

HOUSE JOURNAL

SEVENTY-NINTH LEGISLATURE, FIRST CALLED SESSION

PROCEEDINGS

ELEVENTH DAY — SUNDAY, JULY 17, 2005

The house met at 2 p.m. and was called to order by the speaker.

The roll of the house was called and a quorum was announced present (Record 61).

Present — Mr. Speaker; Allen, A.; Allen, R.; Alonzo; Anchia; Anderson; Bailey; Baxter; Berman; Blake; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Campbell; Casteel; Castro; Chavez; Chisum; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Davis, Y.; Dawson; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; Escobar; Farabee; Farrar; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goodman; Goolsby; Griggs; Grusendorf; Guillen; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Herrero; Hill; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hughes; Hunter; Hupp; Isett; Jackson; Jones, D.; Jones, J.; Keel; Keffer, J.; King, P.; King, T.; Kolkhorst; Krusee; Kuempel; Laney; Laubenberg; Leibowitz; Luna; Madden; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, P.; Morrison; Mowery; Naishtat; Nixon; Noriega, M.; Oliveira; Olivo; Orr; Otto; Paxton; Peña; Phillips; Pickett; Pitts; Puente; Quintanilla; Raymond; Reyna; Riddle; Ritter; Rodriguez; Rose; Seaman; Smith, T.; Smith, W.; Smithee; Solis; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Uresti; Van Arsdale; Veasey; Villarreal; Vo; West; Wong; Woolley; Zedler.

Absent, Excused — Hilderbran; Keffer, B.

The invocation was offered by Representative Swinford.

The speaker recognized Representative Swinford who led the house in the pledges of allegiance to the United States and Texas flags.

LEAVES OF ABSENCE GRANTED

The following member was granted leave of absence temporarily for today because of conference committee business:

B. Keffer on motion of Denny.

The following member was granted leave of absence for today because of illness:

Hilderbran on motion of Hunter.

(Speaker pro tempore in the chair)

HR 346 - ADOPTED
(by Eissler)

Representative Eissler moved to suspend all necessary rules to take up and consider at this time **HR 346**.

The motion prevailed.

The following resolution was laid before the house:

HR 346, In memory of U.S. Army Specialist Hoby F. Bradfield, Jr., of The Woodlands.

HR 346 was unanimously adopted by a rising vote.

On motion of Representative Eissler, the names of all the members of the house were added to **HR 346** as signers thereof.

HR 337 - ADOPTED
(by Y. Davis)

Representative Harper-Brown moved to suspend all necessary rules to take up and consider at this time **HR 337**.

The motion prevailed.

The following resolution was laid before the house:

HR 337, Honoring Zelma L. Ridley of Duncanville for her receipt of a 2005 Outstanding Texan Award by the Texas Legislative Black Caucus.

HR 337 was adopted.

HR 345 - ADOPTED
(by Flynn)

Representative Harper-Brown moved to suspend all necessary rules to take up and consider at this time **HR 345**.

The motion prevailed.

The following resolution was laid before the house:

HR 345, Honoring Ruby Daughtery Hudson of Greenville on her 90th birthday.

HR 345 was adopted.

HR 344 - ADOPTED
(by Otto)

Representative Harper-Brown moved to suspend all necessary rules to take up and consider at this time **HR 344**.

The motion prevailed.

The following resolution was laid before the house:

HR 344, Honoring the Big Sandy High School Lady Cats softball team in Dallardsville on winning a silver medal at the 2005 UIL State Softball Championship.

HR 344 was adopted.

HR 271 - ADOPTED
(by Y. Davis)

Representative Harper-Brown moved to suspend all necessary rules to take up and consider at this time **HR 271**.

The motion prevailed.

The following resolution was laid before the house:

HR 271, Honoring Shawnte Latrice McKinney on her receipt of a 2005 Future African American Leadership Award from the Texas Legislative Black Caucus.

HR 271 was adopted.

HCR 27 - ADOPTED
(by Homer)

Representative Homer moved to suspend all necessary rules to take up and consider at this time **HCR 27**.

The motion prevailed.

The following resolution was laid before the house:

HCR 27, Congratulating Master Chief Petty Officer Jerry McFadden on the occasion of his retirement from the United States Navy in July 2005.

HCR 27 was adopted.

HCR 28 - ADOPTED
(by Homer)

Representative Homer moved to suspend all necessary rules to take up and consider at this time **HCR 28**.

The motion prevailed.

The following resolution was laid before the house:

HCR 28, In memory of Hicks Graves of Petty.

HCR 28 was unanimously adopted by a rising vote.

HCR 29 - ADOPTED
(by Homer)

Representative Homer moved to suspend all necessary rules to take up and consider at this time **HCR 29**.

The motion prevailed.

The following resolution was laid before the house:

HCR 29, Honoring U.S. Army First Lieutenant Joseph C. Whelchel of Lamar County on his receipt of the Bronze Star.

HCR 29 was adopted.

HR 343 - ADOPTED
(by Hunter)

Representative Hunter moved to suspend all necessary rules to take up and consider at this time **HR 343**.

The motion prevailed.

The following resolution was laid before the house:

HR 343, Celebrating the 50th Anniversary of Mr. Lex Vanover's international success in track and field and for his continued success in life as a painter.

HR 343 was adopted.

HR 215 - ADOPTED
(by Howard)

Representative Howard moved to suspend all necessary rules to take up and consider at this time **HR 215**.

The motion prevailed.

The following resolution was laid before the house:

HR 215, In memory of Gene Dinges of Houston.

HR 215 was unanimously adopted by a rising vote.

HR 216 - ADOPTED
(by Howard)

Representative Howard moved to suspend all necessary rules to take up and consider at this time **HR 216**.

The motion prevailed.

The following resolution was laid before the house:

HR 216, In memory of Rufus Paul King of Houston.

HR 216 was unanimously adopted by a rising vote.

(B. Keffer now present)

HR 220 - ADOPTED
(by Rodriguez)

Representative Rodriguez moved to suspend all necessary rules to take up and consider at this time **HR 220**.

The motion prevailed.

The following resolution was laid before the house:

HR 220, Honoring Raman Gill and Robert Doggett of Austin on the birth of their daughter, Reva Rose Gill.

HR 220 was adopted.

**HR 221 - ADOPTED
(by Rodriguez)**

Representative Rodriguez moved to suspend all necessary rules to take up and consider at this time **HR 221**.

The motion prevailed.

The following resolution was laid before the house:

HR 221, Congratulating Jed and Leslie Lackman on the birth of their daughter, Sadye Jane Lackman, and recognizing her as an honorary Texan.

HR 221 was adopted.

**MAJOR STATE CALENDAR
SENATE BILLS
SECOND READING**

The following bills were laid before the house and read second time:

**SB 21 ON SECOND READING
(P. King and McClendon - House Sponsors)**

SB 21, A bill to be entitled An Act relating to furthering competition in the communications industry.

SB 21 - STATEMENT OF LEGISLATIVE INTENT

REPRESENTATIVE MCCLENDON: Mr. King, I just want to ask you some questions to establish legislative intent. Is it true that there are protections against the ability of a new cable or video provider to come in and discriminate among citizens?

REPRESENTATIVE P. KING: Yes, what we're trying to do is balance the policy that no new entrant into the market should be told where to build with the principle that within their franchise territory they cannot discriminate based on the income of a particular neighborhood. Again, to do that, the bill has language incorporated into it by Senator West during the senate debate and that language is exactly as he presented it in this bill.

MCCLENDON: In this bill, is there any other oversight by the PUC on these cable and video services?

P. KING: Absolutely. The PUC will have the authority to monitor the deployment of cable services and other video services, including alternative technologies. Thus, providing valuable insight into how companies are actually deploying these services. If a problem was to develop with some form of economic discrimination, which the bill clearly prohibits—both the state law and the federal law prohibits that—the PUC would have that raw data there and legal action could be taken.

MCCLENDON: Even with the amendments in the senate, is this bill really sufficient to deter any discrimination?

P. KING: The bill is based upon federal discrimination standards which have been in place under Title VI for a long time. But the real protection is that competition drives deployment, which leads to consumers having better choices. Cable is already built out in most areas, so that is one choice the customer has today. With providers such as Grande, Verizon, SBC, and others entering the market, consumers should have another choice if they're unhappy with their existing providers, and they have satellite on top of that. With satellite, consumers will have yet another. And hopefully other companies can come into the market as well. This bill allows more companies to provide more service to more consumers. That's the way competition always works, and competition is the best regulator of all.

MCCLENDON: What we are doing is balancing out the policy that no new entrant should be told where to build with the principle that within their franchised territory, they cannot discriminate based on the income of a particular neighborhood. Is that true, Mr. King?

P. KING: Yeah, that's exactly right. We're basically doing the same thing that we did in 1995 when Texas led the nation in telecom reform. No new entrant into voice communications was required to build out an entire community. But there were certain provisions there to prevent anti-discrimination. We're just taking the same model, the same pattern that was used to deregulate local voice services, and we're just applying that same well-tested, proven model to video deregulation.

MCCLENDON: Are we concerned about companies like SBC and Verizon getting into this business and then holding back service from certain areas of the state?

P. KING: These companies are in business to make money and I think that they're going to move as quickly as they can and get their services to the people who will buy their services. That is the name of the game in any business, and in telecom of course too. I think they'll move quickly like they did with DSL service. It's interesting too, there's really an inverse relationship. Lower economic areas, studies show, have higher subscription rates to cable than higher economic areas. Because it's frankly a cheap type of family entertainment. So they will row it out quickly and we think that they will be targeting wherever people will buy their products and I think people all over a community want to buy these products.

MCCLENDON: As you know, Mr. King, SBC is a Texas company with a home base in San Antonio and has an excellent record in its procurement practices, its hiring, and so forth, as a company that is diverse and embraces diversity, is that correct?

P. KING: Yes, it does.

MCCLENDON: The final question, do you feel SBC will continue to serve the community as it moves into this new technological arena of video programming and so forth?

P. KING: Yes, I do, and if they don't, they won't keep their customers.

MCCLENDON: They won't be in Texas, will they?

P. KING: That's right.

REMARKS ORDERED PRINTED

Representative McClendon moved to print remarks between Representative P. King and Representative McClendon.

The motion prevailed.

Amendment No. 1

Representative P. King offered the following amendment to **SB 21**:

Amend **SB 21** (house committee printing) as follows:

(1) Strike SECTION 11 of the bill (page 16, lines 1-3), and substitute the following:

SECTION 11. Section 56.025(a), Utilities Code, is amended to read as follows:

(a) In addition to the authority provided by Section 56.021, for each local exchange company that serves fewer than 31,000 ~~[five million]~~ access lines and each cooperative, the commission:

(1) may adopt a mechanism necessary to maintain reasonable rates for local exchange telephone service; and

(2) shall adopt rules to expand the universal service fund in the circumstances prescribed by this section.

(2) In SECTION 13 of the bill, in added Section 56.029(h), Utilities Code (page 18, line 25), between the period and "Not", insert "The commission shall also review and make recommendations on any mechanisms adopted under Section 56.025."

