

HOUSE JOURNAL

EIGHTY-SECOND LEGISLATURE, REGULAR SESSION

PROCEEDINGS

SEVENTY-SECOND DAY — MONDAY, MAY 9, 2011

The house met at 10 a.m. and was called to order by the speaker.

The roll of the house was called and a quorum was announced present (Record 848).

Present — Mr. Speaker; Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Burnam; Button; Cain; Callegari; Carter; Castro; Chisum; Christian; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Flynn; Frullo; Gallego; Garza; Geren; Giddings; Gonzales, L.; Gonzalez; Gooden; Guillen; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hernandez Luna; Hilderbran; Hochberg; Hopson; Howard, C.; Howard, D.; Huberty; Hughes; Hunter; Isaac; Jackson; Johnson; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pickett; Pitts; Price; Quintanilla; Raymond; Reynolds; Riddle; Ritter; Rodriguez; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Taylor, V.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Weber; White; Woolley; Workman; Zedler; Zerwas.

Absent — Coleman; Gonzales, V.; Gutierrez; Walle.

The invocation was offered by Greg Bland, lead pastor, Pedernales River Fellowship, Spicewood, as follows:

Heavenly Father, I pray for every member of the Texas House of Representatives to experience your grace, wisdom, strength, and perseverance. I pray that their discourse, decisions, and actions will be guided by your spirit and be pleasing to you. I pray that you give them a unified vision and discernment of what is right, the resolve and conviction to follow where you clearly lead, and the courage to stay the course you mark out for them. I pray that the business conducted today by this body would be honorable and full of integrity and will ultimately lead to policies and actions that reflect your heart.

Lord, I pray for the families of those who serve in this body. I ask that you protect them, bless and uphold their marriages and their children. May each family represented here know your unmistakable presence and experience the fullness of your joy.

Together, we all pray for our state, for your favor and blessing on all our citizens, for growth in our economy, for the jobless to find employment, and for the helpless to be protected. Father, we are asking that your kingdom come and your will be done on earth, and specifically in Texas, as it is in heaven. Direct the decisions of this body to move Texas and its people toward the life and future you dream for us to enjoy. Forgive us all where we fall short. I pray all this in Jesus' name. Amen.

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

REGULAR ORDER OF BUSINESS SUSPENDED

On motion of Representative Workman and by unanimous consent, the reading and referral of bills was postponed until just prior to adjournment.

CAPITOL PHYSICIAN

The speaker recognized Representative Kleinschmidt who presented Dr. Kanaka Paladugu of Bastrop as the "Doctor for the Day."

The house welcomed Dr. Paladugu and thanked her for her participation in the Physician of the Day Program sponsored by the Texas Academy of Family Physicians.

(S. Miller in the chair)

HCR 139 - PREVIOUSLY ADOPTED (by Beck, Coleman, and Thompson)

The chair laid out and had read the following previously adopted resolution:

HCR 139, In memory of former Texas secretary of state Myra McDaniel.

On motion of Representatives Thompson and Dutton, the names of all the members of the house were added to **HCR 139** as signers thereof.

INTRODUCTION OF GUESTS

The chair recognized Representative Beck who introduced family members of Myra McDaniel.

BILLS AND RESOLUTIONS SIGNED BY THE SPEAKER

Notice was given at this time that the speaker had signed bills and resolutions in the presence of the house (see the addendum to the daily journal, Signed by the Speaker, House List No. 24).

HR 1753 - ADOPTED
(by Hardcastle)

Representative Hardcastle moved to suspend all necessary rules to take up and consider at this time **HR 1753**.

The motion prevailed.

The following resolution was laid before the house:

HR 1753, Congratulating Neil Evan Rinehart on his 60th birthday.

HR 1753 was adopted.

HR 1770 - ADOPTED
(by Branch)

Representative Branch moved to suspend all necessary rules to take up and consider at this time **HR 1770**.

The motion prevailed.

The following resolution was laid before the house:

HR 1770, Honoring His Holiness the Dalai Lama on the occasion of his visit to Southern Methodist University in Dallas on May 9, 2011.

HR 1770 was adopted.

LEAVE OF ABSENCE GRANTED

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

Coleman on motion of Beck.

(Speaker in the chair)

RESOLUTIONS ADOPTED

Representative Dutton moved to suspend all necessary rules to take up and consider at this time **HR 1776 - HR 1778**.

The motion prevailed.

The following resolutions were laid before the house:

HR 1776 (by Dutton), Congratulating Jailen Malcolm Palmer of Houston on his graduation from Jack Yates High School.

HR 1777 (by Dutton), Congratulating Tralen Markuss Palmer of Houston on his graduation from Jack Yates High School.

HR 1778 (by Dutton), Congratulating Reginald Emmanuel Hebert, Sr., Rhanel Yvette Johnson, Aidsand F. Miles, Sr., and Aubry Louis Knight on their graduation from Kingdom Builders Bible Seminary.

The resolutions were adopted.

(Gutierrez now present)

UNFINISHED BUSINESS

The following bill was laid before the house as unfinished business:

CSHB 272 ON SECOND READING

(by Smithee, Chisum, Hancock, Margo, Sheets, et al.)

CSHB 272, A bill to be entitled An Act relating to the operation of the Texas Windstorm Insurance Association and to the resolution of certain disputes concerning claims made to that association; providing penalties.

CSHB 272 was read second time on May 7. A point of order was pending at the time of adjournment.

The point of order was withdrawn.

Representative Smithee moved to postpone consideration of **CSHB 272** until 7 p.m. today.

The motion prevailed.

**EMERGENCY CALENDAR
HOUSE BILLS
THIRD READING**

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

HB 274 ON THIRD READING

(by Creighton, Aliseda, Kleinschmidt, Jackson, Sheets, et al.)

HB 274, A bill to be entitled An Act relating to the reform of certain remedies and procedures in civil actions.

(Walle now present)

HB 274 - STATEMENT OF LEGISLATIVE INTENT

REPRESENTATIVE LUCIO: Representative Creighton, I haven't had an opportunity to speak to you about my one—well, I have many concerns—but my specific concern with this bill. A majority of the law I practice—and I am a practicing attorney—is family law. I believe it's your intention to not include the provisions of this bill in the Family Code; however, you have been very detailed and very thorough in how this bill will be implemented, and I would only ask you if we could have a conversation about amending your bill to exclude it from the Family Code. And the reason for it is, Representative Creighton, the family law process, the divorce process, is extremely different, in my opinion, than the rest of the litigation world. It's very passionate. We've done a great deal of things in our work here in Austin to change the structure of it and to allow help in that through para-facilitation, family mediators, whatever it may be. I think the process works very well, and I'm afraid that if it is somehow misunderstood—that some of the provisions of your bill be included in the family law process—it would change drastically our ability to get through a very emotional process. Could we at all talk about removing this from the Family Code?

