

SENATE JOURNAL

EIGHTY-FIFTH LEGISLATURE — FIRST CALLED SESSION

AUSTIN, TEXAS

PROCEEDINGS

EIGHTH DAY

(Continued)

(Friday, August 11, 2017)

AFTER RECESS

The Senate met at 11:08 a.m. and was called to order by Senator Schwertner.

PHYSICIAN OF THE DAY

Senator Campbell was recognized and presented Dr. Jennefer Sutton of San Antonio as the Physician of the Day.

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

MESSAGE FROM THE HOUSE

HOUSE CHAMBER

Austin, Texas

Friday, August 11, 2017 - 1

The Honorable President of the Senate
Senate Chamber
Austin, Texas

Mr. President:

I am directed by the house to inform the senate that the house has taken the following action:

THE HOUSE HAS PASSED THE FOLLOWING MEASURES:

HB 331

Davis, Sarah

Relating to the reappraisal for ad valorem tax purposes of property damaged in a disaster.

SB 20

Taylor, Van

Sponsor: Gonzales, Larry

Relating to avoiding the abolishment of certain agencies subject to the Texas Sunset Act.

SB 60

Taylor, Van

Sponsor: Gonzales, Larry

Relating to the repeal of certain riders for the Texas Medical Board and the Texas State Board of Examiners of Psychologists from the General Appropriations Act that are contingent upon the approval of certain Acts continuing those agencies during the 85th Regular Session.

Respectfully,

/s/Robert Haney, Chief Clerk
House of Representatives

SENATE BILL 5 WITH HOUSE AMENDMENTS

Senator Hancock called **SB 5** from the President's table for consideration of the House amendments to the bill.

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

Floor Amendment No. 5

Amend **SB 5** (house committee printing) by striking all below the enacting clause and substituting the following:

SECTION 1. Section 64.012(a), Election Code, is amended to read as follows:

(a) A person commits an offense if the person:

(1) votes or attempts to vote in an election in which the person knows the person is not eligible to vote;

(2) knowingly votes or attempts to vote more than once in an election;

(3) knowingly ~~[impersonates another person and]~~ votes or attempts to vote a ballot belonging to another person, or by impersonating another ~~[as the impersonated]~~ person; or

(4) knowingly marks or attempts to mark any portion of another person's ballot without the consent of that person, or without specific direction from that person how to mark the ballot.

SECTION 2. Section 66.058(a), Election Code, is amended to read as follows:

(a) Except as otherwise provided by this code, the precinct election records shall be preserved by the authority to whom they are distributed[-

~~[(1) in an election involving a federal office,] for at least 22 months after election day [in accordance with federal law; or~~

~~[(2) in an election not involving a federal office, for at least six months after election day].~~

SECTION 3. Section 84.001(b), Election Code, is amended to read as follows:

(b) An application must be in writing and signed by the applicant. An electronic signature is not permitted.

SECTION 4. Section 84.0041, Election Code, is amended to read as follows:

Sec. 84.0041. FRAUDULENT USE OF [PROVIDING FALSE INFORMATION ON] APPLICATION FOR BALLOT BY MAIL. (a) A person commits an offense if the person:

(1) knowingly provides false information on an application for ~~[an early voting]~~ ballot by mail;

(2) intentionally causes false information to be provided on an application for ballot by mail;

(3) knowingly submits an application for ballot by mail without the knowledge and authorization of the voter; or

(4) knowingly and without the voter's authorization alters information provided by the voter on an application for ballot by mail.

~~(b) An offense under this section is a state jail felony [unless the person is the applicant, is related to the applicant within the second degree by affinity or the third degree by consanguinity, as determined under Subchapter B, Chapter 573, Government Code, or is registered to vote at the same address as the applicant, in which event the offense is a Class A misdemeanor].~~

(c) An offense under Subsection (a)(4) does not apply to an early voting clerk or deputy early voting clerk who receives and marks an application for administrative purposes only.

(d) An offense under this section is increased to the next higher category of offense if it is shown on the trial of an offense under this section that:

(1) the defendant was previously convicted of an offense under this code;

(2) the offense involved a voter 65 years of age or older; or

(3) the defendant committed another offense under this section in the same election.

SECTION 5. Section 84.007, Election Code, is amended by amending Subsection (b) and adding Subsection (b-1) to read as follows:

(b) An application must be submitted to the early voting clerk by:

(1) mail;

(2) common or contract carrier;

(3) subject to Subsection (b-1), telephonic facsimile machine, if a machine is available in the clerk's office; or

(4) subject to Subsection (b-1), electronic transmission of a scanned application containing an original signature.

(b-1) For an application for ballot by mail submitted by telephonic facsimile machine or electronic transmission to be effective, the application also must be submitted by mail and be received by the early voting clerk not later than the fourth business day after the transmission by telephonic facsimile machine or electronic transmission is received.

SECTION 6. Section 84.032(c), Election Code, is amended to read as follows:

(c) An applicant may submit a request after the close of early voting by personal appearance by appearing in person and:

(1) returning the ballot to be voted by mail to the early voting clerk; or

(2) executing an affidavit that the applicant:

(A) has not received the ballot to be voted by mail; or

(B) never requested a ballot to be voted by mail.

SECTION 7. Section 84.037, Election Code, is amended to read as follows:

Sec. 84.037. PRESERVATION OF DOCUMENTS. (a) The early voting clerk shall preserve each cancellation request for the period for preserving the precinct election records. If the application is canceled, the clerk shall attach it and the corresponding ballot materials, if available, to the cancellation request and preserve it with the request.

(b) The early voting clerk shall, not later than the 30th day after election day, deliver notice to the attorney general of cancellation requests received, including certified copies of cancellation requests, applications, and carrier envelopes, if available.

(c) The attorney general shall prescribe the form and manner of submission under Subsection (b). The secretary of state shall adopt rules as necessary to implement the requirements prescribed under this subsection.

SECTION 8. Sections 86.003(a) and (b), Election Code, as effective September 1, 2017, are amended to read as follows:

(a) The balloting materials for voting by mail shall be provided to the voter by mail ~~[, unless the ballot is delivered to a voter for early voting under Chapter 107].~~ A ballot provided by any other method may not be counted.

(b) Subject to Subsection (c), the balloting materials shall be addressed to the applicable address specified in the voter's application. The election officer providing the ballot may not knowingly mail ~~[deliver]~~ the materials to an address other than that prescribed by this section.

SECTION 9. Section 86.004(a), Election Code, as effective September 1, 2017, is amended to read as follows:

(a) Except as provided by Subsection (b) ~~[or (e)]~~, the balloting materials for voting by mail shall be mailed to a voter entitled to vote by mail not later than the seventh calendar day after the later of the date the clerk accepts the voter's application for a ballot to be voted by mail or the date the ballots become available for mailing, except that if that mailing date is earlier than the 45th day before election day, the balloting materials shall be mailed not later than the 38th day before election day.

SECTION 10. The heading to Section 86.0051, Election Code, is amended to read as follows:

Sec. 86.0051. UNLAWFUL CARRIER ENVELOPE ACTION BY PERSON OTHER THAN VOTER~~[; OFFENSES]~~.