(3) In SECTION 13 of the bill, in added Section 56.029(h), Utilities Code (page 18, line 26), strike "this issue" and substitute "these issues".

(4) In SECTION 25 of the bill, in added Section 66.002(6)(B)(iv), Utilities Code (page 53, line 16), strike "non-cable service" and substitute "non-cable service or non-video service".

(5) In SECTION 25 of the bill, in added Section 66.002(6)(B)(iv), Utilities Code (page 53, lines 18-19), strike "(but not excluding Internet protocol cable services or Internet protocol video services)" and substitute "(but not excluding cable services or video services)".

(6) In SECTION 25 of the bill, in added Section 66.002(6)(B)(iv), Utilities Code (page 53, line 21), between "service" and "in", insert "or non-video service".

(7) In SECTION 25 of the bill, in added Section 66.002(7), Utilities Code (page 56, lines 2-3), strike "subscribers in a particular municipality" and substitute "cable subscribers in a particular municipal franchise area".

(8) In SECTION 25 of the bill, in added Section 66.003(a), Utilities Code (page 57, line 4), between "expires" and the period, insert ", except as provided by Section 66.004".

(9) In SECTION 25 of the bill, in added Section 66.004(a), Utilities Code (page 59, line 3), between "chapter" and "until", insert "as to those municipalities", and strike "the later of January 1, 2008, or".

(10) In SECTION 25 of the bill, in added Section 66.004(a), Utilities Code (page 59, line 4), between "agreement" and the period, insert ", except as provided by Subsections (b) and (c)".

(11) In SECTION 25 of the bill, in added Section 66.004, Utilities Code (page 59, between lines 4 and 5), between added Subsections (a) and (b), insert the following and reletter added Subsections (b)-(d) as (d)-(f) respectively:

(b) Beginning September 1, 2005, a cable service provider or video service provider that is not the incumbent cable service provider and serves fewer than 40 percent of the total cable customers in a particular municipal franchise area may elect to terminate that municipal franchise and seek a state-issued certificate of franchise authority by providing written notice to the commission and the affected municipality before January 1, 2006. The municipal franchise is terminated on the date the commission issues the state-issued certificate of franchise authority.

(c) A cable service provider that serves fewer than 40 percent of the total cable customers in a municipal franchise area and that elects under Subsection (b) to terminate an existing municipal franchise is responsible for remitting to the affected municipality before the 91st day after the date the municipal franchise is terminated any accrued but unpaid franchise fees due under the terminated franchise. If the cable service has credit remaining from prepaid franchise fees, the provider may deduct the amount of the remaining credit from any future fees or taxes it must pay to the municipality, either directly or through the comptroller.

(12) In SECTION 25 of the bill, in added Section 66.005(b), Utilities Code (page 61, line 9), strike "or the state".

(13) In SECTION 25 of the bill, in added Section 66.006(a), Utilities Code (page 61, line 17), strike "or January 1, 2008, whichever is later".

(14) In SECTION 25 of the bill, in added Section 66.006(b), Utilities Code (page 62, line 8), strike "or January 1, 2008, whichever is later".

(15) In SECTION 25 of the bill, in added Section 66.008, Utilities Code, on page 63, line 21, strike "(a)", and on page 63, line 27 through page 64, line 44, strike all of Subsection (b).

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

SECTION __. Section 55.015, Utilities Code, is amended by amending Subsections (a), (c), and (d) and adding Subsections (b-1), (d-1), and (d-2) to read as follows:

(a) The commission shall adopt rules prohibiting a certificated provider of local exchange telephone service [~~telecommunications provider~~] from discontinuing basic network services listed in Section 58.051 [~~local exchange~~]

~~telephone service~~] to a consumer who receives lifeline service because of nonpayment by the consumer of charges for other services billed by the provider, including interexchange telecommunications ~~[long distance]~~ service.

(b-1) The commission shall adopt rules requiring certificated providers of local exchange telephone service to implement procedures to ensure that all consumers are clearly informed both orally and in writing of the existence of the lifeline service program when they request or initiate service or change service locations or providers. On or before June 1, 2006, the commission shall enter into a memorandum of understanding with the Health and Human Services Commission and, to the maximum extent feasible, housing authorities in the principal cities of each metropolitan statistical area, to improve enrollment rates in the lifeline service program.

(c) A certificated provider of local exchange telephone service ~~[telecommunications provider]~~ may block a lifeline service participant's access to all interchange telecommunications ~~[long distance]~~ service except toll-free numbers when the participant owes an outstanding amount for that service. The provider ~~[telecommunications provider]~~ shall remove the block without additional cost to the participant on payment of the outstanding amount.

(d) A certificated provider of local exchange telephone service ~~[telecommunications provider]~~ shall offer a consumer who applies for or receives lifeline service the option of blocking all toll calls or, if technically capable, placing a limit on the amount of toll calls. The provider may not charge the consumer an administrative charge or other additional amount for the blocking service.

(d-1) A certificated provider of local exchange telephone service shall provide access to lifeline service to a customer whose income is not more than 150 percent of the applicable income level established by the federal poverty guidelines or in whose household resides a person who receives or has a child who receives:

(1) Medicaid;

(2) food stamps;

(3) Supplemental Security Income;

(4) federal public housing assistance;

(5) Low Income Home Energy Assistance Program (LIHEAP) assistance; or

(6) health benefits coverage under the state child health plan under Chapter 62, Health and Safety Code.

(d-2) A certificated provider of local exchange telephone service shall provide consumers who apply for or receive lifeline service access to available vertical services or custom calling features, including caller ID, call waiting, and call blocking, at the same price as other consumers. Lifeline discounts shall only apply to that portion of the bill that is for basic network service.

(Speaker in the chair)

Amendment No. 2

Representative Talton offered the following amendment to Amendment No. 1:

Amend Amendment No. 1 as follows:

Amend **SB 21** on page 59, line 16, before the word "Except", insert the words "A cable or video service provider with an existing franchise that complies with this chapter may elect to terminate an existing franchise effective as of January 1, 2008. A cable or video service provider that elects to terminate an existing franchise effective January 1, 2008, shall provide written notice of such election to the affected municipality prior to January 1, 2008. Such termination date shall be considered to be the expiration date of the franchise for purposes of this Chapter."

On page 60, line 19, after the word "jurisdiction." add the words "Nothing contained in this section shall be deemed to abrogate, nullify or affect the authority granted to an existing cable or video service provider hereunder to elect to terminate an existing franchise effective as of January 1, 2008."

Representative P. King moved to table Amendment No. 2.

A record vote was requested.

The motion to table prevailed by (Record 62): 112 Yeas, 12 Nays, 1 Present, not voting.

Yeas — Allen, A.; Allen, R.; Alonzo; Anchia; Anderson; Berman; Blake; Brown, B.; Burnam; Callegari; Campbell; Casteel; Castro; Chavez; Chisum; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Dawson; Denny; Deshotel; Dukes; Dunnam; Dutton; Eissler; Elkins; Escobar; Farrar; Flores; Flynn; Frost; Gattis; Giddings; Gonzales; Gonzalez Toureilles; Goodman; Goolsby; Griggs; Grusendorf; Guillen; Haggerty; Hamric; Hardcastle; Harper-Brown; Hegar; Herrero; Hill; Hochberg; Hodge; Homer; Hopson; Hughes; Hupp; Isett; Jackson; Jones, D.; Jones, J.; Keffer, B.; King, P.; Kolkhorst; Kuempel; Laubenberg; Leibowitz; Madden; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, P.; Morrison; Mowery; Naishtat; Nixon; Noriega, M.; Orr; Otto; Paxton; Peña; Phillips; Pitts; Puente; Quintanilla; Raymond; Riddle; Rodriguez; Rose; Seaman; Smith, T.; Smith, W.; Smithee; Solis; Solomons; Strama; Straus; Swinford; Truitt; Turner; Uresti; Van Arsdale; Veasey; Vo; West; Woolley; Zedler.

Nays — Baxter; Bohac; Brown, F.; Farabee; Hamilton; Keel; Laney; Oliveira; Reyna; Ritter; Talton; Wong.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Hilderbran.

Absent — Bailey; Bonnen; Branch; Davis, Y.; Delisi; Driver; Edwards; Eiland; Gallego; Geren; Hartnett; Hope; Howard; Hunter; Keffer, J.; King, T.; Krusee; Luna; Olivo; Pickett; Taylor; Thompson; Villarreal.

STATEMENTS OF VOTE

When Record No. 62 was taken, I was in the house but away from my desk.
I would have voted no.

Branch

My arrival was delayed because of thunderstorms in Houston. I arrived just after the vote. I would have voted yes.

Eiland

When Record No. 62 was taken, my vote failed to register. I would have voted yes.

Gallego

When Record No. 62 was taken, I was in the house but away from my desk.
I would have voted yes.

Hope

When Record No. 62 was taken, I was in the house but away from my desk.
I would have voted yes.

Hunter

When Record No. 62 was taken, I was in the house but away from my desk.
I would have voted yes.

T. King

When Record No. 62 was taken, I was in the house but away from my desk.
I would have voted yes.

Olivo

When Record No. 62 was taken, I was in the house but away from my desk.
I would have voted no.

Taylor

When Record No. 62 was taken, I was in the house but away from my desk.
I would have voted yes.

Thompson

When Record No. 62 was taken, my vote failed to register. I would have voted yes.

Villareal

Amendment No. 1 was adopted.

LEAVES OF ABSENCE GRANTED

The following member was granted leave of absence for the remainder of today because of important business:

Uresti on motion of Raymond.

The following member was granted leave of absence for the remainder of today because of illness:

Solis on motion of Raymond.

The following member was granted leave of absence temporarily for today because of conference committee business:

Delisi on motion of B. Brown.

The following member was granted leave of absence for the remainder of today because of illness in the family:

Bailey on motion of Hughes.

SB 21 - (consideration continued)

(Crownover in the chair)

Amendment No. 3

Representative Hartnett offered the following amendment to **SB 21**:

Amend **SB 21** as follows:

On page 10, line 7, between "Commission" and "representative" insert "or Public Utilities Commission"

Amendment No. 3 was withdrawn.

Amendment No. 4

Representative Puente offered the following amendment to **SB 21**:

Amend **SB 21** (house committee printing), in SECTION 2 of the bill, in added Section 43.101(b), Utilities Code (page 7, line 21), by striking "state" and substituting "commission".

Amendment No. 4 was withdrawn.

Amendment No. 5

Representative Turner offered the following amendment to **SB 21**:

Amend **SB 21** as follows:

Section 1. Delete Section 56.029.

Section 2. Amend Section 56.031 as follows:

Strike "2007" and insert "2005".

Section 3. Delete Section 11 of the bill and replace with the following:

Section 56.025 is repealed.

Section 4. Delete Section 12 of the bill and replace with the following:

Subsections (c) and (d) of Section 56.026 are repealed.

Section 5. Delete Section 65.102(a)(3) and replace with the following:

(3) may not increase the company's rates for stand-alone residential local exchange voice service before September 1, 2007.

