home, 0.344 acres, GLO ID #2144, located at 115 Twin Circle Drive, Wortham, Freestone County, Texas, more particularly described as follows:

Being a 15,000 square foot or 0.344 acre tract of land identified as Lot 8, Block 2, Twin Circle Estates Addition, City of Wortham, Freestone County, Texas.

(e) Property held by the Parks and Wildlife Department is described as follows:

McKinney Falls Park/State Headquarters (part), Parcel B, 13 acres GLO ID #72, located at 4200 Smith School Road, Austin, Travis County, Texas, generally described as follows:

A 13 acre tract, more or less, out of the Santiago Del Valle Grant, Austin, Travis County, Texas, being that part of the McKinney Falls State Park/Headquarters lying west of East Stassney Lane.

SECTION \_\_\_\_ .04. DISPOSITION OF PROCEEDS. The proceeds from the sales authorized by Section 1 of this Act shall be deposited in the state treasury to the credit of the general revenue fund.

SECTION \_\_\_\_ .05. STATE CEMETERY. Section 2165.256(b), Government Code, is amended to read as follows:

(b) ~~[In addition to the property described as] Lot No. 5, Division B, City of Austin, Travis County, Texas, [the following property] is dedicated for cemetery purposes as part of the State Cemetery. [:- BEING 44.07 ACRES OF LAND OUT OF THE GEORGE W. SPEAR LEAGUE IN THE CITY OF AUSTIN, TRAVIS COUNTY, TEXAS, AND BEING OUT OF AND A PORTION OF THAT CERTAIN TRACT OF LAND DESCRIBED BY DEED TO THE STATE OF TEXAS AS RECORDED IN VOLUME 776, PAGE 225, OF THE DEED RECORDS OF TRAVIS COUNTY, TEXAS. SAID 44.07 ACRES OF LAND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:~~

~~[BEGINNING at a set brass cap in concrete for the northwest corner of said State of Texas tract, same being the west corner of Lot 34 of Shoal Village, Section Two, a subdivision in the City of Austin, Texas, as recorded in Book 5, Page 150, of the Plat Records of Travis County, Texas, and being on the east right of way line of Bull Creek Road (an existing 60' R/W) and being the northwest corner of this tract;~~

~~[(1) THENCE S 62° 05' 02" E, along the north line of said State of Texas tract of land, same being the south line of said subdivision, a distance of 919.08 feet to a set brass cap in concrete for an angle point in the north line of said State of Texas,~~

~~tract of land same being an angle point in the south line of Lot 45 of Shoal Village, Section Three, a subdivision of record in the City of Austin, Texas, as recorded in Book 6, Page 71, of the Plat Records of Travis County, Texas;~~

~~[(2) THENCE along the north line of said State of Texas, tract of land, same being the south line of the following subdivisions in the City of Austin, Texas, said Shoal Village, Section Three, Shoal Village, Sec. 5, as recorded in Plat Book 6, Page 72, of the Plat Records of Travis County, Texas, Shoal Village, Sec. 6, as recorded in Plat Book 7, Page 7, of the Plat Records of Travis County, Texas, Shoal Village, Section Seven, as recorded in Plat Book 14, Page 80, of the Plat Records of Travis County, Texas, Oak Haven, Section Three, as recorded in Book 11, Page 40, of the Plat Records of Travis County, Texas, the following two (2) courses and distances:~~

~~[1. S 63° 02' 45" E, a distance of 306.61 feet, a 1/2" iron rod found, and~~

~~[2. S 63° 11' 57" E, a distance of 327.57 feet to the point of intersection with the centerline of Shoal Creek for the northeast corner of this tract;~~

~~[(3) THENCE along the centerline of Shoal Creek with it's meanders, same being the east line of this tract, the following seven (7) courses and distances:~~

~~[1. S 03° 49' 32" E, a distance of 146.37 feet, a 1/2" I. R. set,~~

~~[2. S 11° 51' 40" W, a distance of 68.56 feet, a 1/2" I. R. set,~~

~~[3. S 17° 44' 58" E, a distance of 255.55 feet, a 1/2" I. R. set,~~

~~[4. S 11° 22' 50" W, a distance of 433.59 feet, a 1/2" I. R. set,~~

~~[5. S 01° 30' 40" E, a distance of 208.10 feet, a 1/2" I. R. set,~~

~~[6. S 03° 34' 39" E, a distance of 163.82 feet, a 1/2" I. R. set, and~~

~~[7. S 12° 53' 44" E, a distance of 44.69 feet, to a P. K. nail set in concrete for the southeast corner of this tract;~~

~~[(4) THENCE N 62° 12' 25" W, departing from said Shoal Creek, passing the northeast corner of Lot 24 of Ridgelea, a subdivision in the City of Austin, Texas, as recorded in Book 4, Page 258, of the Plat Records of Travis County, Texas, at 59.90 feet, a total distance of 414.19 feet to a found 1/2" iron rod under concrete for the most northerly corner of Lot 21 of said Ridgelea subdivision, said point also being a re-entrant corner of this tract;~~

~~[(5) THENCE S 31° 29' 35" W, along the most southerly east line of said State of Texas tract of land, same being the west line of said Ridgelea subdivision, a distance of 715.50 feet to a 1/2" iron rod set for a southwest corner of this tract, from this point the northwest corner of Lot 11, same being the southwest corner of Lot 12, of said Ridgelea subdivision bears N 31° 29' 35" E, a distance of 10.64 feet;~~

~~[(6) THENCE through said State of Texas tract of land the following four (4) courses and distances:~~

~~[1. N 23° 52' 33" W, passing a brass cap in concrete set at 5.00 feet, a total distance of 654.65 feet to a brass cap in concrete set for a corner,~~

~~[2. N 06° 26' 42" E, a distance of 308.11 feet, a brass cap in concrete set for a corner,~~

~~[3. N 14° 01' 31" W, a distance of 894.05 feet, a brass cap in concrete set for a corner, and~~

~~[4. N 63° 17' 00" W, a distance of 478.50 feet to a brass cap set in concrete at the point of intersection with the east right of way line of Bull Creek Road, same being the west line of said State of Texas tract of land, and being the most northerly southwest corner of this tract;~~

~~[(7) THENCE N 26° 43' 00" E, along said right of way line, a distance of 496.30 feet to the Point of Beginning, and containing 44.07 acres of land, more or less; and~~

~~[BEING A 2.120 ACRE (92,350 SQUARE FEET) TRACT OF LAND OUT OF THE GEORGE W. SPEAR LEAGUE IN TRAVIS COUNTY, TEXAS. SAID 2.120 ACRE TRACT OF LAND ALSO BEING OUT OF A 31.12 ACRE TRACT HAVING BEEN CONVEYED TO THE STATE OF TEXAS BY INSTRUMENT OF RECORD IN VOLUME 776, PAGE 225, DEED RECORDS OF TRAVIS COUNTY, TEXAS. SAID 2.120 ACRE TRACT BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:~~

~~[BEGINNING, at a brass disk in concrete found on the southeasterly right of way line of Bull Creek Road. Said disk also being at the northernmost corner of said 31.12 acre tract and the westernmost corner of a 44.07 acre tract also out of the tract described in volume 776, page 225 for the northernmost corner of the herein described tract;~~

~~[Thence, S63° 17' 00"E, 350.00 feet with the northeasterly line of said 31.12 acre tract and a southwesterly line of said 44.07 acre tract to a 1/2" iron rod set for the easternmost corner of the herein described tract;~~

~~[Thence, S26° 42' 58"W, 205.49 feet with the southeast line of this 2.120 acre tract to a 1/2" iron rod set for the herein described tract, nearby a concrete driveway;~~

~~[Thence, N82° 57' 38"W, 276.95 feet following a concrete driveway to a 1/2" iron rod set for an angle point of the herein described tract;~~

~~[Thence, N62° 30' 47"W, 89.24 feet continuing along a concrete driveway to a 1/2" iron rod set on the southeasterly right of way line of Bull Creek Road and the westernmost corner of the herein described tract;~~

~~[THENCE, N26° 43' 00"E, 297.55 feet with the southeasterly line of Bull Creek Road and the northwesterly line of this 2.120 acre tract to the POINT OF BEGINNING and containing 2.120 acre (92,350 square feet) of land.]~~

SECTION \_\_\_\_\_.06. EFFECTIVE DATE. This Act takes effect September 1, 2011.

### Floor Amendment No. 3

Amend **CSSB 1811** (house committee printing) by adding the following appropriately numbered ARTICLES to the bill and renumbering the remaining ARTICLES and SECTIONS of the bill accordingly:

ARTICLE \_\_\_\_\_. FISCAL MATTERS CONCERNING EARLY HIGH SCHOOL GRADUATION

SECTION \_\_\_\_\_.01. Subchapter K, Chapter 56, Education Code, is amended by adding Section 56.2012 to read as follows:

Sec. 56.2012. EXPIRATION OF SUBCHAPTER; ELIGIBILITY CLOSED.

(a) This subchapter expires September 1, 2017.



(b) Notwithstanding Section 56.203, a person may not receive an award under this subchapter if the person graduates from high school on or after September 1, 2011.

SECTION \_\_\_\_ .02. Subsection (b), Section 54.213, Education Code, is amended to read as follows:

(b) ~~[Savings to the foundation school fund that occur as a result of the Early High School Graduation Scholarship program created in Subchapter K, Chapter 56, and that are not required for the funding of state credits for tuition and mandatory fees under Section 56.204 or school district credits under Section 56.2075 shall be used first to provide tuition exemptions under Section 54.212. Any of those savings remaining after providing tuition exemptions under Section 54.212 shall be used to provide tuition exemptions under Section 54.214.]~~ The Texas Education Agency shall ~~[also]~~ accept and make available to provide tuition exemptions under Section 54.214 gifts, grants, and donations made to the agency for that purpose. The commissioner of education shall transfer those funds to the Texas Higher Education Coordinating Board to distribute to institutions of higher education that provide exemptions under that section ~~[Payment of funds under this subsection shall be made in the manner provided by Section 56.207 for state credits under Subchapter K, Chapter 56].~~

SECTION \_\_\_\_ .03. Section 56.210, Education Code, is repealed.

#### ARTICLE \_\_\_\_ . FISCAL MATTERS CONCERNING RETIRED TEACHERS

SECTION \_\_\_\_ .01. Notwithstanding Subsection (a), Section 825.404, Government Code, for the state fiscal biennium ending August 31, 2013, only, the amount of the state contribution to the Teacher Retirement System of Texas under that section may be less than the amount contributed by members during that biennium.

SECTION \_\_\_\_ .02. Notwithstanding Subsection (a), Section 1575.202, Insurance Code, for the state fiscal biennium ending August 31, 2013, only, the state may contribute an amount to the retired school employees group insurance fund that is less than one percent of the salary of each active employee.

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

Amend **CSSB 1811** (house committee printing) by adding the following appropriately numbered ARTICLE to the bill and renumbering subsequent ARTICLES and SECTIONS of the bill accordingly:

#### ARTICLE \_\_\_\_ . TEXAS EMERGING TECHNOLOGY FUND

SECTION \_\_\_\_ .01. Section 490.005(b), Government Code, is amended to read as follows:

(b) The annual report must also contain:

(1) the total number of jobs actually created by each project receiving funding under this chapter;

(2) an analysis of the number of jobs actually created by each project receiving funding under this chapter; and

(3) a brief description regarding:

(A) the methodology used to determine the information provided under Subdivisions (1) and (2);

(B) ~~(4)~~ the intended outcomes of projects funded under Subchapter D during the preceding two state fiscal years; and

(C) ~~(2)~~ the actual outcomes of all projects funded under Subchapter D during the fund's existence, including any financial impact on the state resulting from a liquidity event involving a company whose project was funded under that subchapter.

SECTION \_\_\_\_\_.02. The heading to Section 490.052, Government Code, is amended to read as follows:

Sec. 490.052. APPOINTMENT TO COMMITTEE ~~[BY GOVERNOR]~~; NOMINATIONS.

SECTION \_\_\_\_\_.03. Section 490.052, Government Code, is amended by amending Subsection (a) and adding Subsections (a-1) and (a-2) to read as follows:

(a) The governor shall appoint to the committee 13 individuals nominated as provided by Subsection (b).

(a-1) The lieutenant governor shall appoint two senators to the committee.

(a-2) The speaker of the house of representatives shall appoint two members of the house of representatives to the committee.

SECTION \_\_\_\_\_.04. Subchapter B, Chapter 490, Government Code, is amended by adding Section 490.0521 to read as follows:

Sec. 490.0521. FINANCIAL STATEMENT REQUIRED. Each member of the committee shall file with the office of the governor and the Texas Ethics Commission a verified financial statement complying with Sections 572.022 through 572.0252 as is required of a state officer by Section 572.021.

SECTION \_\_\_\_\_.05. Section 490.054, Government Code, is amended to read as follows:

Sec. 490.054. TERMS. (a) Members of the committee appointed by the governor serve staggered two-year terms, subject to the pleasure of the governor.

(b) Members of the committee appointed by the lieutenant governor or the speaker of the house of representatives serve two-year terms.

SECTION \_\_\_\_\_.06. Subchapter B, Chapter 490, Government Code, is amended by adding Section 490.0551 to read as follows:

Sec. 490.0551. MEETINGS. (a) The committee shall hold meetings periodically to conduct the business of the committee.

(b) The committee and any subcommittee of the committee shall give notice of each meeting to be held by the committee or subcommittee, as applicable, to the secretary of state. The secretary of state shall post the notice on the secretary of state's Internet website at least 72 hours before the scheduled time of the meeting. The notice must contain:

(1) the date, time, and place of the meeting; and

(2) the agenda of items to be considered at the meeting.

(c) The committee and any subcommittee of the committee shall keep minutes of each meeting. The minutes must include:

(1) an indication of each committee member's vote, including any recusal by a member, on each matter under consideration by the committee; and

(2) a description of the specific nature of any conflict of interest disclosed by a committee member, including the manner in which the conflict of interest was resolved.

SECTION \_\_\_\_\_.07. Section 490.056, Government Code, is amended by adding Subsections (c), (d), and (e) to read as follows:

(c) Each entity recommended by the committee for an award of money from the fund as provided by this chapter shall obtain and provide the following information to the office of the governor:

(1) a federal criminal history background check for each principal of the entity;

(2) a state criminal history background check for each principal of the entity;

(3) a credit check for each principal of the entity;

(4) a copy of a government-issued form of photo identification for each principal of the entity; and

(5) information regarding whether the entity or a principal of the entity has ever been subject to a sanction imposed by the Securities and Exchange Commission for a violation of applicable federal law.

(d) For purposes of Subsection (c):

(1) "Controlling interest" has the meaning assigned by Section 171.0001, Tax Code.

(2) "Principal" means:

(A) an officer of an entity; or

(B) a person who directly or indirectly owns or controls a controlling interest in an entity.

(e) With each proposal to award funding submitted by the governor to the lieutenant governor and speaker of the house of representatives for purposes of obtaining prior approval, the governor shall provide each officer with a copy of the information provided by the appropriate entity under Subsection (c).

SECTION \_\_\_\_\_.08. Section 490.101, Government Code, is amended by adding Subsection (f-1) to read as follows:

(f-1) An award to a particular recipient from the fund may not exceed \$3,000,000.

SECTION \_\_\_\_\_.09. Subchapter D, Chapter 490, Government Code, is amended by adding Section 490.1521 to read as follows:

Sec. 490.1521. MINUTES OF CERTAIN MEETINGS. (a) Each regional center of innovation and commercialization established under Section 490.152, including the Texas Life Science Center for Innovation and Commercialization, shall keep minutes of each meeting at which applications for funding under this subchapter are evaluated. The minutes must:

(1) include the name of each applicant recommended by the regional center of innovation and commercialization to the committee for funding; and

(2) indicate the vote of each member of the governing body of the regional center of innovation and commercialization, including any recusal by a member and the member's reason for recusal, with regard to each application reviewed.

(b) Not later than the 30th day after the date a meeting to which this section applies is held, the appropriate regional center of innovation and commercialization shall post a copy of the minutes of the meeting on the center's Internet website. The copy of the minutes must remain posted on the website for at least four years.

SECTION \_\_\_\_ .10. (a) The terms of the members of the Texas Emerging Technology Advisory Committee serving on the effective date of this article expire September 1, 2011.

(b) As soon as practicable after this article takes effect, the governor, lieutenant governor, and speaker of the house of representatives shall appoint members to the Texas Emerging Technology Advisory Committee established under Subchapter B, Chapter 490, Government Code, in a manner that complies with that subchapter, as amended by this article.

(c) At the first meeting of members of the Texas Emerging Technology Advisory Committee established under Subchapter B, Chapter 490, Government Code, as amended by this article, occurring on or after September 1, 2011, the members appointed by the governor shall draw lots to determine which six members will serve a term expiring September 1, 2012, and which seven members will serve a term expiring September 1, 2013.

SECTION \_\_\_\_ .11. Section 490.101(f-1), Government Code, as added by this article, applies only to an award from the Texas emerging technology fund that is made on or after the effective date of this article. An award from the Texas emerging technology fund made before the effective date of this article is governed by the law in effect on the date the award was made, and the former law is continued in effect for that purpose.

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

Amend **CSSB 1811** (house committee printing) by adding the following appropriately numbered ARTICLES to the bill and renumbering subsequent ARTICLES and SECTIONS of the bill accordingly:

#### ARTICLE \_\_\_\_ . FISCAL MATTERS CONCERNING ANIMAL HEALTH REGULATION

SECTION \_\_\_\_ .01. Section 161.060, Agriculture Code, is amended to read as follows:

Sec. 161.060. AUTHORITY TO SET AND COLLECT [INSPECTION] FEES. The commission by rule may set and collect a fee for any service provided [~~charge a fee, as provided by commission rule, for an inspection made~~] by the commission, including:

- (1) the inspection of animals or facilities;
- (2) the testing of animals for disease;
- (3) obtaining samples from animals for disease testing;
- (4) disease eradication and treatment efforts;
- (5) services related to the transport of livestock;
- (6) control and eradication of ticks and other pests; and
- (7) any other service for which the commission incurs a cost.

#### ARTICLE \_\_\_\_ . FISCAL MATTERS REGARDING PETROLEUM INDUSTRY REGULATION

SECTION \_\_\_\_ .01. Section 26.3574, Water Code, is amended by amending Subsection (b) and adding Subsection (b-1) to read as follows:

(b) A fee is imposed on the delivery of a petroleum product on withdrawal from bulk of that product as provided by this subsection. Each operator of a bulk facility on withdrawal from bulk of a petroleum product shall collect from the person who orders the withdrawal a fee in an amount determined as follows:

(1) not more than \$3.125 [~~\$3.75~~] for each delivery into a cargo tank having a capacity of less than 2,500 gallons [~~for the state fiscal year beginning September 1, 2007, through the state fiscal year ending August 31, 2011~~];

(2) not more than \$6.25 [~~\$7.50~~] for each delivery into a cargo tank having a capacity of 2,500 gallons or more but less than 5,000 gallons [~~for the state fiscal year beginning September 1, 2007, through the state fiscal year ending August 31, 2011~~];

(3) not more than \$9.37 [~~\$11.75~~] for each delivery into a cargo tank having a capacity of 5,000 gallons or more but less than 8,000 gallons [~~for the state fiscal year beginning September 1, 2007, through the state fiscal year ending August 31, 2011~~];

(4) not more than \$12.50 [~~\$15.00~~] for each delivery into a cargo tank having a capacity of 8,000 gallons or more but less than 10,000 gallons [~~for the state fiscal year beginning September 1, 2007, through the state fiscal year ending August 31, 2011~~]; and

(5) not more than \$6.25 [~~\$7.50~~] for each increment of 5,000 gallons or any part thereof delivered into a cargo tank having a capacity of 10,000 gallons or more [~~for the state fiscal year beginning September 1, 2007, through the state fiscal year ending August 31, 2011~~].

(b-1) The commission by rule shall set the amount of the fee in Subsection (b) in an amount not to exceed the amount necessary to cover the agency's costs of administering this subchapter, as indicated by the amount appropriated by the legislature from the petroleum storage tank remediation account for that purpose.

#### ARTICLE \_\_\_\_ . COASTAL EROSION

SECTION \_\_\_\_ .01. Section 33.608, Natural Resources Code, is amended to read as follows:

Sec. 33.608. REPORT TO LEGISLATURE. (a) Each biennium, the commissioner shall submit to the legislature a report listing:

(1) each critical erosion area;

(2) each proposed erosion response study or project;

(3) an estimate of the cost of each proposed study or project described by Subdivision (2);

(4) each coastal erosion response study or project funded under this subchapter during the preceding biennium;

(5) the economic and natural resource benefits from each coastal erosion response study or project described by Subdivision (4);

(6) the financial status of the account; and

(7) an estimate of the cost of implementing this subchapter during the succeeding biennium.

(b) The report must include a plan for coastal erosion response studies and projects that may be funded, wholly or partly, from money in the account and may be undertaken during the next 10 or more years.

ARTICLE \_\_\_\_\_. TEXAS FARM AND RANCH LANDS CONSERVATION  
PROGRAM

SECTION \_\_\_\_\_.01. Subsection (b), Section 183.059, Natural Resources Code, is amended to read as follows:

(b) To receive a grant from the fund under this subchapter, an applicant who is qualified to be an easement holder under this subchapter must submit an application to the council. The application must:

- (1) set out the parties' clear conservation goals consistent with the program;
- (2) include a site-specific estimate-of-value appraisal by a licensed appraiser qualified to determine the market value of the easement; and
- (3) ~~demonstrate that the applicant is able to match 50 percent of the amount of the grant being sought, considering that the council may choose to allow a donation of part of the appraised value of the easement to be considered as in-kind matching funds; and~~

~~(4)~~ include a memorandum of understanding signed by the landowner and the applicant indicating intent to sell an agricultural conservation easement and containing the terms of the contract for the sale of the easement.

ARTICLE \_\_\_\_\_. FISCAL MATTERS CONCERNING PARKS AND WILDLIFE  
CONTRIBUTIONS

SECTION \_\_\_\_\_.01. Subchapter D, Chapter 502, Transportation Code, is amended by adding Sections 502.1747 and 502.1748 to read as follows:

Sec. 502.1747. VOLUNTARY CONTRIBUTION TO PARKS AND WILDLIFE DEPARTMENT. (a) When a person registers or renews the registration of a motor vehicle under this chapter, the person may contribute \$5 or more to the Parks and Wildlife Department.

(b) The department shall:

(1) include space on each motor vehicle registration renewal notice, on the page that states the total fee for registration renewal, that allows a person renewing a registration to indicate the amount that the person is voluntarily contributing to the state parks account;

(2) provide an opportunity to contribute to the state parks account similar to the opportunity described by Subsection (a) and in the manner described by Subdivision (1) in any registration renewal system that succeeds the system in place on September 1, 2011; and

(3) provide an opportunity for a person to contribute to the state parks account during the registration renewal process on the department's Internet website.

(c) If a person makes a contribution under this section and does not pay the full amount of a registration fee, the county assessor-collector may credit all or a portion of the contribution to the person's registration fee.

(d) The county assessor-collector shall send any contribution made under this section to the comptroller for deposit to the credit of the state parks account under Section 11.035, Parks and Wildlife Code. Money received by the Parks and Wildlife Department under this section may be used only for the operation and maintenance of state parks, historic sites, or natural areas under the jurisdiction of the Parks and Wildlife Department.

(e) The department shall consult with the Parks and Wildlife Department in performing the department's duties under this section.

Sec. 502.1748. DISPOSITION OF CERTAIN VOLUNTARY CONTRIBUTIONS. If a person makes a voluntary contribution under Section 502.1746 or 502.1747 at the time the person registers or renews the registration of a motor vehicle under this chapter but the person does not clearly specify the entity to which the person intends to contribute, the county assessor-collector shall divide the contribution between the entities authorized to receive contributions under those sections.

SECTION \_\_\_\_ .02. Sections 502.1747 and 502.1748, Transportation Code, as added by this article, apply only to a motor vehicle registration renewal notice issued for a registration that expires on or after January 1, 2012.

ARTICLE \_\_\_\_ . FISCAL MATTERS CONCERNING OIL AND GAS REGULATION

SECTION \_\_\_\_ .01. Subsection (c), Section 81.0521, Natural Resources Code, is amended to read as follows:

(c) Two-thirds of the proceeds from this fee, ~~excluding~~ ~~[including]~~ any penalties collected in connection with the fee, shall be deposited to the oil and gas regulation and ~~[oil field]~~ cleanup fund as provided by Section 81.067 ~~[91.111]~~.