REPRESENTATIVE CREIGHTON: Representative Lucio, we've got a provision in the bill where the supreme court may not adopt rules under this subsection that conflict with any provision of the Family Code. And then also under the interlocutory appeals section of the bill, where at the trial court level, if there is an interim question, and based on application from the parties, the judge can send it on up to get an answer at the appellate level for that question that's an issue. The reason why we have that trial court trigger, or gatekeeper provision, in there is for those exact situations. So, if that's not answering your question, give me some more specifics on what provision of the bill conflicts or—

LUCIO: I'm not sure what could potentially happen at the trial court level that would need to be addressed—that would cause concern and need to be addressed at the family law, in the family law. If you understand how family law case works—

CREIGHTON: I had a conversation on the floor right before we called the bill up with Representative Phillips regarding the same thing, and once we visited about that interlocutory appeals section and the gatekeeper provision in there on Family Code, he was more comfortable with that. So that's why I brought that up, but—

LUCIO: So, when you say trial court—I'm not—I don't know what you mean by trial court being a gatekeeper.

CREIGHTON: Tell me what—again—conversely, tell me what provision of the bill you're concerned about with regard to the Family Code.

LUCIO: The motion to dismiss, loser-pays, any of those things and how they apply, those are my concerns, not necessarily the appeal process.

CREIGHTON: Okay, well, that was my—

LUCIO: Because family law cases don't get—I mean—

CREIGHTON: That was my first answer to you. In the provision of the bill that deals with instructing the supreme court to promulgate rules for motion to dismiss practice, we have Civil Practice and Remedies Code, the Family Code, the Property Code, and the Tax Code outlined there that they're not—

LUCIO: Earlier you said the supreme court could not adopt rules that would be contradictory to the existing Family Code?

CREIGHTON: The expedited civil action, and the provisions for motion to dismiss, will not apply to—

LUCIO: Right. Because we said it takes 60 days for us before we can even grant a divorce, so that wouldn't apply.

CREIGHTON: If your intention was to get intent—

LUCIO: And what was the other expedited—what was the other?

CREIGHTON: The provisions that are covered, that are excluded from that? Is that what you're asking?

LUCIO: Yes. So, settlement offers, loser pays—would that apply to the Family Code under your bill?

CREIGHTON: Look, the only situation in Rule 12(b)(6), your motion to dismiss, where a nonprevailing party would possibly pay is if the judge allowed that. It's permissive, and it's only in the small number of cases where the case would actually be dismissed because there's no remedy at law whatsoever to govern the case. So, if you have a family law case where there is no law whatsoever that would be a remedy to the dispute which, I would assume, you hardly ever bring a case where there is no remedy at law. It's not even applicable to what you're talking about.

LUCIO: So, for instance, if we have a property—community property lawsuit as well as custody of children lawsuit, custody of children—I don't believe you can create a loser-pays structure based on who is granted custody of the children. But let's say the community property has a dollar value, and I am the petitioner and the defendant offers me \$150,000 monetary value, and that encompasses the house, the cars, retirement, so on and so forth. I decline that \$150,000 because I think I'm owed more, or my client is owed more, based on how the retirement structure is, the value of the home, so on and so forth, and it comes back that I'm only awarded \$135,000 by the jury. Would your bill affect that scenario to where I would have to pay attorneys' fees because there was a settlement offer on the community portion of a family law matter?

CREIGHTON: Representative Lucio, Chapter 42 excludes the Family Code and offers settlement.

LUCIO: Okay, so, what instances would your bill apply to the Family Code for intent purposes?

CREIGHTON: The only mention of Family Code is in excluding under the expedited claims section. Four different sections of codes, we have med mal, we have Family Code, we have Property Code, and Tax Code.

LUCIO: So, it's your intent to not affect the family law litigation process?

CREIGHTON: We're not making any changes to the current law other than the few specific changes that we've made here. Motion to dismiss practice—

LUCIO: Would that apply to the family law practice?

CREIGHTON: We don't stipulate one way or the other. We're going to rely on the supreme court to make suggested rules and guidelines for a motion to dismiss practice, and what we're doing is establishing what 42 other states in the federal courts enjoy successfully today.

LUCIO: So, which other states apply your intent for motion to dismiss in the family law sections—in their family law practices?

CREIGHTON: I don't have an answer to what other states do, but I'm not as much concerned with the other states and how they stipulated it. We're going to rely on the Texas Supreme Court to make those recommendations, and then after that branch of government makes those recommendations, if we have issues with their decisions, then this legislative branch can speak to those issues. Then I've

got some legislative intent that Representative Eiland and I are going to go through that I think will ease some of your concerns as we direct the supreme court.

REMARKS ORDERED PRINTED

Representative Lucio moved to print remarks between Representative Creighton and Representative Lucio.

The motion prevailed.

Amendment No. 1

Representative Creighton offered the following amendment to **HB 274**:

Amend **HB 274** as follows:

(1) In SECTION 2.01 of the bill, between "civil actions" and "in which" (page 2, lines 1-2), insert ". The rules shall apply to civil actions in district courts, county courts at law, and statutory probate courts".

(2) In SECTION 2.01 of the bill, strike "is more than \$10,000 but" (page 2, line 5).

(3) Strike SECTION 4.02 of the bill and renumber subsequent SECTIONS appropriately.

(4) In SECTION 5.02 of the bill, after "CONTRACTS." (page 5, line 3), delete "The" and insert "Unless otherwise provided in a written contract, the".

(5) In SECTION 5.03 of the bill, between "owed" and "must" (page 5, line 16), insert ", if any,".

Amendment No. 2

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

Amend Floor Amendment No. 1 to **HB 274** (house committee printing) on page 1, line 9, between "action" and "that", by inserting "and defenses".

Amendment No. 2 was adopted.

AMENDMENT NO. 1 - STATEMENT OF LEGISLATIVE INTENT

REPRESENTATIVE EILAND: Mr. Creighton, as you have referenced, I do have some legislative intent language that I want to discuss. But first, you and I met on this bill, both with yourself and outside lawyers of your choosing to go through it, right?

REPRESENTATIVE CREIGHTON: Yes.

EILAND: And I had several amendments to the bill that were not acceptable, correct? That you were going to fight and not accept.

CREIGHTON: You had one amendment that was acceptable, and from there—you know, I'm doing my best, through working with many stakeholders, through subcommittees and committees, and all through this session to keep this bill as clean as possible so the senate can have a good bill to work with. And from there, I didn't accept any more than that one you and I visited on.

EILAND: Right, and you know that one of the concerns is, unlike back in 2003, on **HB 3** and **HB 4**, where we set up the offered settlement section of the code in Chapter 42 of the Civil Practice Remedies Code, in 42.005, we gave lots of legislative intent. We don't need to ask any questions about that, but one of the concerns about your bill, whereas back at that time we did give some specific legislative intent on the offer of settlement. In your bill, under section one, we basically give an instruction to the supreme court, "go make up a motion to dismiss practice," and give no restrictions, no guidelines, no limitations, right?

CREIGHTON: That's correct. This bill is obviously not of the magnitude that **HB 4** was in 2003, but you and I are going to be going through some intent now, and I think that will ease some of your concerns.

EILAND: Right, and so, one of the things is, unlike the federal rules of civil procedure, especially after the U.S. Supreme Court case of *Trombley*, we have a notice pleading under Chapter 45 of the Texas Rules of Civil Procedure and it's your intent that nothing in this bill be construed to change or impact the notice pleading requirements of Texas Rules of Civil Procedure 45, correct?