Section 6. Delete Section 65.153(b)(2) and replace with the following:

(2) for basic local telecommunications service, at any price higher than the lesser of the service's long run incremental cost or the tariffed price on the date that market was deregulated, provided that the company may not increase the company's rates for stand-alone residential local exchange voice service before September 1, 2007.

AMENDMENT NO. 5 - STATEMENT OF LEGISLATIVE INTENT

REPRESENTATIVE TURNER: Is there any doubt in your mind that the basic service, which is now referred to only as dialtone, that the basic rate can increase under **SB 21** prior to September 1, 2007?

REPRESENTATIVE P. KING: No, it cannot.

TURNER: What's wrong with simply duplicating the language?

P. KING: It already says it. Yours has some extra language in it—I'm not sure what the impact is. I know it can't happen already, so I don't want to add any language that might confuse or have unintended consequences. I'm happy to say as legislative intent—it can't. I'm real comfortable with that.

TURNER: I'm just not quite understanding why there's opposition to including the same language. The language says that they may not increase the company's rates for stand-alone residential local exchange voice service before September 1, 2007. What is confusing about that?

P. KING: It doesn't just say that it says: delete Section 11 of the bill or replace it with the following. And then it says, another place, it says: delete Section 12 of the bill and replace it with the following: Subsection C and D of 56.026 are repealed. It's got a whole bunch of stuff and it may do exactly what you're saying it does, but without sitting down and studying it, I don't know that it doesn't have unintended consequences.

TURNER: If by chance the Public Utility Commission should allow any of the telephone companies under **SB 21** to increase the basic telephone rate prior to September 1, 2007. It is your position that that would be contrary to **SB 21**?

P. KING: It would be against the law.

TURNER: And it is your position and the representation you are making to the house that under no set of circumstances is it intended by the house by voting for **SB 21** as it presently exists to increase the basic rate for grandma, grandpa and anybody else who's getting that basic dialtone service before September 1, 2007?

P. KING: With a stand-alone residential line cannot be increased before September 1, 2007.

REMARKS ORDERED PRINTED

Representative Turner moved to print remarks between Representative P. King and Representative Turner.

The motion prevailed.

Amendment No. 5 was withdrawn.

Amendment No. 6

Representative Turner offered the following amendment to **SB 21**:

Amend **SB 21** (house committee printing) as follows:

(1) In the recital to SECTION 16 of the bill (page 21, line 17), strike "adding Subsections (c) and (d)" and substitute "adding Subsections (a-1), (c), and (d)".

(2) In Section 58.051, Utilities Code, as amended by SECTION 16 of the bill (page 22, between lines 13 and 14), insert the following:

(a-1) Notwithstanding Subsection (a-1) and Section 58.151, basic network services includes residential caller identification services if the customer to whom the service is billed is at least 65 years of age.

(3) In Section 65.002(4), Utilities Code, as added by SECTION 24 of the bill, (page 32, line 7), after Paragraph D, strike "and".

(4) In Section 65.002(4)(E)(iii), Utilities Code, as added by SECTION 24 of the bill, (page 32, line 16), between "landline" and the period, insert the following:

; and

(F) residential caller identification services if the customer to whom the service is billed is at least 65 years of age

Amendment No. 6 was adopted.

Amendment No. 7

Representative Puente offered the following amendment to **SB 21**:

Amend **SB 21** (house committee printing), in SECTION 2 of the bill, in added Section 43.101(b), Utilities Code (page 7, line 21), by striking "the state" and substituting "any state agency".

Amendment No. 7 was adopted.

Amendment No. 8

Representative Puente offered the following amendment to **SB 21**:

Amend **SB 21** (house committee printing) as follows:

(1) In SECTION 25 of the bill, in added Section 66.003, Utilities Code (page 57, between lines 4 and 5), between added Subsections (a) and (b), insert the following:

(a-1) The commission shall notify an applicant for a state-issued certificate of franchise authority whether the applicant's affidavit described by Subsection (b) is complete before the 15th business day after the applicant submits the affidavit.

(2) In SECTION 25 of the bill, in added Section 66.003(b), Utilities Code (page 57, lines 6 and 7), strike "within 14 business days of receipt of an affidavit" and substitute "before the 17th business day after receipt of a completed affidavit".

Amendment No. 8 was withdrawn.

Amendment No. 9

Representatives Homer and Farabee offered the following amendment to **SB 21**:

Amend **SB 21** as follows:

On page 57, line 21, strike the words "service area footprint" and substitute the words "municipality or municipalities".

On page 57, lines 22 and 23, strike the words "within the municipality, if applicable, otherwise the municipality to be served".

On page 57, line 23, after the word "which", insert the words "for an incumbent local exchange company or its affiliates may be limited to the areas of the municipality in which the incumbent local exchange company or its affiliate provides voice service and".

(Speaker in the chair)

Representative P. King moved to table Amendment No. 9.

A record vote was requested.

The motion to table prevailed by (Record 63): 100 Yeas, 36 Nays, 1 Present, not voting.

Yeas — Allen, R.; Anderson; Berman; Blake; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Callegari; Campbell; Casteel; Castro; Chavez; Chisum; Cook, B.; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Dawson; Denny; Dunnam; Eiland; Eissler; Elkins; Escobar; Flores; Flynn; Frost; Gallego; Gattis; Geren; Goodman; Goolsby; Griggs; Grusendorf; Haggerty; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Hill; Hochberg; Hope; Howard; Hughes; Hunter; Hupp; Isett; Jackson; Jones, D.; Keel; Keffer, B.; Keffer, J.; King, P.; King, T.; Kolkhorst; Kuempel; Laubenberg; Madden; Martinez Fischer; McCall; McClendon; Merritt; Miller; Moreno, P.; Mowery; Naishtat; Nixon; Orr; Otto; Paxton; Peña; Phillips; Pitts; Puente; Quintanilla; Reyna; Riddle; Rose; Seaman; Smith, T.; Smith, W.; Smithee; Strama; Straus; Swinford; Taylor; Thompson; Truitt; Turner; Van Arsdale; Villarreal; Vo; West; Woolley; Zedler.

Nays — Allen, A.; Alonzo; Anchia; Baxter; Burnam; Davis, Y.; Deshotel; Dukes; Dutton; Farabee; Farrar; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Hamilton; Herrero; Hodge; Homer; Hopson; Jones, J.; Leibowitz; Luna; Martinez; McReynolds; Menendez; Noriega, M.; Oliveira; Olivo; Pickett; Raymond; Ritter; Solomons; Talton; Veasey; Wong.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Bailey; Delisi; Hilderbran; Solis; Uresti.

Absent — Coleman; Driver; Edwards; Krusee; Laney; Morrison; Rodriguez.

Amendment No. 10

Representative Y. Davis offered the following amendment to **SB 21**:

Amend **SB 21** (house committee printing) as follows:

(1) In Section 66.014, Utilities Code (page 72, lines 19-21), as added by SECTION 25 of the bill, strike Subsection (a) and substitute the following:

(a) The purpose of this section is to prevent discrimination among potential residential subscribers on the basis of either income or geography.

(2) In Section 66.014(b), Utilities Code (page 72, line 25), as added by SECTION 25 of the bill, strike "because of the income of the residents in the local area in which such group resides" and substitute "because of the income or geographic location of the residents".

(Miller in the chair)

Representative P. King moved to table Amendment No. 10.

A record vote was requested.

The motion to table prevailed by (Record 64): 88 Yeas, 48 Nays, 3 Present, not voting.

Yeas — Allen, R.; Anderson; Baxter; Berman; Blake; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Callegari; Campbell; Casteel; Chisum; Cook, B.; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Dawson; Denny; Driver; Eissler; Elkins; Flores; Flynn; Gattis; Geren; Goodman; Goolsby; Griggs; Grusendorf; Haggerty; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Hill; Hope; Hopson; Howard; Hughes; Hunter; Hupp; Isett; Jackson; Jones, D.; Keel; Keffer, B.; Keffer, J.; King, P.; Kolkhorst; Kuempel; Laubenberg; Madden; McClendon; McReynolds; Morrison; Mowery; Nixon; Orr; Otto; Paxton; Phillips; Pitts; Puente; Quintanilla; Reyna; Riddle; Ritter; Rose; Seaman; Smith, T.; Smith, W.; Smithee; Solomons; Straus; Swinford; Talton; Taylor; Truitt; Van Arsdale; Villarreal; West; Woolley; Zedler.

Nays — Allen, A.; Alonzo; Anchia; Burnam; Castro; Chavez; Coleman; Davis, Y.; Deshotel; Dukes; Dunnam; Dutton; Edwards; Escobar; Farabee; Farrar; Frost; Gallego; Giddings; Gonzales; Gonzalez Toureilles; Hamilton; Herrero; Hochberg; Homer; Jones, J.; King, T.; Laney; Leibowitz; Luna; Martinez; Martinez Fischer; McCall; Merritt; Moreno, P.; Naishtat; Noriega, M.; Olivo; Peña; Pickett; Raymond; Rodriguez; Strama; Thompson; Turner; Veasey; Vo; Wong.

Present, not voting — Mr. Speaker; Guillen; Miller(C).

Absent, Excused — Bailey; Delisi; Hilderbran; Solis; Uresti.

Absent — Eiland; Hodge; Krusee; Menendez; Oliveira.

STATEMENTS OF VOTE

I was shown voting present, not voting on Record No. 64. I intended to vote no.

Guillen

When Record No. 64 was taken, I was in the house but away from my desk. I would have voted no.

Menendez

When Record No. 64 was taken, I was in the house but away from my desk. I would have voted no.

Oliveira

Amendment No. 11

Representative Smithee offered the following amendment to **SB 21**:

Amend **SB 21** (house committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill as appropriate:

SECTION __. Chapter 64, Utilities Code, is amended by adding Subchapter F to read as follows:

SUBCHAPTER F. TRUTH IN TELECOMMUNICATIONS BILLING

Sec. 64.251. DEFINITION. In this subchapter, "commercial mobile service provider" means a provider of commercial mobile service as defined by Section 332(d), Communications Act of 1934 (47 U.S.C. Section 151 et seq.), Federal Communications Commission rules, and the Omnibus Budget Reconciliation Act of 1993 (Pub. L. No. 103-66).

Sec. 64.252. BILLING STATEMENT. (a) A commercial mobile service provider or a telecommunications provider may include only the following in a customer's bill:

(1) applicable charges for service and options requested by the customer; and

(2) taxes imposed by a governmental entity specifically on the customer.

(b) A customer's bill may not contain a fee, charge, or tax unless state or federal law:

(1) requires the customer to pay the fee, charge, or tax; or

(2) authorizes a commercial mobile service provider or a telecommunications provider to include the fee, charge, or tax in a customer's bill.

(c) A violation of this section is a false, misleading, or deceptive act or practice within the meaning of Section 17.46, Business & Commerce Code, and is actionable in a public suit brought under Subchapter E, Chapter 17, Business & Commerce Code.

Amendment No. 11 was adopted.

Amendment No. 12

Representative Puente offered the following amendment to **SB 21**:

Amend **SB 21** (house committee printing) as follows:

(1) In SECTION 25 of the bill, in added Section 66.003, Utilities Code (page 57, between lines 4 and 5), between added Subsections (a) and (b), insert the following:

(a-1) The commission shall notify an applicant for a state-issued certificate of franchise authority whether the applicant's affidavit described by Subsection (b) is complete before the 15th business day after the applicant submits the affidavit.