SECTION \_\_\_\_ .02. Subchapter C, Chapter 81, Natural Resources Code, is amended by adding Sections 81.067 through 81.070 to read as follows:

Sec. 81.067. OIL AND GAS REGULATION AND CLEANUP FUND. (a) The oil and gas regulation and cleanup fund is created as an account in the general revenue fund of the state treasury.

(b) The commission shall certify to the comptroller the date on which the balance in the fund equals or exceeds \$20 million. The oil-field cleanup regulatory fees on oil and gas shall not be collected or required to be paid on or after the first day of the second month following the certification, except that the comptroller shall resume collecting the fees on receipt of a commission certification that the fund has fallen below \$10 million. The comptroller shall continue collecting the fees until collections are again suspended in the manner provided by this subsection.

(c) The fund consists of:

(1) proceeds from bonds and other financial security required by this chapter and benefits under well-specific plugging insurance policies described by Section 91.104(c) that are paid to the state as contingent beneficiary of the policies, subject to the refund provisions of Section 91.1091, if applicable;

(2) private contributions, including contributions made under Section 89.084;

(3) expenses collected under Section 89.083;

(4) fees imposed under Section 85.2021;

(5) costs recovered under Section 91.457 or 91.459;

(6) proceeds collected under Sections 89.085 and 91.115;

(7) interest earned on the funds deposited in the fund;

(8) oil and gas waste hauler permit application fees collected under Section 29.015, Water Code;

(9) costs recovered under Section 91.113(f);

(10) hazardous oil and gas waste generation fees collected under Section 91.605;

(11) oil-field cleanup regulatory fees on oil collected under Section 81.116;

(12) oil-field cleanup regulatory fees on gas collected under Section 81.117;

(13) fees for a reissued certificate collected under Section 91.707;

(14) fees collected under Section 91.1013;

(15) fees collected under Section 89.088;

(16) fees collected under Section 91.142;

(17) fees collected under Section 91.654;

(18) costs recovered under Sections 91.656 and 91.657;

(19) two-thirds of the fees collected under Section 81.0521;

(20) fees collected under Sections 89.024 and 89.026;

(21) legislative appropriations; and

(22) any surcharges collected under Section 81.070.

Sec. 81.068. PURPOSE OF OIL AND GAS REGULATION AND CLEANUP FUND. Money in the oil and gas regulation and cleanup fund may be used by the commission or its employees or agents for any purpose related to the regulation of oil and gas development, including oil and gas monitoring and inspections, oil and gas remediation, oil and gas well plugging, public information and services related to those activities, and administrative costs and state benefits for personnel involved in those activities.

Sec. 81.069. REPORTING ON PROGRESS IN MEETING PERFORMANCE GOALS FOR THE OIL AND GAS REGULATION AND CLEANUP FUND. (a) The commission, through the legislative appropriations request process, shall establish specific performance goals for the oil and gas regulation and cleanup fund for the next biennium, including goals for each quarter of each state fiscal year of the biennium for the number of:

(1) orphaned wells to be plugged with state-managed funds;

(2) abandoned sites to be investigated, assessed, or cleaned up with state funds; and

(3) surface locations to be remediated.

(b) The commission shall provide quarterly reports to the Legislative Budget Board that include:

(1) the following information with respect to the period since the last report was provided as well as cumulatively:

(A) the amount of money deposited in the oil and gas regulation and cleanup fund;

(B) the amount of money spent from the fund for the purposes described by Subsection (a);

(C) the balance of the fund; and

(D) the commission's progress in meeting the quarterly performance goals established under Subsection (a) and, if the number of orphaned wells plugged with state-managed funds, abandoned sites investigated, assessed, or cleaned up with state funds, or surface locations remediated is at least five percent less than the number projected in the applicable goal established under Subsection (a), an explanation of the reason for the variance; and



(2) any additional information or data requested in writing by the Legislative Budget Board.

(c) The commission shall submit to the legislature and make available to the public, annually, a report that reviews the extent to which money provided under Section 81.067 has enabled the commission to better protect the environment through oil-field cleanup activities. The report must include:

(1) the performance goals established under Subsection (a) for that state fiscal year, the commission's progress in meeting those performance goals, and, if the number of orphaned wells plugged with state-managed funds, abandoned sites investigated, assessed, or cleaned up with state funds, or surface locations remediated is at least five percent less than the number projected in the applicable goal established under Subsection (a), an explanation of the reason for the variance;

(2) the number of orphaned wells plugged with state-managed funds, by region;

(3) the number of wells orphaned, by region;

(4) the number of inactive wells not currently in compliance with commission rules, by region;

(5) the status of enforcement proceedings for all wells in violation of commission rules and the period during which the wells have been in violation, by region in which the wells are located;

(6) the number of surface locations remediated, by region;

(7) a detailed accounting of expenditures of money in the fund for oil-field cleanup activities, including expenditures for plugging of orphaned wells, investigation, assessment, and cleaning up of abandoned sites, and remediation of surface locations;

(8) the method by which the commission sets priorities by which it determines the order in which orphaned wells are plugged;

(9) a projection of the amount of money needed for the next biennium for plugging orphaned wells, investigating, assessing, and cleaning up abandoned sites, and remediating surface locations; and

(10) the number of sites successfully remediated under the voluntary cleanup program under Subchapter O, Chapter 91, by region.

Sec. 81.070. ESTABLISHMENT OF SURCHARGES ON FEES. (a) Except as provided by Subsection (b), the commission by rule shall provide for the imposition of reasonable surcharges as necessary on fees imposed by the commission that are required to be deposited to the credit of the oil and gas regulation and cleanup fund as provided by Section 81.067 in amounts sufficient to enable the commission to recover the costs of performing the functions specified by Section 81.068 from those fees and surcharges.

(b) The commission may not impose a surcharge on an oil-field cleanup regulatory fee on oil collected under Section 81.116 or an oil-field cleanup regulatory fee on gas collected under Section 81.117.

(c) The commission by rule shall establish a methodology for determining the amount of a surcharge that takes into account:

(1) the time required for regulatory work associated with the activity in connection with which the surcharge is imposed;

(2) the number of individuals or entities from which the commission's costs may be recovered;

(3) the effect of the surcharge on operators of all sizes, as measured by the number of oil or gas wells operated;

(4) the balance in the oil and gas regulation and cleanup fund; and

(5) any other factors the commission determines to be important to the fair and equitable imposition of the surcharge.

(d) The commission shall collect a surcharge on a fee at the time the fee is collected.

(e) A surcharge collected under this section shall be deposited to the credit of the oil and gas regulation and cleanup fund as provided by Section 81.067.

(f) Notwithstanding any other provision of this section, the commission may not set a surcharge in an amount that would generate an amount of revenue that exceeds the amount appropriated to the commission for performing the functions specified by Section 81.068.

SECTION \_\_\_\_\_.03. Section 81.115, Natural Resources Code, is amended to read as follows:

Sec. 81.115. APPROPRIATIONS [PAYMENTS] TO COMMISSION FOR OIL AND GAS REGULATION AND CLEANUP PURPOSES [DIVISION]. Money appropriated to the [oil and gas division of the] commission under the General Appropriations Act for the purposes described by Section 81.068 shall be paid from the oil and gas regulation and cleanup fund [General Revenue Fund].

SECTION \_\_\_\_\_.04. Subsections (d) and (e), Section 81.116, Natural Resources Code, are amended to read as follows:

(d) The comptroller shall suspend collection of the fee in the manner provided by Section 81.067 [91.111]. The exemptions and reductions set out in Sections 202.052, 202.054, 202.056, 202.057, 202.059, and 202.060, Tax Code, do not affect the fee imposed by this section.

(e) Proceeds from the fee, excluding [including] any penalties collected in connection with the fee, shall be deposited to the oil and gas regulation and [oil field] cleanup fund as provided by Section 81.067 [91.111 of this code].

SECTION \_\_\_\_\_.05. Subsections (d) and (e), Section 81.117, Natural Resources Code, are amended to read as follows:

(d) The comptroller shall suspend collection of the fee in the manner provided by Section 81.067 [91.111]. The exemptions and reductions set out in Sections 201.053, 201.057, 201.058, and 202.060, Tax Code, do not affect the fee imposed by this section.

(e) Proceeds from the fee, excluding [including] any penalties collected in connection with the fee, shall be deposited to the oil and gas regulation and [oil field] cleanup fund as provided by Section 81.067 [91.111 of this code].

SECTION \_\_\_\_\_.06. Subsection (d), Section 85.2021, Natural Resources Code, is amended to read as follows:

(d) All fees collected under this section shall be deposited in the oil and gas regulation and [state oil field] cleanup fund.

SECTION \_\_\_\_\_.07. Subsection (d), Section 89.024, Natural Resources Code, is amended to read as follows:

(d) An operator who files an abeyance of plugging report must pay an annual fee of \$100 for each well covered by the report. A fee collected under this section shall be deposited in the oil and gas regulation and [oil field] cleanup fund.

SECTION \_\_\_\_\_.08. Subsection (d), Section 89.026, Natural Resources Code, is amended to read as follows:

(d) An operator who files documentation described by Subsection (a) must pay an annual fee of \$50 for each well covered by the documentation. A fee collected under this section shall be deposited in the oil and gas regulation and [oil field] cleanup fund.

SECTION \_\_\_\_\_.09. Subsection (d), Section 89.048, Natural Resources Code, is amended to read as follows:

(d) On successful plugging of the well by the well plugger, the surface estate owner may submit documentation to the commission of the cost of the well-plugging operation. The commission shall reimburse the surface estate owner from money in the oil and gas regulation and [oil field] cleanup fund in an amount not to exceed 50 percent of the lesser of:

(1) the documented well-plugging costs; or

(2) the average cost incurred by the commission in the preceding 24 months in plugging similar wells located in the same general area.

SECTION \_\_\_\_\_.10. Subsection (j), Section 89.083, Natural Resources Code, is amended to read as follows:

(j) Money collected in a suit under this section shall be deposited in the oil and gas regulation and [state oil field] cleanup fund.

SECTION \_\_\_\_\_.11. Subsection (d), Section 89.085, Natural Resources Code, is amended to read as follows:

(d) The commission shall deposit money received from the sale of well-site equipment or hydrocarbons under this section to the credit of the oil and gas regulation and [oil field] cleanup fund. The commission shall separately account for money and credit received for each well.

SECTION \_\_\_\_\_.12. The heading to Section 89.086, Natural Resources Code, is amended to read as follows:

Sec. 89.086. CLAIMS AGAINST OIL AND GAS REGULATION AND [THE OIL FIELD] CLEANUP FUND.

SECTION \_\_\_\_\_.13. Subsections (a) and (h) through (k), Section 89.086, Natural Resources Code, are amended to read as follows:

(a) A person with a legal or equitable ownership or security interest in well-site equipment or hydrocarbons disposed of under Section 89.085 [~~of this code~~] may make a claim against the oil and gas regulation and [oil field] cleanup fund unless an element of the transaction giving rise to the interest occurs after the commission forecloses its statutory lien under Section 89.083.

(h) The commission shall suspend an amount of money in the oil and gas regulation and [oil field] cleanup fund equal to the amount of the claim until the claim is finally resolved. If the provisions of Subsection (k) [~~of this section~~] prevent suspension of the full amount of the claim, the commission shall treat the claim as two consecutively filed claims, one in the amount of funds available for suspension and the other in the remaining amount of the claim.

(i) A claim made by or on behalf of the operator or a nonoperator of a well or a successor to the rights of the operator or nonoperator is subject to a ratable deduction from the proceeds or credit received for the well-site equipment to cover the costs incurred by the commission in removing the equipment or hydrocarbons from the well or in transporting, storing, or disposing of the equipment or hydrocarbons. A claim made by a person who is not an operator or nonoperator is subject to a ratable deduction for the costs incurred by the commission in removing the equipment from the well. If a claimant is a person who is responsible under law or commission rules for plugging the well or cleaning up pollution originating on the lease or if the claimant owes a penalty assessed by the commission or a court for a violation of a commission rule or order, the commission may recoup from or offset against a valid claim an expense incurred by the oil and gas regulation and [oil field] cleanup fund that is not otherwise reimbursed or any penalties owed. An amount recouped from, deducted from, or offset against a claim under this subsection shall be treated as an invalid portion of the claim and shall remain suspended in the oil and gas regulation and [oil field] cleanup fund in the manner provided by Subsection (j) ~~[of this section]~~.

(j) If the commission finds that a claim is valid in whole or in part, the commission shall pay the valid portion of the claim from the suspended amount in the oil and gas regulation and [oil field] cleanup fund not later than the 30th day after the date of the commission's decision. If the commission finds that a claim is invalid in whole or in part, the commission shall continue to suspend in the oil and gas regulation and [oil field] cleanup fund an amount equal to the invalid portion of the claim until the period during which the commission's decision may be appealed has expired or, if appealed, during the period the case is under judicial review. If on appeal the district court finds the claim valid in whole or in part, the commission shall pay the valid portion of the claim from the suspended amount in the oil and gas regulation and [oil field] cleanup fund not later than 30 days after the date the court's judgment becomes unappealable. On the date the commission's decision is not subject to judicial review, the commission shall release from the suspended amount in the oil and gas regulation and [oil field] cleanup fund the amount of the claim held to be invalid.

(k) If the aggregate of claims paid and money suspended that relates to well-site equipment or hydrocarbons from a particular well equals the total of the actual proceeds and credit realized from the disposition of that equipment or those hydrocarbons, the oil and gas regulation and [oil field] cleanup fund is not liable for any subsequently filed claims that relate to the same equipment or hydrocarbons unless and until the commission releases from the suspended amount money derived from the disposition of that equipment or those hydrocarbons. If the commission releases money, then the commission shall suspend money in the amount of subsequently filed claims in the order of filing.

SECTION \_\_\_\_ .14. Subsection (b), Section 89.121, Natural Resources Code, is amended to read as follows:

(b) Civil penalties collected for violations of this chapter or of rules relating to plugging that are adopted under this code shall be deposited in the general revenue [state oil field cleanup] fund.

SECTION \_\_\_\_ .15. Subsection (c), Section 91.1013, Natural Resources Code, is amended to read as follows:

(c) Fees collected under this section shall be deposited in the oil and gas regulation and [state oil field] cleanup fund.

SECTION \_\_\_\_ .16. Section 91.108, Natural Resources Code, is amended to read as follows:

Sec. 91.108. DEPOSIT AND USE OF FUNDS. Subject to the refund provisions of Section 91.1091, if applicable, proceeds from bonds and other financial security required pursuant to this chapter and benefits under well-specific plugging insurance policies described by Section 91.104(c) that are paid to the state as contingent beneficiary of the policies shall be deposited in the oil and gas regulation and [oil field] cleanup fund and, notwithstanding Sections 81.068 [91.112] and 91.113, may be used only for actual well plugging and surface remediation.

SECTION \_\_\_\_ .17. Subsection (a), Section 91.109, Natural Resources Code, is amended to read as follows:

(a) A person applying for or acting under a commission permit to store, handle, treat, reclaim, or dispose of oil and gas waste may be required by the commission to maintain a performance bond or other form of financial security conditioned that the permittee will operate and close the storage, handling, treatment, reclamation, or disposal site in accordance with state law, commission rules, and the permit to operate the site. However, this section does not authorize the commission to require a bond or other form of financial security for saltwater disposal pits, emergency saltwater storage pits (including blow-down pits), collecting pits, or skimming pits provided that such pits are used in conjunction with the operation of an individual oil or gas lease. Subject to the refund provisions of Section 91.1091 [~~of this code~~], proceeds from any bond or other form of financial security required by this section shall be placed in the oil and gas regulation and [oil field] cleanup fund. Each bond or other form of financial security shall be renewed and continued in effect until the conditions have been met or release is authorized by the commission.

SECTION \_\_\_\_ .18. Subsections (a) and (f), Section 91.113, Natural Resources Code, are amended to read as follows:

(a) If oil and gas wastes or other substances or materials regulated by the commission under Section 91.101 are causing or are likely to cause the pollution of surface or subsurface water, the commission, through its employees or agents, may use money in the oil and gas regulation and [oil field] cleanup fund to conduct a site investigation or environmental assessment or control or clean up the oil and gas wastes or other substances or materials if:

(1) the responsible person has failed or refused to control or clean up the oil and gas wastes or other substances or materials after notice and opportunity for hearing;

(2) the responsible person is unknown, cannot be found, or has no assets with which to control or clean up the oil and gas wastes or other substances or materials; or

(3) the oil and gas wastes or other substances or materials are causing the pollution of surface or subsurface water.

(f) If the commission conducts a site investigation or environmental assessment or controls or cleans up oil and gas wastes or other substances or materials under this section, the commission may recover all costs incurred by the commission from any person who was required by law, rules adopted by the commission, or a valid order of the commission to control or clean up the oil and gas wastes or other substances or materials. The commission by order may require the person to reimburse the commission for those costs or may request the attorney general to file suit against the person to recover those costs. At the request of the commission, the attorney general may file suit to enforce an order issued by the commission under this subsection. A suit under this subsection may be filed in any court of competent jurisdiction in Travis County. Costs recovered under this subsection shall be deposited to the oil and gas regulation and [oil field] cleanup fund.

SECTION \_\_\_\_\_.19. Subsection (c), Section 91.264, Natural Resources Code, is amended to read as follows:

(c) A penalty collected under this section shall be deposited to the credit of the general revenue [oil field cleanup] fund [account].

SECTION \_\_\_\_\_.20. Subsection (b), Section 91.457, Natural Resources Code, is amended to read as follows:

(b) If a person ordered to close a saltwater disposal pit under Subsection (a) ~~[of this section]~~ fails or refuses to close the pit in compliance with the commission's order and rules, the commission may close the pit using money from the oil and gas regulation and [oil field] cleanup fund and may direct the attorney general to file suits in any courts of competent jurisdiction in Travis County to recover applicable penalties and the costs incurred by the commission in closing the saltwater disposal pit.

SECTION \_\_\_\_\_.21. Subsection (c), Section 91.459, Natural Resources Code, is amended to read as follows:

(c) Any ~~[penalties or]~~ costs recovered by the attorney general under this subchapter shall be deposited in the oil and gas regulation and [oil field] cleanup fund.

SECTION \_\_\_\_\_.22. Subsection (e), Section 91.605, Natural Resources Code, is amended to read as follows:

(e) The fees collected under this section shall be deposited in the oil and gas regulation and [oil field] cleanup fund.

SECTION \_\_\_\_\_.23. Subsection (e), Section 91.654, Natural Resources Code, is amended to read as follows:

(e) Fees collected under this section shall be deposited to the credit of the oil and gas regulation and [oil field] cleanup fund under Section 81.067 ~~[91.111]~~.

SECTION \_\_\_\_\_.24. Subsection (b), Section 91.707, Natural Resources Code, is amended to read as follows:

(b) Fees collected under this section shall be deposited to the oil and gas regulation and [oil field] cleanup fund.

SECTION \_\_\_\_\_.25. The heading to Section 121.211, Utilities Code, is amended to read as follows:

Sec. 121.211. PIPELINE SAFETY AND REGULATORY FEES.

SECTION \_\_\_\_ .26. Subsections (a) through (e) and (h), Section 121.211, Utilities Code, are amended to read as follows:

(a) The railroad commission by rule may adopt a ~~[an inspection]~~ fee to be assessed annually against operators of natural gas distribution pipelines and their pipeline facilities and natural gas master metered pipelines and their pipeline facilities subject to this title ~~[chapter]~~.

(b) The railroad commission by rule shall establish the method by which the fee will be calculated and assessed. In adopting a fee structure, the railroad commission may consider any factors necessary to provide for the equitable allocation among operators of the costs of administering the railroad commission's pipeline safety and regulatory program under this title ~~[chapter]~~.

(c) The total amount of fees estimated to be collected under rules adopted by the railroad commission under this section may not exceed the amount estimated by the railroad commission to be necessary to recover the costs of administering the railroad commission's pipeline safety and regulatory program under this title ~~[chapter]~~, excluding costs that are fully funded by federal sources.

(d) The commission may assess each operator of a natural gas distribution system subject to this title ~~[chapter]~~ an annual ~~[inspection]~~ fee not to exceed one dollar for each service line reported by the system on the Distribution Annual Report, Form RSPA F7100.1-1, due on March 15 of each year. The fee is due March 15 of each year.

(e) The railroad commission may assess each operator of a natural gas master metered system subject to this title ~~[chapter]~~ an annual ~~[inspection]~~ fee not to exceed \$100 for each master metered system. The fee is due June 30 of each year.

(h) A fee collected under this section shall be deposited to the credit of the general revenue fund to be used for the pipeline safety and regulatory program.

SECTION \_\_\_\_ .27. Section 29.015, Water Code, is amended to read as follows:

Sec. 29.015. APPLICATION FEE. With each application for issuance, renewal, or material amendment of a permit, the applicant shall submit to the railroad commission a nonrefundable fee of \$100. Fees collected under this section shall be deposited in the oil and gas regulation and ~~[oil field]~~ cleanup fund.

SECTION \_\_\_\_ .28. The following provisions of the Natural Resources Code are repealed:

- (1) Section 91.111; and
- (2) Section 91.112.

SECTION \_\_\_\_ .29. On the effective date of this article:

- (1) the oil-field cleanup fund is abolished;
- (2) any money remaining in the oil-field cleanup fund is transferred to the oil and gas regulation and cleanup fund;
- (3) any claim against the oil-field cleanup fund is transferred to the oil and gas regulation and cleanup fund; and
- (4) any amount required to be deposited to the credit of the oil-field cleanup fund shall be deposited to the credit of the oil and gas regulation and cleanup fund.

**Floor Amendment No. 6**

Amend Amendment No. 5 by Darby to **CSSB 1811** (page 27 of the prefiled amendment packet) by striking Section 161.060, Agriculture Code (page 1, lines 8-21) and substituting the following:

Sec. 161.060. AUTHORITY TO SET AND COLLECT [INSPECTION] FEES.

(a) The commission ~~by rule~~ may set and collect a fee for any service provided [charge a fee, as provided by commission rule, for an inspection made] by the commission, including:

- (1) the inspection of animals or facilities;
- (2) the testing of animals for disease;
- (3) obtaining samples from animals for disease testing;
- (4) disease eradication and treatment efforts;
- (5) services related to the transport of livestock;
- (6) control and eradication of ticks and other pests; and
- (7) any other service for which the commission incurs a cost.

(b) The total amount of fees collected under this section during the biennium ending August 31, 2013 may not exceed \$6 million.

(c) This section expires September 1, 2013.

**Floor Amendment No. 7**

Amend Amendment No. 5 to **CSSB 1811** by Darby (page 27 of the amendment packet) as follows:

On page 20, line 8 of the amendment, after "sources.", insert "No more than five cents of the annual one dollar service line fee may be used to fund the agency's regulatory program."

**Floor Amendment No. 8**

Amend **CSSB 1811** (house committee printing) by adding the following appropriately numbered ARTICLE to the bill and renumbering subsequent ARTICLES and SECTIONS of the bill accordingly:

ARTICLE \_\_\_\_ . CORRECTIONAL MANAGED HEALTH CARE

SECTION \_\_\_\_ . Section 501.133(a), Government Code, is amended to read as follows:

(a) The committee consists of the following six ~~[nine]~~ members ~~[appointed as follows]:~~

(1) two members employed full-time by the department, at least one of whom is a physician, appointed by the executive director;

(2) ~~[two members employed full time by The University of Texas Medical Branch at Galveston, at least one of whom is a physician, appointed by the president of the medical branch;~~

~~[(3) two members employed full time by the Texas Tech University Health Sciences Center, at least one of whom is a physician, appointed by the president of the university; and~~



~~(4)~~ three public members appointed by the governor who are not affiliated with the department or with any entity with which the committee has contracted to provide health care services under this chapter, at least two of whom are physicians; and

(3) the state Medicaid director, to serve as an ex officio, nonvoting member [licensed to practice medicine in this state].

SECTION \_\_\_\_\_. Section 501.135(b), Government Code, is amended to read as follows:

(b) A person may not be an appointed ~~a~~ member of the committee and may not be a committee 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.) and its subsequent amendments if:

(1) the person is an officer, employee, or paid consultant of a Texas trade association in the field of health care or health care services; or

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

SECTION \_\_\_\_\_. Section 501.136, Government Code, is amended to read as follows:

Sec. 501.136. TERMS OF OFFICE. Committee members appointed by the governor serve staggered six-year terms, with the term of one of those members expiring on February 1 of each odd-numbered year. Committee ~~Other committee~~ members appointed by the executive director serve at the will of the executive director ~~appointing official~~ or until termination of the member's employment with the department ~~[entity the member represents]~~.