CREIGHTON: Correct, I don't have any intention to change any of the pleading requirements under Texas Rules of Civil Procedure 45.

EILAND: And the supreme court has previously set up a rules advisory committee which usually, before they adopt any rules, they will either propose a rule to the rules advisory committee or ask the rules advisory committee to propose a rule. And there's not a requirement in your bill that that be done, but as I understand, it is your intent that the supreme court will utilize and refer any proposed rule to the Supreme Court Advisory Committee?

CREIGHTON: That's correct. That is my intention, and I'm assuming from the legislative branch to the supreme court—asking the supreme court to promulgate these rules, they'll use the Supreme Court Advisory Committee anyway. Yes, that's my intention.

EILAND: And then, since we give no guidelines, there was consideration, as I understand it, adopting the California rules, the New York rules, or something similar to the federal rules. While that has not been placed into your bill, it's your intent that the supreme court consider the California rules, the New York rules, and the federal rules, since they have established a body of law, and practitioners know how to operate under them?

CREIGHTON: Yes.

EILAND: And then, I had an amendment that would exempt out from this motion to dismiss area, the Tax Code, the Family Code, the Subtitle A, Title 5 of the Labor Code, which is the workers' comp. laws, and Chapter 21 of the Property Code which is eminent domain and class actions. Because all of those items or codes have their own internal mechanisms, and that amendment was not acceptable, however, it is your intent that when the supreme court adopts these

rules, they not preempt existing law that provides for the process to be followed in the bringing of a suit, such as the Tax Code, the Family Code, workers' comp., eminent domain, and class action, correct?

CREIGHTON: Yes, I don't anticipate any conflict there with the rules that they promulgate. I'm comfortable with expressing intent to not conflict with the following.

EILAND: And then, Chairman Smithee had an amendment in the same area, because there's no real guideline to the supreme court about motion to dismiss and I believe there are two of his elements that are agreed to with regard to the intent, and that is motion to dismiss must be filed—no, I think the only one y'all agree to is that the non-movement must have an opportunity to re-plead, if re-pleading can cure the issue, is that correct?

CREIGHTON: That's correct. If it's determined by either party that there is no remedy at law, counsel should understand that by accepting the case, and there should be no problem at all requiring that to be the first responsive motion.

EILAND: Okay, and finally, an area that I brought to you as a concern, is a concern of mine in cases where money is not the only object, like libel, or slander, or false imprisonment, or a suit for money and specific performance, suit for money where the author would include a confidentiality clause. You could not agree with any intent as it relates to those items, correct?

CREIGHTON: Is your question there based on re-pleading to cure an issue that's outstanding?

EILAND: No, I'm sorry about that. Now, I'm moving over to section five where we talk about the shifting of the cost and the loser pays or the offer of settlement area. And I had concerns that we discussed, and I expressed about when it's not just about money and somebody would have to pay, and we could not agree to any intent language in that area.

CREIGHTON: I don't really want to speak to any intent on the offer of settlement provision itself. I mean we're simply making one small change there that levels the playing field for both parties, and I'd like to rely on the supreme court there, Representative Eiland.

REMARKS ORDERED PRINTED

Representative Eiland moved to print remarks between Representative Creighton and Representative Eiland.

The motion prevailed.

REMARKS ORDERED PRINTED

Representative Hughes moved to print remarks on **HB 274**.

The motion prevailed. [Please refer to the supplement to today's journal for the text of the debate on **HB 274**.]

Amendment No. 1, as amended, was adopted.

Amendment No. 3

Representative Eiland offered the following amendment to **HB 274**:

Amend **HB 274** by inserting on page 1 a preamble before Article 1 to include the following, "This act may be referred to as the Loser Pays and Sometimes Winners Pay Act."

(V. Gonzales now present)

Amendment No. 3 was withdrawn.

Amendment No. 4

Representative Lucio offered the following amendment to **HB 274**:

Amend **HB 274** on third reading as follows:

(1) On page 1, line 11, after the period, insert the following "Rules adopted under this subsection do not apply to an action under the Family Code."

(2) On page 1, line 20, after the period, insert the following "This section does not apply to an action under the Family Code."

(3) On page 2, line 20, after the period, insert the following "This section does not apply to an action under the Family Code."

Representative Creighton moved to table Amendment No. 4.

The motion to table prevailed by (Record 849): 80 Yeas, 65 Nays, 1 Present, not voting. (The vote was reconsidered later today, and Amendment No. 4 was adopted.)

Yeas — Aliseda; Anderson, C.; Anderson, R.; Aycock; Beck; Bohac; Bonnen; Branch; Brown; Button; Cain; Callegari; Carter; Chisum; Christian; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Driver; Fletcher; Flynn; Frullo; Garza; Geren; Gonzales, L.; Gooden; Hamilton; Hancock; Hardcastle; Harper-Brown; Hopson; Howard, C.; Huberty; Isaac; Jackson; Keffer; King, P.; King, S.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Laubenberg; Lavender; Legler; Lewis; Lyne; Madden; Miller, D.; Miller, S.; Morrison; Murphy; Nash; Orr; Otto; Parker; Patrick; Paxton; Perry; Phillips; Pitts; Schwertner; Sheets; Sheffield; Shelton; Smith, W.; Smithee; Solomons; Taylor, L.; Taylor, V.; Truitt; Weber; White; Woolley; Workman; Zedler; Zerwas.

Nays — Allen; Alonzo; Alvarado; Anchia; Berman; Burkett; Burnam; Castro; Cook; Davis, Y.; Deshotel; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Gallego; Giddings; Gonzales, V.; Gonzalez; Guillen; Gutierrez; Harless; Hartnett; Hernandez Luna; Hilderbran; Hochberg; Howard, D.; Hughes; Hunter; Johnson; King, T.; Larson; Lozano; Lucio; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; Menendez; Miles; Muñoz; Naishtat; Oliveira; Peña; Pickett; Price; Quintanilla; Raymond; Reynolds; Riddle; Ritter; Rodriguez; Scott; Simpson; Smith, T.; Strama; Thompson; Turner; Veasey; Villarreal; Vo; Walle.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Coleman.

Absent — Dukes; McClendon; Torres.

STATEMENTS OF VOTE

When Record No. 849 was taken, I was temporarily out of the house chamber. I would have voted no.

Dukes

I was shown voting yes on Record No. 849. I intended to vote no.

Kuempel

When Record No. 849 was taken, I was temporarily out of the house chamber. I would have voted no.

McClendon

When Record No. 849 was taken, I was temporarily out of the house chamber. I would have voted no.

Torres

Amendment No. 5

Representative Lewis offered the following amendment to **HB 274**:

Amend **HB 274** as follows:

(1) Insert the following **ARTICLE 7** and renumber subsequent **ARTICLES** appropriately:

ARTICLE 7. DESIGNATION OF RESPONSIBLE THIRD PARTIES

SECTION 7.01. Section 33.004(e), Civil Practice and Remedies Code, is repealed.

(2) In **SECTION 7.02(b)** of the bill (as renumbered), replace "and (6)" (page 8, line 16) with "(6), and (7)".