(2) In SECTION 25 of the bill, in added Section 66.003(b), Utilities Code (page 57, lines 6 and 7), strike "within 14 business days of receipt of an affidavit" and substitute "before the 17th business day after receipt of a completed affidavit".

Amendment No. 12 was adopted.

Amendment No. 13

Representative Hartnett offered the following amendment to **SB 21**:

Amend **SB 21** as follows:

On page 10, line 7, between "Commission" and "representative" insert "or Public Utilities Commission"

Amendment No. 13 was adopted.

SB 21 - REMARKS BY REPRESENTATIVE DUTTON

Members, I am opposed to this piece of legislation, but it's perfectly obvious what is happening here today. Before the committee even voted on Thursday, the chairman told the four members present what would happen—the committee would report the bill; the calendars committee would meet; and the bill would be set for Sunday—like everything had already been decided—and announced from the dias as the committee prepared to vote. The only thing the chairman did not tell the committee was the count on today's vote, though I am sure he was, and is, certain of the outcome.

So, I'm not going to lay on the tracks. I'm not going to ask you to vote with me, though I'd be pleased to have you. I just want to tell you what I think of this legislation. I don't imagine I will change a lot of minds with what I have to say, but I want to state my own objection to what this house determines to be the issue demanding its attention. I've been on the four-vote side of a telecom battle before—140 something to four—and I got the feeling that, even if I were to make such a plea, this is one of those times. But I think my vote then was right, and I am right to oppose this legislation now.

SBC has come with more promises for the legislature. Jobs and investments will come, they say, only if we give them greater and greater freedom from regulation and only if we shackle their cable competitors to the regulatory patterns of the past. "Government help me" is the constant cry of SBC—we can't make it without special rules, government intervention against our competitors, and giant government enforced subsidies to pad their bottom line, the only "legacy regulation" SBC still finds effective.

We've heard all this before. Great things will happen if the legislature will just give us one more gift. That got them "incentive regulation" in 1995. In 1997, they needed more. They needed "pricing flexibility" before the sun would ever shine. There was another bite at the apple in 1999—just a little more flexibility and all those jobs and investments were right around the corner.

I could go on, but the fact is that SBC has hauled those same old promises back to the floor of this house. And we are still buying, putting Texans' cash in the pockets of corporations, rather than taking care of the schools and the teachers and the taxpayers of Texas.

I know the legislature buys SBC's promises. This bill is such a hand-over-fist give away I call it **SBC 21**. I know that I'm a voice in the wilderness on the floor of this house, but there were many other voices that feel like they weren't heard—certainly the cable industry, but also hundreds of mayors and local officials across this state. I've talked to the representatives of these interests—people I have worked with for years—and they told me Harold, don't even bother.

We all the time hear Texas officials trying to bring business to Texas. Well, there are some pretty big cable companies that did just that, making billions in investments, thousands in jobs, with no government subsidies. But, they have seen what other businesses will see when they think of coming to Texas—don't mess with the bully in the backyard. Take on a poor little Texas conglomerate and you take on the Texas Legislature as well. Is that our pro-business climate?

The substantive problems in this bill are legion, but they won't go away. The home team gets its way. They get special entry rules for video. The cable companies have their contractual obligations written into state statutes and are mandated to follow their terms even after the contract expires. SBC gets to continue a \$200 million government subsidy. Cable companies are required to continue to provide millions of dollars in free services to Texas towns and cities. SBC gets to wiggle out of state requirements for customer service. Cable companies are bound by all the service agreements in their "state supervised" contracts.

Members, it goes on and on. And any voice that objects is simply ignored. Don't bother, Harold. That's what the cities and the cable companies have told me. Nobody is listening.

Well, they might have surrendered, but I have to bother because I represent thousands of Texans that sent me down here to provide their children an education that would pull them up from poverty, that would allow them to fend for themselves, to show some personal responsibility as so many of us are demanding. I came down here to see to the education of our children—and I knew I would be dealing with those that saw reducing property tax as part, even the primary part, of calling this extraordinary session of the legislature. Those are the needs—the needs of public education—that I came down here to meet.

We've faced these tax and education issues more than a few times. We passed a franchise tax years back to help fund education, but there was a loophole for corporations to climb through. And one of the first to avail themselves of it, one of the first Texas companies to avoid paying their fair share to fund the education of Texas kids was SBC. SBC has already taken millions of dollars out of the classrooms of Texas. And now here, in a time when we have gathered to try to save public education in Texas, SBC has got their hand out again.

When the governor called the legislature to town to cut property taxes to homeowners and to fix funding for public schools, I came down here to speak for needs of the school kids and taxpayers of my district. But, before we can get to that, we have these other needs to meet. We must first see to the haves before we can see to the have-nots.

I saw Governor Dewhurst quoted as saying the senate would take up no legislation on final passage unless and until the tax and school bills had gone to the governor. I hope he sticks by it, and I hope the speaker and the governor do the same. Because I hate to think that in a special session called to take care of schools and property taxes, the only thing this legislature could agree on is a special interest handout to SBC and Verizon.

I'm going to let my voice now fall silent, walk back to my desk, and vote no one more time. I don't expect for you to follow, but I would be proud to have you along.

REMARKS ORDERED PRINTED

Representative Chavez moved to print remarks by Representative Dutton.

The motion prevailed.

A record vote was requested.

SB 21, as amended, was passed to third reading by (Record 65): 134 Yeas, 6 Nays, 3 Present, not voting.

Yeas — Allen, A.; Allen, R.; Alonzo; Anchia; Anderson; Baxter; Berman; Blake; Bohac; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Campbell; Casteel; Castro; Chavez; Chisum; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Davis, Y.; Dawson; Denny; Driver; Dukes; Dunnam; Edwards; Eiland; Eissler; Elkins; Escobar; Farabee; Farrar; Flynn; Frost; Gallego; Gattis; Giddings; Gonzales; Gonzalez Toureilles; Goodman; Goolsby; Griggs; Grusendorf; Guillen; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Herrero; Hill; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hughes; Hunter; Hupp; Isett; Jackson; Jones, D.; Jones, J.; Keel; Keffer, B.; Keffer, J.; King, P.; King, T.; Kolkhorst; Krusee; Kuempel; Laney; Laubenberg; Leibowitz; Luna; Madden; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Moreno, P.; Morrison; Mowery; Naishtat; Nixon; Noriega, M.; Oliveira; Olivo; Orr; Otto; Paxton; Peña; Phillips; Pickett; Pitts; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Seaman; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Straus; Swinford; Taylor; Thompson; Truitt; Turner; Van Arsdale; Veasey; Villarreal; Vo; West; Woolley; Zedler.

Nays — Deshotel; Dutton; Geren; Reyna; Talton; Wong.

Present, not voting — Mr. Speaker; Bonnen; Miller(C).

Absent, Excused — Bailey; Delisi; Hilderbran; Solis; Uresti.

Absent — Flores.

SB 21 ON THIRD READING
(P. King and McClendon - House Sponsors)
CONSTITUTIONAL RULE SUSPENDED

Representative P. King moved to suspend the constitutional rule requiring bills to be read on three several days and to place **SB 21** on its third reading and final passage.

The motion prevailed by (Record 66): 137 Yeas, 4 Nays, 2 Present, not voting.

Yeas — Allen, A.; Allen, R.; Alonzo; Anchia; Anderson; Baxter; Berman; Blake; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Campbell; Casteel; Castro; Chavez; Chisum; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Davis, Y.; Dawson; Denny; Deshotel; Driver; Dukes; Dunnam; Edwards; Eiland; Eissler; Escobar; Farabee; Farrar; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goodman; Goolsby; Griggs; Grusendorf; Guillen; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Herrero; Hill; Hochberg; Homer; Hope; Hopson; Howard; Hughes; Hunter; Hupp; Isett; Jackson; Jones, D.; Jones, J.; Keel; Keffer, B.; Keffer, J.; King, P.; King, T.; Kolkhorst; Krusee; Kuempel; Laney; Laubenberg; Leibowitz; Luna; Madden; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Moreno, P.; Morrison; Mowery; Naishtat; Nixon; Noriega, M.; Oliveira; Olivo; Orr; Otto; Paxton; Peña; Phillips; Pickett; Pitts; Puente; Quintanilla; Raymond; Reyna; Riddle; Ritter; Rodriguez; Rose; Seaman; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Straus; Swinford; Taylor; Thompson; Truitt; Turner; Van Arsdale; Veasey; Villarreal; Vo; West; Woolley; Zedler.

Nays — Dutton; Elkins; Talton; Wong.

Present, not voting — Mr. Speaker; Miller(C).

Absent, Excused — Bailey; Delisi; Hilderbran; Solis; Uresti.

Absent — Hodge.

REASON FOR VOTE

I cast a "no" vote on the procedural motion to suspend the constitutional rule requiring that bills be read on three several days in order to take up and consider **SB 21** because in my judgement no circumstance exists in this case to justify the extraordinary act of suspending a requirement of the Texas Constitution. The suspension of this constitutional rule has the direct and immediate effect of denying the people of Texas knowledge and notice of the passage of this measure until it has already been finally passed on third reading. Were we to have followed the requirement of the Texas Constitution, third reading and a vote on **SB 21** would have occurred on the next legislative day, allowing for Texans to have learned through news reports of our second reading vote exactly what we had tentatively passed. Third reading and a vote on the next legislative day would also have allowed our professional staff an opportunity overnight to make sure any amendments passed on second reading are technically correct.

Elkins

The chair laid **SB 21** before the house on its third reading and final passage.

A record vote was requested.

SB 21 was read third time and was passed by (Record 67): 135 Yeas, 6 Nays, 3 Present, not voting.

Yeas — Allen, A.; Allen, R.; Alonzo; Anchia; Anderson; Baxter; Berman; Blake; Bohac; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Campbell; Casteel; Castro; Chavez; Chisum; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Davis, Y.; Dawson; Denny; Driver; Dukes; Dunnam; Edwards; Eiland; Eissler; Elkins; Escobar; Farabee; Farrar; Flores; Flynn; Frost; Gallego; Gattis; Giddings; Gonzales; Gonzalez Toureilles; Goodman; Goolsby; Griggs; Grusendorf; Guillen; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Herrero; Hill; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hughes; Hunter; Hupp; Isett; Jackson; Jones, D.; Jones, J.; Keel; Keffer, B.; Keffer, J.; King, P.; King, T.; Kolkhorst; Krusee; Kuempel; Laney; Laubenberg; Leibowitz; Luna; Madden; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Moreno, P.; Morrison; Mowery; Naishtat; Nixon; Noriega, M.; Oliveira; Olivo; Orr; Otto; Paxton; Peña; Phillips; Pickett; Pitts; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Seaman; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Straus; Swinford; Taylor; Thompson; Truitt; Turner; Van Arsdale; Veasey; Villarreal; Vo; West; Woolley; Zedler.