SECTION \_\_\_\_\_. Section 501.137, Government Code, is amended to read as follows:

Sec. 501.137. PRESIDING OFFICER. The governor shall designate a public member of the committee who is a physician ~~licensed to practice medicine in this state~~ as presiding officer. The presiding officer serves in that capacity at the will of the governor.

SECTION \_\_\_\_\_. Section 501.142, Government Code, is amended to read as follows:

Sec. 501.142. ADMINISTRATION; PERSONNEL. The committee may hire a managed health care administrator, who may be familiar with health care rate structures and may employ personnel necessary for the administration of the committee's duties. The committee shall pay necessary costs for its operation, including costs of hiring the managed health care administrator and other personnel, from funds appropriated by the legislature to the department for correctional health care.

SECTION \_\_\_\_\_. Section 501.147, Government Code, is amended by amending Subsection (a) and adding Subsections (e) and (f) to read as follows:

(a) The committee may enter into a contract on behalf of the department to fully implement the managed health care plan under this subchapter. A contract entered into under this subsection must:

(1) include provisions necessary to ensure that The University of Texas Medical Branch at Galveston is eligible for and makes reasonable efforts to participate in the purchase of prescription drugs under Section 340B, Public Health Service Act (42 U.S.C. Section 256b); and

(2) require the health care provider to receive payment for services on a capitated, fee-for-service, or contracted basis.

(e) The committee shall take action as necessary to ensure that the committee contracts only with an entity that can provide services within the amount appropriated for those purposes by the General Appropriations Act.

(f) A contract entered into under this section must allow the committee access to all of the contracting entity's financial records and written policy standards that relate to any inmate health care issue or concern.

SECTION \_\_\_\_\_. Section 501.148, Government Code, is amended by amending Subsection (a) and adding Subsections (a-1) and (e) to read as follows:

(a) The committee shall:

(1) develop statewide policies for the delivery of correctional health care;  
 (2) maintain contracts for health care services in consultation with the department and the health care providers;

(3) communicate with the department and the legislature regarding the financial needs of the correctional health care system;

(4) allocate funding made available through legislative appropriations for correctional health care;

(5) monitor the expenditures of The University of Texas Medical Branch at Galveston and the Texas Tech University Health Sciences Center to ensure that those expenditures comply with applicable statutory and contractual requirements;

(6) serve as a dispute resolution forum, and final authority regarding standards of care, in the event of a disagreement relating to inmate health care services between:

(A) the department and the health care providers; or

(B) The University of Texas Medical Branch at Galveston and the Texas Tech University Health Sciences Center;

(7) address problems found through monitoring activities by the department and health care providers, including requiring corrective action if care does not meet expectations as determined by those monitoring activities;

(8) identify and address long-term needs of the correctional health care system; and

(9) report to the Texas Board of Criminal Justice at the board's regularly scheduled meeting each quarter on the committee's policy decisions, the financial status of the correctional health care system, and corrective actions taken by or required of the department or the health care providers.

(a-1) The committee annually shall develop and submit to the department, the governor, and the Legislative Budget Board a proposed budget for the performance of the committee's duties and responsibilities under this subchapter. Except to the extent the budget is modified by the budget execution process under Chapter 317, the department shall provide funding to the committee in accordance with the budget.

(e) In addition to contracting under Subsection (c) or (d), the committee may contract with an independent certified public accountant or other independent qualified individual with specific health care auditing and billing expertise to perform a complete audit of or actuarial analysis concerning all or any part of the managed health care system and shall contract with an independent qualified individual to conduct an annual audit of all medical billing performed by the health care providers.

SECTION \_\_\_\_\_. Subchapter E, Chapter 501, Government Code, is amended by adding Section 501.1481 to read as follows:

Sec. 501.1481. STUDY; ANNUAL REPORT. (a) The committee shall conduct an ongoing study that includes:

(1) a review of the viability and cost-effectiveness of:

(A) contracting with nongovernmental entities that are health care providers in rural or other designated areas or for specialized services only;

(B) contracting for certain services with nursing homes, convalescent homes, or similar facilities, including facilities owned and operated by the state;

(C) arranging for the use under the managed health care plan of any excess bed capacity in hospitals owned or operated by the state; and

(D) purchasing reinsurance, stop-loss insurance, or similar insurance for high-risk cases;

(2) a review of medical care case management policies and the manner in which those policies are implemented;

(3) an identification and itemization of primary and secondary costs of correctional managed health care, including costs related to transportation, use of community hospitals, pharmaceutical care, dental care, and end-of-life policies; and

(4) an identification of sources of financial support available from the federal government, including federal grants.

(b) In conducting a study under Subsection (a), the committee shall consider the relationship between constitutional standards of care applicable to the correctional setting and the actual level of care provided and shall apply a cost-benefit analysis to that consideration.

(c) Not later than December 31 of each year, the committee shall prepare and submit to the department, the governor, and the Legislative Budget Board a report that contains findings and recommendations based on the results of the study during the preceding calendar year, including short-term and long-term policy and management recommendations for reducing costs. The committee shall also provide a copy of the report on request to any health care provider participating in the correctional managed health care provider network.

SECTION \_\_\_\_\_. Not later than December 31, 2012, the Correctional Managed Health Care Committee shall submit to the Texas Department of Criminal Justice, the governor, and the Legislative Budget Board the first report required by Section 501.1481, Government Code, as added by this Act.

### **Floor Amendment No. 9**

Amend **CSSB 1811** (house committee report) by adding the following appropriately numbered ARTICLES to the bill and renumbering subsequent ARTICLES of the bill accordingly:

ARTICLE \_\_\_\_ . FISCAL MATTERS REGARDING LEASING CERTAIN STATE FACILITIES

SECTION \_\_\_\_ .01. The heading to Section 2165.2035, Government Code, is amended to read as follows:

Sec. 2165.2035. LEASE OF SPACE IN STATE-OWNED PARKING LOTS AND GARAGES; USE AFTER HOURS.

SECTION \_\_\_\_ .02. Subchapter E, Chapter 2165, Government Code, is amended by adding Sections 2165.204, 2165.2045, and 2165.2046 to read as follows:

Sec. 2165.204. LEASE OF SPACE IN STATE-OWNED PARKING LOTS AND GARAGES; EXCESS INDIVIDUAL PARKING SPACES. (a) The commission may lease to a private individual an individual parking space in a state-owned parking lot or garage located in the city of Austin that the commission determines is not needed to accommodate the regular parking requirements of state employees who work near the lot or garage and visitors to nearby state government offices.

(b) Money received from a lease under this section shall be deposited to the credit of the general revenue fund.

Sec. 2165.2045. LEASE OF SPACE IN STATE-OWNED PARKING LOTS AND GARAGES; EXCESS BLOCKS OF PARKING SPACE. (a) The commission may lease to an institution of higher education or a local government all or a significant block of a state-owned parking lot or garage located in the city of Austin that the commission determines is not needed to accommodate the regular parking requirements of state employees who work near the lot or garage and visitors to nearby state government offices.

(b) Money received from a lease under this section shall be deposited to the credit of the general revenue fund.

Sec. 2165.2046. REPORTS ON PARKING PROGRAMS. On or before October 1 of each even-numbered year, the commission shall submit a report to the Legislative Budget Board describing the effectiveness of parking programs developed by the commission under this subchapter. The report must, at a minimum, include:

- (1) the yearly revenue generated by the programs;
- (2) the yearly administrative and enforcement costs of each program;
- (3) yearly usage statistics for each program; and
- (4) initiatives and suggestions by the commission to:
  - (A) modify administration of the programs; and
  - (B) increase revenue generated by the programs.

SECTION \_\_\_\_ .03. This article takes effect immediately if this Act 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 article takes effect September 1, 2011.

ARTICLE \_\_\_\_ . FISCAL MATTERS RELATING TO SECRETARY OF STATE

SECTION \_\_\_\_ .01. Section 405.014, Government Code, is amended to read as follows:

Sec. 405.014. ACTS OF THE LEGISLATURE. (a) At each session of the legislature the secretary of state shall obtain the bills that have become law. Immediately after the closing of each session of the legislature, the secretary of state shall bind all enrolled bills and resolutions in volumes on which the date of the session is placed.

(b) As soon as practicable after the closing of each session of the legislature, the secretary of state shall publish and maintain electronically the bills enacted at that session. The electronic publication must be:

(1) indexed by bill number and assigned chapter number for each bill; and

(2) made available by an electronic link on the secretary of state's generally accessible Internet website.

SECTION \_\_\_\_\_.02. Subchapter B, Chapter 2158, Government Code, is repealed.

SECTION \_\_\_\_\_.03. The change in law made by this article does not apply to a contract for the publication of the laws of this state entered into before the effective date of this article.

SECTION \_\_\_\_\_.04. This article takes effect immediately if this Act 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 article takes effect September 1, 2011.

#### ARTICLE \_\_\_\_\_. FISCAL MATTERS REGARDING ATTORNEY GENERAL

SECTION \_\_\_\_\_.01. Section 402.006, Government Code, is amended by adding Subsection (e) to read as follows:

(e) The attorney general may charge a reasonable fee for the electronic filing of a document.

SECTION \_\_\_\_\_.02. The heading to Section 402.0212, Government Code, is amended to read as follows:

Sec. 402.0212. PROVISION OF LEGAL SERVICES–OUTSIDE COUNSEL;  
FEES.

SECTION \_\_\_\_\_.03. Section 402.0212, Government Code, is amended by amending Subsections (b) and (c) and adding Subsections (d), (e), and (f) to read as follows:

(b) An invoice submitted to a state agency under a contract for legal services as described by Subsection (a) must be reviewed by the attorney general to determine whether the invoice is eligible for payment.

(c) An attorney or law firm must pay an administrative fee to the attorney general for the review described in Subsection (b) when entering into a contract to provide legal services to a state agency.

(d) For purposes of this section, the functions of a hearing examiner, administrative law judge, or other quasi-judicial officer are not considered legal services.

(e) [~~e~~] This section shall not apply to the Texas Turnpike Authority division of the Texas Department of Transportation.

(f) The attorney general may adopt rules as necessary to implement and administer this section.

SECTION \_\_\_\_ .04. Section 371.051, Transportation Code, is amended to read as follows:

Sec. 371.051. ATTORNEY GENERAL REVIEW AND EXAMINATION FEE.

(a) A toll project entity may not enter into a comprehensive development agreement unless the attorney general reviews the proposed agreement and determines that it is legally sufficient.

(b) A toll project entity shall pay a nonrefundable examination fee to the attorney general on submitting a proposed comprehensive development agreement for review. At the time the examination fee is paid, the toll project entity shall also submit for review a complete transcript of proceedings related to the comprehensive development agreement.

(c) If the toll project entity submits multiple proposed comprehensive development agreements relating to the same toll project for review, the entity shall pay the examination fee under Subsection (b) for each proposed comprehensive development agreement.

(d) The attorney general shall provide a legal sufficiency determination not later than the 60th business day after the date the examination fee and transcript of the proceedings required under Subsection (b) are received. If the attorney general cannot provide a legal sufficiency determination within the 60-business-day period, the attorney general shall notify the toll project entity in writing of the reason for the delay and may extend the review period for not more than 30 business days.

(e) After the attorney general issues a legal sufficiency determination, a toll project entity may supplement the transcript of proceedings or amend the comprehensive development agreement to facilitate a redetermination by the attorney general of the prior legal sufficiency determination issued under this section.

(f) The toll project entity may collect or seek reimbursement of the examination fee under Subsection (b) from the private participant.

(g) The attorney general by rule shall set the examination fee required under Subsection (b) in a reasonable amount and may adopt other rules as necessary to implement this section. The fee may not be set in an amount that is determined by a percentage of the cost of the toll project. The amount of the fee may not exceed reasonable attorney's fees charged for similar legal services in the private sector.

SECTION \_\_\_\_ .05. (a) Section 81.054, Government Code, is amended by adding Subsection (m) to read as follows:

(m) A member is not required to pay a membership fee for a year in which the member is in good standing and employed as a full-time attorney by the office of the attorney general. The state bar shall adopt rules governing the proration of a membership fee paid by an attorney who is employed by the office of the attorney general for part, but not all, of a year. This subsection expires January 1, 2016.

(b) Subsection (m), Section 81.054, Government Code, as added by this section, applies to a membership fee for membership or renewal of membership in the State Bar of Texas that becomes due on or after the effective date of this section. A membership fee for membership or renewal of membership that becomes due before the effective date of this section is governed by the law in effect on the date the membership fee becomes due, and the former law is continued in effect for that purpose.

(c) This section takes effect January 1, 2012.

SECTION \_\_\_\_\_.06. The fee prescribed by Section 402.006, Government Code, as amended by this article, applies only to a document electronically submitted to the office of the attorney general on or after the effective date of this article.

SECTION \_\_\_\_\_.07. The fee prescribed by Section 402.0212, Government Code, as amended by this article, applies only to invoices for legal services submitted to the office of the attorney general for review on or after the effective date of this article.

SECTION \_\_\_\_\_.08. The fee prescribed by Section 371.051, Transportation Code, as amended by this article, applies only to a comprehensive development agreement submitted to the office of the attorney general on or after the effective date of this article.

SECTION \_\_\_\_\_.09. The changes in law made by this article apply only to a contract for legal services between a state agency and a private attorney or law firm entered into on or after the effective date of this article. A contract for legal services between a state agency and a private attorney or law firm entered into before the effective date of this article is governed by the law in effect at the time the contract was entered into, and the former law is continued in effect for that purpose.

SECTION \_\_\_\_\_.10. Except as otherwise provided by this article, this article takes effect immediately if this Act 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 article takes effect September 1, 2011.

#### ARTICLE \_\_\_\_\_. TEXAS PRESERVATION TRUST FUND ACCOUNT

SECTION \_\_\_\_\_.01. Subsections (a), (b), and (f), Section 442.015, Government Code, are amended to read as follows:

(a) Notwithstanding Section [~~Sections 403.094 and~~] 403.095, the Texas preservation trust fund account is a separate account in the general revenue fund. The account consists of transfers made to the account, loan repayments, grants and donations made for the purposes of this program, proceeds of sales, income earned [~~earnings~~] on money in the account, and any other money received under this section. Money in [~~Distributions from~~] the account may be used only for the purposes of this section and [~~may not be used~~] to pay operating expenses of the commission. Money allocated to the commission's historic preservation grant program shall be deposited to the credit of the account. Income earned [~~Earnings~~] on money in the account shall be deposited to the credit of the account.

(b) The commission may use money in [~~distributions from~~] the Texas preservation trust fund account to provide financial assistance to public or private entities for the acquisition, survey, restoration, or preservation, or for planning and educational activities leading to the preservation, of historic property in the state that is listed in the National Register of Historic Places or designated as a State Archeological Landmark or Recorded Texas Historic Landmark, or that the commission determines is eligible for such listing or designation. The financial assistance may be in the amount and form and according to the terms that the commission by rule determines. The commission shall give priority to property the commission determines to be endangered by demolition, neglect, underuse, looting,

vandalism, or other threat to the property. Gifts and grants deposited to the credit of the account specifically for any eligible projects may be used only for the type of projects specified. If such a specification is not made, the gift or grant shall be unencumbered and accrue to the benefit of the Texas preservation trust fund account. If such a specification is made, the entire amount of the gift or grant may be used during any period for the project or type of project specified.

(f) The advisory board shall recommend to the commission rules for administering this section [~~Subsections (a)–(e)~~].

SECTION \_\_\_\_\_.02. Subsections (h), (i), (j), (k), and (l), Section 442.015, Government Code, are repealed.

SECTION \_\_\_\_\_.03. The comptroller of public accounts and the Texas Historical Commission shall enter into a memorandum of understanding to facilitate the conversion of assets of the Texas preservation trust fund account into cash for deposit into the state treasury using a method that provides for the lowest amount of revenue loss to the state.

SECTION \_\_\_\_\_.04. This article takes effect November 1, 2011.

ARTICLE \_\_\_\_\_. FISCAL MATTERS CONCERNING INFORMATION  
TECHNOLOGY

SECTION \_\_\_\_\_.01. Section 2054.380, Government Code, is amended to read as follows:

Sec. 2054.380. FEES. (a) The department shall set and charge a fee to each state agency that receives a service from a statewide technology center in an amount sufficient to cover the direct and indirect cost of providing the service.

(b) Revenue derived from the collection of fees imposed under Subsection (a) may be appropriated to the department for:

(1) developing statewide information resources technology policies and planning under this chapter and Chapter 2059; and

(2) providing shared information resources technology services under this chapter.

SECTION \_\_\_\_\_.02. Subsection (d), Section 2157.068, Government Code, is amended to read as follows:

(d) The department may charge a reasonable administrative fee to a state agency, political subdivision of this state, or governmental entity of another state that purchases commodity items through the department in an amount that is sufficient to recover costs associated with the administration of this section. Revenue derived from the collection of fees imposed under this subsection may be appropriated to the department for:

(1) developing statewide information resources technology policies and planning under Chapters 2054 and 2059; and

(2) providing shared information resources technology services under Chapter 2054.

SECTION \_\_\_\_\_.03. Subsections (a) and (d), Section 2170.057, Government Code, are amended to read as follows:

(a) The department shall develop a system of billings and charges for services provided in operating and administering the consolidated telecommunications system that allocates the total state cost to each entity served by the system based on



proportionate usage. The department shall set and charge a fee to each entity that receives services provided under this chapter in an amount sufficient to cover the direct and indirect costs of providing the service. Revenue derived from the collection of fees imposed under this subsection may be appropriated to the department for:

(1) developing statewide information resources technology policies and planning under Chapters 2054 and 2059; and

(2) providing:

(A) shared information resources technology services under Chapter 2054; and

(B) network security services under Chapter 2059.

(d) ~~The department shall maintain in the revolving fund account sufficient amounts to pay the bills of the consolidated telecommunications system and the centralized capitol complex telephone system. [The department shall certify amounts that exceed this amount to the comptroller, and the comptroller shall transfer the excess amounts to the credit of the statewide network applications account established by Section 2054.011-]~~

SECTION \_\_\_\_ .04. This article takes effect immediately if this Act 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 article takes effect September 1, 2011.

#### ARTICLE \_\_\_\_ . STATE DEBT

SECTION \_\_\_\_ .01. Chapter 1231, Government Code, is amended by adding Subchapter G to read as follows:

#### SUBCHAPTER G. LIMIT ON STATE DEBT PAYABLE FROM GENERAL REVENUE FUND

Sec. 1231.151. DEFINITIONS. In this subchapter:

(1) "Maximum annual debt service" means the limitation on annual debt service imposed by Section 49-j(a), Article III, Texas Constitution.

(2) "State debt payable from the general revenue fund" has the meaning assigned by Section 49-j(b), Article III, Texas Constitution.

(3) "Unissued debt" means state debt payable from the general revenue fund that has been authorized but not issued.

Sec. 1231.152. COMPUTATION OF DEBT LIMIT. In computing the annual debt service in a state fiscal year on state debt payable from the general revenue fund for purposes of determining whether additional state debt may be authorized without exceeding the maximum annual debt service, the board may employ any assumptions related to unissued debt that the board determines are necessary to reflect common or standard debt issuance practices authorized by law, including assumptions regarding:

(1) interest rates;

(2) debt maturity; and

(3) debt service payment structures.

Sec. 1231.153. REPORT ON COMPUTATION. (a) The board shall publish during each state fiscal year a report providing a detailed description of the method used to compute the annual debt service in that fiscal year on state debt payable from the general revenue fund for purposes of determining whether additional state debt may be authorized. The report must describe:

(1) the debt service included in the computation, including debt service on issued and unissued debt;

(2) the assumptions on which the debt service on unissued debt was based;  
and

(3) any other factors required by law that affect the computation.

(b) The board may publish the report required by this section as a component of any other report required by law, including the annual report required by Section 1231.102, or as an independent report. The board shall make the report available to the public.

SECTION \_\_\_\_\_.02. The Bond Review Board shall publish the initial report required by Section 1231.153, Government Code, as added by this article, during the state fiscal year beginning September 1, 2011.

SECTION \_\_\_\_\_.03. This article takes effect immediately if this Act 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 article takes effect September 1, 2011.

ARTICLE \_\_\_\_\_. CONTINUING LEGAL EDUCATION REQUIREMENTS FOR  
ATTORNEY EMPLOYED BY ATTORNEY GENERAL

SECTION \_\_\_\_\_.01. Section 81.113, Government Code, is amended by adding Subsection (a-1) to read as follows:

(a-1) The state bar shall credit an attorney licensed in this state with meeting the minimum continuing legal education requirements of the state bar for a reporting year if during the reporting year the attorney is employed full-time as an attorney by the office of the attorney general. An attorney credited for continuing legal education under this subsection must meet the continuing legal education requirements of the state bar in legal ethics or professional responsibility. This subsection expires January 1, 2014.

SECTION \_\_\_\_\_.02. Subchapter A, Chapter 402, Government Code, is amended by adding Section 402.010 to read as follows:

Sec. 402.010. CONTINUING LEGAL EDUCATION PROGRAMS. The office of the attorney general shall recognize, prepare, or administer continuing legal education programs that meet continuing legal education requirements imposed under Section 81.113(c) for the attorneys employed by the office. This section expires January 1, 2014.

SECTION \_\_\_\_\_.03. Section 81.113, Government Code, as amended by this article, applies only to the requirements for a continuing legal education compliance year that ends on or after September 1, 2011. The requirements for continuing legal education for a compliance year that ends before September 1, 2011, are covered by the law and rules in effect when the compliance year ended, and that law and those rules are continued in effect for that purpose.

ARTICLE \_\_\_\_\_. REGISTRATION FEE AND REGISTRATION RENEWAL FEE  
FOR LOBBYISTS

SECTION \_\_\_\_\_.01. Subsection (c), Section 305.005, Government Code, is amended to read as follows:

(c) The registration fee and registration renewal fee are:

(1) ~~\$150~~ ~~[\$100]~~ for a registrant employed by an organization exempt from federal income tax under Section 501(c)(3) or 501(c)(4), Internal Revenue Code of 1986;

(2) ~~\$75~~ ~~[\$50]~~ for any person required to register solely because the person is required to register under Section 305.0041 ~~[of this chapter]~~; or

(3) ~~\$750~~ ~~[\$500]~~ for any other registrant.

ARTICLE \_\_\_\_\_. ASSESSMENT OF PREMIUM DIFFERENTIAL ON CERTAIN PUBLIC EMPLOYEES WHO USE TOBACCO

SECTION \_\_\_\_\_.01. Subchapter G, Chapter 1551, Insurance Code, is amended by adding Section 1551.3075 to read as follows:

Sec. 1551.3075. TOBACCO USER PREMIUM DIFFERENTIAL. (a) The board of trustees shall assess each participant in a health benefit plan provided under the group benefits program who uses one or more tobacco products a tobacco user premium differential, to be paid in monthly installments. Except as provided by Subsection (b), the board of trustees shall determine the amount of the monthly installments of the premium differential.

(b) If the General Appropriations Act for a state fiscal biennium sets the amount of the monthly installments of the tobacco user premium differential for that biennium, the board of trustees shall assess the premium differential during that biennium in the amount prescribed by the General Appropriations Act.

SECTION \_\_\_\_\_.02. Section 1551.314, Insurance Code, is amended to read as follows:

Sec. 1551.314. CERTAIN STATE CONTRIBUTIONS PROHIBITED. A state contribution may not be:

(1) made for coverages under this chapter selected by an individual who receives a state contribution, other than as a spouse, dependent, or beneficiary, for coverages under a group benefits program provided by an institution of higher education, as defined by Section 61.003, Education Code; or

(2) made for or used to pay a tobacco user premium differential assessed under Section 1551.3075.

SECTION \_\_\_\_\_.03. The board of trustees of the Employees Retirement System of Texas shall implement the tobacco user premium differential required under Section 1551.3075, Insurance Code, as added by this article, not later than January 1, 2012.

ARTICLE \_\_\_\_\_. REGIONAL POISON CONTROL CENTER MANAGEMENT CONTROLS AND EFFICIENCY

SECTION \_\_\_\_\_.01. Section 777.001, Health and Safety Code, is amended by amending Subsections (a) and (c) and adding Subsection (d) to read as follows:

(a) The following medical facilities may be [Six regional centers for poison control are] designated by the Commission on State Emergency Communications as the regional poison control centers for the state [as follows]:

(1) The University of Texas Medical Branch at Galveston;

(2) the Dallas County Hospital District/North Texas Poison Center;

(3) The University of Texas Health Science Center at San Antonio;

(4) the University Medical Center of El Paso, El Paso County Hospital

District;

- (5) the Texas Tech University Health Sciences Center at Amarillo; and
- (6) Scott and White Memorial Hospital, Temple, Texas.