SECTION 11. Section 86.0051, Election Code, is amended by amending Subsections (b), (d), and (e) and adding Subsection (f) to read as follows:

(b) A person other than the voter who assists a voter by depositing ~~[deposits]~~ the carrier envelope in the mail or with a common or contract carrier or who obtains the carrier envelope for that purpose must provide the person's signature, printed name, and residence address on the reverse side of the envelope.

(d) An offense under this section is a Class A ~~[B]~~ misdemeanor, unless it is shown on the trial of an offense under this section that the person committed ~~[is convicted of]~~ an offense under Section 64.036 for providing unlawful assistance to the same voter in connection with the same ballot, in which event the offense is a state jail felony.

(e) This section does ~~[Subsections (a) and (e) do]~~ not apply if the person is related to the voter ~~[applicant]~~ within the second degree by affinity or the third degree by consanguinity, as determined under Subchapter B, Chapter 573, Government Code, or was physically living in ~~[is registered to vote at]~~ the same dwelling ~~[address]~~ as the voter at the time of the event ~~[applicant]~~.

(f) If conduct that constitutes an offense under this section also constitutes an offense under any other law, the actor may be prosecuted under this section, the other law, or both.

SECTION 12. Sections 86.006(f), (g), and (g-1), Election Code, are amended to read as follows:

(f) A person commits an offense if the person knowingly possesses an official ballot or official carrier envelope provided under this code to another. Unless the person possessed the ballot or carrier envelope with intent to defraud the voter or the election authority, this subsection does not apply to a person who, on the date of the offense, was:

(1) related to the voter within the second degree by affinity or the third degree by consanguinity, as determined under Subchapter B, Chapter 573, Government Code;

(2) physically living in ~~registered to vote at~~ the same dwelling ~~[address]~~ as the voter;

(3) an early voting clerk or a deputy early voting clerk;

(4) a person who possesses a ballot or [the] carrier envelope solely for the purpose of lawfully assisting a voter who was eligible for assistance under Section 86.010 and complied fully with:

(A) Section 86.010; and

(B) Section 86.0051, if assistance was provided in order to deposit the envelope in the mail or with a common or contract carrier [and who provides the information required by Section 86.0051(b) in accordance with that section];

(5) an employee of the United States Postal Service working in the normal course of the employee's authorized duties; or

(6) a common or contract carrier working in the normal course of the carrier's authorized duties if the official ballot is sealed in an official carrier envelope that is accompanied by an individual delivery receipt for that particular carrier envelope.

(g) An offense under Subsection (f) is a Class A misdemeanor unless the defendant possessed the ballot or carrier envelope without the request of the voter, in which case it is a felony of the third degree. If conduct that constitutes an offense under this section also constitutes an offense under any other law, the actor may be prosecuted under this section, the other law, or both [:

~~[(1) a Class B misdemeanor if the person possesses at least one but fewer than 10 ballots or carrier envelopes unless the person possesses the ballots or carrier envelopes without the consent of the voters, in which event the offense is a state jail felony;~~

~~[(2) a Class A misdemeanor if the person possesses at least 10 but fewer than 20 ballots or carrier envelopes unless the person possesses the ballots or carrier envelopes without the consent of the voters, in which event the offense is a felony of the third degree; or~~

~~[(3) a state jail felony if the person possesses 20 or more ballots or carrier envelopes unless the person possesses the ballots or carrier envelopes without the consent of the voters, in which event the offense is a felony of the second degree].~~

(g-1) An offense under Subsection (g) is increased to the next higher category of offense if it is shown on the trial of an offense under this section that:

(1) the defendant was previously convicted of an offense under this code;

(2) the offense involved an individual 65 years of age or older; or

(3) the defendant committed another offense under this section in the same election ~~[When ballots or carrier envelopes are obtained in violation of this section pursuant to one scheme or continuing course of conduct, whether from the same or several sources, the conduct may be considered as one offense and the number of ballots or carrier envelopes aggregated in determining the grade of the offense].~~

SECTION 13. Section 86.010, Election Code, is amended to read as follows:

Sec. 86.010. UNLAWFULLY ASSISTING VOTER VOTING BALLOT BY MAIL. (a) A voter casting a ballot by mail who would be eligible under Section 64.031 to receive assistance at a polling place may select a person as provided by Section 64.032(c) to assist the voter in preparing the ballot.

(b) Assistance rendered under this section is limited to that authorized by this code at a polling place, except that a voter with a disability who is physically unable to deposit the ballot and carrier envelope in the mail may also select a person as provided by Section 64.032(c) to assist the voter by depositing a sealed carrier envelope in the mail.

(c) The person assisting the voter must sign a written oath prescribed by Section 64.034 that is part of the certificate on the official carrier envelope.

(d) If a voter is assisted in violation of this section ~~[Subsection (a) or (b)]~~, the voter's ballot may not be counted.

(e) A person who assists a voter to prepare a ballot to be voted by mail shall enter the person's signature, printed name, and residence address on the official carrier envelope of the voter.

(f) A person who assists a voter commits an offense if the person knowingly fails to comply with Subsections (c) and ~~[provide the information on the official carrier envelope as required by Subsection]~~ (e).

(g) An offense under this section is a ~~[Class A misdemeanor unless the person is convicted of an offense under Section 64.036 for providing unlawful assistance to the same voter, in which event the offense is a]~~ state jail felony.

(h) Subsection (f) does not apply if the person is related to the voter ~~[applicant]~~ within the second degree by affinity or the third degree by consanguinity, as determined under Subchapter B, Chapter 573, Government Code, or was physically living in [is registered to vote at] the same dwelling [address] as the voter at the time of the event [applicant].

(i) An offense under this section is increased to the next higher category of offense if it is shown on the trial of an offense under this section that:

(1) the defendant was previously convicted of an offense under this code;

(2) the offense involved a voter 65 years of age or older; or

(3) the defendant committed another offense under this section in the same election.

(j) If conduct that constitutes an offense under this section also constitutes an offense under any other law, the actor may be prosecuted under this section, the other law, or both.

SECTION 14. Section 87.027(i), Election Code, is amended to read as follows:

(i) The signature verification committee shall compare the signature on each carrier envelope certificate, except those signed for a voter by a witness, with the signature on the voter's ballot application to determine whether the signatures are those of the voter ~~[same person]~~. The committee may also compare the signatures with any two or more signatures of the voter made within the preceding six years and on file with the county clerk or voter registrar ~~[the signature on the voter's registration application to confirm that the signatures are those of the same person but may not use the registration application signature]~~ to determine whether ~~[that]~~ the signatures are ~~[not]~~ those of the voter ~~[same person]~~. Except as provided by Subsection (l), a determination under this subsection that the signatures are not those of the voter ~~[same person]~~ must be made by a majority vote of the committee's membership. The committee shall place the jacket envelopes, carrier envelopes, and applications of voters whose signatures are not those of the voter ~~[same person]~~ in separate containers from those of voters whose signatures are those of the voter ~~[same person]~~. The committee chair shall deliver the sorted materials to the early voting ballot board at the time specified by the board's presiding judge.

SECTION 15. Section 87.041, Election Code, is amended by amending Subsection (e) and adding Subsection (g) to read as follows:

(e) In making the determination under Subsection (b)(2), the board may also compare the signatures with any two or more signatures of the voter made within the preceding six years and on file with the county clerk or voter registrar to determine whether ~~[confirm that]~~ the signatures are those of the voter ~~[same person but may not use the signatures to determine that the signatures are not those of the same person]~~.