Nays — Deshotel; Dutton; Geren; Reyna; Talton; Wong.

Present, not voting — Mr. Speaker; Bonnen; Miller(C).

Absent, Excused — Bailey; Delisi; Hilderbran; Solis; Uresti.

CSSB 62 ON SECOND READING **(Woolley - House Sponsor)**

CSSB 62, A bill to be entitled An Act relating to limiting the use of eminent domain to take private property for private parties or economic development purposes and to certain eminent domain procedures.

(Speaker in the chair)

CSSB 62 - STATEMENT OF LEGISLATIVE INTENT

REPRESENTATIVE MCCALL: Ms. Woolley, under Section 2206 of your bill, it prohibits certain types of taking, specifically those that can confer private benefit on a particular private party through the use of that party. As an example, in the city of Austin land was condemned in order to build an airport. Subsequent to that, the city let certain contracts for restaurants and vendors in that airport. Does this section, in your opinion, prohibit the use of eminent domain simply because some incidental private benefit can be identified in connect with that taking?

REPRESENTATIVE WOOLLEY: In Section 3, excuse me, Section 1, on page two, number three, in Subsection 3, if it's for economic development purposes it cannot be used for economic development purposes unless the economic development is a secondary, which would be an incidental purpose resulting from

municipal community development or municipal urban renewal activity, an existing affirmative form on society or slum or blighted areas. It also, if it is secondary, just happens, or incidental happens, because of a taking.

MCCALL: So your answer is no?

WOOLLEY: Correct.

REMARKS ORDERED PRINTED

Representative McCall moved to print remarks between Representative Woolley and Representative McCall.

The motion prevailed.

(Taylor in the chair)

Amendment No. 1

Representative Woolley offered the following amendment to **CSSB 62**:

Amend **CSSB 62**, in SECTION 1 of the bill, as follows:

(1) At the end of added Subdivision (2), Subsection (b), Section 2206.001, Government Code (page 2, line 1), add "or".

(2) At the end of added Subdivision (3), Subsection (b), Section 2206.001, Government Code (page 2, line 7), strike "; or" and substitute a period.

(3) Strike added Subdivision (4), Subsection (b), Section 2206.001, Government Code (page 2, lines 8 through 12).

(4) Strike added Subdivision (6), Subsection (c), Section 2206.001, Government Code (page 2, line 26).

Amend **CSSB 62**, in SECTION 3 of the bill, as follows:

(1) In Subsection (c) (page 3, line 23), strike "lieutenant governor" and substitute "speaker of the house of representatives."

(2) In Subsection (c) (page 3, line 23), strike "senator" and substitute "member of the house of representatives."

(3) In Subsection (c) (page 3, line 24) strike "speaker of the house of representatives" and substitute "lieutenant governor."

(4) In Subsection (c) (page 3, line 26) strike "member of the house of representatives" and substitute "senator."

Amendment No. 1 was adopted.

Amendment No. 2

Representative Puente offered the following amendment to **CSSB 62**:

Amend **CSSB 62** on page 2, by striking lines 5-7 and substituting the following:

activities to eliminate an existing affirmative harm on society from slum or blighted areas under:

(A) Chapter 373 or 374, Local Government Code, other than an activity described by Section 373.002(b)(5), Local Government Code; or

(B) Section 311.005(a)(1)(I), Tax Code; or

Amendment No. 2 was adopted.

Amendment No. 3

Representative Puente offered the following amendment to **CSSB 62**:

Amend **CSSB 62** on page 2, line 16, between "railroads" and the comma, by inserting "operating as common carriers".

Amendment No. 3 was adopted.

Amendment No. 4

Representative West offered the following amendment to **CSSB 62**:

Amend **CSSB 62** by

1. In Section 2206.001(c)(3) insert after the words "common carrier" and before the word "or" the following additional description:

subject to the provisions of Chapter 111 of the Natural Resources Code and Art. 2.01 B(3)(b) of the Business Corporations Act, underground storage operations subject to the provisions of Chapter 91 of the Natural Resources Code, entities having the power or eminent domain under Chapter 181 of the Utilities Code

and in that same section (c)(3) insert after the words "energy transporter" and before the ";" the following:

"as defined in Sec. 186.051 of the Utilities Code"

Amendment No. 4 was adopted. (Giddings recorded voting no.)

Amendment No. 5

Representative Chisum offered the following amendment to **CSSB 62**:

Amend **CSSB 62** on page 2 as follows:

(1) On line 25, delete "or".

(2) On line 26, between "infrastructure" and the period insert the following:
; or

(7) waste disposal projects

Amendment No. 5 was adopted.

Amendment No. 6

Representatives Bonnen, Luna, Hamilton, Van Arsdale, Ritter, Seaman, Herrero, Deshotel, and Eiland offered the following amendment to **CSSB 62**:

Amend **CSSB 62** on page 2 as follows:

(1) On line 25, strike "or".

(2) On line 26, strike the period and substitute "; or".

(3) Between lines 26 and 27, insert the following:

(7) the operation and industrial development of ports and waterways, including the following entities authorized under Section 59, Article XVI, Texas Constitution:

(A) port authorities; and

(B) navigation districts and conservation and reclamation districts

that act as ports.

Amendment No. 6 was adopted. (B. Brown, J. Davis, and Talton recorded voting no.)

Amendment No. 7

Representatives Kolkhorst, Crownover, Morrison, R. Cook, Bohac, Pickett, Hegar, Ritter, Merritt, Elkins, Hardcastle, Delisi, Campbell, and Pitts offered the following amendment to **CSSB 62**:

Amend **CSSB 62** by striking SECTION 2 of the bill (committee printing page 2, line 27 through page 3, line 15), substituting the following, and renumbering subsequent SECTIONS of the bill accordingly:

SECTION 2. Section 203.052, Transportation Code, as amended by **HB 2702**, Acts of the 79th Legislature, Regular Session, 2005, is amended by amending Subsection (b) and adding Subsection (c) to read as follows:

(b) Property necessary or convenient to a state highway for purposes of Subsection (a) includes an interest in real property, a property right, or a material that the commission determines is necessary or convenient to:

- (1) protect a state highway;
- (2) drain a state highway;
- (3) divert a stream, river, or other watercourse from the right-of-way of a state highway;
- (4) store materials or equipment for use or used in the construction or maintenance of a state highway;
- (5) construct or operate a warehouse or other facility used in connection with the construction, maintenance, or operation of a state highway;
- (6) lay out, construct, or maintain a roadside park;
- (7) lay out, construct, or maintain a parking lot that will contribute to maximum use of a state highway with the least possible congestion;
- (8) mitigate an adverse environmental effect that directly results from construction or maintenance of a state highway;
- (9) subject to Subsection (c), provide a location for an ancillary facility that is anticipated to generate revenue for use in the design, development, financing, construction, maintenance, or operation of a toll project, including a gas station, garage, store, hotel, restaurant, or other commercial facility;
- (10) construct or operate a toll booth, toll plaza, service center, or other facility used in connection with the construction, maintenance, or operation of a toll project; or
- (11) accomplish any other purpose related to the location, construction, improvement, maintenance, beautification, preservation, or operation of a state highway.

(c) The commission may not acquire property for an ancillary facility through the exercise of eminent domain.

SECTION 3. Section 227.041(b), Transportation Code, as amended by **HB 2702**, Acts of the 79th Legislature, Regular Session, 2005, is amended to read as follows:

(b) An interest in real property or a property right is necessary or convenient for the construction or operation of a facility if it is located in or contiguous to an existing or planned segment of the Trans-Texas Corridor or is needed for mitigation of adverse environmental effects, and if its acquisition will further the primary purposes of the Trans-Texas Corridor. Primary purposes include:

- (1) providing right-of-way or a location for a facility;
- (2) providing land for mitigation of adverse environmental effects;
- (3) providing buffer zones for scenic or safety purposes;
- (4) allowing for possible future expansion of any facility; and
- (5) subject to Section 203.052(c), providing a location for a gas station, convenience store, or similar ancillary facility.

SECTION 4. Section 227.041(e), Transportation Code, as added by **HB 2702**, Acts of the 79th Legislature, Regular Session, 2005, is repealed.

Amendment No. 7 was withdrawn.

Amendment No. 8

Representative Corte offered the following amendment to **CSSB 62**:

Amend **CSSB 62** in SECTION 1 of the bill, in added Chapter 2206, Government Code, by adding the following appropriately numbered section and renumbering the existing sections as appropriate:

Sec. 2206. . AMOUNT OF DAMAGES FOR TAKING OF PROPERTY. If property is taken under the power of eminent domain and if a purpose of the taking is economic development, the owner of the property is entitled to compensation in an amount of equal to the greater of:

- (1) the actual damages resulting from the taking of the property; or
- (2) the value necessary to replace the property with other comparable property.

(Delisi now present)

(Gattis in the chair)

Representative Hartnett moved to table Amendment No. 8.

A record vote was requested.

The motion to table was lost by (Record 68): 37 Yeas, 98 Nays, 5 Present, not voting.

Yeas — Alonzo; Anchia; Blake; Bohac; Branch; Casteel; Crownover; Dawson; Frost; Geren; Gonzalez Toureilles; Grusendorf; Hamric; Hardcastle; Hartnett; Hegar; Hill; Hochberg; Hope; Hughes; Hupp; Jackson; Keffer, B.; King, P.; Laubenberg; Madden; McCall; Nixon; Oliveira; Orr; Otto; Paxton; Smith, T.; Strama; Van Arsdale; Wong; Woolley.

Nays — Allen, A.; Anderson; Baxter; Berman; Bonnen; Brown, B.; Brown, F.; Burnam; Callegari; Campbell; Castro; Chavez; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Davis, J.; Davis, Y.; Denny; Deshotel; Dukes; Dunnam; Dutton; Edwards; Eissler; Elkins; Escobar; Farabee; Farrar; Flores; Flynn; Gallego;

Giddings; Gonzales; Goolsby; Griggs; Guillen; Haggerty; Hamilton; Harper-Brown; Herrero; Hodge; Homer; Hopson; Howard; Hunter; Isett; Jones, D.; Jones, J.; Keel; Keffer, J.; King, T.; Kuempel; Laney; Leibowitz; Luna; Martinez; Martinez Fischer; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, P.; Morrison; Mowery; Naishtat; Noriega, M.; Olivo; Peña; Phillips; Pickett; Pitts; Puente; Quintanilla; Raymond; Reyna; Riddle; Ritter; Rodriguez; Rose; Seaman; Smith, W.; Smithee; Solomons; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Veasey; Villarreal; Vo; West; Zedler.

Present, not voting — Mr. Speaker; Allen, R.; Eiland; Gattis(C); Goodman.

Absent, Excused — Bailey; Hilderbran; Solis; Uresti.

Absent — Chisum; Delisi; Driver; Kolkhorst; Krusee.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 68. I intended to vote no.

Alonzo

I was shown voting yes on Record No. 68. I intended to vote present, not voting.

Branch

I was shown voting yes on Record No. 68. I intended to vote no.

Gonzalez Toureilles

I was shown voting yes on Record No. 68. I intended to vote no.