(c) The Commission on State Emergency Communications may standardize the operations of and implement management controls to improve the efficiency of regional poison control centers [~~vote to designate a seventh regional or satellite poison control center in Harris County. That poison control center is subject to all provisions of this chapter and other law relating to regional poison control centers~~].

(d) If the Commission on State Emergency Communications implements management controls under Subsection (c), the commission shall submit to the governor and the Legislative Budget Board a plan for implementing the controls not later than October 31, 2011. This subsection expires January 1, 2013.

SECTION \_\_\_\_\_.02. Subsection (b), Section 777.008, Health and Safety Code, is amended to read as follows:

(b) The committee is composed of:

(1) one public member appointed by the Commission on State Emergency Communications;

(2) one member [~~six members who represent the six regional poison control centers, one~~] appointed by the chief executive officer of each designated regional poison control center to represent that center;

(3) one member appointed by the commissioner of the Department of State Health Services; and

(4) one member who is a health care professional designated as the poison control program coordinator appointed by the Commission on State Emergency Communications.

ARTICLE \_\_\_\_\_. AUTHORIZED USES FOR CERTAIN DEDICATED  
PERMANENT FUNDS IN STATE TREASURY

SECTION \_\_\_\_\_.01. Section 403.105, Government Code, is amended by amending Subsection (b) and adding Subsection (b-1) to read as follows:

(b) Except as provided by Subsections (b-1), (c), (e), (f), and (h), money in the fund may not be appropriated for any purpose.

(b-1) Notwithstanding the limitations and requirements of Section 403.1068, the legislature may appropriate money in the fund, including the corpus and available earnings of the fund determined under Section 403.1068, to pay the principal of or interest on a bond issued for the purposes of Section 67, Article III, Texas Constitution. This subsection does not authorize the appropriation under this subsection of money subject to a limitation or requirement as described by Subsection (e) that is not consistent with the use of the money in accordance with this subsection.

SECTION \_\_\_\_\_.02. Section 403.1055, Government Code, is amended by amending Subsection (b) and adding Subsection (b-1) to read as follows:

(b) Except as provided by Subsections (b-1), (c), (e), (f), and (h), money in the fund may not be appropriated for any purpose.

(b-1) Notwithstanding the limitations and requirements of Section 403.1068, the legislature may appropriate money in the fund, including the corpus and available earnings of the fund determined under Section 403.1068, to pay the principal of or interest on a bond issued for the purposes of Section 67, Article III, Texas

Constitution. This subsection does not authorize the appropriation under this subsection of money subject to a limitation or requirement as described by Subsection (e) that is not consistent with the use of the money in accordance with this subsection.

SECTION \_\_\_\_ .03. Section 403.106, Government Code, is amended by amending Subsection (b) and adding Subsection (b-1) to read as follows:

(b) Except as provided by Subsections (b-1), (c), (e), (f), and (h), money in the fund may not be appropriated for any purpose.

(b-1) Notwithstanding the limitations and requirements of Section 403.1068, the legislature may appropriate money in the fund, including the corpus and available earnings of the fund determined under Section 403.1068, to pay the principal of or interest on a bond issued for the purposes of Section 67, Article III, Texas Constitution. This subsection does not authorize the appropriation under this subsection of money subject to a limitation or requirement as described by Subsection (e) that is not consistent with the use of the money in accordance with this subsection.

SECTION \_\_\_\_ .04. This article takes effect immediately if this Act 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 article takes effect September 1, 2011.

#### ARTICLE \_\_\_\_ . GENERAL HOUSING MATTERS

SECTION \_\_\_\_ .01. Section 481.078, Government Code, is amended by amending Subsection (c) and adding Subsections (d-1) and (d-2) to read as follows:

(c) Except as provided by Subsections ~~[Subsection]~~ (d) and (d-1), the fund may be used only for economic development, infrastructure development, community development, job training programs, and business incentives.

(d-1) The fund may be used for the Texas homeless housing and services program administered by the Texas Department of Housing and Community Affairs. Subsections (e-1), (f), (g), (h), (i), and (j) and Section 481.080 do not apply to a grant awarded for a purpose specified by this subsection.

(d-2) The fund may be used for the Jobs and Education for Texans Fund established under Chapter 403. Subsections (e-1), (f), (g), (h), (i), and (j) and Section 481.080 do not apply to a grant awarded for a purpose specified by this subsection.

SECTION \_\_\_\_ .02. Section 481.079, Government Code, is amended by adding Subsection (a-1) to read as follows:

(a-1) For grants awarded for a purpose specified by Section 481.078(d-1), the report must include only the amount and purpose of each grant.

SECTION \_\_\_\_ .03. Subchapter K, Chapter 2306, Government Code, is amended by adding Section 2306.2585 to read as follows:

Sec. 2306.2585. HOMELESS HOUSING AND SERVICES PROGRAM. (a) The department may administer a homeless housing and services program in each municipality in this state with a population of 285,500 or more to:

(1) provide for the construction, development, or procurement of housing for homeless persons; and

(2) provide local programs to prevent and eliminate homelessness.

(b) The department may adopt rules to govern the administration of the program, including rules that:

(1) provide for the allocation of any available funding; and

(2) provide detailed guidelines as to the scope of the local programs in the municipalities described by Subsection (a).

(c) The department may use any available revenue, including legislative appropriations, and shall solicit and accept gifts and grants for the purposes of this section. The department shall use gifts and grants received for the purposes of this section before using any other revenue.

SECTION \_\_\_\_\_.04. This article takes effect immediately if this Act 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 article takes effect September 1, 2011.

ARTICLE \_\_\_\_\_. DEBT ISSUANCE AUTHORITY OF AND FUNDING FOR  
CANCER PREVENTION AND RESEARCH INSTITUTE OF TEXAS

SECTION \_\_\_\_\_.01. Subchapter C, Chapter 1232, Government Code, is amended by adding Section 1232.1221 to read as follows:

Sec. 1232.1221. COMMENCEMENT OF CERTAIN MULTIYEAR CANCER-RELATED PROJECTS. (a) Funds may be distributed to a grant recipient for a multiyear project for which an award is granted by the Cancer Prevention and Research Institute of Texas Oversight Committee as authorized by Section 102.257, Health and Safety Code, after the authority has certified that obligations in an amount sufficient to pay the money needed to fund the project have been authorized for issuance by the authority and approved by the Bond Review Board.

(b) After issuing the obligations, the board shall:

(1) pay the costs of the issuance and any related bond administrative costs of the authority;

(2) certify to the Cancer Prevention and Research Institute of Texas and to the comptroller that the proceeds from the issuance are available; and

(3) deposit the proceeds into the state treasury to be credited to the account of the Cancer Prevention and Research Institute of Texas.

SECTION \_\_\_\_\_.02. Subsections (b) and (c), Section 102.201, Health and Safety Code, are amended to read as follows:

(b) The cancer prevention and research fund consists of:

(1) patent, royalty, and license fees and other income received under a contract entered into as provided by Section 102.255;

(2) appropriations of money to the fund by the legislature, except that the appropriated money may not include the proceeds from the issuance of bonds authorized by Section 67, Article III, Texas Constitution;

(3) gifts, grants, including grants from the federal government, and other donations received for the fund; and

(4) interest earned on the investment of money in the fund.

(c) The fund may be used only to pay for:

(1) grants for cancer research and for cancer research facilities in this state to realize therapies, protocols, and medical procedures for the cure or substantial mitigation of all types of cancer in humans;

(2) the purchase, subject to approval by the institute, of laboratory facilities by or on behalf of a state agency or grant recipient;

(3) grants to public or private persons to implement the Texas Cancer Plan;

(4) the operation of the institute; ~~and~~

(5) grants for cancer prevention and control programs in this state to mitigate the incidence of all types of cancer in humans; and

(6) debt service on bonds issued as authorized by Section 67, Article III, Texas Constitution.

SECTION \_\_\_\_\_.03. Section 102.257, Health and Safety Code, is amended to read as follows:

Sec. 102.257. MULTIYEAR PROJECTS. The oversight committee may grant funds for a multiyear project. The oversight committee must specify the total amount of [All the] money approved [needed] to fund the [a] multiyear project. The total amount specified is considered for purposes of Section 102.253 to have been [must be] awarded in the state fiscal year that the project is approved by the research and prevention programs committee. The institute shall distribute only the money that will be expended during that fiscal year. The institute may maintain the remaining money needed in each subsequent fiscal year [shall be maintained] in an escrow account to be distributed by the institute as the money is needed [in subsequent years of the project].

SECTION \_\_\_\_\_.04. The changes in law made by this article apply only to a grant of funds for a multiyear project by the Cancer Prevention and Research Institute of Texas Oversight Committee as authorized by Section 102.257, Health and Safety Code, as amended by this article, made on or after June 1, 2011. A grant of funds for a multiyear project made before that date is governed by the law in effect on the date the grant was made, and the former law is continued in effect for that purpose.

SECTION \_\_\_\_\_.05. This article takes effect immediately if this Act 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 article takes effect September 1, 2011.

ARTICLE \_\_\_\_\_. PUBLIC ASSISTANCE REPORTING INFORMATION SYSTEM

SECTION \_\_\_\_\_.01. Subsection (c), Section 434.017, Government Code, is amended to read as follows:

(c) Money in the fund may be appropriated to the Texas Veterans Commission to:

(1) enhance or improve veterans' assistance programs, including veterans' representation and counseling;

(2) make grants to address veterans' needs; ~~and~~

(3) administer the fund; and

(4) analyze and investigate data received from the federal Public Assistance Reporting Information System (PARIS) that is administered by the Administration for Children and Families of the United States Department of Health and Human Services.

SECTION \_\_\_\_\_.02. The comptroller shall credit to the fund for veterans' assistance established under Section 434.017, Government Code, as amended by this article, the savings generated from the use of the federal Public Assistance Reporting Information System (PARIS) under that section.

ARTICLE \_\_\_\_\_. UNIFORM GRANT AND CONTRACT MANAGEMENT

SECTION \_\_\_\_\_.01. Section 783.004, Government Code, is amended to read as follows:

Sec. 783.004. OFFICE OF THE COMPTROLLER [~~GOVERNOR'S OFFICE~~]. The office of the comptroller [~~governor's office~~] is the state agency for uniform grant and contract management.

SECTION \_\_\_\_\_.02. Subsections (a) and (b), Section 783.005, Government Code, are amended to read as follows:

(a) The comptroller [~~governor's office~~] shall develop uniform and concise language for any assurances that a local government is required to make to a state agency.

(b) The comptroller [~~governor's office~~] may:

- (1) categorize assurances according to the type of grant or contract;
- (2) designate programs to which the assurances are applicable; and
- (3) revise the assurances.

SECTION \_\_\_\_\_.03. Section 783.006, Government Code, is amended to read as follows:

Sec. 783.006. STANDARD FINANCIAL MANAGEMENT CONDITIONS. (a) The comptroller [~~governor's office~~] shall compile and distribute to each state agency an official compilation of standard financial management conditions.

(b) The comptroller [~~governor's office~~] shall develop the compilation from Federal Management Circular A-102 or from a revision of that circular and from other applicable statutes and regulations.

(c) The comptroller [~~governor's office~~] shall include in the compilation official commentary regarding administrative or judicial interpretations that affect the application of financial management standards.

(d) The comptroller [~~governor's office~~] may:

- (1) categorize the financial management conditions according to the type of grant or contract;
- (2) designate programs to which the conditions are applicable; and
- (3) revise the conditions.

SECTION \_\_\_\_\_.04. Subsection (d), Section 783.007, Government Code, is amended to read as follows:

(d) The agency shall file a notice of each proposed rule that establishes a variation from uniform assurances or standard conditions with the comptroller [~~governor's office~~].

SECTION \_\_\_\_\_.05. Subsection (b), Section 783.008, Government Code, is amended to read as follows:

(b) On receipt of a request for a single audit or audit coordination, the comptroller [~~governor's office~~] in consultation with the state auditor shall not later than the 30th day after the date of the request designate a single state agency to coordinate state audits of the local government.

### **Floor Amendment No. 10**

Amend Amendment No. 9 to **CSSB 1811** by Otto (prefiled amendment packet, beginning on page 396) by adding the following on page 23 of the amendment, immediately after line 26:

#### ARTICLE \_\_\_\_\_. STATE ENERGY FACILITIES

SECTION \_\_\_\_\_.01. Section 2166.001(4), Government Code, is amended to read as follows:



(4) "Project" means a building construction project that is financed wholly or partly by a specific appropriation, a bond issue, ~~or~~ federal money, or funds from another governmental or private entity. The term includes the construction of:

(A) a building, structure, or appurtenant facility or utility, including the acquisition and installation of original equipment and original furnishings; ~~and~~

(B) an addition to, or alteration, rehabilitation, or repair of, an existing building, structure, or appurtenant facility or utility; and

(C) an energy facility.

ARTICLE \_\_\_\_ . FISCAL MATTERS CONCERNING SURPLUS AND SALVAGE PROPERTY

SECTION \_\_\_\_ .01. Subchapter C, Chapter 2175, Government Code, is repealed.

SECTION \_\_\_\_ .02. Section 32.102(a), Education Code, is amended to read as follows:

(a) As provided by this subchapter, a school district or open-enrollment charter school may transfer to a student enrolled in the district or school:

(1) any data processing equipment donated to the district or school, including equipment donated by:

(A) a private donor; or

(B) a state eleemosynary institution or a state agency under Section 2175.905 [~~2175.128~~], Government Code;

(2) any equipment purchased by the district or school, to the extent consistent with Section 32.105; and

(3) any surplus or salvage equipment owned by the district or school.

SECTION \_\_\_\_ .03. Section 2175.002, Government Code, is amended to read as follows:

Sec. 2175.002. ADMINISTRATION OF CHAPTER. The commission is responsible for the disposal of surplus and salvage property of the state. The commission's surplus and salvage property division shall administer this chapter.

SECTION \_\_\_\_ .04. Section 2175.065, Government Code, is amended by amending Subsection (a) and adding Subsections (c) and (d) to read as follows:

(a) The commission may authorize a state agency to dispose of surplus or salvage property if the agency demonstrates to the commission its ability to dispose of the property under this chapter [~~Subchapters C and E~~] in a manner that results in cost savings to the state, under commission rules adopted under this chapter.

(c) If property is disposed of under this section, the disposing state agency shall report the transaction to the commission. The report must include a description of the property disposed of, the reasons for disposal, the price paid for the property disposed of, and the recipient of the property disposed of.

(d) If the commission determines that a violation of a state law or rule has occurred based on the report under Subsection (c), the commission shall report the violation to the Legislative Budget Board.

SECTION \_\_\_\_ .05. The heading to Subchapter D, Chapter 2175, Government Code, is amended to read as follows:

SUBCHAPTER D. DISPOSITION OF SURPLUS OR SALVAGE PROPERTY [~~BY~~  
COMMISSION]

SECTION \_\_\_\_\_.06. Section 2175.181, Government Code, is amended to read as follows:

Sec. 2175.181. APPLICABILITY. [~~(a) This subchapter applies only to surplus and salvage property located in:~~

~~[(1) Travis County;~~

~~[(2) a county in which federal surplus property is warehoused by the commission under Subchapter G; or~~

~~[(3) a county for which the commission determines that it is cost effective to follow the procedures created under this subchapter and informs affected state agencies of that determination.~~

~~[(b) This subchapter applies [does not apply] to a state agency delegated the authority to dispose of surplus or salvage property under Section 2175.065.~~

SECTION \_\_\_\_\_.07. Section 2175.182, Government Code, is amended to read as follows:

Sec. 2175.182. STATE AGENCY TRANSFER OF PROPERTY [~~TO~~  
COMMISSION]. (a) A state agency that determines it has surplus or salvage property shall inform the commission of that fact for the purpose of determining the method of disposal of the property. [The commission is responsible for the disposal of surplus or salvage property under this subchapter.] The commission may take physical possession of the property.

(b) Based on the condition of the property, the commission, in conjunction with the state agency, shall determine whether the property is:

(1) surplus property that should be offered for transfer under Section 2175.184 or sold to the public; or

(2) salvage property.

(c) Following the determination in Subsection (b), the [The] commission shall direct the state agency to inform the comptroller's office of the property's kind, number, location, condition, original cost or value, and date of acquisition.

SECTION \_\_\_\_\_.08. Section 2175.1825, Government Code, is amended to read as follows:

Sec. 2175.1825. ADVERTISING ON COMPTROLLER WEBSITE. (a) Not later than the second day after the date the comptroller receives notice from a state agency [the commission] under Section 2175.182(c), the comptroller shall advertise the property's kind, number, location, and condition on the comptroller's website.

(b) The comptroller shall provide the commission access to all records in the state property accounting system related to surplus and salvage property.

SECTION \_\_\_\_\_.09. Section 2175.183, Government Code, is amended to read as follows:

Sec. 2175.183. COMMISSION NOTICE TO OTHER ENTITIES. The [On taking responsibility for surplus property under this subchapter, the] commission shall inform other state agencies, political subdivisions, and assistance organizations of the comptroller's website that lists surplus property that is available for sale.

SECTION \_\_\_\_\_.10. Section 2175.184, Government Code, is amended to read as follows:

Sec. 2175.184. DIRECT TRANSFER. During the 10 business days after the date the property is posted on the comptroller's website, a state agency, political subdivision, or assistance organization shall ~~may~~ coordinate with the commission for a transfer of the property at a price established by the commission ~~[in cooperation with the transferring agency]~~. A transfer to a state agency has priority over any other transfer during this period.

SECTION \_\_\_\_ .11. Section 2175.186(a), Government Code, is amended to read as follows:

(a) If a disposition of a state agency's surplus property is not made under Section 2175.184, the commission shall sell the property by competitive bid, auction, or direct sale to the public, including a sale using an Internet auction site. The commission may contract with a private vendor to assist with the sale of the property.

SECTION \_\_\_\_ .12. Section 2175.189, Government Code, is amended to read as follows:

Sec. 2175.189. ADVERTISEMENT OF SALE. If the value of an item or a lot of property to be sold is estimated to be more than \$25,000 ~~[\$5,000]~~, the commission shall advertise the sale at least once in at least one newspaper of general circulation in the vicinity in which the property is located.

SECTION \_\_\_\_ .13. Section 2175.191(a), Government Code, is amended to read as follows:

(a) Proceeds from the sale of surplus or salvage property, less the cost of advertising the sale, the cost of selling the surplus or salvage property, including the cost of auctioneer services or assistance from a private vendor, and the amount of the fee collected under Section 2175.188, shall be deposited to the credit of the general revenue fund of the state treasury.

SECTION \_\_\_\_ .14. Section 2175.302, Government Code, is amended to read as follows:

Sec. 2175.302. EXCEPTION FOR ELEEMOSYNARY INSTITUTIONS. Except as provided by Section 2175.905(b) ~~[2175.128(b)]~~, this chapter does not apply to the disposition of surplus or salvage property by a state eleemosynary institution.

SECTION \_\_\_\_ .15. Section 2175.904, Government Code, is amended by amending Subsections (a) and (c) and adding Subsection (d) to read as follows:

(a) The commission shall establish a program for the sale of gambling equipment received from a municipality, from a commissioners court under Section 263.152(a)(5), Local Government Code, or from a state agency under this chapter.

(c) Proceeds from the sale of gambling equipment from a municipality or commissioners court, less the costs of the sale, including costs of advertising, storage, shipping, and auctioneer or broker services, and the amount of the fee collected under Section 2175.188 ~~[2175.131]~~, shall be divided according to an agreement between the commission and the municipality or commissioners court that provided the equipment for sale. The agreement must provide that:

(1) not less than 50 percent of the net proceeds be remitted to the commissioners court; and

(2) the remainder of the net proceeds retained by the commission be deposited to the credit of the general revenue fund.

(d) Proceeds from the sale of gambling equipment from a state agency, less the costs of the sale, including costs of advertising, storage, shipping, and auctioneer or broker services, and the amount of the fee collected under Section 2175.188, shall be deposited to the credit of the general revenue fund of the state treasury.

SECTION \_\_\_\_ .16. Subchapter Z, Chapter 2175, Government Code, is amended by adding Sections 2175.905 and 2175.906 to read as follows:

Sec. 2175.905. DISPOSITION OF DATA PROCESSING EQUIPMENT. (a) If a disposition of a state agency's surplus or salvage data processing equipment is not made under Section 2175.184, the state agency shall transfer the equipment to:

(1) a school district or open-enrollment charter school in this state under Subchapter C, Chapter 32, Education Code;

(2) an assistance organization specified by the school district; or

(3) the Texas Department of Criminal Justice.

(b) If a disposition of the surplus or salvage data processing equipment of a state eleemosynary institution or an institution or agency of higher education is not made under other law, the institution or agency shall transfer the equipment to:

(1) a school district or open-enrollment charter school in this state under Subchapter C, Chapter 32, Education Code;

(2) an assistance organization specified by the school district; or

(3) the Texas Department of Criminal Justice.

(c) The state eleemosynary institution or institution or agency of higher education or other state agency may not collect a fee or other reimbursement from the district, the school, the assistance organization, or the Texas Department of Criminal Justice for the surplus or salvage data processing equipment transferred under this section.

Sec. 2175.906. ABOLISHED AGENCIES. On abolition of a state agency, in accordance with Chapter 325, the commission shall take custody of all of the agency's property or other assets as surplus property unless other law or the legislature designates another appropriate governmental entity to take custody of the property or assets.

### **Floor Amendment No. 11**

Amend Amendment No. 9 by Otto to **CSSB 1811** (page 396 of the prefiled amendment packet) as follows:

(1) In SECTION \_\_\_\_ .02 of the bill (page 1, between lines 21 and 22), inserting the following:

(c) In leasing a parking space under Subsection (a), the commission must ensure that the lease does not restrict uses for parking lots and garages developed under Section 2165.2035, including special event parking related to institutions of higher education.

(d) In leasing or renewing a lease for a parking space under Subsection (a), the commission shall give preference to an individual who is currently leasing or previously leased the parking space.

(2) In SECTION \_\_\_\_ .02 of the bill (page 2, between lines 2 and 3), inserting the following:

(c) In leasing all or a block of a state-owned parking lot or garage under Subsection (a), the commission must ensure that the lease does not restrict uses for parking lots and garages developed under Section 2165.2035, including special event parking related to institutions of higher education.

(d) In leasing or renewing a lease for all or a block of a state-owned parking lot or garage under Subsection (a), the commission shall give preference to an entity that is currently leasing or previously leased the lot or garage or a block of the lot or garage.

### **Floor Amendment No. 12**

Amend Amendment No. 9 by Otto to **CSSB 1811** (page 396, prefiled amendment packet), in amended Section 305.005(c), Government Code (page 13, lines 7-8), by striking "Section 501(c)(3) or 501(c)(4)," and substituting "Section 501(c)(3), ~~or~~ 501(c)(4), or 501(c)(6).".

### **Floor Amendment No. 13**

Amend Floor Amendment No. 9 by Otto to **CSSB 1811** (page 396, prefiled amendments packet) by adding the following immediately following page 23, line 26, of the amendment (page 418 of the prefiled amendments packet):

ARTICLE \_\_\_\_ . TEXAS COMMISSION ON FIRE PROTECTION FEES

SECTION \_\_\_\_ .01. Section 419.026(d), Government Code, is amended to read as follows:

(d) The commission shall send the fees authorized by Subsection (a) and Section 419.033(b) to the comptroller. The comptroller ~~[- who]~~ shall deposit a portion ~~[50 percent]~~ of the fees collected ~~[annually]~~ into ~~[the general revenue fund and 50 percent of the fees collected annually into]~~ a special account in the general revenue fund dedicated for use by the commission. In any state fiscal biennium, the comptroller may not deposit into the account fees in an amount that exceeds the amount appropriated to the commission for that biennium, less any other amount appropriated to the commission from a source other than the fees. The account is exempt from the application of Section 403.095. The comptroller shall deposit the remainder of the fees in the general revenue fund. ~~[Except as otherwise provided by this chapter, 50 percent of the special fund created under this subsection may be used only to defray the commission's costs in performing inspections under Section 419.027 and the other 50 percent may be used only to provide training assistance under Section 419.031.]~~

SECTION \_\_\_\_ .02. The dedication of certain fees to a special account in the general revenue fund dedicated for use by the Texas Commission on Fire Protection under Section 419.026(d), Government Code, was abolished effective August 31, 1995, under former Section 403.094(h), Government Code, as enacted by Section 11.04, Chapter 4 (SB 3), Acts of the 72nd Legislature, 1st Called Session, 1991. Those fees are rededicated to that fund by this article.