(g) A person commits an offense if the person intentionally accepts a ballot for voting or causes a ballot to be accepted for voting that the person knows does not meet the requirements of Subsection (b). An offense under this subsection is a Class A misdemeanor.

SECTION 16. Section 87.0431, Election Code, is amended to read as follows:

Sec. 87.0431. NOTICE OF REJECTED BALLOT. (a) Not later than the 10th day after election day, the presiding judge of the early voting ballot board shall deliver written notice of the reason for the rejection of a ballot to the voter at the residence address on the ballot application. If the ballot was transmitted to the voter by e-mail under Subchapter C, Chapter 101, the presiding judge shall also provide the notice to the e-mail address to which the ballot was sent.

(b) The early voting clerk shall, not later than the 30th day after election day, deliver notice to the attorney general, including certified copies of the carrier envelope and corresponding ballot application, of any ballot rejected because:

- (1) the voter was deceased;
- (2) the voter already voted in person in the same election;
- (3) the signatures on the carrier envelope and ballot application were not executed by the same person;
- (4) the carrier envelope certificate lacked a witness signature; or
- (5) the carrier envelope certificate was improperly executed by an assistant.

(c) The attorney general shall prescribe the form and manner of submission under Subsection (b). The secretary of state shall adopt rules as necessary to implement the requirements prescribed under this subsection.

SECTION 17. Chapter 276, Election Code, is amended by adding Section 276.013 to read as follows:

Sec. 276.013. ELECTION FRAUD. (a) A person commits an offense if the person knowingly or intentionally makes any effort to:

(1) influence the independent exercise of the vote of another in the presence of the ballot or during the voting process;

(2) cause a voter to become registered, a ballot to be obtained, or a vote to be cast under false pretenses; or

(3) cause any intentionally misleading statement, representation, or information to be provided:

(A) to an election official; or

(B) on an application for ballot by mail, carrier envelope, or any other official election-related form or document.

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

(c) An offense under this section is increased to the next higher category of offense if it is shown on the trial of an offense under this section that:

(1) the defendant was previously convicted of an offense under this code;

(2) the offense involved a voter 65 years of age or older, and the actor was

not:

(A) related to the voter within the second degree by affinity or the third degree by consanguinity, as determined under Subchapter B, Chapter 573, Government Code; or

(B) physically living in the same dwelling as the voter at the time of the event; or

(3) the defendant committed another offense under this section in the same election.

(d) If conduct that constitutes an offense under this section also constitutes an offense under any other law, the actor may be prosecuted under this section, the other law, or both.

SECTION 18. The following provisions of law, as effective September 1, 2017, are repealed:

(1) Section 86.003(e), Election Code;

(2) Section 86.004(c), Election Code;

(3) Chapter 107, Election Code;

(4) Section 242.0181, Health and Safety Code; and

(5) Section 247.008, Health and Safety Code.

SECTION 19. The changes in law made by this Act apply 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 on the date 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.

SECTION 20. This Act takes effect December 1, 2017.

Floor Amendment No. 8

Amend Floor Amendment No. 5 by Goldman to **SB 5** (85S12651) on page 5, line 5, by striking "38th" and substituting "30th [~~38th~~]".

Floor Amendment No. 14

Amend Floor Amendment No. 5 by Goldman to **SB 5** (85S12651) on page 4, line 7, between "voting clerk" and "shall" by inserting "as defined by Subchapter A, Chapter 83".

The amendments were read.

Senator Hancock moved to concur in the House amendments to **SB 5**.

The motion prevailed by the following vote: Yeas 21, Nays 10.

Yeas: Bettencourt, Birdwell, Buckingham, Burton, Campbell, Creighton, Estes, Hall, Hancock, Huffines, Huffman, Hughes, Kolkhorst, Lucio, Nelson, Nichols, Perry, Schwertner, Seliger, Taylor of Galveston, Taylor of Collin.

Nays: Garcia, Hinojosa, Menéndez, Miles, Rodríguez, Uresti, Watson, West, Whitmire, Zaffirini.

REMARKS ORDERED PRINTED

On motion of Senator Rodríguez and by unanimous consent, the remarks by Senators Hancock and Rodríguez regarding **SB 5** were ordered reduced to writing and printed in the *Senate Journal*.

On motion of Senator Lucio and by unanimous consent, the remarks by Senator Menéndez regarding **SB 5** were ordered reduced to writing and printed in the *Senate Journal*.

On motion of Senator West and by unanimous consent, all remarks regarding **SB 5** were ordered reduced to writing and printed in the *Senate Journal* as follows:

Presiding Officer: The Chair recognizes the Senator from Tarrant County for a motion to concur in House amendments to Senate Bill No. 5.

Senator Hancock: Yes, thank you, Mr. President. Members, Senate Bill 5 cracks down on mail-in ballot fraud by doing a few things. It's providing enhanced protections for elderly and disabled voters, improving signature verification checks and balances, establishing new enhanced penalties for convicted mail ballot fraud offenders, and creating notification requirements regarding rejected mail-in ballots. The House amendments to SB 5 include the following: it prohibits electronic signatures in mail-in ballot applications. In the section of the bill regarding election fraud—

Presiding Officer: Can we please have some order in the Chamber, please? Senator.

Senator Hancock: Thank you, Mr. President.

—offense an exemption to penalty enhancements for family members and those physically living in the same dwelling as a voter at the time of the event is added, and it repeals Section 86.003(e) and Section 86.004(c) in Chapter 107 of the Election Code. In our office, we did hear from a number of election administrators and

commissioners, of course, and district attorneys from nearly 70 counties all expressing concerns of this issue and was extremely costly for funding an unfunded mandate to provide this provision. Mr. President, I move to concur with the House amendments to Senate Bill 5.

Presiding Officer: For what purpose does the Senator from El Paso rise?

Senator Rodríguez: To ask the gentleman some questions, if he will yield, Mr. President.

Presiding Officer: You yield?

Senator Hancock: Yep.

Senator Rodríguez: Thank you.

Presiding Officer: Senator Rodríguez, you're recognized.

Senator Rodríguez: Thank you, Mr. President. Thank you, Chairman Hancock. I wanted to follow up with you, since we did have an exchange the last time we talked about this bill. You had indicated that there was an opportunity to fix some things when it went over to the House, and as I look at the bill, I'm wondering if things were fixed or not. You remember, for example, that Zaffirini and I and Senator West raised some questions about Section 11 of the bill. You remember that?

Senator Hancock: I remember that.

Senator Rodríguez: Okay, very good. Did the House add any protections or exemptions for family members or household members in Section 11 of the bill?

Senator Hancock: It provides the same protections that it did previously.

Senator Rodríguez: The same protections. We were concerned about exempting family members from the sanctions provisions of the bill. Does this do that?

Senator Hancock: This provides the same protections to the disabled and elderly as every other voter.

Senator Rodríguez: Well, as I looked at it, it seems to me that the House added an exemption for family members and household members for the enhancements in terms of the punishment—

Senator Hancock: Correct.