Amendment No. 5 was adopted by (Record 850): 100 Yeas, 45 Nays, 1 Present, not voting.

Yeas — Aliseda; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Button; Cain; Callegari; Carter; Chisum; Christian; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Driver; Eissler; Fletcher; Flynn; Frullo; Garza; Geren; Gonzales, L.; Gonzalez; Gooden; Guillen; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hilderbran; Hopson; Howard, C.; Huberty; Hughes; Hunter; Isaac; Jackson; Keffer; King, P.; King, S.; Kleinschmidt; Kolkhorst; Kuempel; Landroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lyne; Madden; Margo; Miller, D.; Miller, S.; Morrison; Murphy; Nash; Orr; Otto; Parker; Patrick; Paxton; Perry; Phillips; Pitts; Price; Riddle; Ritter; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Solomons; Taylor, L.; Taylor, V.; Torres; Truitt; Weber; White; Woolley; Workman; Zedler; Zerwas.

Nays — Allen; Alonzo; Alvarado; Anchia; Castro; Davis, Y.; Deshotel; Dukes; Dutton; Eiland; Farias; Farrar; Gallego; Giddings; Gonzales, V.; Gutierrez; Hernandez Luna; Hochberg; Howard, D.; Johnson; King, T.; Lucio;

Mallory Caraway; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Muñoz; Naishtat; Oliveira; Pickett; Quintanilla; Raymond; Reynolds; Rodriguez; Smithee; Strama; Thompson; Turner; Veasey; Villarreal; Vo; Walle.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Coleman.

Absent — Burnam; Elkins; Peña.

STATEMENT OF VOTE

I was shown voting no on Record No. 850. I intended to vote yes.

Castro

Amendment No. 6

Representative Hilderbran offered the following amendment to **HB 274**:

Amend **HB 274** (house committee report) by adding the following:

SECTION _____. Title 6, Civil Practice and Remedies Code, is amended by adding Chapter 148 to read as follows:

CHAPTER 148. APPLICATION OF FOREIGN LAWS; SELECTION OF FOREIGN FORUM

Sec. 148.001. DEFINITION. In this chapter, "foreign law" means a law, rule, or legal code of a jurisdiction outside of the states and territories of the United States.

Sec. 148.002. DECISION BASED ON FOREIGN LAW. A ruling or decision of a court, arbitrator, or administrative adjudicator on a matter arising under the Family Code may not be based on a foreign law if the application of that law would violate a right guaranteed by the United States Constitution or the constitution or a statute of this state.

Sec 148.003. CHOICE OF FOREIGN LAW OR FORUM IN CONTRACT.
(a) A contract provision providing that a foreign law is to govern a dispute arising under the Family Code is void to the extent that the application of the foreign law to the dispute would violate a right guaranteed by the United States Constitution or the constitution of this state.

(b) A contract provision providing that the forum to resolve a dispute arising under the Family Code is located outside the states and territories of the United States is void if the foreign law that would be applied to the dispute in that forum would, as applied, violate a right guaranteed by the United States Constitution or the constitution of this state.

SECTION _____. (a) Section 148.002, Civil Practice and Remedies Code, as added by this Act, applies only to a ruling or decision that becomes final on or after the effective date of this Act. A ruling or decision that becomes final before the effective date of this Act and any appeal of that ruling or decision are governed by the law in effect immediately before the effective date of this Act, and that law is continued in effect for that purpose.

(b) Section 148.003, Civil Practice and Remedies Code, as added by this Act, applies only to a contract entered into on or after the effective date of this Act. A contract entered into before the effective date of this Act is governed by the law in effect immediately before that date, and that law is continued in effect for that purpose.

SECTION _____. This Act takes effect September 1, 2011.

Amendment No. 6 was adopted by (Record 851): 112 Yeas, 31 Nays, 2 Present, not voting.

Yeas — Aliseda; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Button; Cain; Callegari; Carter; Chisum; Christian; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Driver; Eiland; Eissler; Elkins; Fletcher; Flynn; Frullo; Garza; Geren; Gonzales, L.; Gooden; Guillen; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hilderbran; Hopson; Howard, C.; Huberty; Hughes; Hunter; Isaac; Jackson; Johnson; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lucio; Lyne; Madden; Margo; Menendez; Miller, D.; Miller, S.; Morrison; Murphy; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Perry; Phillips; Pickett; Pitts; Price; Raymond; Riddle; Ritter; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Taylor, V.; Thompson; Torres; Truitt; Villarreal; Weber; White; Woolley; Workman; Zedler; Zerwas.

Nays — Allen; Alvarado; Burnam; Castro; Davis, Y.; Deshotel; Dukes; Dutton; Farias; Farrar; Gallego; Gonzales, V.; Gonzalez; Gutierrez; Hernandez Luna; Howard, D.; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McClendon; Miles; Muñoz; Naishtat; Quintanilla; Reynolds; Rodriguez; Turner; Veasey; Vo; Walle.

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

Absent, Excused — Coleman.

Absent — Alonzo; Giddings; Hochberg; Peña.

STATEMENTS OF VOTE

I was shown voting no on Record No. 851. I intended to vote yes.

Castro

I was shown voting no on Record No. 851. I intended to vote yes.

Gallego

I was shown voting no on Record No. 851. I intended to vote yes.

Gonzalez

I was shown voting yes on Record No. 851. I intended to vote no.

Lozano

I was shown voting no on Record No. 851. I intended to vote yes.

Muñoz

I was shown voting no on Record No. 851. I intended to vote yes.

Quintanilla

Amendment No. 7

Representative Gutierrez offered the following amendment to **HB 274**:

Amend **HB 274** on third reading on page 4, by striking lines 25 through 27 and substituting the following:

- (6) killed or injured stock;
- (7) a sworn account; or
- (8) an appeal to the court under Section 11.43, Tax Code, or an appeal to the court of a determination of an appraisal review board on a motion filed under Section 11.45, Tax Code ~~[an oral or written contract]~~.

Amendment No. 8

Representative Gutierrez offered the following amendment to Amendment No. 7:

Amend the Gutierrez amendment to **HB 274**, on third reading, by adding the following appropriately numbered ARTICLE to the bill and renumbering subsequent ARTICLES and SECTIONS of the bill accordingly:

ARTICLE ____ . CONTESTED TAX APPRAISAL COSTS

SECTION ____ . In an action contesting a tax appraisal a tax payer who prevails is entitled to an award of costs and attorney's fees. If the appraisal district or taxing authority prevails the appraisal district or taxing authority is not entitled to costs and attorney fees.

Amendment No. 8 was adopted.

Representative P. King moved to table Amendment No. 7, as amended.

The motion to table was lost by (Record 852): 62 Yeas, 80 Nays, 1 Present, not voting.

Yeas — Aliseda; Anderson, C.; Anderson, R.; Beck; Berman; Branch; Burkett; Button; Cain; Carter; Christian; Cook; Creighton; Crownover; Davis, J.; Davis, S.; Driver; Eissler; Fletcher; Flynn; Frullo; Gonzales, L.; Gooden; Hancock; Hardcastle; Harless; Hilderbran; Hopson; Hunter; Isaac; Jackson; King, P.; King, S.; Kleinschmidt; Landtroop; Larson; Laubenberg; Lewis; Lyne; Madden; Margo; Morrison; Nash; Orr; Paxton; Perry; Pitts; Price; Riddle; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smithee; Taylor, L.; Taylor, V.; Torres; Woolley; Zerwas.