SECTION \_\_\_\_ .03. This article takes effect immediately if this Act 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 article takes effect September 1, 2011.

**Floor Amendment No. 14**

Amend **CSSB 1811** (house committee report) by adding the following appropriately numbered ARTICLE to the bill and renumbering subsequent ARTICLES of the bill accordingly:

ARTICLE \_\_\_\_\_. FISCAL MATTERS REGARDING ALCOHOLIC  
BEVERAGE REGULATION

SECTION \_\_\_\_\_.01. Section 5.56, Alcoholic Beverage Code, is repealed.

**Floor Amendment No. 15**

Amend **CSSB 1811** (house committee printing) by adding the following appropriately numbered article and renumbering subsequent articles and sections accordingly:

ARTICLE \_\_\_\_\_. LAW ENFORCEMENT AND CUSTODIAL OFFICER  
SUPPLEMENTAL RETIREMENT FUND

SECTION \_\_\_\_\_.01. Section 815.317, Government Code, is amended by adding Subsection (a-1) to read as follows:

(a-1) The comptroller shall deposit fees collected under Section 133.102(e)(7), Local Government Code, to the credit of the law enforcement and custodial officer supplemental retirement fund.

SECTION \_\_\_\_\_.02. Section 133.102(e), Local Government Code, is amended to read as follows:

(e) The comptroller shall allocate the court costs received under this section to the following accounts and funds so that each receives to the extent practicable, utilizing historical data as applicable, the same amount of money the account or fund would have received if the court costs for the accounts and funds had been collected and reported separately, except that the account or fund may not receive less than the following percentages:

|  |                     |
|--|---------------------|
| (1) abused children's counseling   | 0.0088 percent;     |
| (2) crime stoppers assistance  | 0.2581 percent;     |
| (3) breath alcohol testing   | 0.5507 percent;     |
| (4) Bill Blackwood Law Enforcement Management Institute  | 2.1683 percent;     |
| (5) law enforcement officers standards and education   | 5.0034 percent;     |
| (6) comprehensive rehabilitation   | 5.3218 percent;     |
| (7) law enforcement and custodial officer supplemental retirement fund   |                     |
| <del>operator's and chauffeur's license</del>  | 11.1426 percent;    |
| (8) criminal justice planning  | 12.5537 percent;    |
| (9) an account in the state treasury to be used only for the establishment and operation of the Center for the Study and Prevention of Juvenile Crime and Delinquency at Prairie View A&M University | 1.2090 percent;     |
| (10) compensation to victims of crime fund   | 37.6338 percent;    |
| (11) fugitive apprehension account   | 12.0904 percent;    |
| (12) judicial and court personnel training fund  | 4.8362 percent;     |
| (13) an account in the state treasury to be used for the establishment and operation of the Correctional Management Institute of Texas and Criminal Justice Center Account                           | 1.2090 percent; and |
| (14) fair defense account  | 6.0143 percent.     |

SECTION \_\_\_\_\_.03. This article takes effect September 1, 2013.

### Floor Amendment No. 16

Amend **CSSB 1811** by inserting the following SECTION and renumbering subsequent SECTIONS accordingly:

SECTION \_\_\_\_\_. Section 2155.082, Government Code, is amended to read as follows:

Sec. 2155.082. PROVIDING CERTAIN PURCHASING SERVICES ON FEE-FOR-SERVICE BASIS OR THROUGH BENEFIT FUNDING. (a) The comptroller [commission] may provide open market purchasing services on a fee-for-service basis for state agency purchases that are delegated to an agency under Section 2155.131, 2155.132, [2155.133,] or 2157.121 or that are exempted from the purchasing authority of the comptroller [commission]. The comptroller [commission] shall set the fees in an amount that recovers the comptroller's [commission's] costs in providing the services.

(b) The comptroller [commission] shall publish a schedule of [its] fees for services that are subject to this section. The schedule must include the comptroller's [commission's] fees for:

(1) reviewing bid and contract documents for clarity, completeness, and compliance with laws and rules;

(2) developing and transmitting invitations to bid;

(3) receiving and tabulating bids;

(4) evaluating and determining which bidder offers the best value to the state;

(5) creating and transmitting purchase orders; and

(6) participating in agencies' request for proposal processes.

(c) The comptroller may engage a consultant to assist with a particular procurement on behalf of a state agency and pay the consultant from the cost savings realized by the state agency.

### Floor Amendment No. 17

Amend Amendment No. 16 by Cook to **CSSB 1811** (bar code no. 824129, page 241) by adding the following SECTION to the amendment:

SECTION \_\_\_\_\_. Subchapter B, Chapter 2155, Government Code, is amended by adding Section 2155.0721 to read as follows:

Sec. 2155.0721. REDUCING STATE AGENCY DOCUMENTATION AND REPORT COSTS. (a) The comptroller may identify opportunities to provide cost savings and efficiency through the use of transcription services to reduce the costs associated with the creation of state agency documentation and reports.

(b) To the extent that cost savings are identified, the comptroller shall contract with an experienced and proven provider of cost-effective transcription services for the offsite preparation of state agency documentation and reports.

(c) In evaluating prospective contractors to provide the transcription service and in determining the most effective method for providing the transcription services, the comptroller shall consider the total costs of the transcription services, the accuracy of the services provided, and state agency employee satisfaction with the services provided.

**Floor Amendment No. 19**

Amend **CSSB 1811** (house committee printing) by adding the following appropriately numbered ARTICLES to the bill and renumbering subsequent ARTICLES and SECTIONS of the bill accordingly:

ARTICLE \_\_\_\_ . SALES AND USE TAX COLLECTION AND ALLOCATION

SECTION \_\_\_\_ .01. Section 151.008(b), Tax Code, is amended to read as follows:

(b) "Seller" and "retailer" include:

(1) a person in the business of making sales at auction of tangible personal property owned by the person or by another;

(2) a person who makes more than two sales of taxable items during a 12-month period, including sales made in the capacity of an assignee for the benefit of creditors or receiver or trustee in bankruptcy;

(3) a person regarded by the comptroller as a seller or retailer under Section 151.024 [~~of this code~~];

(4) a hotel, motel, or owner or lessor of an office or residential building or development that contracts and pays for telecommunications services for resale to guests or tenants; [~~and~~]

(5) a person who engages in regular or systematic solicitation of sales of taxable items in this state by the distribution of catalogs, periodicals, advertising flyers, or other advertising, by means of print, radio, or television media, or by mail, telegraphy, telephone, computer data base, cable, optic, microwave, or other communication system for the purpose of effecting sales of taxable items; and

(6) a person who, under an agreement with another person, is:

(A) entrusted with possession of tangible personal property with respect to which the other person has title or another ownership interest; and

(B) authorized to sell, lease, or rent the property without additional action by the person having title to or another ownership interest in the property.

SECTION \_\_\_\_ .02. Section 151.107, Tax Code, is amended by amending Subsection (a) and adding Subsection (d) to read as follows:

(a) For the purpose of this subchapter and in relation to the use tax, a retailer is engaged in business in this state if the retailer:

(1) maintains, occupies, or uses in this state permanently, temporarily, directly, or indirectly or through a subsidiary or agent by whatever name, an office, [~~place of~~] distribution center, sales or sample room or place, warehouse, storage place, or any other physical location where [~~place of~~] business is conducted;

(2) has a representative, agent, salesman, canvasser, or solicitor operating in this state under the authority of the retailer or its subsidiary for the purpose of selling or delivering or the taking of orders for a taxable item;

(3) derives receipts [~~rentals~~] from the sale, [~~a~~] lease, or rental of tangible personal property situated in this state;

(4) engages in regular or systematic solicitation of sales of taxable items in this state by the distribution of catalogs, periodicals, advertising flyers, or other advertising, by means of print, radio, or television media, or by mail, telegraphy, telephone, computer data base, cable, optic, microwave, or other communication system for the purpose of effecting sales of taxable items;



(5) solicits orders for taxable items by mail or through other media and under federal law is subject to or permitted to be made subject to the jurisdiction of this state for purposes of collecting the taxes imposed by this chapter;

(6) has a franchisee or licensee operating under its trade name if the franchisee or licensee is required to collect the tax under this section; ~~or~~

(7) holds a substantial ownership interest in, or is owned in whole or substantial part by, a person who maintains a location in this state from which business is conducted and if:

(A) the retailer sells the same or a substantially similar line of products as the person with the location in this state and sells those products under a business name that is the same as or substantially similar to the business name of the person with the location in this state; or

(B) the facilities or employees of the person with the location in this state are used to:

(i) advertise, promote, or facilitate sales by the retailer to consumers; or

(ii) perform any other activity on behalf of the retailer that is intended to establish or maintain a marketplace for the retailer in this state, including receiving or exchanging returned merchandise;

(8) holds a substantial ownership interest in, or is owned in whole or substantial part by, a person that:

(A) maintains a distribution center, warehouse, or similar location in this state; and

(B) delivers property sold by the retailer to consumers; or

(9) otherwise does business in this state.

(d) In this section:

(1) "Ownership" includes:

(A) direct ownership;

(B) common ownership; and

(C) indirect ownership through a parent entity, subsidiary, or affiliate.

(2) "Substantial" means, with respect to an ownership interest, an interest in an entity that is:

(A) if the entity is a corporation, at least 50 percent, directly or indirectly, of:

(i) the total combined voting power of all classes of stock of the corporation; or

(ii) the beneficial ownership interest in the voting stock of the corporation;

(B) if the entity is a trust, at least 50 percent, directly or indirectly, of the current beneficial interest in the trust corpus or income;

(C) if the entity is a limited liability company, at least 50 percent, directly or indirectly, of:

(i) the total membership interest of the limited liability company; or

(ii) the beneficial ownership interest in the membership interest of the limited liability company; or

(D) for any entity, including a partnership or association, at least 50 percent, directly or indirectly, of the capital or profits interest in the entity.

SECTION \_\_\_\_\_.03. Subchapter M, Chapter 151, Tax Code, is amended by adding Section 151.802 to read as follows:

Sec. 151.802. ALLOCATION OF CERTAIN REVENUE TO PROPERTY TAX RELIEF FUND. (a) This section applies only:

(1) during the state fiscal years beginning September 1 of 2012, 2013, 2014, 2015, and 2016; and

(2) with respect to unused franchise tax credits described by Sections 18(e) and (f), Chapter 1 (H.B. 3), Acts of the 79th Legislature, 3rd Called Session, 2006.

(b) Notwithstanding Section 151.801, the comptroller shall deposit to the credit of the property tax relief fund under Section 403.109, Government Code, an amount of the proceeds from the collection of the taxes imposed by this chapter equal to the amount of revenue the state does not receive from the tax imposed under Chapter 171 because taxable entities, as defined by that chapter, that are corporations are entitled to claim unused franchise tax credits after December 31, 2012, and during that state fiscal year.

(c) This section expires September 1, 2017.

SECTION \_\_\_\_\_.04. The change in law made by this article does not affect tax liability accruing before the effective date of this article. That liability continues in effect as if this article had not been enacted, and the former law is continued in effect for the collection of taxes due and for civil and criminal enforcement of the liability for those taxes.

SECTION \_\_\_\_\_.05. This article takes effect January 1, 2012.

ARTICLE \_\_\_\_\_. CARRYFORWARD OF CERTAIN FRANCHISE TAX CREDITS

SECTION \_\_\_\_\_.01. Sections 18(e) and (f), Chapter 1 (H.B. 3), Acts of the 79th Legislature, 3rd Called Session, 2006, are amended to read as follows:

(e) A corporation that has any unused credits established before the effective date of this Act under Subchapter P, Chapter 171, Tax Code, may claim those unused credits on or with the tax report for the period in which the credit was established. However, if the corporation was allowed to carry forward unused credits under that subchapter, the corporation may continue to apply those credits on or with each consecutive report until the earlier of the date the credit would have expired under the terms of Subchapter P, Chapter 171, Tax Code, had it continued in existence, or December 31, 2016 [~~2012~~], and the former law under which the corporation established the credits is continued in effect for purposes of determining the amount of the credits the corporation may claim and the manner in which the corporation may claim the credits.

(f) A corporation that has any unused credits established before the effective date of this Act under Subchapter Q, Chapter 171, Tax Code, may claim those unused credits on or with the tax report for the period in which the credit was established. However, if the corporation was allowed to carry forward unused credits under that subchapter, the corporation may continue to apply those credits on or with each consecutive report until the earlier of the date the credit would have expired under the terms of Subchapter Q, Chapter 171, Tax Code, had it continued in existence, or December 31, 2016 [~~2012~~], and the former law under which the corporation

established the credits is continued in effect for purposes of determining the amount of the credits the corporation may claim and the manner in which the corporation may claim the credits.

### Floor Amendment No. 22

Amend **CSSB 1811** (house committee printing) by adding the following new appropriately numbered SECTIONS and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Section 321.002, Tax Code, is amended to read as follows:  
Sec. 321.002. DEFINITIONS.

(a) In this chapter:

(1) "Additional municipal sales and use tax" means only the additional tax authorized by Section 321.101(b).

(2) "Municipality" includes any incorporated city, town, or village.

(3) "Place of business of the retailer" means an established outlet, office, or location operated by the retailer or the retailer's agent or employee for the purpose of receiving orders for taxable items and includes any location at which three or more orders are received by the retailer during a calendar year. A warehouse, storage yard, or manufacturing plant is not a "place of business of the retailer" unless at least three orders are received by the retailer during the calendar year at the warehouse, storage yard, or manufacturing plant. An outlet, office, facility, or any location that contracts with a retail or commercial business [engaged in activities to which this chapter applies] to process for that business invoices, purchase orders, [or] bills of lading, or other equivalent records onto which sales tax is added, including an office operated for the purpose of buying and selling taxable goods to be used or consumed by the retail or commercial business, is not a "place of business of the retailer" if the comptroller determines that the outlet, office, facility, or location functions or exists to avoid the tax imposed by this chapter or to rebate a portion of the tax imposed by this chapter to the contracting business. Notwithstanding any other provision of this subdivision, a kiosk is not a "place of business of the retailer." In this subdivision, "kiosk" means a small stand-alone area or structure that:

(A) is used solely to display merchandise or to submit orders for taxable items from a data entry device, or both;

(B) is located entirely within a location that is a place of business of another retailer, such as a department store or shopping mall; and

(C) at which taxable items are not available for immediate delivery to a customer.

(b) Words used in this chapter and defined by Chapter 151 have the meanings assigned by Chapter 151.

SECTION \_\_\_\_\_. SECTION \_\_\_\_\_ as added by this amendment takes effect immediately if this Act receives a vote of two-thirds of all the members elected to each, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for Section 1 to have immediate effect, Section 1 takes effect September 1, 2011.

**Floor Amendment No. 23**

Amend the Hilderbran amendment No. 22 (packet page 720) to **CSSB 1811** (House Committee Report version) as follows:

1. On page 2, strike lines 18 through 23 and substitute the following:

"SECTION \_\_\_\_ . SECTION \_\_\_\_ as added by this amendment takes effect September 1, 2011."

**Floor Amendment No. 45**

Amend **CSSB 1811** as follows:

\_\_\_\_ . Format of the general appropriations bill.

(a) Section 322.008, Government Code, is amended by adding Subsection (b-1) to read as follows:

(b-1) The general appropriations bill must, for each state agency or other entity to which an appropriation is proposed under the bill:

(1) include a line item for each specific program or activity administered by the agency or entity or by an organizational unit of the agency or entity, organized according to the agency's, entity's, or unit's organizational structure, except that if a specific program or activity administered by the agency, entity, or unit includes identifiable components or subprograms, the bill must include a line item for each of those components or subprograms;

(2) specify the amount of the proposed appropriation for each line item; and

(3) include, for each line item that represents a specific program or activity or, if applicable, each group of line items representing the components or subprograms of a specific program or activity:

(b) a citation to the authorization in law for the program or activity; and

(c) a statement regarding whether the source of the proposed appropriation is nondedicated general revenue money, dedicated general revenue money, federal money, or another source.

**Floor Amendment No. 46**

Amend Amendment No. 45 to **CSSB 1811** by Cain (scanned barcode no. 824103) by striking the text of the amendment and substituting the following:

Amend **CSSB 1811** (house committee printing) by adding the following appropriately numbered ARTICLE to the bill and renumbering subsequent ARTICLES and SECTIONS accordingly:

ARTICLE \_\_\_\_ . GENERAL APPROPRIATIONS ACT FORMAT

SECTION \_\_\_\_ .01. Section 322.008, Government Code, is amended by adding Subsection (b-1) to read as follows:

(b-1) The general appropriations bill must, for each state agency or other entity for which an appropriation is proposed under the bill:

(1) include a line item for each specific program or activity administered by the agency or entity or an organizational unit of the agency or entity, organized according to the organizational structure of the agency, entity, or unit, except that if a specific program or activity administered by the agency, entity, or unit includes identifiable components or subprograms, the bill must include a line item for each of those components or subprograms;

(2) specify the amount of the proposed appropriation for each line item; and  
(3) include, for each line item that represents a specific program or activity  
or, if applicable, each group of line items representing the components or  
subprograms of a specific program or activity:

(A) a citation to the authorization in law for the program or activity; and  
(B) a statement regarding whether the source of the proposed  
appropriation is nondedicated general revenue money, dedicated general revenue  
money, federal money, or another source.

### **Floor Amendment No. 52**

Amend **CSSB 1811** by adding the following appropriately numbered SECTION and renumbering subsequent SECTIONS accordingly:

SECTION \_\_\_\_ . Subchapter A, Chapter 382, Health and Safety Code, is amended by adding Section 382.005 to read as follows:

Sec. 382.005. PROHIBITION ON IMPLEMENTATION OF GREENHOUSE  
GAS EMISSIONS REGULATORY PROGRAMS. (a) In this section:

(1) "Greenhouse gas" includes:

(A) carbon dioxide;

(B) methane;

(C) nitrous oxide;

(D) hydrofluorocarbons;

(E) perfluorocarbons;

(F) sulfur hexafluoride; and

(G) other gases or substances incorporated into a regional or federal  
greenhouse gas emissions regulatory program.

(2) "Greenhouse gas emissions regulatory program" means an arrangement  
under which a greenhouse gas emissions source is required to account for or report  
greenhouse gas emissions. The term includes a market-based compliance mechanism.

(3) "Market-based compliance mechanism" means a system of  
market-based declining annual aggregate greenhouse gas emissions limits, including a  
greenhouse gas emissions exchange, banking, credit, or other similar transaction.

(b) A state agency, including the commission, may not implement or adopt rules  
that would implement a greenhouse gas emissions regulatory program required by  
federal statute or agency rule unless the federal government provides federal money to  
cover all anticipated costs and economic losses to this state that may result from the  
implementation of the program.

(c) A state employee may not participate on a board, committee, or related  
entity, or in a study, of a national organization assigned to recommend provisions to  
implement a federal greenhouse gas emissions regulatory program. This subsection  
does not apply to actions taken by a state employee to reduce greenhouse gas  
emissions outside the employee's official duties.

### **Floor Amendment No. 53**

Amend **CSSB 1811** (house committee printing) by adding the following appropriately numbered ARTICLE to the bill and renumbering subsequent ARTICLES and SECTIONS of the bill accordingly:

ARTICLE \_\_\_\_\_. REDUCING STATE MEDICAID AND OTHER HEALTH CARE COSTS BY PROHIBITING SMOKING IN CERTAIN PUBLIC PLACES

SECTION \_\_\_\_\_.01. The legislature finds that the changes in law made by this article will reduce the state's costs for health care and for treatment of smoking-related illness under governmentally funded insurance programs for state employees and their dependents and under other taxpayer-supported programs, such as Medicaid and indigent health care.

SECTION \_\_\_\_\_.02. (a) Chapter 169, Health and Safety Code, as added by this article, takes effect on the 90th day after the date the executive commissioner of the Health and Human Services Commission:

(1) certifies in writing that prohibiting smoking in certain public places in accordance with Chapter 169, Health and Safety Code, as added by this article, will reduce this state's Medicaid expenditures in the state fiscal biennium ending August 31, 2013, by at least \$10 million paid from any revenue source or by \$4 million paid from the general revenue fund; and

(2) publishes the certification in the Texas Register.

(b) On publication of the certification as described by Subsection (a)(2) of this section, the Health and Human Services Commission shall post on the commission's Internet website a copy of that certification and notice of the requirements of Chapter 169, Health and Safety Code, as added by this article.

(c) Not later than the 30th day after the date the executive commissioner of the Health and Human Services Commission publishes the certification as described by Subsection (a)(2) of this section, the Department of State Health Services, the Alcoholic Beverage Commission, and each county, public health district, and local health department shall:

(1) post a copy of the certification on its Internet website; or

(2) provide notice to holders subject to Chapter 169, Health and Safety Code, as added by this article, of the requirements of that chapter.

(d) If the executive commissioner of the Health and Human Services Commission fails to provide the certification required by Subsection (a) of this section on or before January 1, 2012, this article expires and Chapter 169, Health and Safety Code, does not take effect.

SECTION \_\_\_\_\_.03. Subtitle H, Title 2, Health and Safety Code, is amended by adding Chapter 169 to read as follows:

CHAPTER 169. SMOKING PROHIBITED IN PUBLIC PLACES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 169.001. DEFINITIONS. In this chapter:

(1) "Bar" means an enclosed indoor establishment that is open to the public and is devoted primarily to the sale and service of alcoholic beverages for on-premises consumption.

(2) "Department" means the Department of State Health Services.

(3) "Enclosed area" means all space between a floor and ceiling that is enclosed on all sides by solid walls or windows, exclusive of doorways, that extend from the floor to the ceiling.

(4) "Public place" means an enclosed area the public is invited or allowed to enter, including a bar and a restaurant.

(5) "Restaurant" means an enclosed indoor establishment that is open to the public and is devoted primarily to the sale and service of food for immediate consumption. The term includes a bar located at the establishment.

(6) "Smoke" means to inhale, exhale, burn, or carry a lighted cigar, cigarette, pipe, or other smoking equipment in any manner.

(7) "Tobacco bar" means a business that:

(A) has in excess of 15 percent of gross sales in tobacco products, as that term is defined by Section 155.001, Tax Code, excluding sales derived from vending machines;

(B) holds a permit under Chapter 155, Tax Code; and

(C) holds an alcoholic beverage permit or license issued under Chapter 25, 28, 32, or 69, Alcoholic Beverage Code, or under Section 11.10, Alcoholic Beverage Code.

(8) "Tobacco shop" means a business primarily devoted to the sale of tobacco products, as that term is defined by Section 155.001, Tax Code, that does not hold an alcoholic beverage permit or license.

Sec. 169.002. APPLICABILITY. (a) Except as provided by Section 169.053, this chapter applies only to a public place that is owned, managed, operated, or controlled under a license, certificate, registration, or other authority or permit issued for the public place or to a person who owns, manages, operates, or controls the public place by the Department of State Health Services, the Alcoholic Beverage Commission, or a local health department or, with respect to a permit requirement authorized by Chapter 437, a county or public health district.

(b) Except as provided by Subsection (c), this chapter preempts and supersedes a local ordinance, rule, or regulation adopted by any political subdivision of this state relating to smoking.

(c) To the extent that a local ordinance, rule, or regulation adopted by a political subdivision of this state prohibits or restricts smoking to a greater degree than this chapter, the ordinance, rule, or regulation is not preempted or superseded by this chapter.

(d) This chapter does not preempt or supersede Section 38.006, Education Code.

Sec. 169.003. OTHER APPLICABLE LAWS. This chapter may not be construed to authorize smoking where it is restricted by other applicable law.

Sec. 169.004. LIBERAL CONSTRUCTION. This chapter shall be liberally construed to further its purpose.

[Sections 169.005-169.050 reserved for expansion]

#### SUBCHAPTER B. PROHIBITED ACTS

Sec. 169.051. SMOKING PROHIBITED IN PUBLIC PLACES. A person may not smoke in a public place in this state.

Sec. 169.052. EXCEPTIONS. (a) This subchapter does not apply to:

(1) a tobacco shop;

(2) a tobacco bar;

(3) the outdoor area of a restaurant or bar;

(4) an outdoor porch or patio that is not accessible to the public;

(5) the set of a motion picture, television, or theater production; or

(6) a convention of tobacco-related businesses in a municipality where a convention of tobacco-related businesses is expressly authorized under an applicable municipal ordinance.

(b) The exception under Subsection (a)(5) applies only to an actor who is portraying the use of a tobacco product during the motion picture, television, or theater production.