Senator Rodríguez: —but not for the underlying offense. So, there were some changes made in the House with regard to Section 11, were there not?

Senator Hancock: Right, as I previously stated in the layout, it did address the enhancement portion of that for family members.

Senator Rodríguez: And it seems like the bill provides for a misdemeanor— it still does as, as it left the Senate, provides for a misdemeanor, Class A misdemeanor, for influencing the voter while in the presence of the ballot with no exceptions, right?

Senator Hancock: Correct.

Senator Rodríguez: But if, under the new House version, if the offense is a second offense or the voter is over 65, then it's a felony, but there is an exception for family and household members.

Senator Hancock: Correct, they made the revisions for the escalation of family and household members and, and those within the residence.

Senator Rodríguez: So, so what's the logic in saying that if you commit the, an initial offense, it'll be a Class A misdemeanor, that's one year in jail, \$4,000 fine, and there's no exemption for family members. But if you commit a second offense, you can be charged with a felony, and there is an exemption for family members. What's the logic behind that?

Senator Hancock: Senator, that's strick— trying to strike that balance that we provide the same protections, but we also address some of the concerns regarding family members that were brought up during the debate.

Senator Rodríguez: Well, I think it makes it more confusing, and that still remains the case as far as I can tell. You said you wanted to make it consistent with the polling place. I think you repeatedly stated that, that when you have the ballot in the presence of individuals, it's the same thing as being in the polling place, in terms of providing protections for the elderly and others. I think, to make it consistent, that you could have limited the offense, filling out the ballot instead of in the presence of the ballot. Don't you think that would make more sense from a practical perspective?

Senator Hancock: I think—

Senator Rodríguez: Because after all, what we're trying to get to here is fraud in the use of the mail-in ballot. So, if, I can see it if you're engaging in fraud with regard to filling out the ballot, but when you talk about just merely being in the presence of the ballot, and that hasn't changed in the bills from what I can tell, then we still have the same problem we discussed the last time we talked about this bill.

Senator Hancock: I, I think what we were trying to do is make sure we provide the same protections and privacy to our elderly and the disabled as we do other voters, and I think this bill finds that nice balance.

Senator Rodríguez: Let me ask you about something else in the, in the new version of the House bill. And it's Representative Goldman's, the author, it's the amendment, on line 13, page 1 of that amendment. It adds words that, quote, any portion of, unquote, to the existing offense of knowingly marks or attempts to mark any portion of another person's ballot without the consent of that person. So, it's not your intent that if the person draws a random line or a kid draws a doodle on a ballot that in no way impacts the integrity of the vote, that that should be a second degree felony? Is that your intention with this new language?

Senator Hancock: I think we provide the protections to the ballot with this new language, yes.

Senator Rodríguez: Well, I mean, but listen to what I said, I mean, supposing you have a kid or somebody that, you know, inadvertently draws something on that, on that mail-in ballot envelope. I don't know about you, but I have a habit of, when I had mail, as I told you the last time, on my kitchen table, you know, and somebody calls

me, and they want to leave a message for me, and I talk to them, and so, I write down their phone number or information. I'm sure a lot of other people here do, too, on that envelope. If it happens to be the mail-in ballot envelope, am I going to be committing an offense?

Senator Hancock: Senator Rodríguez, I think our mail-in ballot's much more important than a scratch pad. And I would hope that they wouldn't be used for a scratch pad.

Senator Rodríguez: Well, I think that's what we're exposing people to with this new language, given that Goldman amendment, and so, I don't know that this bill has improved any. And I, you had indicated to us you were expecting that there would be some changes in the House that would give us some reassurance that there wouldn't be some unintended consequences here. I think you stressed a lot that, that if it's family members, why, we don't have to worry about it because nobody's going to be pressing charges against a family member. You recall that?

Senator Hancock: I recall stressing that every voter deserves the equal amount and protection as every other voter.

Senator Rodríguez: Well, I know that, but do you recall tons of publicity during the presidential campaign election about how family members were divided on whether or not to support President Trump, friends and others, and that it was causing a lot of stress within families. People had very strong views about the election. You don't think that that could potentially lead to somebody bringing charges against another family member in the context of this bill if they have strong feelings about who that candidate might be that they're casting that mail-in ballot for?

Senator Hancock: Senator Rodríguez, I think you bring up an excellent point, I mean a phenomenal point, and I think that this legislation actually protects those family members. We don't want family members that disagree to put undue pressure on an individual's voting. They deserve the same protection, privacy, and respect of every other voter attending the ballot box. So, your point is extremely well made, and I appreciate it, because just that type of environment is why we need to protect that voter at home from being pressured by another family member that they might not agree with. So, I appreciate you bringing that up, and that reinforces what we're doing in this legislation. Thank you.

Senator Rodríguez: But the problem is that it's not necessarily putting pressure, it's just simply discussing amongst family members, as I indicated, between me and my wife over the candidates, their qualifications, and who might be the best one that we should support. That happens, I'm sure, in every single household here in the Senate, and that's what I'm concerned about, not the actual pressuring that you keep referring to.

Senator Hancock: No, you were referring to the pressure. I think the general discussion, there would not be any charges, there would not be any of that. But if there were pressure, as you had originally brought up, the pressure would be protected, that voter would be protected from that pressure that you actually brought

up regarding our presidential election and the pressure that could come. And so, it is that pressure that you brought up that we want to try to protect voters from, not the general discussion that takes place in the house.

Senator Rodríguez: No, but I was referring to that pressure with regard to whether or not a family member would press charges on another family member or some relative. I went, you know what, I went home, I told my wife that I had raised her name here on the Senate floor and I told her what you, what you just said. I said, you know, the response is that family members wouldn't, wouldn't bring charges, you know, against each other. You know what she said? She says, well, if you had been, if you were going to be voting for Trump, maybe I would bring charges against you. How do you like that?

Senator Hancock: I think that's the type of pressure that we're trying to protect voters from.

Senator Rodríguez: Alright.

Senator Hancock: And so, if you've got your wife putting undue pressure on you to vote for someone you don't want to vote for, then you should have that protection. And so, I think your wife brings up a great point. I think you bring up a great point, and that's why we left those protections within this bill.

Senator Rodríguez: Well—

Senator Hancock: Thank you, Senator Rodríguez.

Senator Rodríguez: Thank you. I've got to say this still leaves a lot of confusion, and I think it's going to create a lot of problems for folks when it comes to mail-in ballots, so it's unfortunate. So, I won't be supporting your motion to concur.

Senator Hancock: Thank you. I appreciate you bringing up the pressure that can happen at the house, which is why we need these protections.

Presiding Officer: Thank you, Senator Rodríguez.

Senator Rodríguez: Thank you, Mr. President.

Presiding Officer: Members, could we please have some decorum in the Chamber, outside the rails as well? What purpose does the Senator from Harris County rise?

Senator Huffman: To speak on the motion to concur.

Presiding Officer: Senator, you yield? Are there any other questions of Senator Hancock? Hearing none, Senator Huffman, you're recognized.