Hupp

I was shown voting yes on Record No. 68. I intended to vote no.

Wong

Amendment No. 8 was adopted.

Amendment No. 9

Representative Harper-Brown offered the following amendment to **CSSB 62**:

Amend **CSSB 62** as follows:

On page 2, between lines 26 and 27, insert the following:

(d) This section does not affect the authority of a governmental entity to condemn leasehold estates on property owned by the governmental entity.

Amendment No. 9 was adopted.

Amendment No. 10

Representative Keel offered the following amendment to **CSSB 62**:

Amend **CSSB 62** (house committee printing) in SECTION 1 of the bill in added Section 2206.001, Government Code, by inserting the following appropriately designated subsection:

() The question of whether a taking of private property through the use of eminent domain violates Subsection (b) is a question of fact. The determination by the governmental or private entity proposing to take the property that the taking does not involve an act or circumstance prohibited by Subsection (b) does not create a presumption with respect to whether the taking involves that act or circumstance.

Amendment No. 10 was adopted.

Amendment No. 11

Representative Corte offered the following amendment to **SB 62**:

Amend **CSSB 62** (house committee printing) as follows:

(1) Strike Subsection (c) of SECTION 3 of the bill (page 3, lines 23-27) and substitute the following:

(c) The speaker of the house of representatives shall designate one member of the house of representatives appointed to the committee to act as co-chair. The lieutenant governor shall designate one senator appointed to the interim committee to act as co-chair.

(2) In Subsection (e) of SECTION 3 of the bill (page 4, line 9), strike "January 1, 2007" and substitute "December 1, 2006".

Amendment No. 11 was adopted.

Amendment No. 12

Representative Corte offered the following amendment to **CSSB 62**:

Amend **CSSB 62** (house committee printing) by striking SECTION 4 of the bill (page 4, lines 10-16) and substituting the following:

SECTION 4. Chapter 2206, Government Code, as added by this Act, applies to the taking of private property by eminent domain pending on the effective date of this Act. For purposes of this section, a taking is pending if a condemnation petition is filed under Section 21.012, Property Code, and a judgment awarding possession of the property to the condemning entity has not become final.

(Speaker in the chair)

Representative Woolley moved to table Amendment No. 12.

A record vote was requested.

The motion to table prevailed by (Record 69): 74 Yeas, 62 Nays, 4 Present, not voting.

Yeas — Allen, R.; Alonzo; Anchia; Branch; Brown, F.; Burnam; Casteel; Castro; Coleman; Cook, B.; Crownover; Davis, Y.; Dawson; Denny; Dunnam; Eiland; Escobar; Farabee; Frost; Geren; Gonzales; Gonzalez Toureilles; Goolsby; Haggerty; Hamric; Hardcastle; Hartnett; Herrero; Hill; Hochberg; Hughes; Jackson; Jones, J.; Keffer, B.; King, P.; Krusee; Laubenberg; Leibowitz; Luna; Madden; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Naishtat; Olivo; Orr; Otto; Paxton; Phillips; Pickett; Pitts; Puente;

Quintanilla; Reyna; Ritter; Rodriguez; Smith, T.; Smithee; Solomons; Strama; Straus; Swinford; Thompson; Truitt; Turner; Van Arsdale; Veasey; Villarreal; Vo; West; Woolley.

Nays — Allen, A.; Anderson; Baxter; Berman; Blake; Bohac; Brown, B.; Callegari; Campbell; Chavez; Cook, R.; Corte; Davis, J.; Delisi; Deshotel; Dukes; Dutton; Edwards; Eissler; Elkins; Farrar; Flores; Flynn; Gallego; Giddings; Griggs; Guillen; Hamilton; Harper-Brown; Hegar; Hodge; Homer; Hope; Hopson; Howard; Hunter; Hupp; Isett; Jones, D.; Keel; King, T.; Kolkhorst; Kuempel; Laney; Merritt; Miller; Moreno, P.; Morrison; Mowery; Nixon; Noriega, M.; Oliveira; Peña; Raymond; Riddle; Rose; Seaman; Smith, W.; Talton; Taylor; Wong; Zedler.

Present, not voting — Mr. Speaker(C); Bonnen; Crabb; Goodman.

Absent, Excused — Bailey; Hilderbran; Solis; Uresti.

Absent — Chisum; Driver; Gattis; Grusendorf; Keffer, J.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 69. I intended to vote present, not voting.

Branch

I was shown voting yes on Record No. 69. I intended to vote no.

Coleman

I was shown voting no on Record No. 69. I intended to vote yes.

Giddings

I was shown voting yes on Record No. 69. I intended to vote no.

Menendez

Amendment No. 13

Representatives Oliveira, McCall, Campbell, Hupp, Elkins, Reyna, F. Brown, Isett, Keel, Dukes, Seaman, and Hardcastle offered the following amendment to **CSSB 62**:

Amend **CSSB 62** by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill appropriately:

SECTION _____. Section 65.33, Education Code, is amended by adding Subsection (a-1) to read as follows:

(a-1) Notwithstanding Subsection (a), the board may not use the power of eminent domain to acquire land to be used for a lodging facility or for parking or a parking structure intended to be used in connection with the use of the lodging facility if the land has been used for the same commercial purpose for at least 20 years. In this subsection, the term "lodging facility" does not include a dormitory or other student housing facility.

Amendment No. 13 was adopted.

Amendment No. 14

Representative Pickett offered the following amendment to **CSSB 62**:

Amend **CSSB 62** (house committee printing) by inserting the following appropriately numbered SECTION and renumbering SECTIONS of the bill appropriately:

SECTION _____. Subchapter A, Chapter 552, Government Code, is amended by adding Section 552.0037 to read as follows:

Sec. 552.0037. CERTAIN ENTITIES AUTHORIZED TO TAKE PROPERTY THROUGH EMINENT DOMAIN. Notwithstanding any other law, information collected, assembled, or maintained by an entity that is not a governmental body but is authorized by law to take private property through the use of eminent domain is subject to this chapter in the same manner as information collected, assembled, or maintained by a governmental body, but only if the information is related to the taking of private property by the entity through the use of eminent domain.

Amendment No. 14 was adopted.

Amendment No. 15

Representative Coleman offered the following amendment to **CSSB 62**:

Amend **CSSB 62** (house committee printing) in SECTION 1 of the bill, in added Chapter 2206, Government Code (page 2, between lines 26 and 27), by inserting the following appropriately numbered section and renumbering sections of the chapter appropriately:

Sec. 2206. . RESTRICTION ON SALE OR LEASE OF PROPERTY TO OR USE BY OTHER ENTITY. Any entity granted the power of eminent domain under the laws of this state may not lease or sell to another entity or otherwise allow another entity to use, for any purpose other than the purpose for which the property is condemned, private property acquired through eminent domain.

Amendment No. 15 was withdrawn.

Amendment No. 16

Representative Puente offered the following amendment to **CSSB 62**:

Amend **CSSB 62** (engrossed bill) as follows:

On page 2, line 13, replace "This section does" with:

"Subsections (b)(1) and (b)(3) do".

Amendment No. 16 was adopted.

Amendment No. 17

Representatives Kolkhorst, Delisi, Campbell, Hardcastle, Elkins, Merritt, Crowover, Morrison, Bohac, R. Cook, Hegar, Pickett, Ritter, Pitts, and Baxter offered the following amendment to **CSSB 62**:

Amend **CSSB 62** by striking SECTION 2 of the bill (committee printing page 2, line 27 through page 3, line 15), substituting the following, and renumbering subsequent SECTIONS of the bill accordingly:

SECTION 2. Section 203.052, Transportation Code, as amended by **HB 2702**, Acts of the 79th Legislature, Regular Session, 2005, is amended by amending Subsection (b) and adding Subsection (c) to read as follows:

(b) Property necessary or convenient to a state highway for purposes of Subsection (a) includes an interest in real property, a property right, or a material that the commission determines is necessary or convenient to:

- (1) protect a state highway;
- (2) drain a state highway;
- (3) divert a stream, river, or other watercourse from the right-of-way of a state highway;
- (4) store materials or equipment for use or used in the construction or maintenance of a state highway;
- (5) construct or operate a warehouse or other facility used in connection with the construction, maintenance, or operation of a state highway;
- (6) lay out, construct, or maintain a roadside park;
- (7) lay out, construct, or maintain a parking lot that will contribute to maximum use of a state highway with the least possible congestion;
- (8) mitigate an adverse environmental effect that directly results from construction or maintenance of a state highway;
- (9) subject to Subsection (c), provide a location for an ancillary facility that is anticipated to generate revenue for use in the design, development, financing, construction, maintenance, or operation of a toll project, including a gas station, garage, store, hotel, restaurant, or other commercial facility;
- (10) construct or operate a toll booth, toll plaza, service center, or other facility used in connection with the construction, maintenance, or operation of a toll project; or
- (11) accomplish any other purpose related to the location, construction, improvement, maintenance, beautification, preservation, or operation of a state highway.

(c) The commission may not acquire property for an ancillary facility through the exercise of eminent domain.

SECTION 3. Section 227.041(b), Transportation Code, as amended by **HB 2702**, Acts of the 79th Legislature, Regular Session, 2005, is amended to read as follows:

(b) An interest in real property or a property right is necessary or convenient for the construction or operation of a facility if it is located in or contiguous to an existing or planned segment of the Trans-Texas Corridor or is needed for mitigation of adverse environmental effects, and if its acquisition will further the primary purposes of the Trans-Texas Corridor. Primary purposes include:

- (1) providing right-of-way or a location for a facility;
- (2) providing land for mitigation of adverse environmental effects;
- (3) providing buffer zones for scenic or safety purposes;
- (4) allowing for possible future expansion of any facility; and
- (5) subject to Section 203.052(c), providing a location for a gas station, convenience store, or similar ancillary facility.

SECTION 4. Section 227.041(e), Transportation Code, as added by **HB 2702**, Acts of the 79th Legislature, Regular Session, 2005, is repealed.

Amendment No. 17 was withdrawn.

Amendment No. 18

Representative Coleman offered the following amendment to **CSSB 62**:

Amend **CSSB 62** by inserting the following appropriately numbered SECTIONS and renumbering SECTIONS appropriately:

SECTION _____. Section 6, Chapter 178, Acts of the 56th Legislature, Regular Session, 1959 (Article 3183b-1, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 6. (a) Except as provided by Subsection (b) of this section, the [The] power of eminent domain granted by this Act shall be exercised in accordance with Chapter 21, Property Code [the procedure, conditions, and provisions as prescribed in Title 52, Revised Civil Statutes of Texas, 1925, as amended].

(b) If a charitable corporation to which this Act applies seeks to acquire any real property by condemnation or seeks to purchase any real property that the corporation intends to use in a manner that would not comply with any deed restriction that applies to the property immediately before the purchase, before the charitable corporation initiates condemnation proceedings or records the deed conveying title to the property the charitable corporation shall, in addition to providing any other notice required by law, provide written notice to the owner of record of each unit of real property:

(1) that the charitable corporation seeks to acquire or purchase; or

(2) that is not more than 200 feet from any boundary of any unit of real property the charitable corporation seeks to acquire or purchase.