Sec. 169.053. DECLARATION OF ESTABLISHMENT AS NONSMOKING.

(a) An owner, operator, manager, or other person in control of any establishment, facility, or outdoor area may declare that entire establishment, facility, or outdoor area as a nonsmoking place.

(b) A person may not smoke in a place in which a sign conforming to the requirements of Section 169.054 is posted.

Sec. 169.054. DUTIES OF OWNER, MANAGER, OR OPERATOR OF PUBLIC PLACE. An owner, manager, or operator of a public place shall:

(1) post clearly and conspicuously in the public place:

(A) a sign with the words "No Smoking"; or

(B) a sign with the international "No Smoking" symbol, consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across the cigarette;

(2) post at each entrance to the public place a conspicuous sign clearly stating that smoking is prohibited; and

(3) remove all ashtrays from any area in which smoking is prohibited.

[Sections 169.055-169.100 reserved for expansion]

SUBCHAPTER C. ENFORCEMENT AND PENALTIES

Sec. 169.101. ENFORCEMENT. (a) The department shall enforce this chapter.

(b) A governmental entity described by Section 169.002(a) that issues a license, certificate, registration, or other authority or permit for a public place or to a person who owns, manages, operates, or controls the public place shall provide notice to each applicant for the permit or authority of the provisions of this chapter.

(c) A person may file with the department a complaint concerning a violation of this chapter.

(d) The department or another agency of this state or a political subdivision of this state designated by the department may inspect an establishment for compliance with this chapter.

(e) An employer or an owner, manager, operator, or employee of an establishment regulated under this chapter shall inform a person violating this chapter of the appropriate provisions pertaining to the violation.

Sec. 169.102. INJUNCTIVE RELIEF. In addition to the other remedies provided by this chapter, the attorney general at the request of the department, or a person aggrieved by a violation of this chapter, may bring an action for injunctive relief to enforce this chapter.

Sec. 169.103. OFFENSES; PENALTIES. (a) A person who violates Section 169.051 or 169.053(b) commits an offense. An offense under this subsection is a Class C misdemeanor punishable by a fine not to exceed \$50.



(b) An owner, manager, or operator of a public place who violates Section 169.054 commits an offense. An offense under this subsection is a Class C misdemeanor punishable by a fine not to exceed \$100.

(c) If it is shown on the trial of an offense under Subsection (b) that the defendant has previously been finally convicted of an offense under that subsection that occurred within one year before the date of the offense that is the subject of the trial, on conviction the defendant shall be punished by a fine not to exceed \$200.

(d) If it is shown on the trial of an offense under Subsection (b) that the defendant has previously been finally convicted of two offenses under that subsection that occurred within one year before the date of the offense that is the subject of the trial, on conviction the defendant shall be punished by a fine not to exceed \$500.

(e) If conduct that constitutes an offense under this section also constitutes an offense under another law, the offense may be prosecuted under this section, the other law, or both this section and the other law.

Sec. 169.104. SEPARATE VIOLATIONS. Each day on which a violation of this chapter occurs is considered a separate violation.

#### **Floor Amendment No. 54**

Amend the Crossover Amendment No. 53 to **CSSB 1811** by adding two additional appropriately numbered exemptions to proposed Sec. 169.052 read as follows:

( ) a fraternal or veterans organization as defined by Section 32.11, Alcoholic Beverage Code;

( ) a premises on which charitable bingo is authorized to be conducted under Chapter 2001, Occupations Code, if the premises are not located in a county with a population greater than 2.2 million that is adjacent to a county with a population of more than 600,000;

#### **Floor Amendment No. 55**

Amend Amendment No. 53 by Crossover to **CSSB 1811** (page 513 of the prefiled amendments packet) as follows:

(1) In SECTION \_\_\_\_ .03 of the amendment, in added Section 169.002(c), Health and Safety Code (page 4, line 11), following the underlined period, insert "This subsection does not apply to a billiard hall in the political subdivision that operates more than 10 non-coin-operated billiards tables within the premises and allows on the premises only customers 21 years of age and older."

(2) In SECTION \_\_\_\_ .03 of the amendment, in added Section 169.052(a)(5), Health and Safety Code (page 4, line 31), strike "; or" and substitute ";".

(3) In SECTION \_\_\_\_ .03 of the amendment, in added Section 169.052(a)(6), Health and Safety Code (page 5, line 3), between "ordinance" and the underlined period, insert the following:

; or

(7) a billiard hall that operates more than 10 non-coin-operated billiards tables within the premises and allows on the premises only customers 21 years of age and older

**Floor Amendment No. 57**

Amend Amendment No. 53 by Crossover to **CSSB 1811** (barcode no. 823928) on page 7 of the amendment, immediately following line 15, by adding the following:

ARTICLE \_\_\_\_\_. SMOKING IN CERTAIN PUBLIC PLACES

SECTION \_\_\_\_\_.01. (a) Notwithstanding any other law, a person commits an offense if the person smokes a cigarette or other tobacco product in the Texas State Capitol.

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

**Floor Amendment No. 61**

Amend **CSSB 1811** (house committee printing) by striking ARTICLE 12 of the bill (page 26, line 18, through page 29, line 22) and renumbering subsequent ARTICLES and SECTIONS of the bill accordingly.

**Floor Amendment No. 62**

Amend the McClendon amendment No. 61 to **CSSB 1811** as follows:

(1) In SECTION 12.02, in amended Section 151.326(a), Tax Code, strike Subdivision (2) (page 27, lines 4-6) and substitute the following:

(2) the sale takes place during a period beginning at 12:01 a.m. on the first ~~third~~ Friday in August and ending at 12 midnight on the following Sunday.

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

SECTION \_\_\_\_\_. Section 151.326(a)(2), Tax Code, as amended by this article, does not affect tax liability accruing before the effective date of this article. That liability continues in effect as if this article had not been enacted, and the former law is continued in effect for the collection of taxes due and for civil and criminal enforcement of the liability for those taxes.

**Floor Amendment No. 64**

Amend **CSSB 1811** by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Subchapter D, Chapter 301, Labor Code, is amended by adding Section 301.068 to read as follows:

Sec. 301.068. EFFICIENCY PILOT PROGRAM. (a) The commission shall establish a pilot program to:

(1) improve the efficiency and quality of commission operations while reducing costs; and

(2) adopt a structured approach for identifying the wasteful use of state resources and improving commission processes.

(b) In implementing the pilot program, the commission shall use:

(1) a methodology that includes a define, measure, analyze, improve, and control structure for reviewing project management;

(2) a continuous improvement technique that:

(A) identifies value and a value stream;

(B) creates a flow for activities;

(C) allows consumers to pull products or services through the process;

and

- (D) allows for the process to be perfected over time; and
- (3) a measurement system analysis to evaluate data.
- (c) The commission shall conduct an internal performance audit to assess the effectiveness of the pilot program implemented under this section.
- (d) Not later than August 1, 2012, the commission shall submit a written report of the results of the performance audit to the:
- (1) governor;
  - (2) lieutenant governor;
  - (3) speaker of the house of representatives;
  - (4) Senate Committee on Government Organization;
  - (5) House Government Efficiency and Reform Committee; and
  - (6) house and senate committees with primary jurisdiction over state affairs.
- (e) The commission shall implement the pilot program from available funds that may be used for that purpose.
- (f) A state agency, other than the commission, may implement the pilot program established under this section with respect to the agency. An agency that implements the pilot program shall:
- (1) conduct the performance audit and submit the written report in the time and manner described by Subsections (c) and (d); and
  - (2) use available resources to fund the pilot program.
- (g) A report required by this section may be submitted electronically.
- (h) This section expires September 1, 2013.

#### **Floor Amendment No. 68**

Amend **CSSB 1811** (house committee printing) by adding the following appropriately numbered SECTIONS to the bill and renumbering the subsequent SECTIONS of the bill appropriately:

SECTION \_\_\_\_\_. Section 313.007, Tax Code, is amended to read as follows:

Sec. 313.007. EXPIRATION. Subchapters B, C, and D expire December 31, 2024 [~~2014~~].

#### **Floor Amendment No. 69**

Amend Floor Amendment No. 68 by Eiland to **CSSB 1811** (page 684, prefiled amendments packet), in the final line of the amendment, by striking "2024" and substituting "2016".

#### **Floor Amendment No. 72**

Amend **CSSB 1811** (house committee printing) by adding a new appropriately numbered ARTICLE to the bill and renumbering subsequent ARTICLES and SECTIONS of the bill accordingly:

ARTICLE \_\_\_\_\_. MIXED BEVERAGE TAX REIMBURSEMENTS

Section \_\_\_\_\_.01. Effective September 1, 2013, Section 183.051(b), Tax Code, is amended to read as follows:

(b) The comptroller shall issue to each county described in Subsection (a) a warrant drawn on the general revenue fund in an amount appropriated by the legislature that may not be less [~~greater~~] than 10.7143 percent of receipts from permittees within the county during the quarter and shall issue to each incorporated

municipality described in Subsection (a) a warrant drawn on that fund in an amount appropriated by the legislature that may not be ~~less~~ ~~[greater]~~ than 10.7143 percent of receipts from permittees within the incorporated municipality during the quarter.

### **Floor Amendment No. 73**

Amend **CSSB 1811** (house committee printing) by adding the following appropriately numbered ARTICLE to the bill and renumbering subsequent ARTICLES and SECTIONS of the bill accordingly:

#### ARTICLE \_\_\_\_ . FRANCHISE TAX LIABILITY OF CERTAIN TAXABLE ENTITIES

SECTION \_\_\_\_ .01. Subchapter A, Chapter 171, Tax Code, is amended by adding Section 171.0024 to read as follows:

Sec. 171.0024. TAX LIABILITY OF CERTAIN TAXABLE ENTITIES. (a) In this section, "taxable income" means:

(1) for a taxable entity treated for federal income tax purposes as a corporation, the amount reportable as taxable income on line 30, Internal Revenue Service Form 1120;

(2) for a taxable entity treated for federal income tax purposes as a partnership, the amount reportable as ordinary business income or loss on line 22, Internal Revenue Service Form 1065; or

(3) for a taxable entity other than a taxable entity treated for federal income tax purposes as a corporation or partnership, an amount determined in a manner substantially equivalent to the amount for Subdivision (1) or (2) determined by rules the comptroller shall adopt.

(b) Except as provided by Subsection (c), a taxable entity is not required to pay any tax and is not considered to owe any tax for a period on which margin is based if the taxable entity's taxable income for the period is zero or less.

(c) Subsection (b) does not apply to a taxable entity that is a member of a combined group.

(d) Section 171.1011(a) applies to a reference in this section to an Internal Revenue Service form, and Section 171.1011(b) applies to a reference in this section to an amount reportable on a line number on an Internal Revenue Service form.

(e) The comptroller shall adopt rules as necessary to accomplish the legislative intent prescribed by this section.

SECTION \_\_\_\_ .02. Section 171.204(b), Tax Code, is amended to read as follows:

(b) The comptroller may require a taxable entity that does not owe any tax because of the application of Section 171.002(d)(2) to file an abbreviated information report with the comptroller stating the amount of the taxable entity's total revenue from its entire business. The comptroller may require a taxable entity that does not owe any tax because of the application of Section 171.0024 to file an abbreviated information report with the comptroller stating the amount of the taxable entity's taxable income as defined by that section. The comptroller may not require a taxable entity described by this subsection to file an information report that requires the taxable entity to report or compute its margin.

SECTION \_\_\_\_ .03. This article applies only to a report originally due on or after the effective date of this article.

SECTION \_\_\_\_ .04. This article takes effect January 1, 2012.

#### **Floor Amendment No. 74**

Amend **CSSB 1811** (house committee printing) by adding the following appropriately numbered ARTICLES to the bill and renumbering subsequent ARTICLES and SECTIONS of the bill accordingly:

ARTICLE \_\_\_\_ . TAX REFUNDS FOR CERTAIN AD VALOREM TAX PAYERS

SECTION \_\_\_\_ .01. Subchapter F, Chapter 111, Tax Code, is repealed.

SECTION \_\_\_\_ .02. The repeal of Subchapter F, Chapter 111, Tax Code, by this article does not affect an eligible person's right to claim a refund of state taxes collected under Chapters 151 and 171, Tax Code, that was established under Section 111.301, Tax Code, in relation to taxes paid before the effective date of this Act in a calendar year for which the person paid ad valorem taxes to a school district as provided by Section 111.301, Tax Code, before the effective date of this Act. An eligible person's right to claim a refund of state taxes collected under Chapters 151 and 171, Tax Code, that was established under Section 111.301, Tax Code, in relation to taxes paid before the effective date of this Act in a calendar year for which the person paid ad valorem taxes to a school district as provided by Section 111.301, Tax Code, before the effective date of this Act is governed by the law in effect on the date the right to claim the refund was established, and the former law is continued in effect for that purpose.

ARTICLE \_\_\_\_ . FRANCHISE TAX APPLICABILITY AND EXCLUSIONS

SECTION \_\_\_\_ .01. Section 171.0001, Tax Code, is amended by adding Subdivisions (1-a), (10-a), (10-b), and (11-b) to read as follows:

(1-a) "Artist" means a natural person or an entity that contracts to perform or entertain at a live entertainment event.

(10-a) "Live entertainment event" means an event that occurs on a specific date to which tickets are sold in advance by a third-party vendor and at which:

(A) a natural person or a group of natural persons, physically present at the venue, performs for the purpose of entertaining a ticket holder who is present at the event;

(B) a traveling circus or animal show performs for the purpose of entertaining a ticket holder who is present at the event; or

(C) a historical, museum-quality artifact is on display in an exhibition.

(10-b) "Live event promotion services" means services related to the promotion, coordination, operation, or management of a live entertainment event. The term includes services related to:

(A) the provision of staff for the live entertainment event; or

(B) the scheduling and promotion of an artist performing or entertaining at the live entertainment event.

(11-b) "Qualified live event promotion company" means a taxable entity that:

(A) receives at least 60 percent of the entity's annual total revenue from the provision or arrangement for the provision of three or more live event promotion services;

(B) maintains a permanent nonresidential office from which the live event promotion services are provided or arranged;

(C) employs 10 or more full-time employees during all or part of the period for which taxable margin is calculated;

(D) does not provide services for a wedding or carnival; and

(E) is not a movie theater.

SECTION \_\_\_\_\_.02. Section 171.0002(c), Tax Code, is amended to read as follows:

(c) "Taxable entity" does not include an entity that is:

(1) a grantor trust as defined by Sections 671 and 7701(a)(30)(E), Internal Revenue Code, all of the grantors and beneficiaries of which are natural persons or charitable entities as described in Section 501(c)(3), Internal Revenue Code, excluding a trust taxable as a business entity pursuant to Treasury Regulation Section 301.7701-4(b);

(2) an estate of a natural person as defined by Section 7701(a)(30)(D), Internal Revenue Code, excluding an estate taxable as a business entity pursuant to Treasury Regulation Section 301.7701-4(b);

(3) an escrow;

(4) a real estate investment trust (REIT) as defined by Section 856, Internal Revenue Code, and its "qualified REIT subsidiary" entities as defined by Section 856(i)(2), Internal Revenue Code, provided that:

(A) a REIT with any amount of its assets in direct holdings of real estate, other than real estate it occupies for business purposes, as opposed to holding interests in limited partnerships or other entities that directly hold the real estate, is a taxable entity; and

(B) a limited partnership or other entity that directly holds the real estate as described in Paragraph (A) is not exempt under this subdivision, without regard to whether a REIT holds an interest in it;

(5) a real estate mortgage investment conduit (REMIC), as defined by Section 860D, Internal Revenue Code;

(6) a nonprofit self-insurance trust created under Chapter 2212, Insurance Code, or a predecessor statute;

(7) a trust qualified under Section 401(a), Internal Revenue Code; ~~or~~

(8) a trust or other entity that is exempt under Section 501(c)(9), Internal Revenue Code; or

(9) an S corporation, as that term is defined by Section 1361, Internal Revenue Code, that is owned entirely by an employee stock ownership plan, as that term is defined by Section 4975(e), Internal Revenue Code.

SECTION \_\_\_\_\_.03. Section 171.1011, Tax Code, is amended by adding Subsections (g-5) and (g-7) to read as follows:

(g-5) A taxable entity that is a qualified live event promotion company shall exclude from its total revenue, to the extent included under Subsection (c)(1)(A), (c)(2)(A), or (c)(3), a payment made to an artist in connection with the provision of a live entertainment event or live event promotion services.

(g-7) A taxable entity that is a qualified courier and logistics company shall exclude from its total revenue, to the extent included under Subsection (c)(1)(A), (c)(2)(A), or (c)(3), subcontracting payments made by the taxable entity to

nonemployee agents for the performance of delivery services on behalf of the taxable entity. For purposes of this subsection, "qualified courier and logistics company" means a taxable entity that:

(1) receives at least 80 percent of the taxable entity's annual total revenue from its entire business from a combination of at least two of the following courier and logistics services:

(A) expedited same-day delivery of an envelope, package, parcel, roll of architectural drawings, box, or pallet;

(B) temporary storage and delivery of the property of another entity, including an envelope, package, parcel, roll of architectural drawings, box, or pallet; and

(C) brokerage of same-day or expedited courier and logistics services to be completed by a person or entity under a contract that includes a contractual obligation by the taxable entity to make payments to the person or entity for those services;

(2) during the period on which margin is based, is registered as a motor carrier under Chapter 643, Transportation Code, and if the taxable entity operates on an interstate basis, is registered as a motor carrier or broker under the unified carrier registration system, as defined by Section 643.001, Transportation Code, during that period;

(3) maintains an automobile liability insurance policy covering individuals operating vehicles owned, hired, or otherwise used in the taxable entity's business, with a combined single limit for each occurrence of at least \$1 million;

(4) maintains at least \$25,000 of cargo insurance;

(5) maintains a permanent nonresidential office from which the courier and logistics services are provided or arranged;

(6) has at least five full-time employees during the period on which margin is based;

(7) is not doing business as a livery service, floral delivery service, motor coach service, taxicab service, building supply delivery service, water supply service, fuel or energy supply service, restaurant supply service, commercial moving and storage company, or overnight delivery service; and

(8) is not delivering items that the taxable entity or an affiliated entity sold.

SECTION \_\_\_\_\_.04. This article applies only to a report originally due on or after January 1, 2012.

SECTION \_\_\_\_\_.05. This article takes effect January 1, 2012.

### **Floor Amendment No. 75**

Amend **CSSB 1811** (house committee printing) by adding the following appropriately numbered ARTICLE to the bill and renumbering subsequent ARTICLES and SECTIONS of the bill accordingly:

ARTICLE \_\_\_\_\_. TREATMENT OF CERTAIN EXEMPT ORGANIZATIONS FOR SALES AND USE TAX PURPOSES

SECTION \_\_\_\_\_.01. Section 151.310, Tax Code, is amended by adding Subsections (c-1), (c-2), (g), and (h) to read as follows:

(c-1) For purposes of Subsection (c), an organization that qualifies for an exemption under Subsection (a)(1) or (2) is the seller of a taxable item at a tax-free sale or auction authorized by Subsection (c) if the organization:

(1) obtains the taxable item in a transaction that is a purchase;

(2) purchases the taxable item for a wholesale price stated on an invoice or receipt;

(3) bears the risk of loss with respect to the taxable item after the purchase;

and

(4) is not contractually obligated to resell the taxable item at a price established by the person from whom the organization obtains the taxable item.

(c-2) An organization does not fail to meet the requirements of Subsection (c-1) solely because the organization:

(1) returns a taxable item to the person from whom the item was obtained in exchange for a refund of the purchase price; or

(2) resells a taxable item at a price suggested or recommended by the person from whom the item was obtained.

(g) An organization that is the seller of a taxable item as provided by Subsection (c-1) is entitled to claim an exemption under Section 151.302 on the purchase of the taxable item for resale at a tax-free sale or auction authorized by Subsection (c) or another sale that is not tax-free.

(h) Notwithstanding Section 151.024, an organization that is the seller of a taxable item as provided by Subsection (c-1) may not be regarded under Section 151.024 as the agent of the dealer, distributor, supervisor, or employer from whom the organization obtains the taxable item.

SECTION \_\_\_\_\_.02. The changes in law made by this article to Section 151.310, Tax Code, apply to any tax period with respect to which the limitation period prescribed by Section 111.201, Tax Code, has not expired on the effective date of this Act.

### **Floor Amendment No. 76**

Amend Amendment No. 75 to **CSSB 1811** by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. (a) Section 151.336, Tax Code, is amended to read as follows:

Sec. 151.336. CERTAIN COINS AND PRECIOUS METALS. ~~[(a)]~~ The sale of gold, silver, or numismatic coins or of platinum, gold, or silver bullion is exempted from the taxes ~~[sales tax]~~ imposed by this chapter ~~[Subchapter C at any sale to a purchaser in which the total sales price of all of the items sold equals \$1,000 or more].~~

~~[(b) An item exempt under Subsection (a) is exempt from the use tax imposed by Subchapter D to the purchaser until the item is subsequently transferred.]~~

(b) The change in law made by this section does not affect tax liability accruing before the effective date of this section. That liability continues in effect as if this section had not been enacted, and the former law is continued in effect for the collection of taxes due and for civil and criminal enforcement of the liability for those taxes.



(c) This section takes effect immediately if this Act 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 this section to have immediate effect, this section takes effect September 1, 2011.

### Floor Amendment No. 78

Amend **CSSB 1811** by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. (a) Section 23.51(2), Tax Code, is amended to read as follows:

(2) "Agricultural use" includes but is not limited to the following activities: cultivating the soil, producing crops for human food, animal feed, or planting seed or for the production of fibers; floriculture, viticulture, and horticulture; raising or keeping livestock; raising or keeping exotic animals for the production of human food or of fiber, leather, pelts, or other tangible products having a commercial value; planting cover crops or leaving land idle for the purpose of participating in a governmental program, provided the land is not used for residential purposes or a purpose inconsistent with agricultural use; and planting cover crops or leaving land idle in conjunction with normal crop or livestock rotation procedure. The term also includes the use of land to produce or harvest logs and posts for the use in constructing or repairing fences, pens, barns, or other agricultural improvements on adjacent qualified open-space land having the same owner and devoted to a different agricultural use. The term also includes the use of land for wildlife management. The term also includes the use of land to raise or keep bees for pollination or for the production of human food or other tangible products having a commercial value, provided that the land used is not less than 5 or more than 20 acres.

(b) This section applies only to the appraisal of land for ad valorem tax purposes for a tax year that begins on or after the effective date of this Act.

### Floor Amendment No. 82

Amend **CSSB 1811** (house committee printing) by adding the following appropriately numbered ARTICLE to the bill and renumbering the subsequent ARTICLES of the bill accordingly:

ARTICLE \_\_\_\_\_. ELIGIBILITY OF SURVIVING SPOUSE OF DISABLED VETERAN TO PAY AD VALOREM TAXES ON RESIDENCE HOMESTEAD IN INSTALLMENTS

SECTION \_\_\_\_\_.01. Section 31.031, Tax Code, is amended by amending Subsection (a) and adding Subsection (a-1) to read as follows:

(a) This section applies only to:

(1) [~~If before the delinquency date~~] an individual who is:

(A) disabled or at least 65 years of age; and

(B) [~~is~~] qualified for an exemption under Section 11.13(c); or

(2) an individual who is:

(A) the unmarried surviving spouse of a disabled veteran; and

(B) qualified for an exemption under Section 11.22.

(a-1) If before the delinquency date an individual to whom this section applies pays at least one-fourth of a taxing unit's taxes imposed on property that the person owns and occupies as a residence homestead, accompanied by notice to the taxing unit that the person will pay the remaining taxes in installments, the person may pay the remaining taxes without penalty or interest in three equal installments. The first installment must be paid before April 1, the second installment before June 1, and the third installment before August 1.

SECTION \_\_\_\_\_.02. This article applies only to an ad valorem tax year that begins on or after the effective date of this article.

SECTION \_\_\_\_\_.03. This article takes effect January 1, 2012.

### **Floor Amendment No. 83**

Amend **CSSB 1811** (house committee printing) by adding the following appropriately numbered ARTICLE to the bill and renumbering subsequent ARTICLES and SECTIONS of the bill accordingly:

ARTICLE \_\_\_\_\_. TEXAS FISCAL STABILITY COMMISSION

SECTION \_\_\_\_\_.01. In this article, "commission" means the Texas Fiscal Stability Commission.

SECTION \_\_\_\_\_.02. (a) The mission of the commission is to provide the members of this state's legislature with recommendations for improving this state's ability to provide a stable, long-term source of revenue for educating the people of this state from pre-kindergarten through higher education while maintaining low state and local tax rates relative to other states and ensuring tax burdens of households and business entities are equitably shared.