Senator Huffman: Alright, thank you. And, Senator Hancock, of course, thank you for your hard work on this Senate bill. And I support you and, of course, this bill, and I will be voting to concur, so when you hear my remarks it may sound like I'm going to vote against the motion to concur, but I'm not, so. But I do want to publicly make some statements about this bill and kind of what happened to this bill in the House. And I want to point out to the Members that one of the provisions in the House amendments to Senate Bill 5, as Senator Hancock has explained, repeals part of House Bill 658, relating to early voting in residential care facilities, and I was the author of this legislation. It passed the Senate unanimously as a stand-alone bill, and

then it was part of the committee sub to the House Bill 2691, and also, it really went around and around last session, but it would, ultimately, was a floor amendment to House Bill 658, and that became law, signed by the Governor. This legislation was supported by the Texas Republican Party, the Democratic Party, as well as the Republican County Chairmen's Association, the Harris County Republican Ballot Security Committee, the AARP, the Harris County Clerk's Office, League of Women Voters, and the NAACP. So, I think we can say that it was a bipartisan bill, and I think using that word and being able to pass legislation using that word as it relates to voting is very, very important, and it should be very important to this body. On the day that the Governor signed the bill into law, he tweeted, Texas has a bipartisan effort targeting voter fraud at nursing homes. Seniors' votes shouldn't be stolen. And I still believe that very strongly. The provisions of this legislation were drafted, had been drafted with input from all interested parties including the Secretary of State and the AG. Any claims that the bill was solely drafted by one individual representing one party was simply untrue. Another argument invoked by those calling for the repeal of this House bill is that it created an unfunded mandate for the counties. That claim appears to be tied to misinformation regarding the requirements of the bill. Someone has yet to explain to my office or to me how having two election judges spend one day during early voting at certain residential care facilities with a stack of mail-in ballots is going to cause a significant financial burden for the counties. It's actually the Secretary of State that is responsible for providing a list of the eligible residential care facilities to the early voting clerk and is responsible for the training of the judges. Furthermore, the bill granted the Secretary of State's office rulemaking authority so that any unforeseen consequences that the counties may have faced would have been addressed. The bill—and that's why I'm upset, because we're taking it, it's not going to be law anymore—was a prime example of legislation that really, something that practically would have worked to eliminate mail-in ballot fraud. I also want to call out my companion in the House, Representative Tom Oliverson, and he stated on the House floor earlier this week during the debate on your Senate bill, that instead of punishing someone after they commit a crime, our legislation would have taken away their opportunity to commit a crime in the first place. And I think that that would have addressed some of the concerns and so forth that Senator Rodríguez has talked about. We just want to stop this, we want, we want honest voting without fraud, we want everyone just to vote one time, and of their own will and their own accord. But I understand the politics of this, I get it, I will be voting aye. I will not let perfect be the enemy of the good. But in the meantime, I will request, Lieutenant Governor, that we do an interim study on this. I do passionately believe that this is an area that we need to address, we need to work on it, and I'll be working with Representative Oliverson in the interim. So, I'll be back, hopefully, next session and, hopefully, we can address this again. So, thank you for giving me this opportunity to speak on this. I think it's an important issue that needs to be talked about publicly, that's why I've taken the time this morning to do so. Thank you, and thank you again, Senator Hancock, for your hard work. Thank you, Members, and thank you, Mr. President.

Presiding Officer: Thank you, Senator. For what purpose does the Senator from Harris County, Senator Bettencourt, rise? Senator Hancock.

Senator Hancock: Yield.

Presiding Officer: Senator.

Senator Bettencourt: Senator Hancock, first off, tremendously good work on an important piece of legislation. And I just want to comment that when I was a voter registrar, we actually had a conviction on voter registration fraud. We had an individual that, effectively, produced several hundred fraudulent voter registration cards, overriding people's existing registrations. So, I, my question to you, obviously, with what's happened in Dallas, this bill, obviously, is designed to recognize the obvious, that there are times when this type of nefarious activity occurs and it's got to be cracked down on.

Senator Hancock: Absolutely, and so, that's what we attempted to do with this legislation is to craft a nice balance that doesn't, it does enhance penalties for repeat offenders. And so, I think this legislation will go a long way in shoring up our election system.

Senator Bettencourt: And I think it's important because if people do participate and repeat offending on an issue like this, I mean, this voter registration and, and elections, obviously the bedrock of our democracy, and I think that's an important part of the bill. And I appreciate you taking in so many elements of good bills from last session that didn't make it, House Bill 1595 for one, and others. So again, congratulations on a good piece of legislation.

Senator Hancock: Thank you.

Presiding Officer: Thank you, Senator. For what purpose does the Senator from Dallas County, Senator West, rise?

Senator West: About 15 to 20 questions of the author.

Presiding Officer: Senator, you yield?

Senator Hancock: Take it away, Senator West.

Presiding Officer: Senator West, you are recognized.

Senator West: Some of which you may have already been asked. Senator Hancock, you and I have discussed the bill, in fact we had a discussion yesterday about the bill. But I heard Senator Huffman say that the Dallas County District Attorney supports the bill, is that correct?

Senator Hancock: Correct.

Senator West: Is she familiar with the Dallas County District Attorney? Is she familiar with the provision in the bill that we discussed, as it relates to criminalization of sitting around kitchen table with a ballot present, and that 65-year old asking a family member for information concerning who to vote for? Your bill criminalizes that, correct?

Senator Hancock: Our bill provides protections to every voter.

Senator West: Okay, and, and in providing protection for that vote, it also provides the penalties consistent with that protection that you're talking about, correct?

Senator Hancock: Correct, other than the change from the House is those, our penalties are not enhanced for family members, so.

Senator West: But that particular, I'm sorry, that provision is a new provision in the bill that basically criminalizes my mother asking me who to vote for if she has that ballot in front of her, sitting at her, at the —

Senator Hancock: If she ha—

Senator West: —kitchen table, is that correct?

Senator Hancock: —so, if she, if she has the ballot before her, she has the same obligation of someone who has a ballot before them within the voting booth. Yes, same guidelines.

Senator West: But, but, so it criminalizes, right?

Senator Hancock: Absolutely the same guidelines.

Senator West: And so, you're telling, you're telling the Members of this body that the Dallas County District Attorney knows about that provision and she's supportive of that provision.

Senator Hancock: No, I'm not speaking for the Dallas County District Attorney.

Senator West: Is the Dallas County District Attorney supportive of the bill?

Senator Hancock: Dallas County District Attorney, as far as I'm aware of, is supportive of the bill. That's pre—

Senator West: Consi—

Senator Hancock: —but as Senator Huffman pointed out, supporting the bill in the whole, there may be provisions within the bill that someone doesn't love, as you know, you don't want to let great be the enemy of the good, so I can't tell you what provisions she supports, what she doesn't. The bill as a whole she supports.

Senator West: No, but the Members of the body know, based on our conversation when this bill was first passed, SB 5 was first passed from the Senate, that we now criminalize you, Senator, from being able to sit down with your mother, to chris— at the, sit down with an elder in your family and that elder ask you, Senator Nelson, who should you vote for. This particular bill would make that conversation illegal, and you and your mother, your elder, subject to criminal sanctions pursuant to this particular bill, okay? That's what this bill does, in part. Now that, I think, is a low part of the bill. I wanted to be supportive of the bill. Now, let me ask this question. How many Democrats had input into this process, in terms of structuring the bill?