SECTION _____. The changes in law made by this Act to Chapter 178, Acts of the 56th Legislature, Regular Session, 1959 (Article 3183b-1, Vernon's Texas Civil Statutes), apply to the acquisition of real property by eminent domain or the purchase of real property on or after the effective date of this Act unless condemnation proceedings are initiated or a deed conveying title to the property is filed before the effective date of this Act, in which event the acquisition or purchase is governed by the law in effect at the time the proceedings are initiated or the deed is filed, and the former law is continued in effect for that purpose. The changes in law made by this Act to Chapter 178, Acts of the 56th Legislature, Regular Session, 1959 (Article 3183b-1, Vernon's Texas Civil Statutes), do not apply to acquisition of real property by eminent domain or the purchase of real property before the effective date of this Act.

(Gattis in the chair)

Amendment No. 18 was adopted.

Amendment No. 19

Representative Corte offered the following amendment to **CSSB 62**:

Amend **CSSB 62** (house committee printing) by striking SECTION 4 of the bill (page 4, lines 10-16) and substituting the following:

SECTION 4. Chapter 2206, Government Code, as added by this Act, applies to the taking of private property by eminent domain pending 30 days after the effective date of this Act. For purposes of this section, a taking is pending if a condemnation petition is filed under Section 21.012, Property Code, and a judgment awarding possession of the property to the condemning entity has not become final.

Amendment No. 19 was adopted.

(Speaker in the chair)

Amendment No. 20

Representatives Kolkhorst, Hegar, Baxter, Delisi, Crownover, Campbell, Morrison, Pitts, Bohac, R. Cook, Hardcastle, Elkins, Merritt, Hughes, Pickett, Bonnen, Ritter, and Gonzalez Toureilles offered the following amendment to **CSSB 62**:

Amend **CSSB 62** by striking SECTION 2 of the bill (committee printing page 2, line 27 through page 3, line 15), substituting the following, and renumbering subsequent SECTIONS of the bill accordingly:

SECTION 2. Section 203.052, Transportation Code, as amended by **HB 2702**, Acts of the 79th Legislature, Regular Session, 2005, is amended by amending Subsection (b) and adding Subsection (c) to read as follows:

(b) Property necessary or convenient to a state highway for purposes of Subsection (a) includes an interest in real property, a property right, or a material that the commission determines is necessary or convenient to:

- (1) protect a state highway;
- (2) drain a state highway;
- (3) divert a stream, river, or other watercourse from the right-of-way of a state highway;
- (4) store materials or equipment for use or used in the construction or maintenance of a state highway;
- (5) construct or operate a warehouse or other facility used in connection with the construction, maintenance, or operation of a state highway;
- (6) lay out, construct, or maintain a roadside park;
- (7) lay out, construct, or maintain a parking lot that will contribute to maximum use of a state highway with the least possible congestion;
- (8) mitigate an adverse environmental effect that directly results from construction or maintenance of a state highway;
- (9) subject to Subsection (c), provide a location for an ancillary facility that is anticipated to generate revenue for use in the design, development, financing, construction, maintenance, or operation of a toll project, including a gas station, garage, store, hotel, restaurant, or other commercial facility;
- (10) construct or operate a toll booth, toll plaza, service center, or other facility used in connection with the construction, maintenance, or operation of a toll project; or

(11) accomplish any other purpose related to the location, construction, improvement, maintenance, beautification, preservation, or operation of a state highway.

(c) The commission may not acquire property for an ancillary facility through the exercise of eminent domain.

SECTION 3. Section 227.041(b), Transportation Code, as amended by **HB 2702**, Acts of the 79th Legislature, Regular Session, 2005, is amended to read as follows:

(b) An interest in real property or a property right is necessary or convenient for the construction or operation of a facility if it is located in or contiguous to an existing or planned segment of the Trans-Texas Corridor or is needed for mitigation of adverse environmental effects, and if its acquisition will further the primary purposes of the Trans-Texas Corridor. Primary purposes include:

- (1) providing right-of-way or a location for a facility;
- (2) providing land for mitigation of adverse environmental effects;
- (3) providing buffer zones for scenic or safety purposes;
- (4) allowing for possible future expansion of any facility; and
- (5) subject to Section 203.052(c), providing a location for a gas station, convenience store, or similar ancillary facility.

SECTION 4. Section 227.041(e), Transportation Code, as added by **HB 2702**, Acts of the 79th Legislature, Regular Session, 2005, is repealed.

Amendment No. 21

Representative Hegar offered the following amendment to Amendment No. 20:

Amend Amendment No. 20 by Hegar to **CSSB 62** in SECTION 2, as added by the amendment, in added Subsection (c), Section 203.052, Transportation Code (page 2, line 13), between "eminent domain" and the period, insert the following:

, unless the acquisition of the property is for one of multiple ancillary facilities included in a comprehensive development plan approved by the county commissioners court of each county in which the property is located

AMENDMENT NO. 21 - STATEMENT OF LEGISLATIVE INTENT

REPRESENTATIVE KOLKHORST: Glenn, we've been working on this, and I just want to make—if I can ask you a question about the amendment to the amendment, but the overall amendment. And the overall amendment says that the commission, referred to as the Texas Department—or the Transportation Commission, cannot condemn land for ancillary facilities. Basically, after the *Kelo vs. New London* case and we heard the uproar from our constituents that said cities and counties shouldn't have the ability to go in and take land and then put hotels or motels or marinas or whatever, we're just saying that if it's good for us to say to the cities and counties, "you can't do that," we're also saying that to the State of Texas, so we're making it applicable to the State of Texas—

REPRESENTATIVE HEGAR: We're making it applicable in a lot of situations.

KOLKHORST: We're saying that to the commission, of which I think in **HB 2702** we gave some ability to do ancillary facilities and this amendment, that you just can't use eminent domain to do that, correct?

HEGAR: Yes, that's correct.

KOLKHORST: Now, your amendment to the amendment—if you would, for one second—you're saying that if you can apply, or if you have a combination of . . .

HEGAR: A combination of ancillary facilities, correct.

KOLKHORST: So my question to you is, I'm going to say, I'll build 20 Tuffy's restaurants up and down a toll facility. Is that a comprehensive agreement?

HEGAR: No, I wouldn't see how it is. I can't—a comprehensive development agreement is probably very site specific. In other words, I doubt my desk mate, Mike Hamilton, as he pronounced before a committee, that he's the "King of Pies" or something like that—his title that he has for his restaurants.

KOLKHORST: I'd agree with that.

HEGAR: He cannot go in and have a comprehensive development agreement to go and have Tuffy's restaurant in 20 different sites in the state. And even if he did that, he would have to have more than one type of ancillary in his restaurant. He'd have to have a gas station or a hotel, or any other combinations, and on the Trans-Texas Corridor as you know, the only thing that can exist is one, a gas station, or two, a convenience store—or some combination like those two. So therefore, in other words, even if he wanted to do that, he would have to have more than just a restaurant. And even if he had that, local county commissioner's court would have to approve it, today. Which is much tighter than current law.

KOLKHORST: For intent purposes, what we're saying is that the State of Texas through it's agency cannot condemn land to build economic development projects. . .

HEGAR: Say that again?

KOLKHORST: We're saying to the State of Texas, you cannot condemn property, you cannot use eminent domain authority to build economic development projects as in the case of—

HEGAR: It says right here, that the local county commissioner's court has to approve that, so it puts that local burden back on it, at least that's what all my constituents want, they want to have local people have a say. They don't want the state, big government, coming in and saying we're going to take Ms. Thompson's house, so Joe Nixon can open a restaurant with Mike Hamilton, but if local control—

REMARKS ORDERED PRINTED

Representative Kolkhorst moved to print remarks between Representative Hegar and Representative Kolkhorst.

The motion prevailed.

Amendment No. 21 was adopted.

Amendment No. 20, as amended, was adopted.

Amendment No. 22

Representative Isett offered the following amendment to **CSSB 62**:

Amend **CSSB 62** in SECTION 1 of the bill, in added Chapter 2206, Government Code, by adding the following appropriately numbered section and renumbering the existing sections as appropriate:

Sec. 2206. . . CONDEMNATION OF PROPERTY WITH CERTAIN SIGNS. (a) In this section, "off-premise sign" means an outdoor sign displaying advertising that pertains to a business, person, organization, activity, event, place, service, or product not principally located or primarily manufactured or sold on the premises on which the sign is located.

(b) If property containing an off-premise sign is taken under the power of eminent domain, the rights associated with an off-premise sign that is lawfully in existence but no longer complies with current applicable laws and regulations, including laws and regulations promulgated under Chapter 391 or 394, Transportation Code, or Chapter 216, Local Government Code, vest in the owner of the non-conforming off-premise sign.

A record vote was requested.

Amendment No. 22 was adopted by (Record 70): 91 Yeas, 41 Nays, 2 Present, not voting.

Yeas — Allen, R.; Alonzo; Anchia; Anderson; Baxter; Berman; Blake; Bohac; Bonnen; Brown, B.; Brown, F.; Campbell; Chavez; Chisum; Cook, B.; Cook, R.; Corte; Crownover; Dawson; Delisi; Denny; Deshotel; Dukes; Eissler; Farabee; Flores; Flynn; Frost; Gallego; Gonzales; Gonzalez Toureilles; Goolsby; Griggs; Grusendorf; Guillen; Haggerty; Hamilton; Hamric; Hegar; Hill; Hochberg; Hodge; Homer; Hopson; Hughes; Hunter; Hupp; Isett; Jackson; Jones, D.; Keel; Keffer, B.; Keffer, J.; King, P.; King, T.; Laney; Laubenberg; Madden; McCall; McClendon; McReynolds; Menendez; Mowery; Nixon; Oliveira; Olivo; Otto; Paxton; Peña; Pickett; Puente; Raymond; Reyna; Riddle; Rose; Seaman; Smith, T.; Smithee; Solomons; Strama; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Van Arsdale; Villarreal; Vo; Woolley; Zedler.

Nays — Allen, A.; Callegari; Casteel; Crabb; Davis, J.; Davis, Y.; Dunnam; Dutton; Edwards; Eiland; Elkins; Escobar; Farrar; Gattis; Geren; Hardcastle; Harper-Brown; Herrero; Hope; Howard; Kolkhorst; Krusee; Kuempel; Leibowitz; Luna; Martinez; Merritt; Miller; Moreno, P.; Morrison; Naishtat; Noriega, M.; Orr; Phillips; Pitts; Ritter; Rodriguez; Smith, W.; Straus; West; Wong.

Present, not voting — Mr. Speaker(C); Goodman.

Absent, Excused — Bailey; Hilderbran; Solis; Uresti.

Absent — Branch; Burnam; Castro; Coleman; Driver; Giddings; Hartnett; Jones, J.; Martinez Fischer; Quintanilla; Veasey.

STATEMENT OF VOTE

When Record No. 70 was taken, I was in the house but away from my desk. I would have voted present, not voting.