(b) The commission shall develop a comprehensive plan that includes tax and budget recommendations to eliminate this state's structural revenue shortfall.

SECTION \_\_\_\_\_.03. (a) The commission is composed of 19 members as follows:

(1) the chair of the House Appropriations Committee and House Ways and Means Committee;

(2) the chair and vice chair of the Senate Committee on Finance;

(3) two state representatives and three members of the public appointed by the speaker of the house of representatives;

(4) two state senators and three members of the public appointed by the lieutenant governor; and

(5) five members of the public appointed by the governor.

(b) A person specified by Subsection (a) of this section to appoint a commission member shall make the appointment not later than November 1, 2011.

(c) The lieutenant governor and speaker of the house of representatives shall select one member of the commission to serve as the chair and another member to serve as the vice chair.

(d) The commission shall meet at the call of the chair.

(e) The commission shall hold public hearings at locations throughout this state to hear testimony on issues related to its mission.

(f) A commission member may not receive compensation for serving on the commission but is entitled to reimbursement of travel expenses incurred by the member while conducting the business of the commission as provided by the General Appropriations Act.

(g) Not later than June 1, 2012, the commission shall submit the state fiscal stability plan under Section \_\_\_\_\_.02 of this article to the Senate Finance Committee, the House Appropriations Committee, the House Ways and Means Committee, and the Legislative Budget Board.

(h) The commission is abolished September 1, 2013.

SECTION \_\_\_\_\_.04. This article expires September 1, 2013.

SECTION \_\_\_\_\_.05. This article takes effect immediately if this Act 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 article takes effect September 1, 2011.

#### **Floor Amendment No. 84**

Amend **CSSB 1811** (house committee printing) by adding the following appropriately numbered ARTICLE to the bill and renumbering subsequent ARTICLES and SECTIONS of the bill accordingly:

ARTICLE \_\_\_\_\_. GENERAL REVENUE ATTRIBUTABLE TO ACT

SECTION \_\_\_\_\_.01. (a) Before September 1 of each year, the comptroller shall determine the additional general revenue available to the state for the state fiscal year that began on the preceding September 1 that is attributable to changes in law made by this Act. In making the determination, the comptroller shall exclude any revenue dedicated to a specific purpose by the constitution of this state.

(b) Notwithstanding any other law but subject to Subsection (c) of this section, the comptroller shall transfer from the undedicated portion of the general revenue fund to the credit of the foundation school fund the total amount of additional general revenue as determined under Subsection (a) of this section. An amount transferred under this subsection for a state fiscal year is appropriated to the Texas Education Agency for that fiscal year to be used for Foundation School Program purposes and is in addition to other amounts appropriated for Foundation School Program purposes for that state fiscal year.

(c) The amount transferred to the credit of the foundation school fund under Subsection (b) of this section may not exceed the amount necessary to fund the Foundation School Program at the level at which that program was funded for the 2010-2011 school year, including funding at that level for enrollment growth.

#### **Floor Amendment No. 85**

Amend **CSSB 1811** (house committee report) by adding the following appropriately numbered ARTICLES to the bill and renumbering subsequent ARTICLES of the bill accordingly:

ARTICLE \_\_\_\_\_. REDUCTION IN GENERAL APPROPRIATIONS ACT

SECTION \_\_\_\_\_.01. An active, former, or retired visiting judge or justice is not entitled to an amount from the state for expenses, per diem, travel, or salary that exceeds the amount authorized for those purposes by the General Appropriations Act.

SECTION \_\_\_\_.02. A local administrative district judge is not entitled to a salary from the state under Section 659.012(d), Government Code, that exceeds the amount authorized for that salary by the General Appropriations Act.

SECTION \_\_\_\_.03. An active district judge is not entitled to travel expenses under Section 24.019, Government Code, in an amount that exceeds the amount authorized for those expenses by the General Appropriations Act.

SECTION \_\_\_\_.04. A judge, justice, or prosecuting attorney is not entitled to an amount from the state for a salary, a salary supplement, office expenses or reimbursement of office expenses, or travel that exceeds the amount authorized for those purposes by the General Appropriations Act.

SECTION \_\_\_\_.05. (a) A county is not entitled to receive from the state supplemental salary compensation for county prosecutors under Section 46.0031, Government Code, or longevity pay supplements reimbursement under Section 41.255, Government Code, or any other supplements for prosecutors, in an amount that exceeds the amount appropriated for those purposes by the General Appropriations Act.

(b) A county is not entitled to state contributions for salaries or supplements under Chapter 25 or 26, Government Code, in an amount that exceeds the amounts appropriated for those purposes in the General Appropriations Act.

(c) A county is not entitled to reimbursement under Article 11.071, Code of Criminal Procedure, for reimbursement for compensation of counsel under that article in an amount that exceeds the amount appropriated for that purpose in the General Appropriations Act.

SECTION \_\_\_\_.06. A person reimbursed by the state for travel and expenses for attendance as a witness as provided by Article 35.27, Code of Criminal Procedure, is not entitled to an amount that exceeds the amount appropriated for that purpose by the General Appropriations Act.

#### ARTICLE \_\_\_\_. FISCAL MATTERS REGARDING ASSISTANT PROSECUTORS

SECTION \_\_\_\_.01. Section 41.255(f), Government Code, is amended to read as follows:

(f) A county is not required to pay longevity supplements if the county does not receive funds from the comptroller as provided by Subsection (d). If sufficient funds are not available to meet the requests made by counties for funds for payment of assistant prosecutors qualified for longevity supplements:

(1) ~~[7]~~ the comptroller shall apportion the available funds to the eligible counties by reducing the amount payable to each county on an equal percentage basis;

(2) a county is not entitled to receive the balance of the funds at a later date;

and

(3) the longevity pay program under this chapter is suspended to the extent of the insufficiency. [A county that receives from the comptroller an amount less than the amount certified by the county to the comptroller under Subsection (d) shall apportion the funds received by reducing the amount payable to eligible assistant prosecutors on an equal percentage basis, but is not required to use county funds to make up any difference between the amount certified and the amount received.]

SECTION \_\_\_\_.02. Section 41.255(g), Government Code, is repealed.

## ARTICLE \_\_\_\_ FISCAL MATTERS REGARDING PROCESS SERVERS

SECTION \_\_\_\_ .01. Subchapter A, Chapter 51, Government Code, is amended by adding Section 51.008 to read as follows:

Sec. 51.008. FEES FOR PROCESS SERVER CERTIFICATION. (a) The process server review board established by supreme court order may recommend to the supreme court the fees to be charged for process server certification and renewal of certification. The supreme court must approve the fees recommended by the process server review board before the fees may be collected.

(b) If a certification is issued or renewed for a term that is less than the certification period provided by supreme court rule, the fee for the certification shall be prorated so that the process server pays only that portion of the fee that is allocable to the period during which the certification is valid. On renewal of the certification on the new expiration date, the process server must pay the entire certification renewal fee.

(c) The Office of Court Administration of the Texas Judicial System may collect the fees recommended by the process server review board and approved by the supreme court. Fees collected under this section shall be sent to the comptroller for deposit to the credit of the general revenue fund.

(d) Fees collected under this section may be appropriated to the Office of Court Administration of the Texas Judicial System for the support of regulatory programs for process servers and guardians.

SECTION \_\_\_\_ .02. Subchapter B, Chapter 72, Government Code, is amended by adding Sections 72.013 and 72.014 to read as follows:

Sec. 72.013. PROCESS SERVER REVIEW BOARD. A person appointed to the process server review board established by supreme court order serves without compensation but is entitled to reimbursement for actual and necessary expenses incurred in traveling and performing official board duties.

Sec. 72.014. CERTIFICATION DIVISION. The office shall establish a certification division to oversee the regulatory programs assigned to the office by law or by the supreme court.

SECTION \_\_\_\_ .03. (a) The fees recommended and approved under Section 51.008, Government Code, as added by this article, apply to:

(1) each person who holds a process server certification on the effective date of this Act; and

(2) each person who applies for process server certification on or after the effective date of this Act.

(b) The Office of Court Administration of the Texas Judicial System shall prorate the process server certification fee so that a person who holds a process server certification on the effective date of this Act pays only that portion of the fee that is allocable to the period during which the certification is valid. On renewal of the certification on the new expiration date, the entire certification renewal fee is payable.

ARTICLE \_\_\_\_ FISCAL MATTERS REGARDING JUDICIAL AND COURT  
PERSONNEL TRAINING FUND

SECTION \_\_\_\_ .01. Section 56.001, Government Code, is amended to read as follows:

Sec. 56.001. JUDICIAL AND COURT PERSONNEL TRAINING FUND. (a) The judicial and court personnel training fund is an account in the general revenue fund. Money in the judicial and court personnel training fund may be appropriated only to ~~[created in the state treasury and shall be administered by]~~ the court of criminal appeals for the uses authorized in Section 56.003.

(b) ~~[(4)]~~ On requisition of the court of criminal appeals, the comptroller shall draw a warrant on the fund for the amount specified in the requisition for a use authorized in Section 56.003. A warrant may not exceed the amount appropriated for any one fiscal year. ~~[At the end of each state fiscal year, any unexpended balance in the fund in excess of \$500,000 shall be transferred to the general revenue fund.]~~

ARTICLE \_\_\_\_ . FISCAL MATTERS REGARDING PAYMENT OF JURORS

SECTION \_\_\_\_ .01. Section 61.001(a), Government Code, is amended to read as follows:

(a) Except as provided by Subsection (c), a person who reports for jury service in response to the process of a court is entitled to receive as reimbursement for travel and other expenses an amount:

(1) not less than \$6 for the first day or fraction of the first day the person is in attendance in court in response to the process and discharges the person's duty for that day; and

(2) not less than the amount provided in the General Appropriations Act ~~[\$40]~~ for each day or fraction of each day the person is in attendance in court in response to the process after the first day and discharges the person's duty for that day.

SECTION \_\_\_\_ .02. Sections 61.0015(a) and (e), Government Code, are amended to read as follows:

(a) The state shall reimburse a county the appropriate amount as provided in the General Appropriations Act ~~[\$34 a day]~~ for the reimbursement paid under Section 61.001 to a person who reports for jury service in response to the process of a court for each day or fraction of each day after the first day in attendance in court in response to the process.

(e) If a payment on a county's claim for reimbursement is reduced under Subsection (d), or if a county fails to file the claim for reimbursement in a timely manner, the comptroller may, as provided by rule, apportion the payment of the balance owed the county. The comptroller's rules may permit a different rate of reimbursement for each quarterly payment under Subsection (c) ~~[shall:~~

~~(1) pay the balance owed to the county when sufficient money described by Subsection (c) is available; or~~

~~(2) carry forward the balance owed to the county and pay the balance to the county when the next payment is required].~~

**Floor Amendment No. 86**

Amend Amendment No. 85 by Otto to **CSSB 1811** (page 771, prefiled amendment packet), by striking the Article titled "FISCAL MATTERS REGARDING PAYMENT OF JURORS" (page 5, line 15 through page 6, line 18 of the amendment) and substituting the following:

ARTICLE \_\_\_\_ . FISCAL MATTERS REGARDING PAYMENT OF JURORS.

SECTION \_\_\_\_ .01. Section 61.001, Government Code, is amended by adding Subsections (a-1) and (a-2) to read as follows:

(a-1) Notwithstanding Subsection (a), and except as provided by Subsection (c), during the state fiscal biennium beginning September 1, 2011, a person who reports for jury service in response to the process of a court is entitled to receive as reimbursement for travel and other expenses an amount:

(1) not less than \$6 for the first day or fraction of the first day the person is in attendance in court in response to the process and discharges the person's duty for that day; and

(2) not less than the amount provided in the General Appropriations Act for each day or fraction of each day the person is in attendance in court in response to the process after the first day and discharges the person's duty for that day.

(a-2) This subsection and Subsection (a-1) expire September 1, 2013.

SECTION \_\_\_\_ .02. Section 61.0015, Government Code, is amended by adding Subsections (a-1), (a-2), and (e-1) to read as follows:

(a-1) Notwithstanding Subsection (a), during the state fiscal biennium beginning September 1, 2011, the state shall reimburse a county the appropriate amount as provided in the General Appropriations Act for the reimbursement paid under Section 61.001 to a person who reports for jury service in response to the process of a court for each day or fraction of each day after the first day in attendance in court in response to the process.

(a-2) This subsection and Subsections (a-1) and (e-1) expire September 1, 2013.

(e-1) Notwithstanding Subsection (e), during the state fiscal biennium beginning September 1, 2011, if a payment on a county's claim for reimbursement is reduced under Subsection (d), or if a county fails to file the claim for reimbursement in a timely manner, the comptroller may, as provided by rule, apportion the payment of the balance owed the county. The comptroller's rules may permit a different rate of reimbursement for each quarterly payment under Subsection (c).

### **Floor Amendment No. 87**

Amend **CSSB 1811** (house committee printing) by adding the following appropriately numbered ARTICLE to the bill and renumbering subsequent ARTICLES and SECTIONS of the bill accordingly:

ARTICLE \_\_\_\_ . ADJUDICATION OF CLAIMS ARISING UNDER WRITTEN  
CONTRACTS WITH STATE AGENCIES

SECTION \_\_\_\_ .01. Title 5, Civil Practice and Remedies Code, is amended by adding Chapter 114 to read as follows:

CHAPTER 114. ADJUDICATION OF CLAIMS ARISING UNDER WRITTEN  
CONTRACTS WITH STATE AGENCIES

Sec. 114.001. DEFINITIONS. In this chapter:

(1) "Adjudication" of a claim means the bringing of a civil suit and prosecution to final judgment in county or state court and includes the bringing of an arbitration proceeding and prosecution to final resolution in accordance with any mandatory procedures established in the contract subject to this chapter for the arbitration proceedings.

(2) "Contract subject to this chapter" means a written contract stating the essential terms of the agreement for providing goods or services to the state agency that is properly executed on behalf of the state agency.

(3) "State agency" means an agency, department, commission, bureau, board, office, council, court, or other entity that is in any branch of state government and that is created by the constitution or a statute of this state, including a university system or a system of higher education. The term does not include a county, municipality, court of a county or municipality, special purpose district, or other political subdivision of this state.

Sec. 114.002. APPLICABILITY. This chapter applies only to a claim for breach of contract in which the matter in controversy exceeds \$250,000, exclusive of interest.

Sec. 114.003. WAIVER OF IMMUNITY TO SUIT FOR CERTAIN CLAIMS. A state agency that is authorized by statute or the constitution to enter into a contract and that enters into a contract subject to this chapter waives sovereign immunity to suit for the purpose of adjudicating a claim for breach of an express or implied provision of the contract, subject to the terms and conditions of this chapter.

Sec. 114.004. LIMITATIONS ON ADJUDICATION AWARDS. (a) The total amount of money awarded in an adjudication brought against a state agency for breach of an express or implied provision of a contract subject to this chapter is limited to the following:

(1) the balance due and owed by the state agency under the contract as it may have been amended, including any amount owed as compensation for the increased cost to perform the work as a direct result of owner-caused delays or acceleration;

(2) the amount owed for change orders or additional work required to carry out the contract; and

(3) interest as allowed by law.

(b) Damages awarded in an adjudication brought against a state agency arising under a contract subject to this chapter may not include:

(1) consequential damages, except as allowed under Subsection (a)(1);

(2) exemplary damages; or

(3) damages for unabsorbed home office overhead.

Sec. 114.005. CONTRACTUAL ADJUDICATION PROCEDURES ENFORCEABLE. Adjudication procedures, including requirements for serving notices or engaging in alternative dispute resolution proceedings before bringing a suit or an arbitration proceeding, that are stated in the contract subject to this chapter or that are established by the state agency and expressly incorporated into the contract are enforceable except to the extent those procedures conflict with the terms of this chapter.

Sec. 114.006. NO WAIVER OF OTHER DEFENSES. This chapter does not waive a defense or a limitation on damages available to a party to a contract, other than a bar against suit based on sovereign immunity.

Sec. 114.007. NO WAIVER OF IMMUNITY TO SUIT IN FEDERAL COURT. This chapter does not waive sovereign immunity to suit in federal court.

Sec. 114.008. NO WAIVER OF IMMUNITY TO SUIT FOR TORT LIABILITY. This chapter does not waive sovereign immunity to a claim arising from a cause of action for negligence.



Sec. 114.009. EMPLOYMENT CONTRACTS EXEMPT. This chapter does not apply to an employment contract between a state agency and an employee of that agency.

Sec. 114.010. NO RECOVERY OF ATTORNEY'S FEES. Attorney's fees incurred by a state agency or any other party in the adjudication of a claim by or against a state agency shall not be awarded to any party in the adjudication unless the state agency has entered into a written agreement that expressly authorizes the prevailing party in the adjudication to recover its reasonable and necessary attorney's fees.

Sec. 114.011. VENUE. A suit under this chapter may be brought in a district court in:

(1) a county in which the events or omissions giving rise to the claim occurred; or

(2) Travis County.

SECTION \_\_.02. Section 2260.002, Government Code, is amended to read as follows:

Sec. 2260.002. APPLICABILITY. This chapter does not apply to:

(1) a claim for personal injury or wrongful death arising from the breach of a contract; ~~or~~

(2) a contract executed or awarded on or before August 30, 1999; or

(3) a claim for breach of contract to which Chapter 114, Civil Practice and Remedies Code, applies.

SECTION \_\_.03. (a) Chapter 114, Civil Practice and Remedies Code, as added by this article, applies only to a claim arising under a contract executed on or after September 1, 2011. A claim that arises under a contract executed before September 1, 2011, is governed by the law applicable to the claim immediately before the effective date of this Act, and that law is continued in effect for that purpose.

(b) Nothing in this article is intended to create, rescind, expand, or limit any waiver of sovereign immunity to suit applicable to any contract executed before September 1, 2011.

### **Floor Amendment No. 88**

Amend **CSSB 1811** (house committee report) by adding the following:

SECTION 1. Section 1(c), Chapter 286 (HB 4765), Acts of the 81st Legislature, Regular Session, 2009, is amended to read as follows:

(c) This ~~[If this section takes effect, this]~~ section expires December 31, 2013 ~~[2011]~~

SECTION 2. Section 2(b), Chapter 286 (HB 4765), Acts of the 81st Legislature, Regular Session, 2009, is amended to read as follows:

(b) This section takes effect January 1, 2014 ~~[2012, if HB 2154, Acts of the 81st Legislature, Regular Session, 2009, amends Section 155.0211, Tax Code, in a manner that results in an increase in the revenue from the tax under that section during the state fiscal biennium beginning September 1, 2009, that is attributable to that change, and that Act is enacted and becomes law. If HB 2154, Acts of the 81st Legislature, Regular Session, 2009, does not amend Section 155.0211, Tax Code, in that manner or is not enacted or does not become law, this section takes effect January 1, 2010].~~

SECTION 3. Section 3(b), Chapter 286 (HB 4765), Acts of the 81st Legislature, Regular Session, 2009, is amended to read as follows:

(b) This section takes effect January 1, ~~2014~~ 2012, ~~if HB 2154, Acts of the 81st Legislature, Regular Session, 2009, amends Section 155.0211, Tax Code, in a manner that results in an increase in the revenue from the tax under that section during the state fiscal biennium beginning September 1, 2009, that is attributable to that change, and that Act is enacted and becomes law. If HB 2154, Acts of the 81st Legislature, Regular Session, 2009, does not amend Section 155.0211, Tax Code, in that manner or is not enacted or does not become law, this section takes effect January 1, 2010~~].

SECTION 4. This Act takes effect only if SB 1811, Acts of the 82nd Legislature, Regular Session, 2011, results in an increase in the revenue collected from state taxes imposed during the state fiscal biennium beginning September 1, 2011, that is attributable to the changes provided by that Act, and that Act is enacted and becomes law. If SB 1811, Acts of the 82nd Legislature, Regular Session, 2011, does not result in an increase in the revenue collected from state taxes imposed or is not enacted or does not become law, this Act has no effect.

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, 2011.

#### **Floor Amendment No. 89**

Amend **CSSB 1811** (house committee printing) by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS accordingly:

SECTION \_\_\_\_\_. Section 171.1012, Tax Code, is amended by adding Subsection (e-1) to read as follows:

(e-1) In addition to other amounts that are not includable as cost of goods sold under Subsection (e) or other law, the cost of goods sold does not include the amount paid by a taxable entity in relation to the taxable entity's goods for labor costs for coverage for elective abortions under a health benefits plan or other health care plan. To the extent otherwise authorized by this chapter, the taxable entity may include as cost of goods sold the amount paid by the taxable entity for labor costs for coverage for other benefits and services under the health benefits plan or other health care plan. For purposes of this subsection, "elective abortion" does not include an abortion that:

(1) is determined to be medically necessary because of a life-threatening physical condition aggravated by, caused by, or arising from a pregnancy that, as certified by a physician, places the woman in danger of death or a serious risk of substantial impairment of a major bodily function unless an abortion is performed.

SECTION \_\_\_\_\_. Section 171.1013, Tax Code, is amended by adding Subsection (c-2) to read as follows:

(c-2) Notwithstanding Subsections (b)(2) and (b-1), a taxable entity that elects to subtract compensation for the purpose of computing its taxable margin under Section 171.101 may not subtract any amount the taxable entity paid for coverage for elective abortions under a health benefits plan or other health care plan. The taxable entity may subtract the amount the taxable entity paid for coverage for other benefits and

services under the health benefits plan or other health care plan if otherwise authorized by Subsection (b)(2) or (b-1). For purposes of this subsection, "elective abortion" does not include an abortion that:

(1) is determined to be medically necessary because of a life-threatening physical condition aggravated by, caused by, or arising from a pregnancy that, as certified by a physician, places the woman in danger of death or a serious risk of substantial impairment of a major bodily function unless an abortion is performed.

SECTION \_\_\_\_\_. Sections 171.1012 and 171.1013, as amended by this Act, apply only to a report originally due on or after the effective date of this Act.

### **Floor Amendment No. 90**

Amend Amendment No. 89 by Landtroop to **CSSB 1811** (page 726 of the prefiled amendment packet) immediately following page 2, line 16 of the amendment add the following:

Amend **CSSB 1811** (house committee report) by adding the following appropriately numbered ARTICLE to the bill and renumbering subsequent ARTICLES of the bill accordingly:

ARTICLE \_\_\_\_\_. STATE COSTS FOR ATTORNEYS AD LITEM AND  
GUARDIANS AD LITEM APPOINTED TO REPRESENT MINORS IN  
JUDICIAL BYPASS ABORTION PROCEEDINGS

SECTION \_\_\_\_\_.01. (a) Not later than December 1, 2011, the supreme court by rule shall establish procedures for the supreme court and each county court at law, court having probate jurisdiction, district court, and court of appeals in this state to conduct a financial audit to determine for the state fiscal year beginning September 1, 2011, the amount of state funds used to pay the costs of attorneys ad litem and guardians ad litem appointed to represent minors under Section 33.003 or 33.004, Family Code.

(b) In the procedures adopted under Subsection (a) of this section, the supreme court must require each state court to submit to the supreme court a report on the results of the financial audit conducted by the court not later than November 1, 2012.

(c) Not later than January 1, 2013, the supreme court shall submit to the lieutenant governor and the speaker of the house of representatives a report that summarizes the results of financial audits conducted in the state courts and includes the total amount of state funds used in the state fiscal year beginning September 1, 2011, to pay the costs of attorneys ad litem and guardians ad litem appointed to represent minors under Section 33.003 or 33.004, Family Code.

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

Amend **CSSB 1811** on third reading in ARTICLE 2 of the bill, by striking SECTION 2.02 of the bill (repealing Sections 221.006, 222.007, 223.009, 401.151(e), and 401.154, Insurance Code), substituting the following SECTIONS, appropriately numbered, and renumbering SECTIONS of ARTICLE 2 of the bill accordingly:

SECTION \_\_\_\_\_. Section 221.006, Insurance Code, is amended by adding Subsection (c) to read as follows:

(c) An insurer is not entitled to a credit under Subsection (a) for an examination or evaluation fee paid in calendar year 2012 or 2013. This subsection expires January 1, 2014.

SECTION \_\_\_\_. Section 222.007, Insurance Code, is amended by adding Subsection (c) to read as follows:

(c) An insurer or health maintenance organization is not entitled to a credit under Subsection (a) for an examination or evaluation fee paid in calendar year 2012 or 2013. This subsection expires January 1, 2014.