Senator Hancock: You know, we're open to listen to every Senator that's on this floor. So, our office, as you know, who stepped in your office yesterday?

Senator West: My man.

Senator Hancock: You di— you didn't come visit my office, I went to your office.

Senator West: And I would, I would've come to your office, also.

Senator Hancock: And that's the way the Senate works, and so I would say that every Member of this body had access to crafting and sculpting this bill to let it be what it can be.

Senator West: Well, then let me ask—

Senator Hancock: That doesn't mean we're all going to agree.

Senator West: Sure, now I, I, and that's the, that's the, the magic and the genius of our system. Did any Democrats come to you with suggestions concerning the bill?

Senator Hancock: Yes, we, we spoke—

Senator West: Did you listen? Did you listen to them?

Senator Hancock: Absolutely we listened to them.

Senator West: Did you take their, did you take their advice?

Senator Hancock: We listened to all of them and, and there was some advice we took, as a fact, as a matter of fact, Senator West. We heard from various counties regarding the provision that Senator Huffman brought up. We heard from Harris County, that's not a Republican county. We heard from Dallas County, that's not a Republican county. We heard from Bexar County, that's not a Republican county. So, we heard from the Democratic counties and because of what they shared with us there was a provision within this bill that was added in the House because of what we heard from Democratic counties—

Senator West: I think we talked—

Senator Hancock: —that we wanted to provided.

Senator West: —and I think we talked about it yesterday. I was talking about Democratic Senators, though.

Senator Hancock: We heard from all the Democratic Senators. There are—

Senator West: I understand that. We, we heard from them is one thing—

Senator Hancock: —there are different, Senator West, there are different perceptions of, where I, where I call protection, you want to call, you know, something else. And so—

Senator West: Sure, no, I understand that, but what I, here's the simple question, just simple question. You heard from us, you listened to us, did you take any of our suggestions, Democratic Senators? Let me say that again. You heard from us, you listened to us, because you always listen, did you take any our, did you take any of our suggestions?

Senator Hancock: Yeah, I would like to say that there are some input in this that is, that came from Democrat Senators.

Senator West: Could you tell me what input that is?

Senator Hancock: I mean, it's a long piece of legislation. I'd be glad to tell them what it is when we, you know, sit through it. I think that there are a bipartisan agreement that there are elements within our election system and mail-in ballot that we need to repair. And I, as you said, you yourself said, you want to support this bill, there are elements within this bill you like. So, I would assume that, that there are elements within this legislation that you like, that you would agree with. So, I would say that is a bipartisan agreement on major elements of this bill.

Senator West: But what Senator—

Senator Hancock: Would you disagree with that?

Senator West: —what, what—

Senator Hancock: Or, or—

Senator West: —Senators—

Senator Hancock: —is this bill completely opposition to anything you agree with? I'm going to guess that there's probably 90 percent of this bill you agree with. That is a bipartisan agreement on 90 percent of the bill.

Senator West: But what Senators came to you with suggestions, specifically amendments, for this bill?

Senator Hancock: I, we didn't keep a roll, but what I would say is every—

Senator West: What dem— what de— what dem—

Senator Hancock: —Se— Sen—

Senator West: —is only, is o—

Senator Hancock: —Senator West, you asked me—

Senator West: —is only 11 of us in here.

Senator Hancock: —Senator West, hold on.

Senator West: So, what Democratic—

Senator Hancock: Senator West—

Senator West: —Senators had amendments?

Senator Hancock: —you asked me a question, I'd love to answer it.

Senator West: I wanted, I wanted—

Senator Hancock: Senator West—

Senator West: —I wanted—

Senator Hancock: —I just want to answer your question.

Senator West: Okay, but let me make sure you answer—

Senator Hancock: I want to answer—

Senator West: —the question—

Senator Hancock: —it, though, but let me—

Senator West: —let me make sure—

Senator Hancock: —finish answering your question.

Senator West: —let me make sure you know what the question is.

Presiding Officer: Senators, one at a time, please.

Senator West: The question—

Presiding Officer: Senator West.

Senator Hancock: Your, your question was—

Senator West: –question.

Senator Hancock: –I remember your question, your question was, did any other Senators–

Senator West: No–

Senator Hancock: –come and discuss–

Senator West: –Democratic Senators.

Senator Hancock: –this bill with Democrat Senators–

Senator West: Yeah.

Senator Hancock: –come and discuss this bill with you. And I would tell you that every Democrat Senator knows that my office is open and willing to listen to any of them that want to come and contact our office. In fact, if they contact our office, as you did yesterday, I'll go to their office. I'm, I can't recall which ones did and which ones didn't. So, that's the answer to your question, is our office is open to every Senator on this floor.

Senator West: Okay, so your answer to the question is you can't recall which Democratic Senators came to you with amendments concerning this particular bill.

Senator Hancock: I can remember that I was in your office discussing this bill yesterday.

Senator West: But that was, well, we were talking about several things yesterday, though.

Senator Hancock: Including this bill.

Senator West: Well, yeah.

Senator Hancock: Yeah.

Senator West: This, including this particular bill. And I–

Senator Hancock: Yeah.

Senator West: –I must admit that. But again, I'm talking about amendments that Democratic Senators wanted to bring to you. You're saying that you can't recall what Democratic Senators came. I know you will listen to people, but the question that I had is whether or not any of the amendments that were recommended were accepted by you, by Democratic Senators?

Senator Hancock: I, I can tell you that Yvonne Davis authored an amendment that was acceptable to the House, and we're talking about the House amendments, and so, yes, Yvonne Davis offered amendment, it was acceptable to the author, and it is now in this legislation.

Senator West: Okay so, no Democratic Senators that you can recall? Well, I appreciate, I appreciate the conversation and look forward to voting against the bill. Thank you.

Senator Hancock: As always.

Presiding Officer: Thank you, Senator. For what purpose does the Senator from Bexar County, Senator Menéndez, rise?

Senator Menéndez: Mr. President, just a few questions of the author of the bill. Thank you.

Presiding Officer: Senator, we, we actually do not have, because it is, you're recognized, we do not have to ask permission now of, of Senator, since we are past that, that stage. You are recognized to speak on the bill or ask questions.

Senator Menéndez: I can just speak on the bill, that's fine.

Presiding Officer: Very well. Thank you, Senator Menéndez.