Nays — Alonzo; Alvarado; Anchia; Aycok; Bohac; Bonnen; Brown; Burnam; Callegari; Castro; Craddick; Darby; Davis, Y.; Deshotel; Dukes; Dutton; Eiland; Elkins; Farias; Farrar; Gallego; Garza; Geren; Giddings; Gonzales, V.; Gonzalez; Guillen; Gutierrez; Hamilton; Harper-Brown; Hartnett; Hernandez Luna; Hochberg; Howard, C.; Howard, D.; Huberty; Hughes; Johnson; King, T.;

Kolkhorst; Kuempel; Lavender; Legler; Lozano; Lucio; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Miller, D.; Muñoz; Murphy; Naishtat; Oliveira; Otto; Parker; Patrick; Phillips; Pickett; Quintanilla; Raymond; Reynolds; Ritter; Rodriguez; Smith, W.; Solomons; Strama; Thompson; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Zedler.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Coleman.

Absent — Allen; Chisum; Keffer; Miller, S.; Peña; Workman.

Amendment No. 7, as amended, was adopted by (Record 853): 100 Yeas, 45 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Aycock; Beck; Bohac; Bonnen; Branch; Brown; Burnam; Callegari; Castro; Chisum; Christian; Craddick; Darby; Davis, S.; Davis, Y.; Deshotel; Dukes; Dutton; Eiland; Elkins; Farias; Farrar; Gallego; Garza; Geren; Giddings; Gonzales, V.; Gonzalez; Guillen; Gutierrez; Hamilton; Harless; Hartnett; Hernandez Luna; Hochberg; Howard, C.; Howard, D.; Huberty; Hughes; Johnson; Keffer; King, S.; Kolkhorst; Kuempel; Larson; Lavender; Legler; Lozano; Lucio; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Miller, D.; Miller, S.; Muñoz; Murphy; Naishtat; Oliveira; Orr; Otto; Parker; Patrick; Perry; Phillips; Pickett; Pitts; Quintanilla; Raymond; Reynolds; Riddle; Ritter; Rodriguez; Sheffield; Simpson; Smith, T.; Smith, W.; Solomons; Strama; Thompson; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Workman; Zedler; Zerwas.

Nays — Aliseda; Anderson, C.; Anderson, R.; Berman; Burkett; Button; Cain; Carter; Cook; Creighton; Crownover; Davis, J.; Driver; Eissler; Fletcher; Flynn; Frullo; Gonzales, L.; Gooden; Hancock; Hardcastle; Hilderbran; Hopson; Hunter; Isaac; Jackson; King, P.; Kleinschmidt; Landtroop; Laubenberg; Lewis; Lyne; Morrison; Nash; Paxton; Price; Schwertner; Scott; Sheets; Shelton; Smithee; Taylor, L.; Taylor, V.; Torres; Woolley.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Coleman.

Absent — Harper-Brown; King, T.; Peña.

STATEMENTS OF VOTE

I was shown voting no on Record No. 853. I intended to vote yes.

Aliseda

I was shown voting no on Record No. 853. I intended to vote yes.

R. Anderson

I was shown voting no on Record No. 853. I intended to vote yes.

Creighton

I was shown voting no on Record No. 853. I intended to vote yes.

Eissler

When Record No. 853 was taken, I was in the house but away from my desk. I would have voted yes.

Harper-Brown

I was shown voting no on Record No. 853. I intended to vote yes.

Hilderbran

When Record No. 853 was taken, I was in the house but away from my desk. I would have voted yes.

T. King

I was shown voting no on Record No. 853. I intended to vote yes.

Sheets

I was shown voting yes on Record No. 853. I intended to vote no.

Villarreal

Amendment No. 4 - Vote Reconsidered

Representative Sheets moved to reconsider the vote by which Amendment No. 4 was tabled.

The motion to reconsider prevailed.

Amendment No. 4 was adopted.

Amendment No. 9

Representative Dutton offered the following amendment to **HB 274**:

Amend **HB 274** (house committee printing) as follows:

(1) On page 1, line 8, strike "shall" and substitute "may".

(2) On page 1, line 11, after the period, insert the following:

Notwithstanding Section 22.003 and this section, any rules adopted by the supreme court under this subsection do not take effect until approved by the legislature.

Representative Creighton moved to table Amendment No. 9.

The motion to table prevailed by (Record 854): 95 Yeas, 51 Nays, 1 Present, not voting.

Yeas — Aliseda; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Button; Cain; Callegari; Carter; Chisum; Christian; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Driver; Eissler; Elkins; Fletcher; Flynn; Frullo; Garza; Geren; Gonzales, L.; Gooden; Hamilton; Hancock; Harless; Harper-Brown; Hartnett; Hilderbran; Hopson; Howard, C.; Hunter; Isaac; Jackson; Keffer; King, P.; King, S.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lyne; Madden; Margo; Miller, D.; Miller, S.; Morrison; Murphy; Nash; Orr; Otto; Parker; Patrick; Paxton; Perry; Phillips; Pitts; Price;

Riddle; Ritter; Schwertner; Scott; Sheets; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Taylor, L.; Taylor, V.; Torres; Truitt; Weber; White; Woolley; Workman; Zedler; Zerwas.

Nays — Allen; Alonzo; Alvarado; Anchia; Burnam; Castro; Davis, Y.; Deshotel; Dukes; Dutton; Eiland; Farias; Farrar; Gallego; Giddings; Gonzales, V.; Gonzalez; Guillen; Gutierrez; Hernandez Luna; Hochberg; Howard, D.; Huberty; Hughes; Johnson; King, T.; Lozano; Lucio; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Muñoz; Naishtat; Oliveira; Pickett; Quintanilla; Raymond; Reynolds; Rodriguez; Simpson; Strama; Thompson; Turner; Veasey; Villarreal; Vo; Walle.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Coleman.

Absent — Hardcastle; Peña.

Amendment No. 10

Representative Dutton offered the following amendment to **HB 274**:

Amend **HB 274** (house committee printing) as follows:

(1) On page 1, line 23, strike "Subsection (h)" and substitute "Subsections (h) and (i)".

(2) On page 1, line 24, strike "shall" and substitute "may".

(3) On page 2, between lines 14 and 15, insert the following:

(i) Notwithstanding Section 22.003 and this section, any rules adopted by the supreme court under Subsection (h) do not take effect until approved by the legislature.

Representative Creighton moved to table Amendment No. 10.

The motion to table prevailed by (Record 855): 97 Yeas, 50 Nays, 1 Present, not voting.