Branch

CSSB 62 - STATEMENT OF LEGISLATIVE INTENT

REPRESENTATIVE JACKSON: I just want to be sure of the intent. When we talk about transportation projects, including railroads, ports, airports, and public roads and highways, I just assume you also mean the stations, parking lots, the ancillary things that go with those because I believe we took out public infrastructure. So, I assume when you talk about railroads that includes commuter rail and light rail and the stations that you are going to build to go with that line?

REPRESENTATIVE WOOLLEY: Yes.

JACKSON: Are the parking lots etcetera?

WOOLLEY: Yes.

JACKSON: I assume in those stations you could possibly have a snack bar and that would be permissible under this bill?

WOOLLEY: If they are for the uses in the traditional sense of public use, yes.

REMARKS ORDERED PRINTED

Representative Jackson moved to print remarks between Representative Woolley and Representative Jackson.

The motion prevailed.

CSSB 62 - STATEMENT OF LEGISLATIVE INTENT

REPRESENTATIVE HARNETT: In the heart of downtown Dallas, we have an entire city block, the three mercantile bank complex, that has been empty for more than 12 years. No improvements have been made to it for more than 12 years. It is an eye sore, which is damaging to the health and prosperity of the Dallas central business district. Is it your legislative intent that this dilapidated, vacant city block would fit within the definition of plighted area on page 2, line 7, which is in subparagraph (b)(3)?

REPRESENTATIVE WOOLLEY: Yes.

CSSB 62, as amended, was passed to third reading. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

SB 62 ON THIRD READING
(Woolley - House Sponsor)
CONSTITUTIONAL RULE SUSPENDED

Representative Woolley moved to suspend the constitutional rule requiring bills to be read on three several days and to place **SB 62** on its third reading and final passage.

The motion prevailed by (Record 71): 136 Yeas, 0 Nays, 3 Present, not voting.

Yeas — Allen, A.; Allen, R.; Alonzo; Anchia; Anderson; Baxter; Berman; Blake; Bohac; Bonnen; Brown, B.; Brown, F.; Burnam; Callegari; Campbell; Casteel; Castro; Chavez; Chisum; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Davis, Y.; Dawson; Delisi; Denny; Deshotel; Dukes; Dutton; Edwards; Eiland; Eissler; Elkins; Escobar; Farabee; Farrar; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Tourelles; Goolsby; Griggs; Grusendorf; Guillen; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Herrero; Hill; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hughes; Hunter; Hupp; Isett; Jackson; Jones, D.; Jones, J.; Keel; Keffer, B.; Keffer, J.; King, P.; King, T.; Kolkhorst; Krusee; Kuempel; Laney; Laubenberg; Leibowitz; Luna; Madden; Martinez; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, P.; Morrison; Mowery; Nixon; Noriega, M.; Oliveira; Olivo; Orr; Otto; Paxton; Peña; Phillips; Pickett; Pitts; Puente; Quintanilla; Raymond; Reyna; Riddle; Ritter; Rodriguez; Rose; Seaman; Smith, W.; Smithee; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Van Arsdale; Villarreal; Vo; West; Wong; Woolley; Zedler.

Present, not voting — Mr. Speaker(C); Branch; Goodman.

Absent, Excused — Bailey; Hilderbran; Solis; Uresti.

Absent — Driver; Dunnam; Martinez Fischer; Naishtat; Smith, T.; Veasey.

STATEMENT OF VOTE

When Record No. 71 was taken, my vote failed to register. I would have voted yes.

Dunnam

The speaker laid **SB 62** before the house on its third reading and final passage.

A record vote was requested.

SB 62 was read third time and was passed by (Record 72): 138 Yeas, 2 Nays, 3 Present, not voting.

Yeas — Allen, A.; Allen, R.; Alonzo; Anderson; Baxter; Berman; Blake; Bonnen; Brown, B.; Brown, F.; Burnam; Callegari; Campbell; Casteel; Castro; Chavez; Chisum; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Davis, Y.; Dawson; Delisi; Denny; Deshotel; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; Escobar; Farabee; Farrar; Flores; Flynn; Frost;

Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Griggs; Grusendorf; Guillen; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hegar; Herrero; Hill; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hughes; Hunter; Hupp; Isett; Jackson; Jones, D.; Jones, J.; Keel; Keffer, B.; Keffer, J.; King, P.; King, T.; Kolkhorst; Krusee; Kuempel; Laney; Laubenberg; Leibowitz; Luna; Madden; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, P.; Morrison; Mowery; Naishtat; Nixon; Noriega, M.; Oliveira; Olivo; Orr; Otto; Paxton; Peña; Phillips; Pickett; Pitts; Puente; Quintanilla; Raymond; Reyna; Riddle; Ritter; Rodriguez; Rose; Seaman; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Van Arsdale; Veasey; Villarreal; Vo; West; Wong; Woolley; Zedler.

Nays — Anchia; Hartnett.

Present, not voting — Mr. Speaker(C); Branch; Goodman.

Absent, Excused — Bailey; Hilderbran; Solis; Uresti.

Absent — Bohac; Driver.

REMARKS ORDERED PRINTED

Representative Hartnett moved to print remarks between Representative Woolley and Representative Hartnett.

The motion prevailed.

CONSTITUTIONAL AMENDMENTS CALENDAR HOUSE JOINT RESOLUTIONS SECOND READING

The following resolutions were laid before the house and read second time:

HJR 24 ON SECOND READING

(by Berman, J. Keffer, Zedler, Flynn, Edwards, et al.)

HJR 24, A joint resolution proposing a constitutional amendment to reduce the total amount of ad valorem taxes that may be imposed by a school district on the residence homestead of an elderly or disabled person in proportion to any reduction in the tax rate of the school district.

Amendment No. 1

Representative B. Cook offered the following amendment to **HJR 24**:

Amend **HJR 24** as follows:

- (1) On page 2, line 4, strike "less" and substitute "higher or lower".
- (2) On page 2, lines 7 and 8, strike "reduced for the current and subsequent tax years" and substitute "increased or reduced, as applicable".
- (3) On page 2, line 8, between "the" and "reduction", insert "increase or".
- (4) On page 2, line 9, between "rate" and the underscored period, insert "; except that the total amount of ad valorem taxes that may be imposed for those purposes on the homestead may not exceed the amount of taxes imposed for those purposes for the tax year in which the limitation took effect".

(5) On page 3, line 1, strike "reduce" and substitute "increase or reduce, as applicable".

(6) On page 3, line 4, strike "reduction" and substitute "increase or reduction".

(7) On page 3, line 4, between "district" and "and", insert "but not to exceed the amount of the limitation for the tax year in which the limitation took effect".

(8) On page 3, line 12, strike "reduce" and substitute "increase or reduce, as applicable, the amount of the limitation on".

(9) On page 3, line 15, between "any" and "reduction", insert "increase or".

(10) On page 3, line 15, between "district" and the period, insert "but not to exceed the amount of the limitation for the tax year in which the limitation took effect".

(Keel in the chair)

Amendment No. 1 was adopted.

A record vote was requested.

HJR 24, as amended, was adopted by (Record 73): 140 Yeas, 0 Nays, 3 Present, not voting.

Yeas — Allen, A.; Allen, R.; Alonzo; Anchia; Anderson; Baxter; Berman; Blake; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Campbell; Casteel; Castro; Chavez; Chisum; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Davis, Y.; Dawson; Delisi; Denny; Deshotel; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; Escobar; Farabee; Farrar; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goodman; Goolsby; Griggs; Grusendorf; Guillen; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Herrero; Hill; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hughes; Hunter; Hupp; Isett; Jackson; Jones, D.; Jones, J.; Keffer, B.; Keffer, J.; King, P.; King, T.; Kolkhorst; Krusee; Kuempel; Laney; Laubenberg; Leibowitz; Luna; Madden; Martinez; Martinez Fischer; McCall; McClendon; Menendez; Merritt; Miller; Morrison; Mowery; Naishtat; Nixon; Noriega, M.; Oliveira; Olivo; Orr; Otto; Paxton; Peña; Phillips; Pickett; Pitts; Puente; Quintanilla; Raymond; Reyna; Riddle; Ritter; Rodriguez; Rose; Seaman; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Van Arsdale; Veasey; Villarreal; Vo; West; Wong; Woolley; Zedler.

Present, not voting — Mr. Speaker; Keel(C); Moreno, P.

Absent, Excused — Bailey; Hilderbran; Solis; Uresti.

Absent — Driver; McReynolds.

BILLS AND JOINT RESOLUTIONS ON FIRST READING AND REFERRAL TO COMMITTEES

Bills and joint resolutions were at this time laid before the house, read first time, and referred to committees. (See the addendum to the daily journal, Referred to Committees, List No. 1.)

HR 350 - ADOPTED
(by Casteel)

Representative Casteel moved to suspend all necessary rules to take up and consider at this time **HR 350**.

The motion prevailed.

The following resolution was laid before the house:

HR 350, Commemorating the centennial of the Kendall County Fair.

HR 350 was adopted.

HR 351 - ADOPTED
(by Dutton)

Representative Casteel moved to suspend all necessary rules to take up and consider at this time **HR 351**.

The motion prevailed.

The following resolution was laid before the house:

HR 351, Recognizing the Thompson-Craig Family Reunion in Houston on July 22, 2005.

HR 351 was adopted.

HR 352 - ADOPTED
(by Dutton and Hunter)

Representative Casteel moved to suspend all necessary rules to take up and consider at this time **HR 352**.

The motion prevailed.

The following resolution was laid before the house:

HR 352, Honoring Plum Street United Methodist Church in Abilene on its centennial.

HR 352 was adopted.

COMMITTEE MEETING ANNOUNCEMENTS

The following committee meetings were announced:

Ways and Means, upon adjournment today, 3W.9, for a formal meeting.

Rules and Resolutions, upon adjournment today, Desk 133, for a formal meeting.

**PROVIDING FOR A CONGRATULATORY
AND MEMORIAL CALENDAR**

Representative Edwards moved to set a congratulatory and memorial calendar for 10 a.m., Tuesday, July 19.

The motion prevailed.

(Speaker in the chair)

ADJOURNMENT

The speaker stated that the house would adjourn until 1 p.m. tomorrow.

The house accordingly, at 7:43 p.m., adjourned until 1 p.m. tomorrow.

ADDENDUM

REFERRED TO COMMITTEES

The following bills and joint resolutions were today laid before the house, read first time, and referred to committees, and the following resolutions were today laid before the house and referred to committees. If indicated, the chair today corrected the referral of the following measures:

List No. 1

HJR 25 (By J. Keffer and Merritt), Proposing a constitutional amendment increasing the amount of the residence homestead exemption from ad valorem taxation for public school purposes and providing for a corresponding adjustment of the limitation on the amount of ad valorem taxes that may be imposed for those purposes on the homesteads of certain persons.

To Ways and Means.

APPENDIX

STANDING COMMITTEE REPORTS

Favorable reports have been filed by committees as follows:

July 14

Land and Resource Management - **HB 88, SB 62**

Regulated Industries - **SB 21**

Ways and Means - **HJR 24**

SENT TO THE GOVERNOR

July 14 - HCR 1, HCR 12, HCR 21, HCR 22

SENT TO THE SECRETARY OF THE STATE

July 14 - HCR 14