Senator Menéndez: Thank you, Mr. President and Members. I think that we can all agree that voting is one of our most important liberties that we must protect, and I believe that Senator Hancock has good intentions with this bill. However, I do have a couple of concerns. And these were questions, and, and the questions and the concerns that I have and maybe Senator Hancock can maybe address them if he, if he cho— so chooses. I know that the changes have been made in the House, but my consistent concern with this legislation is that I'm not exactly sure, but I've heard him say we're trying to protect the integrity of the ballot. So I, I, the question is, if we're protecting that integrity, in doing so are we protecting the person who receives the ballot, the voter, the senior citizen? My concerns are going to be some unintended consequences, and it seems to me in an efforts of passing this legislation, we made it more difficult for voters to exercise their vote and to access assistance. And the concerns that I've heard from some of my colleagues talking about family members continue, if who is now eligible to deliver the person's mail-in ballot if they're unable to do so. So, let's say my father, who'd be in his 90s or my 81-year-old mother is bedridden. Would I or my sister, would we be eligible to take their ballot and take it to the mailbox, or are we breaking the law because they can't do so? I think there are a lot of family members and caretakers who are going to be concerned about this. I'm concerned about the additional penalties added by this. I think that family members and caretakers will be prone to penalties for helping their loved ones vote. Many of our senior citizens who, who have served in our military and who believe, you know, I, I know many seniors who've never missed an election and will be very, very upset and concerned if this, passing this, causes them to, to have problems in voting. And so, I think, you know, one of the questions I haven't heard, are we going to be creating any public service announcements regarding the new restrictions and the penalties that could lead to a criminal offense? I think we need to know, family members need to know this. And is there anything in this bill that makes it easier to vote? I think one of the big problems that we have in our state and our nation is that we don't have enough people involved in the electoral process. And so, I'm concerned that this bill, while goo— well-intentioned, it has very many unintended consequences and, and consequences that are going to hurt the very people that we're, we're claiming to try to protect. I know that integrity of the process is paramount, but I think we have to be careful not to inadvertently make criminals out of people's family members. So, with that, thank you for the ability to voice my concerns and my opinions on this, Mr. President. And I look forward to hearing the rest of the debate. Thank you.

Presiding Officer: Thank you, Senator. Chair recognizes the Senator from Cameron County, Senator Lucio, to speak on the bill.

Senator Lucio: I, I just wanted to make a motion to see if we could reduce Senator Menéndez's comments in writing, put it in the Journal. I think he made some very valid points. Even though I favor this piece of legislation, we certainly want to make sure that the public is well informed in this well-intentioned piece of legislation and that those un- you know, those unintentioned consequences don't come about where it hurts anybody and anybody's family. So, I move that his comments be reduced to writing.

Presiding Officer: Senator Lucio's moved that the comments from Senator Menéndez be reduced to writing. Is there objection? Hearing none, it is so ordered. For what purpose does the Senator from El Paso rise? Senator Rodríguez.

Senator Rodríguez: President, I likewise would like to request that my comments and exchange with Senator Hancock be reduced to writing.

Presiding Officer: Senator from El Paso's moved that his comments be reduced to writing into the Journal. No objection, so ordered.

Senator Rodríguez: Thank you, Mr. President.

Presiding Officer: Thank you. Senator Huffman, what purpose does the Senator from Harris County rise?

Senator Huffman: Just a brief comment on-

Presiding Officer: You like to speak on the bill?

Senator Huffman: -yeah, yeah, I just want to make a statement-

Presiding Officer: You're recognized-

Senator Huffman: -briefly.

Presiding Officer: -to speak on the bill.

Senator Huffman: And I just want to point out, I believe when Senator West was speaking he may have stated, and I don't know if he said Senator Huffines or Senator Huffman, but I think he said Huffman, that I stated that the Dallas County DA's office supported this bill. I did not say that. So, I know sometimes we don't hear things correctly in the Senate Chamber. I just want to make it clear there was no DA's office that weighed in on this bill. What I read was Harris County Republican Party supported the bill, among others, but I didn't say anything about a District Attorney's office. And I want to make sure that that was very clear for the, for the public and the record. Thank you.

Presiding Officer: Thank you, Senator.

(President in Chair)

HOUSE BILL 13 ON SECOND READING

Senator Campbell moved to suspend the regular order of business to take up for consideration **HB 13** at this time on its second reading:

HB 13, Relating to reporting requirements by certain physicians and health care facilities for abortion complications; authorizing a civil penalty.

The motion prevailed by the following vote: Yeas 21, Nays 10.

Yeas: Bettencourt, Birdwell, Buckingham, Burton, Campbell, Creighton, Estes, Hall, Hancock, Huffines, Huffman, Hughes, Kolkhorst, Lucio, Nelson, Nichols, Perry, Schwertner, Seliger, Taylor of Galveston, Taylor of Collin.

Nays: Garcia, Hinojosa, Menéndez, Miles, Rodríguez, Uresti, Watson, West, Whitmire, Zaffirini.

The bill was read second time.

Senator Menéndez offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 13** (senate committee printing) in SECTION 1 of the bill as follows:

(1) In added Section 171.006(f)(6), Health and Safety Code (page 2, line 31), immediately following the underlined semicolon, insert "or".

(2) In added Section 171.006(f), Health and Safety Code (page 2, lines 32-41), strike Subdivisions (7)-(11) and substitute the following:

(7) a description of the complication.

The amendment to **HB 13** was read and failed of adoption by the following vote: Yeas 11, Nays 20.

Yeas: Garcia, Hinojosa, Lucio, Menéndez, Miles, Rodríguez, Uresti, Watson, West, Whitmire, Zaffirini.

Nays: Bettencourt, Birdwell, Buckingham, Burton, Campbell, Creighton, Estes, Hall, Hancock, Huffines, Huffman, Hughes, Kolkhorst, Nelson, Nichols, Perry, Schwertner, Seliger, Taylor of Galveston, Taylor of Collin.

HB 13 was passed to third reading by the following vote: Yeas 22, Nays 9.

Yeas: Bettencourt, Birdwell, Buckingham, Burton, Campbell, Creighton, Estes, Hall, Hancock, Huffines, Huffman, Hughes, Kolkhorst, Lucio, Nelson, Nichols, Perry, Schwertner, Seliger, Taylor of Galveston, Taylor of Collin, Zaffirini.

Nays: Garcia, Hinojosa, Menéndez, Miles, Rodríguez, Uresti, Watson, West, Whitmire.

SENATE BILL 18 POSTPONED

Senator Estes moved to postpone further consideration of **SB 18** to Monday, August 14, 2017:

SB 18, Relating to a limit on local government expenditures.

The motion prevailed.

Question: Shall **SB 18** be passed to engrossment?

**COMMITTEE SUBSTITUTE
HOUSE BILL 7 ON SECOND READING**

The President laid before the Senate **CSHB 7** sponsored by Senator Kolkhorst at this time on its second reading:

CSHB 7, Relating to municipal regulation of the removal of trees or vegetation on private property.

The bill was read second time.

Senator Kolkhorst offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSHB 7** (senate committee report) in SECTION 2 of the bill as follows:

(1) In added Section 212.905, Local Government Code (page 2, between lines 25 and 26), insert the following appropriately lettered subsection:

() A municipality may not prohibit a person from removing a tree or require the person to plant a replacement tree or pay a tree mitigation fee for the removed tree if the tree:

(1) is located on a property that is an existing one-family or two-family dwelling that is the person's residence; and

(2) is less than 10 inches in diameter at the point on the trunk 4.5 feet above the ground.

(2) In added Section 212.905(e), Local Government Code, strike Subparagraphs 212.905(e)(2)(A) and (B) (page 2, lines 53 to 57) and insert the following:

(A) the property is a residential structure or pertains to the development, construction, or renovation of a residential structure; and

(B) the person is developing, constructing or renovating the property not for use as the person's residence; or

(3) In added Section 212.905(f), Local Government Code (page 3, lines 6 to 7), strike ", except that a tree mitigation fee may not exceed \$400".

(4) In added Section 212.905(g), Local Government Code (page 3, line 8), between "not" and "impose", insert "prohibit the removal of or".