SECTION \_\_\_\_. Section 223.009, Insurance Code, is amended by adding Subsection (c) to read as follows:

(c) A title insurance company is not entitled to a credit under Subsection (a) for an examination or evaluation fee paid in calendar year 2012 or 2013. This subsection expires January 1, 2014.

SECTION \_\_\_\_. Section 401.151, Insurance Code, is amended by adding Subsection (f) to read as follows:

(f) An insurer is not entitled to a credit under Subsection (e) for an examination or evaluation fee paid in calendar year 2012 or 2013. This subsection expires January 1, 2014.

SECTION \_\_\_\_. Section 401.154, Insurance Code, is amended to read as follows:

Sec. 401.154. TAX CREDIT AUTHORIZED. (a) An insurer is entitled to a credit on the amount of premium taxes to be paid by the insurer for all examination fees paid under Section 401.153. The insurer may take the credit for the taxable year during which the examination fees are paid and may take the credit to the same extent the insurer may take a credit for examination fees paid when a salaried department examiner conducts the examination.

(b) An insurer is not entitled to a credit under Subsection (a) for an examination fee paid in calendar year 2012 or 2013. This subsection expires January 1, 2014.

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

Amend **CSSB 1811** on third reading by striking ARTICLE 12 of the bill ("SALES AND USE TAX HOLIDAY"), as amended on second reading by the McClendon amendment (bar code 823959), and as the McClendon amendment was amended by the Guillen amendment (bar code 824451), substituting the following appropriately numbered ARTICLE to the bill and renumbering subsequent ARTICLES and SECTIONS of the bill accordingly:

#### ARTICLE \_\_. PERIOD FOR SALES AND USE TAX HOLIDAY

SECTION \_\_.01. Section 151.326(a), Tax Code, is amended to read as follows:

(a) The sale of an article of clothing or footwear designed to be worn on or about the human body is exempted from the taxes imposed by this chapter if:

(1) the sales price of the article is less than \$100; and

(2) the sale takes place during a period beginning at 12:01 a.m. on the first ~~third~~ Friday in August and ending at 12 midnight on the following Sunday.

SECTION \_\_.02. Section 151.326(a), Tax Code, as amended by this article, does not affect tax liability accruing before the effective date of this article. That liability continues in effect as if this article had not been enacted, and the former law is continued in effect for the collection of taxes due and for civil and criminal enforcement of the liability for those taxes.

SECTION \_\_.03. This article takes effect immediately if the Act 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 article takes effect September 1, 2011.

### **Floor Amendment No. 3 on Third Reading**

Amend **CSSB 1811** on third reading by adding the following appropriately numbered ARTICLE to the bill and renumbering subsequent ARTICLES and SECTIONS of the bill appropriately:

#### ARTICLE \_\_. FISCAL MATTERS CONCERNING

#### SCHOLARSHIPS AWARDED FROM STUDENT SUCCESS-BASED FUNDS

SECTION \_\_.01. Subchapter A, Chapter 56, Education Code, is amended by adding Section 56.005 to read as follows:

Sec. 56.005. STUDENT PRIORITY FOR SCHOLARSHIPS AWARDED FROM STUDENT SUCCESS-BASED FUNDS. (a) In this section:

(1) "Coordinating board" means the Texas Higher Education Coordinating Board.

(2) "Critical field" means a field of study designated as a critical field under Subsection (b).

(b) Except as otherwise provided by Subdivision (2), the fields of engineering, computer science, mathematics, physical science, allied health, nursing, and teaching certification in the field of science or mathematics are critical fields. Beginning September 1, 2012, the coordinating board, based on the coordinating board's determination of those fields of study in which the support and development of postsecondary education programs at the bachelor's degree level are most critically necessary for serving the needs of this state, by rule may:

(1) designate as a critical field a field of study that is not currently designated by this subsection or by the board as a critical field; or

(2) remove a field of study from the list of fields currently designated by this subsection or by the board as critical fields.

(c) Notwithstanding any other law, in determining who should receive scholarships awarded by an institution of higher education from funds appropriated to the institution based on student success, the institution may give priority to awarding the scholarships to eligible students enrolled in critical fields.

(d) The coordinating board may adopt rules for the administration of this section.

### **Floor Amendment No. 5 on Third Reading**

Amend **CSSB 1811** on third reading as follows:

(1) In Section 7.01, Article 7, of the bill, in the first line of amended Section 42.259(f), Education Code, strike "(c)(8) or (d)(3)" and substitute "(c)(8), (d)(3), or (f-1)".

(2) Between Sections 7.01 and 7.02, Article 7, of the bill, insert:

SECTION 7.015. Section 42.259, Education Code, is amended by adding Subsection (f-1) to read as follows:

(f-1) Notwithstanding Subsections (c)(8) or (d)(3), if the comptroller finds that sufficient money is available for the purposes after making necessary Medicaid payments due on or before the 25th day of August:

(1) payments from the foundation school fund to each category 2 school district shall be made so that 15 percent of the yearly entitlement of the district is paid in an installment to be made on or before the 25th day of August; and

(2) payments from the foundation school fund to each category 3 school district shall be made so that 20 percent of the yearly entitlement of the district is paid in an installment to be made on or before the 25th day of August.

The amendments were read.

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

The motion prevailed without objection.

The Presiding Officer, Senator Eltife in Chair, asked if there were any motions to instruct the conference committee on **SB 1811** before appointment.

There were no motions offered.

The Presiding Officer announced the appointment of the following conferees on the part of the Senate: Senators Duncan, Chair; Williams, West, Patrick, and Deuell.

### **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 the following bills today:

**HB 1053, HB 1206, HB 3025, HB 3708.**

### **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 **HB 1601** today.

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

On motion of Senator Lucio and by unanimous consent, Senate Rule 11.10(a) and Senate Rule 11.18(a) were suspended in order that the Committee on International Relations and Trade might meet and consider **HB 3864** today.

### **BILLS AND RESOLUTIONS SIGNED**

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

**HB 34, HB 114, HB 123, HB 253, HB 282, HB 345, HB 399, HB 413, HB 451, HB 533, HB 549, HB 627, HB 649, HB 824, HB 930, HB 942, HB 962, HB 1123, HB 1128, HB 1135, HB 1136, HB 1146, HB 1245, HB 1381, HB 1529, HB 1559, HB 1643, HB 1694, HB 1772, HB 1774, HB 1840, HB 1841, HB 1908, HB 1965, HB 1983, HB 2061, HB 2069, HB 2108, HB 2162, HB 2189, HB 2245, HB 2258, HB 2312, HB 2354, HB 2727, HB 2759, HB 2793, HB 2859, HB 2908, HB 2928, HB 3065, HB 3272, HB 3547, HB 3814, HCR 18, HCR 63, HCR 68, HCR 90, HCR 133, HCR 164.**

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 201**

Senator Uresti submitted the following Conference Committee Report:

Austin, Texas  
May 21, 2011

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 201** 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.

URESTI  
BIRDWELL  
HINOJOSA  
WENTWORTH  
WILLIAMS  
On the part of the Senate

CALLEGARI  
BERMAN  
S. MILLER  
FARIAS  
PICKETT  
On the part of the House

**A BILL TO BE ENTITLED  
AN ACT**

relating to the calculation of ad valorem taxes on the residence homestead of a 100 percent or totally disabled veteran for the tax year in which the veteran qualifies or ceases to qualify for an exemption from taxation of the homestead.

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

SECTION 1. Section 11.42, Tax Code, is amended by adding Subsection (e) to read as follows:

(e) A person who qualifies for an exemption under Section 11.131 after January 1 of a tax year may receive the exemption for the applicable portion of that tax year immediately on qualification for the exemption.

SECTION 2. Section 26.10, Tax Code, is amended by adding Subsection (c) to read as follows:

(c) If the appraisal roll shows that a residence homestead exemption under Section 11.131 applicable to a property on January 1 of a year terminated during the year, the tax due against the residence homestead is calculated by multiplying the amount of the taxes that otherwise would be imposed on the residence homestead for the entire year had the individual not qualified for the exemption under Section 11.131 during the year by a fraction, the denominator of which is 365 and the numerator of which is the number of days that elapsed after the date the exemption terminated.

SECTION 3. Chapter 26, Tax Code, is amended by adding Section 26.1125 to read as follows:

Sec. 26.1125. CALCULATION OF TAXES ON RESIDENCE HOMESTEAD OF 100 PERCENT OR TOTALLY DISABLED VETERAN. (a) If a person qualifies for an exemption under Section 11.131 after the beginning of a tax year, the amount of the taxes on the residence homestead of the person for the tax year is calculated by multiplying the amount of the taxes that otherwise would be imposed on the residence homestead for the entire year had the person not qualified for the exemption under Section 11.131 by a fraction, the denominator of which is 365 and the numerator of which is the number of days that elapsed before the date the person qualified for the exemption under Section 11.131.

(b) If a person qualifies for an exemption under Section 11.131 with respect to the property after the amount of the tax due on the property is calculated and the effect of the qualification is to reduce the amount of the tax due on the property, the assessor for each taxing unit shall recalculate the amount of the tax due on the property and correct the tax roll. If the tax bill has been mailed and the tax on the property has not been paid, the assessor shall mail a corrected tax bill to the person in whose name the property is listed on the tax roll or to the person's authorized agent. If the tax on the property has been paid, the tax collector for the taxing unit shall refund to the person who paid the tax the amount by which the payment exceeded the tax due.

SECTION 4. This Act applies only to an ad valorem tax year that begins on or after the effective date of this Act.

SECTION 5. This Act takes effect January 1, 2012.

The Conference Committee Report on **SB 201** was filed with the Secretary of the Senate.

### **CO-SPONSOR OF HOUSE BILL 92**

On motion of Senator Estes, Senator Birdwell will be shown as Co-sponsor of **HB 92**.

### **CO-SPONSOR OF HOUSE BILL 213**

On motion of Senator Lucio, Senator Carona will be shown as Co-sponsor of **HB 213**.

### **CO-SPONSOR OF HOUSE BILL 397**

On motion of Senator Uresti, Senator Lucio will be shown as Co-sponsor of **HB 397**.



**CO-SPONSOR OF HOUSE BILL 1000**

On motion of Senator Zaffirini, Senator Ellis will be shown as Co-sponsor of **HB 1000**.

**CO-SPONSOR OF HOUSE BILL 1075**

On motion of Senator Davis, Senator Zaffirini will be shown as Co-sponsor of **HB 1075**.

**CO-SPONSOR OF HOUSE BILL 1090**

On motion of Senator Seliger, Senator Eltife will be shown as Co-sponsor of **HB 1090**.

**CO-SPONSOR OF HOUSE BILL 1148**

On motion of Senator Hinojosa, Senator Van de Putte will be shown as Co-sponsor of **HB 1148**.

**CO-SPONSOR OF HOUSE BILL 1451**

On motion of Senator Whitmire, Senator Ellis will be shown as Co-sponsor of **HB 1451**.

**CO-SPONSOR OF HOUSE BILL 1942**

On motion of Senator Van de Putte, Senator Davis will be shown as Co-sponsor of **HB 1942**.

**CO-SPONSOR OF HOUSE BILL 2594**

On motion of Senator Carona, Senator Van de Putte will be shown as Co-sponsor of **HB 2594**.

**CO-SPONSOR OF HOUSE BILL 3724**

On motion of Senator Zaffirini, Senator Harris will be shown as Co-sponsor of **HB 3724**.

**RESOLUTIONS OF RECOGNITION**

The following resolutions were adopted by the Senate:

**Congratulatory Resolutions**

**SR 1056** by Ellis, Recognizing Jerome Gray for receiving the Heart of Houston award from the Fifth Ward Enrichment Program.

**SR 1057** by Ellis, Recognizing Suzette T. Caldwell for being named the 2010 Author of the Year by Destiny Image Publishing.

**SR 1058** by Ellis, Recognizing Ellery A. Richard for his service to Second Shiloh Missionary Baptist Church in Houston and to his community.

**SR 1059** by Lucio, Recognizing Dahlia Zárate-Muñiz for her accomplishments as an author.

**SR 1060** by Duncan, Recognizing Patrick J. Hanford on the occasion of his installation as president of the Texas Osteopathic Medical Association.

**SR 1061** by Ellis, Recognizing Davilin Hamel for her work in the office of Representative Barbara Mallory Caraway.

**SR 1062** by Ellis, Recognizing Kara Willis for her work in the office of the Harris County Attorney.

**SR 1063** by Ellis, Recognizing Conor Kenny for his work in the office of Senator Rodney Ellis.

**SR 1064** by Ellis, Recognizing Naomi Showers for her work in the office of Representative Ron Reynolds.

**SR 1065** by Ellis, Recognizing Elizabeth Tagle for her work in the office of Senator Rodney Ellis.

**SR 1066** by Ellis, Recognizing Stephen Small for his work in the office of Representative Harvey Hilderbran.

**SR 1067** by Ellis, Recognizing Victor Odongo for his work in the office of the Texas Criminal Justice Coalition.

**SR 1068** by Ellis, Recognizing Cole Howard for his work in the office of Representative Roberto Alonzo.

**SR 1069** by Ellis, Recognizing Janice Tolbert for her work in the office of Senator Rodney Ellis.

**SR 1070** by Ellis, Recognizing Bridgette Williams for her work in the office of the Texas Commission on Environmental Quality.

**SR 1071** by Ellis, Recognizing Chetamour McKenzie for her work in the office of the Association of Electric Companies of Texas.

**SR 1072** by Ellis, Recognizing Anastasia Thomas for her work in the office of Representative Marc Veasey.

**SR 1073** by Ellis, Recognizing Tonya Jones for her work in the office of the Task Force on Indigent Defense.

**SR 1074** by Ellis, Recognizing Rachel Kelly for her work in the office of Justice Nathan Hecht.

**SR 1075** by Ellis, Recognizing Cheryl Knight-Simpson for her work in the office of Justice Dale Wainwright.

**SR 1076** by Ellis, Recognizing David W. Sneed for his work in the office of Senator Kel Seliger.

**SR 1077** by Ellis, Recognizing Sara Lang for her work in the office of Representative Scott Hochberg.

**SR 1078** by Ellis, Recognizing Chelsea Frazier for her work in the office of Senator Rodney Ellis.

**SR 1079** by Ellis, Recognizing Shakira Pumphrey for her work in the office of House Speaker Joe Straus.

**SR 1080** by Ellis, Recognizing Madison Seymore for her work in the office of Representative John Frullo.

**SR 1081** by Ellis, Recognizing Brittney Quezada for her work in the office of Representative Naomi Gonzalez.

**SR 1082** by Van de Putte, Hinojosa, Lucio, Ogden, Uresti, Whitmire, and Williams, Congratulating the recipients of the H-E-B Excellence in Education Awards.

**SR 1083** by Ellis, Recognizing Robin Raasch for her work in the office of Representative Ana Hernandez Luna.

**SR 1084** by Ellis, Recognizing Melody Udoinyion for her work in the office of the Texas Commission on Environmental Quality.

**SR 1085** by Ellis, Recognizing Epernay Kyles for her work in the office of Senator John Whitmire.

**SR 1086** by Ellis, Recognizing Tumi Wallace for his work in the office of Senator Rodney Ellis.

**SR 1087** by Ellis, Recognizing Houston Tower for his work in the office of Representative Eddie Lucio.

**SR 1088** by Ellis, Recognizing Brian Waldrup for his work in the office of Representative Alma Allen.

**SR 1089** by Ellis, Recognizing Chuck Franklin for his work in the office of Senator Rodney Ellis.

**SR 1090** by Ellis, Recognizing Ryan Phipps for his work in the office of Representative Joaquin Castro.

**SR 1091** by Ellis, Recognizing Chinedum Okparaeke for his work in the office of Chief Justice Wallace B. Jefferson.

**SR 1092** by Ellis, Recognizing Christian Taylor for his work in the office of Representative Jessica Farrar.

**SR 1093** by Ellis, Recognizing Trevin Franklin for his work in the office of Lieutenant Governor David Dewhurst.

**SR 1094** by Ellis, Recognizing Sam Thomas for his work in the Office of Court Administration.

**SR 1095** by Ellis, Recognizing Clyde Jiles for his work in the office of Representative Eric Johnson.

**SR 1096** by Ellis, Recognizing Melissa K. Jones for her work in the office of Representative Senfronia Thompson.

**SR 1097** by Ellis, Recognizing Katasia Jordan for her work in the office of Representative Helen Giddings.

**SR 1098** by Ellis, Recognizing Luis Salguero for his work in the office of Representative Carol Alvarado.

**SR 1099** by Ellis, Recognizing Benjamin Griggs for his work in the office of Representative Hubert Vo.

**SR 1100** by Ellis, Recognizing Lisa Sherrod for her work for the Legislative Black Caucus.

**SR 1101** by Ellis, Recognizing Chasity Tillis for her work in the office of Representative Marisa Marquez.

**SR 1102** by Ellis, Recognizing Victoria Messer for her work in the office of Senator Robert Duncan.

**SR 1103** by Ellis, Recognizing Bernardo Aldalpe for his work in the office of Representative Veronica Gonzales.

**SR 1104** by Ellis, Recognizing Shalette Mitchell for her work in the office of Representative Yvonne Davis.

**SR 1105** by Ellis, Recognizing Kevin Osemene for his work in the office of Senator Royce West.

**SR 1106** by Ellis, Recognizing Valeria Mirolevich for her work in the office of Representative Burt Solomons.

**SR 1107** by Ellis, Recognizing Jessie Myles for her work in the office of Representative Vicki Truitt.

**SR 1108** by Ellis, Recognizing Diana Pineros for her work in the office of Senator Judith Zaffirini.

**SR 1109** by Ellis, Recognizing Edward Pollard for his work in the office of Representative Dawanna Dukes.

**SR 1110** by Ellis, Recognizing Brittane L. Hamilton for her work in the office of Representative Rene Oliveira.

**SR 1111** by Ellis, Recognizing Jay Johnson for his work in the office of Representative Garnet Coleman.

**SR 1112** by Ellis, Recognizing Nicholas Giles for his work in the office of Representative Sylvester Turner.

**SR 1113** by Ellis, Recognizing Felipe Nascimento for his work in the office of the Intergovernmental Relations Department of Travis County.

**SR 1114** by Ellis, Recognizing Lisa Mathews for her work in the office of the Legislative Study Group.

**SR 1115** by Ellis, Recognizing Alex Green for his work in the office of Representative Borris Miles.

**SR 1116** by Ellis, Recognizing Maxie Gallardo for her work in the office of Representative Armando Walle.

**SR 1117** by Ellis, Recognizing Bryce Romero for his work in the office of Senator Jose Rodriguez.

**SR 1118** by Ellis, Recognizing Sabrina Bannister for her work in the office of the Harris County Public Defender.

**SR 1119** by Ellis, Recognizing Ruth Damys for her work in the office of the Legislative Study Group.

**SR 1120** by Ellis, Recognizing Jane Ehinmoro for her work in the office of the Texas Criminal Justice Coalition.

**SR 1121** by Ellis, Recognizing Ana Castro for her work in the office of the Texas Supreme Court.

**SR 1122** by Ellis, Recognizing Cornelius Dupree for his work in the office of Senator Rodney Ellis.

**SR 1123** by Ellis, Recognizing Kenneth Ford for his work in the office of Judge Barbara Hervey.

**SR 1124** by Ellis, Recognizing Milagrosa Micha for her work in the office of the Texas Criminal Justice Coalition.

### ADJOURNMENT

On motion of Senator Whitmire, the Senate at 4:26 p.m. adjourned, pending the receipt of committee reports, until 10:00 a.m. Monday, May 23, 2011.

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### APPENDIX

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### COMMITTEE REPORTS

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

May 21, 2011

INTERGOVERNMENTAL RELATIONS — **CSHB 1496**

TRANSPORTATION AND HOMELAND SECURITY — **HB 12**

GOVERNMENT ORGANIZATION — **HB 1728, HCR 86**

ECONOMIC DEVELOPMENT — **CSHB 2784**

INTERNATIONAL RELATIONS AND TRADE — **HB 3841, HB 2387**

CRIMINAL JUSTICE — **HB 2119, HB 3384, HB 2560**

GOVERNMENT ORGANIZATION — **HB 1247**

JURISPRUDENCE — **HB 149, HB 1897, HB 2492, HB 3439, HB 3674, HB 2047, HB 3844**

TRANSPORTATION AND HOMELAND SECURITY — **HB 3423, HB 3422, HB 2771, HB 559, HB 890, HB 2678, HB 2651, HB 1010, HB 3079, HB 3837, HB 90, HB 2466**

JURISPRUDENCE — **HB 3856, HB 3833, HB 3475, HB 3125, HB 2949, HB 2367, HB 2310, HB 1314**

STATE AFFAIRS — **HB 2449, HB 2425, HB 628, HB 2595, HB 2098**

CRIMINAL JUSTICE — **HB 2124, HB 25, HB 718, HB 963, HB 1856, HB 242, HB 371, HB 748, HB 1009, HB 1113, HB 1622, HB 1721, HB 1930, HB 1994, HB 2096, HB 2496, HB 2577, HB 1043, HB 2329, HB 2649, HB 2966, HB 3746, HB 3396**

INTERGOVERNMENTAL RELATIONS — **CSHB 2761**

HIGHER EDUCATION — **CSHB 992, HB 1244 (Amended), CSHB 9**

JURISPRUDENCE — **CSHB 230**

CRIMINAL JUSTICE — **HB 3474, HB 2472**

INTERGOVERNMENTAL RELATIONS — **HB 2315, CSHB 3743, CSHB 3845, HB 3834, HB 645, HB 896, HB 1690, HB 3076, HB 3852, HB 3352, HB 3815, HB 3821, CSHB 3804, HB 427, HB 3862, HB 2266, HB 2338, HB 3216**

CRIMINAL JUSTICE — **CSHB 1103**

STATE AFFAIRS — **HCR 50**

CRIMINAL JUSTICE — **HB 1241**

INTERNATIONAL RELATIONS AND TRADE — **CSHB 1604**

STATE AFFAIRS — **CSHB 1904**

CRIMINAL JUSTICE — **HB 3829**

INTERGOVERNMENTAL RELATIONS — **CSHB 2316, CSHB 3133**

TRANSPORTATION AND HOMELAND SECURITY — **HB 1683, HB 1937, HB 1517**

GOVERNMENT ORGANIZATION — **CSHB 326**

BUSINESS AND COMMERCE — **CSHB 3117, CSHB 2284, HB 971 (Amended)**

CRIMINAL JUSTICE — **HB 1601, CSHB 3691**

INTERGOVERNMENTAL RELATIONS — **CSHB 3246, CSHB 3828, CSHB 1768**

### **BILL ENGROSSED**

May 20, 2011

**SB 1581**

### **BILLS AND RESOLUTIONS ENROLLED**

May 20, 2011

**SB 27, SB 82, SB 101, SB 179, SB 191, SB 199, SB 227, SB 283, SB 324, SB 373, SB 412, SB 434, SB 470, SB 485, SB 490, SB 493, SB 508, SB 510, SB 524, SB 543, SB 579, SB 580, SB 587, SB 613, SB 633, SB 710, SB 778, SB 866, SB 880, SB 888, SB 990, SB 1008, SB 1065, SB 1100, SB 1132, SB 1184, SB 1197,**

**SB 1243, SB 1291, SB 1378, SB 1518, SB 1618, SB 1630, SB 1635, SB 1661, SB 1739, SB 1882, SB 1895, SB 1922, SCR 5, SCR 10, SCR 18, SCR 39, SCR 55, SR 1036, SR 1044, SR 1045, SR 1047, SR 1048, SR 1049, SR 1051, SR 1052, SR 1053, SR 1054, SR 1055**

**SENT TO GOVERNOR**

May 21, 2011

**SB 27, SB 82, SB 101, SB 179, SB 191, SB 199, SB 227, SB 283, SB 324, SB 373, SB 412, SB 430, SB 434, SB 470, SB 485, SB 490, SB 493, SB 508, SB 510, SB 524, SB 543, SB 579, SB 580, SB 587, SB 613, SB 633, SB 662, SB 688, SB 710, SB 764, SB 778, SB 800, SB 866, SB 880, SB 888, SB 990, SB 1008, SB 1065, SB 1100, SB 1132, SB 1184, SB 1197, SB 1243, SB 1291, SB 1378, SB 1518, SB 1618, SB 1630, SB 1635, SB 1661, SB 1739, SB 1882, SB 1895, SB 1922, SCR 5, SCR 10, SCR 18, SCR 39, SCR 50, SCR 53, SCR 54, SCR 55**

**SIGNED BY GOVERNOR**

May 21, 2011

**SB 887**

**FILED WITHOUT SIGNATURE OF GOVERNOR**

May 21, 2011

**SB 501**