Yeas — Aliseda; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Button; Cain; Callegari; Carter; Chisum; Christian; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Driver; Eissler; Elkins; Fletcher; Flynn; Frullo; Garza; Geren; Gonzales, L.; Gooden; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hilderbran; Hopson; Howard, C.; Huberty; Hunter; Isaac; Jackson; Keffer; King, P.; King, S.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lyne; Madden; Margo; Miller, D.; Miller, S.; Morrison; Murphy; Nash; Orr; Otto; Parker; Patrick; Paxton; Perry; Phillips; Pitts; Price; Riddle; Ritter; Schwertner; Scott; Sheets; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Taylor, L.; Taylor, V.; Torres; Truitt; Weber; White; Woolley; Workman; Zedler; Zerwas.

Nays — Allen; Alonzo; Alvarado; Anchia; Burnam; Castro; Davis, Y.; Deshotel; Dukes; Dutton; Eiland; Farias; Farrar; Gallego; Giddings; Gonzales, V.; Gonzalez; Guillen; Gutierrez; Hernandez Luna; Hochberg; Howard, D.; Hughes; Johnson; King, T.; Lozano; Lucio; Mallory Caraway; Marquez; Martinez;

Martinez Fischer; McClendon; Menendez; Miles; Muñoz; Naishtat; Oliveira; Pickett; Quintanilla; Raymond; Reynolds; Rodriguez; Simpson; Strama; Thompson; Turner; Veasey; Villarreal; Vo; Walle.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Coleman.

Absent — Peña.

Amendment No. 11

Representative Dutton offered the following amendment to **HB 274**:

Amend **HB 274** (house committee printing) as follows:

(1) On page 6, line 15, strike "or" and substitute "[~~or~~]".

(2) On page 6, line 17, between "court" and the period, insert the following:

; or

(7) an action under Chapter 21, Labor Code

Representative Creighton moved to table Amendment No. 11.

The motion to table prevailed by (Record 856): 96 Yeas, 50 Nays, 1 Present, not voting.

Yeas — Aliseda; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Button; Cain; Callegari; Carter; Chisum; Christian; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Driver; Eissler; Elkins; Fletcher; Flynn; Frullo; Garza; Geren; Gonzales, L.; Gooden; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hilderbran; Hopson; Howard, C.; Huberty; Hunter; Isaac; Jackson; Keffer; King, P.; King, S.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lyne; Madden; Margo; Miller, D.; Miller, S.; Morrison; Murphy; Nash; Orr; Otto; Parker; Patrick; Paxton; Perry; Phillips; Pitts; Price; Ritter; Schwertner; Scott; Sheets; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Taylor, L.; Taylor, V.; Torres; Truitt; Weber; White; Woolley; Workman; Zedler; Zerwas.

Nays — Allen; Alonzo; Alvarado; Anchia; Burnam; Castro; Davis, Y.; Deshotel; Dukes; Dutton; Eiland; Farias; Farrar; Gallego; Giddings; Gonzales, V.; Gonzalez; Guillen; Gutierrez; Hernandez Luna; Hochberg; Howard, D.; Hughes; Johnson; King, T.; Lozano; Lucio; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Muñoz; Naishtat; Oliveira; Pickett; Quintanilla; Raymond; Reynolds; Rodriguez; Simpson; Strama; Thompson; Turner; Veasey; Villarreal; Vo; Walle.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Coleman.

Absent — Peña; Riddle.

HB 274, as amended, was passed by (Record 857): 96 Yeas, 49 Nays, 3 Present, not voting.

Yeas — Aliseda; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Button; Cain; Callegari; Carter; Chisum; Christian; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Driver; Eissler; Elkins; Fletcher; Flynn; Frullo; Garza; Geren; Gonzales, L.; Gooden; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hilderbran; Hopson; Howard, C.; Huberty; Hunter; Isaac; Jackson; Keffer; King, P.; King, S.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lyne; Madden; Margo; Miller, D.; Miller, S.; Morrison; Murphy; Nash; Orr; Otto; Parker; Patrick; Paxton; Perry; Phillips; Pitts; Price; Riddle; Ritter; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Taylor, L.; Taylor, V.; Torres; Truitt; Weber; White; Woolley; Workman; Zedler; Zerwas.

Nays — Allen; Alonzo; Alvarado; Anchia; Burnam; Castro; Davis, Y.; Deshotel; Dukes; Dutton; Eiland; Farias; Farrar; Gallego; Giddings; Gonzales, V.; Gonzalez; Guillen; Gutierrez; Hernandez Luna; Hochberg; Howard, D.; Hughes; Johnson; King, T.; Lozano; Lucio; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Muñoz; Naishtat; Oliveira; Pickett; Quintanilla; Raymond; Reynolds; Rodriguez; Strama; Thompson; Turner; Veasey; Villarreal; Vo; Walle.

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

Absent, Excused — Coleman.

Absent — Peña.

STATEMENT OF VOTE

When Record No. 857 was taken, I was temporarily out of the house chamber. I would have voted yes.

Peña

REASON FOR VOTE

Although I agree with the intent of **HB 274** and its many good provisions, I voted present, not voting on the third reading adoption of the bill by the house because the bill, as currently drafted with the elimination of CPRC 42.004(d)(g), appears to allow a prevailing party to a legitimate lawsuit (i.e. you win) to still be responsible to pay the losing side's attorney fees along with paying your own attorney's fees. Furthermore, the jury to such a case would not be allowed to know if there has been a settlement offer that was reasonable and adjust a verdict accordingly to prevent such an occurrence. The practical and real consequences of this could have a devastating effect on individuals, small business owners, and others having legitimate disputes over the payment of damages. It is my hope that the house author and senate sponsor will address this issue that is presented in the proposed legislation.

Solomons

COMMITTEE MEETING ANNOUNCEMENTS

The following committee meetings were announced:

Judiciary and Civil Jurisprudence, during lunch recess today, Desk 35, for a formal meeting, to consider pending business.

Public Education, during lunch recess today, Desk 56, for a formal meeting, to consider pending business.

Public Health, during lunch recess today, Desk 90, for a formal meeting, to consider pending business.

Environmental Regulation, during lunch recess today, Desk 105, for a formal meeting, to consider **SB 615** and pending business.

RECESS

At 1:39 p.m., the speaker announced that the house would stand recessed until 2:40 p.m. today.

AFTERNOON SESSION

The house met at 2:40 p.m. and was called to order by the speaker.

BILLS AND RESOLUTIONS SIGNED BY THE SPEAKER

Notice was given at this time that the speaker had signed bills and resolutions in the presence of the house (see the addendum to the daily journal, Signed by the Speaker, Senate List No. 24).

HR 1661 - ADOPTED (by Workman)

Representative Workman moved to suspend all necessary rules to take up and consider at this time **HR 1661**.

The motion prevailed.

The following resolution was laid before the house:

HR 1661, Welcoming the members of the Rotary District 5870 and Rotary District 1650 Group Study Exchange program to the State Capitol.

HR 1661 was adopted.

GENERAL STATE CALENDAR SENATE BILLS THIRD READING

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

SB 887 ON THIRD READING (Riddle, Gallego, V. Taylor, and Carter - House Sponsors)

SB 887, A bill to be entitled An Act relating to the penalty for theft of an automated teller machine or the contents or components of an automated teller machine.