(5) Strike added Section 212.905(h), Local Government Code (page 3, lines 13 through 19).

(6) Reletter subsections of Section 212.905, Local Government Code, and cross-references to those subsections as appropriate.

The amendment to **CSHB 7** was read.

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

Floor Amendment No. 2

Amend Floor Amendment No. 1 by Kolkhorst, to **CSHB 7**, by striking in Item (1) added Section 212.905() (2), Local Government Code, and substituting the following:

(2) is less than six inches in diameter at the point on the trunk 4.5 feet above the ground.

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The amendment to Floor Amendment No. 1 to **CSHB 7** was read.

Senator Menéndez withdrew Floor Amendment No. 2.

Question recurring on the adoption of Floor Amendment No. 1 to **CSHB 7**, the amendment was adopted by the following vote: Yeas 25, Nays 6.

Yeas: Bettencourt, Birdwell, Buckingham, Burton, Campbell, Creighton, Estes, Hall, Hancock, Huffines, Huffman, Hughes, Kolkhorst, Lucio, Menéndez, Nelson, Nichols, Perry, Schwertner, Seliger, Taylor of Galveston, Taylor of Collin, Uresti, West, Zaffirini.

Nays: Garcia, Hinojosa, Miles, Rodríguez, Watson, Whitmire.

Senator Hall offered the following amendment to the bill:

Floor Amendment No. 3

Amend **CSHB 7** (senate committee report) in SECTION 2 of the bill as follows:

(1) In added Section 212.905, Local Government Code (page 2, lines 11-25), strike Subsection (a) and substitute the following:

(a) In this section, "tree mitigation fee" means a fee or charge imposed by a municipality in connection with the removal of a tree from private property.

(2) In added Section 212.905, Local Government Code, strike "a credit" each place it appears and substitute "reimbursement" as follows:

(A) in Subsection (b) (page 2, line 28);

(B) in Subsection (c) (page 2, lines 30 and 32); and

(C) in Subsection (f) (page 2, lines 66 and 68-69).

(3) In added Section 212.905(b), Local Government Code (page 2, lines 28-29), strike "to offset the amount of the fee".

(4) In added Section 212.905, Local Government Code (page 2, lines 45 through 64), strike Subsection (e) and substitute the following:

(e) If a person pays a tree mitigation fee to a municipality, the municipality shall refund the fee to the person. If a person plants any trees in lieu of paying a tree mitigation fee, the municipality shall reimburse to the person the cost of planting the trees required for mitigation, as demonstrated by receipts provided by the person to the municipality. A municipality must pay the refund or reimbursement as required by this subsection not later than the 90th day after the date the person entitled to the payment:

(1) pays the tree mitigation fee; or

(2) provides receipts indicating the cost of planting the trees.

The amendment to **CSHB 7** was read.

Senator Hall withdrew Floor Amendment No. 3.

Senator Zaffirini offered the following amendment to the bill:

Floor Amendment No. 4

Amend **CSHB 7** (senate committee report) in SECTION 2 of the bill, in added Section 212.905(f)(1), Local Government Code (page 2, line 68), between "the" and "type", by inserting "number, size, and".

The amendment to **CSHB 7** was read and failed of adoption by the following vote: Yeas 14, Nays 17.

Yeas: Creighton, Garcia, Hinojosa, Huffman, Lucio, Menéndez, Miles, Nelson, Rodríguez, Uresti, Watson, West, Whitmire, Zaffirini.

Nays: Bettencourt, Birdwell, Buckingham, Burton, Campbell, Estes, Hall, Hancock, Huffines, Hughes, Kolkhorst, Nichols, Perry, Schwertner, Seliger, Taylor of Galveston, Taylor of Collin.

Senator Uresti offered the following amendment to the bill:

Floor Amendment No. 5

Amend **CSHB 7** (senate committee report) in SECTION 2 of the bill, in added Section 212.905(i), Local Government Code (page 3, line 20), between "within" and "five", by inserting the following:

⋮

- (1) a floodplain; or
- (2)

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The amendment to **CSHB 7** was read.

Senator Uresti withdrew Floor Amendment No. 5.

Senator Uresti offered the following amendment to the bill:

Floor Amendment No. 6

Amend **CSHB 7** (senate committee report) in SECTION 2 of the bill, in added Section 212.905, Local Government Code (page 3, between lines 22 and 23), by inserting the following appropriately lettered subsection:

() This section does not apply to a tree that is:

(1) at least 40 years of age; and

(2) designated by the municipality as historic and associated with a significant event.

The amendment to **CSHB 7** was read and failed of adoption by the following vote: Yeas 15, Nays 16.

Yeas: Buckingham, Creighton, Garcia, Hinojosa, Huffman, Lucio, Menéndez, Miles, Nelson, Rodríguez, Uresti, Watson, West, Whitmire, Zaffirini.

Nays: Bettencourt, Birdwell, Burton, Campbell, Estes, Hall, Hancock, Huffines, Hughes, Kolkhorst, Nichols, Perry, Schwertner, Seliger, Taylor of Galveston, Taylor of Collin.

Senator Uresti offered the following amendment to the bill:

Floor Amendment No. 7

Amend **CSHB 7** (senate committee printing) by striking SECTION 1 of the bill, amending Section 212.003(a), Local Government Code (page 1, line 24, through page 2, line 8), and renumbering SECTIONS of the bill accordingly.

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ZAFFIRINI

The amendment to **CSHB 7** was read and failed of adoption by the following vote: Yeas 11, Nays 20.

Yeas: Garcia, Hinojosa, Lucio, Menéndez, Miles, Rodríguez, Uresti, Watson, West, Whitmire, Zaffirini.

Nays: Bettencourt, Birdwell, Buckingham, Burton, Campbell, Creighton, Estes, Hall, Hancock, Huffines, Huffman, Hughes, Kolkhorst, Nelson, Nichols, Perry, Schwertner, Seliger, Taylor of Galveston, Taylor of Collin.

CSHB 7 as amended was passed to third reading by the following vote: Yeas 18, Nays 13.

Yeas: Bettencourt, Birdwell, Buckingham, Burton, Campbell, Estes, Hall, Hancock, Huffines, Hughes, Kolkhorst, Nichols, Perry, Schwertner, Seliger, Taylor of Galveston, Taylor of Collin, West.

Nays: Creighton, Garcia, Hinojosa, Huffman, Lucio, Menéndez, Miles, Nelson, Rodríguez, Uresti, Watson, Whitmire, Zaffirini.

RESOLUTIONS OF RECOGNITION

The following resolutions were adopted by the Senate:

Memorial Resolutions

SR 128 by Watson, In memory of Don Edward Baylor.

SR 129 by Taylor of Galveston, In memory of George Frederick Black.

SR 130 by West, In memory of Robby V. Collins.

SR 131 by Buckingham, In memory of Robert Morin Shoemaker.

SR 132 by Rodríguez, In memory of Karl Putnam.

Congratulatory Resolution

SR 133 by Creighton, Commending Charles Louis Bose for achieving the rank of Eagle Scout.

ADJOURNMENT

On motion of Senator Whitmire, the Senate at 1:49 p.m. adjourned, in memory of George Frederick Black, Elise Ybarra, and Don Edward Baylor, until 1:55 p.m. today.