SB 887 was passed by (Record 858): 142 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Burnam; Button; Cain; Callegari; Carter; Castro; Chisum; Christian; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Driver; Dukes; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Flynn; Frullo; Gallego; Garza; Geren; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hernandez Luna; Hilderbran; Hochberg; Hopson; Howard, C.; Howard, D.; Huberty; Hughes; Hunter; Isaac; Jackson; Johnson; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Perry; Phillips; Pickett; Pitts; Price; Quintanilla; Raymond; Reynolds; Riddle; Ritter; Rodriguez; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Taylor, V.; Thompson; Torres; Truitt; Veasey; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Coleman.

Absent — Deshotel; Dutton; Giddings; Miles; Peña; Turner.

STATEMENT OF VOTE

When Record No. 858 was taken, I was temporarily out of the house chamber. I would have voted yes.

Miles

SB 977 ON THIRD READING (Torres - House Sponsor)

SB 977, A bill to be entitled An Act relating to the imposition and use of the municipal hotel occupancy tax by certain eligible central municipalities.

SB 977 was passed by (Record 859): 130 Yeas, 12 Nays, 2 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Branch; Brown; Burkett; Burnam; Button; Callegari; Castro; Chisum; Christian; Cook; Craddick; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Flynn; Frullo; Gallego; Garza; Geren; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hernandez Luna; Hilderbran; Hochberg; Hopson; Howard, C.; Howard, D.; Huberty; Hughes; Hunter; Isaac; Jackson; Johnson; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Lewis; Lozano; Lucio; Lyne; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Miller, D.; Morrison; Muñoz; Murphy; Naishtat; Nash; Orr; Otto; Parker;

Patrick; Paxton; Perry; Phillips; Pickett; Pitts; Price; Quintanilla; Raymond; Reynolds; Riddle; Ritter; Rodriguez; Schwertner; Scott; Sheets; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Taylor, V.; Thompson; Torres; Truitt; Veasey; Villarreal; Vo; Walle; Woolley; Workman; Zedler; Zerwas.

Nays — Berman; Bohac; Bonnen; Cain; Creighton; Legler; Madden; Miller, S.; Sheffield; Simpson; Weber; White.

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

Absent, Excused — Coleman.

Absent — Carter; Deshotel; Giddings; Peña; Turner.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 859. I intended to vote no.

Paxton

When Record No. 859 was taken, I was temporarily out of the house chamber. I would have voted yes.

Peña

POSTPONED BUSINESS

The following bills were laid before the house as postponed business:

SB 250 ON SECOND READING (Anchia, Gallego, and Hartnett - House Sponsors)

SB 250, A bill to be entitled An Act relating to protective orders for stalking victims.

SB 250 was considered in lieu of **CSHB 825**.

SB 250 was read second time and was passed to third reading.

CSHB 825 - LAID ON THE TABLE SUBJECT TO CALL

Representative Anchia moved to lay **CSHB 825** on the table subject to call.

The motion prevailed.

CSHB 3308 ON SECOND READING (by Rodriguez)

CSHB 3308, A bill to be entitled An Act relating to the operation of plug-in electric motor vehicles.

CSHB 3308 was read second time on May 5, postponed until May 6, postponed until May 7, and was again postponed until 7 a.m. today.

Amendment No. 1

Representative Chisum offered the following amendment to **CSHB 3308**:

Amend **CSHB 3308** (house committee printing) as follows:

(1) On page 1, lines 6 and 16, strike "plug-in electric" and substitute "alternative fuels".

(2) On page 1, line 13, strike "PLUG-IN ELECTRIC" and substitute "ALTERNATIVE FUELS".

(3) On page 2, strike lines 4-9 and substitute the following:

(6) is propelled:

(A) to a significant extent by an electric motor that draws electricity from a battery that:

(i) has a capacity of not less than 4 kilowatt hours; and

(ii) is capable of being recharged from an external source of electricity; or

(B) using compressed natural gas; and

(4) On page 2, lines 13 and 20, strike "plug-in electric" and substitute "alternative fuels".

Amendment No. 1 was adopted.

Amendment No. 2

Representative Fletcher offered the following amendment to **CSHB 3308**:

Amend **CSHB 3308**, in SECTION 1 of the bill, in proposed Section 224.153(e), Transportation Code (Committee Printing, page 1, line 10), by striking "impair the receipt of federal funds" and substituting "violate federal transit or highway funding restrictions".

Amendment No. 2 was adopted.

CSHB 3308, as amended, was passed to engrossment by (Record 860): 78 Yeas, 67 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Bohac; Branch; Burnam; Cain; Castro; Chisum; Christian; Cook; Craddick; Darby; Davis, J.; Davis, Y.; Dukes; Dutton; Eiland; Eissler; Farias; Farrar; Flynn; Gallego; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Guillen; Gutierrez; Hancock; Harless; Hernandez Luna; Howard, D.; Huberty; Hughes; Hunter; Johnson; Keffer; King, P.; King, T.; Laubenberg; Lozano; Lucio; Madden; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Miller, D.; Morrison; Muñoz; Naishtat; Oliveira; Otto; Peña; Phillips; Pickett; Pitts; Quintanilla; Raymond; Reynolds; Rodriguez; Scott; Sheets; Smithee; Strama; Taylor, L.; Thompson; Torres; Turner; Veasey; Vo; Walle.

Nays — Aliseda; Anderson, C.; Anderson, R.; Aycocock; Beck; Berman; Bonnen; Brown; Burkett; Button; Callegari; Carter; Creighton; Crownover; Davis, S.; Deshotel; Driver; Elkins; Fletcher; Frullo; Garza; Geren; Hamilton; Harper-Brown; Hartnett; Hochberg; Hopson; Howard, C.; Isaac; Jackson; King, S.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Lavender; Legler; Lewis; Lyne; Margo; Miller, S.; Murphy; Nash; Orr; Parker; Patrick; Paxton; Perry; Price; Riddle; Ritter; Schwertner; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Solomons; Taylor, V.; Truitt; Weber; White; Woolley; Workman; Zedler; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Coleman.

Absent — Hardcastle; Hilderbran; Villarreal.

STATEMENTS OF VOTE

I was shown voting no on Record No. 860. I intended to vote yes.

Aliseda

When Record No. 860 was taken, I was in the house but away from my desk. I would have voted no.

Hilderbran

I was shown voting yes on Record No. 860. I intended to vote no.

Laubenberg

I was shown voting yes on Record No. 860. I intended to vote no.

Morrison

I was shown voting no on Record No. 860. I intended to vote yes.

Nash

I was shown voting no on Record No. 860. I intended to vote yes.

Paxton

CSHB 3790 ON SECOND READING

(by Pitts)

CSHB 3790, A bill to be entitled An Act relating to certain state fiscal matters; providing penalties.

CSHB 3790 was read second time on May 3, postponed until May 4, postponed until May 5, and was again postponed until 8 a.m. today.

Representative Pitts moved to postpone consideration of **CSHB 3790** until 8 a.m. tomorrow.

The motion prevailed by (Record 861): 124 Yeas, 22 Nays, 1 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Button; Cain; Callegari; Carter; Chisum; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Deshotel; Driver; Dukes; Eiland; Eissler; Elkins; Fletcher; Flynn; Frullo; Garza; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gooden; Guillen; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hilderbran; Hochberg; Hopson; Howard, C.; Howard, D.; Hughes; Hunter; Isaac; Jackson; Johnson; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lucio; Lyne; Madden; Mallory Caraway; Margo; McClendon; Menendez; Miller, D.; Miller, S.; Morrison; Murphy; Naishtat; Nash; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pickett; Pitts; Price; Quintanilla; Raymond; Riddle; Ritter; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson;

Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Taylor, V.; Thompson; Torres; Truitt; Turner; Villarreal; Weber; White; Woolley; Workman; Zedler; Zerwas.

Nays — Burnam; Castro; Davis, Y.; Dutton; Farias; Farrar; Gallego; Gonzalez; Gutierrez; Hernandez Luna; Lozano; Marquez; Martinez; Martinez Fischer; Miles; Muñoz; Oliveira; Reynolds; Rodriguez; Veasey; Vo; Walle.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Coleman.

Absent — Christian; Huberty.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 861. I intended to vote no.

Anchia

I was shown voting yes on Record No. 861. I intended to vote no.

D. Howard

When Record No. 861 was taken, I was in the house but away from my desk. I would have voted yes.

Huberty

I was shown voting yes on Record No. 861. I intended to vote no.

Strama

MESSAGE FROM THE SENATE

A message from the senate was received at this time (see the addendum to the daily journal, Messages from the Senate, Message No. 1).

CSHB 3640 ON SECOND READING

(by Pitts)

CSHB 3640, A bill to be entitled An Act relating to the remittance and allocation of certain taxes and fees.

CSHB 3640 was read second time on May 3, postponed until May 4, postponed until May 5, and was again postponed until 8 a.m. today.

Representative Pitts moved to postpone consideration of **CSHB 3640** until 8 a.m. tomorrow.

The motion prevailed.

CSHB 3665 ON SECOND READING

(by Otto)

CSHB 3665, A bill to be entitled An Act relating to state fiscal matters related to general government.

CSHB 3665 was read second time on May 3, postponed until May 4, postponed until May 5, and was again postponed until 8 a.m. today.

Representative Otto moved to postpone consideration of **CSHB 3665** until 8 a.m. tomorrow.

The motion prevailed.

CSHB 3639 ON SECOND READING
(by Pitts and Aycock)

CSHB 3639, A bill to be entitled An Act relating to state fiscal matters related to public and higher education.

CSHB 3639 was read second time on May 3, postponed until May 4, postponed until May 5, and was again postponed until 8 a.m. today.

Representative Pitts moved to postpone consideration of **CSHB 3639** until 8 a.m. tomorrow.

The motion prevailed.

HB 3648 ON SECOND READING
(by Otto)

HB 3648, A bill to be entitled An Act relating to state fiscal matters related to the judiciary.

HB 3648 was read second time on May 3, postponed until May 4, postponed until May 5, and was again postponed until 8 a.m. today.

Representative Otto moved to postpone consideration of **HB 3648** until 8 a.m. tomorrow.

The motion prevailed.

CSHB 3418 ON SECOND READING
(by Darby)

CSHB 3418, A bill to be entitled An Act relating to certain state fiscal matters related to natural resources or the environment.

CSHB 3418 was read second time on May 3, postponed until May 4, postponed until May 5, and was again postponed until 8 a.m. today.

Representative Darby moved to postpone consideration of **CSHB 3418** until 8 a.m. tomorrow.

The motion prevailed.

CSHB 2963 ON SECOND READING
(by Crownover)

CSHB 2963, A bill to be entitled An Act relating to deadlines for the Railroad Commission of Texas to review certain applications for surface coal mining operation permits.

CSHB 2963 was read second time on May 3, postponed until May 6, and was again postponed until 8 a.m. today.

Representative Crossover moved to postpone consideration of **CSHB 2963** until 6 p.m. today.

The motion prevailed.

HB 1250 ON SECOND READING
(by Frullo)

HB 1250, A bill to be entitled An Act relating to the use of facsimile signatures for certain documents involving certain municipalities.

HB 1250 was read second time on April 26, postponed until May 3, postponed until May 6, and was again postponed until 9 a.m. today.

Representative Frullo moved to postpone consideration of **HB 1250** until 9 a.m. Wednesday, May 11.

The motion prevailed.

HB 1089 ON SECOND READING
(by Martinez Fischer, Garza, et al.)

HB 1089, A bill to be entitled An Act relating to the authority of a county or municipality to require the removal of graffiti by a property owner.

HB 1089 was read second time on April 21, postponed until April 26, postponed until May 2, and was again postponed until 9:05 a.m. today.

Representative Menendez moved to postpone consideration of **HB 1089** until 8 a.m. Wednesday, May 11.

The motion prevailed.

SB 1082 ON SECOND READING
(Laubenberg - House Sponsor)

SB 1082, A bill to be entitled An Act relating to strategic partnerships for the continuation of certain water districts annexed by a municipality.

SB 1082 was considered in lieu of **HB 1979**.

SB 1082 was read second time.

(Keffer in the chair)

Amendment No. 1

Representative Elkins offered the following amendment to **SB 1082**:

Amend **SB 1082** (house committee printing) by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. (a) Section 43.0751, Local Government Code, is amended by adding Subsection (f-1) read as follows:

(f-1) A strategic partnership agreement may not provide for the regulation of fireworks within the boundaries of the district.

SECTION _____. Section 43.0751(f-1), Local Government Code, as added by this Act, apply only to a strategic partnership agreement entered into on or after the effective date of this Act.

Amendment No. 1 was adopted.

Amendment No. 2

Representative Elkins offered the following amendment to **SB 1082**:

Amend **SB 1082** (house committee printing) by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Section 43.0751, Local Government Code, is amended by adding Subsection (k-1) to read as follows:

(k-1) A strategic partnership agreement may not provide for the imposition of a sales tax without voter approval within the boundaries of the district.

SECTION _____. Section 43.0751(k-1), Local Government Code, as added by this Act, applies only to a strategic partnership agreement entered into on or after the effective date of this Act.

Amendment No. 2 was adopted.

SB 1082, as amended, was passed to third reading.

HB 3132 ON SECOND READING

(by Geren)

HB 3132, A bill to be entitled An Act relating to the membership, powers, and duties of the State Preservation Board.

HB 3132 was read second time on May 3, postponed until May 4, postponed until May 5, postponed until May 6, and was again postponed until 10 a.m. today.

Representative Geren moved to postpone consideration of **HB 3132** until 8 a.m. tomorrow.

The motion prevailed.

CSHB 2233 ON SECOND READING

(by Huberty, Rodriguez, et al.)

CSHB 2233, A bill to be entitled An Act relating to certain contracts entered into by school districts for another entity to provide food services at one or more district schools.

CSHB 2233 was read second time on May 4 and was postponed until 3 p.m. today.

Representative Huberty moved to postpone consideration of **CSHB 2233** until 3 p.m. tomorrow.

The motion prevailed.

**EMERGENCY CALENDAR
HOUSE BILLS
SECOND READING**

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

**CSHB 12 ON SECOND READING
(by Solomons, Bohac, Harless, et al.)**

CSHB 12, A bill to be entitled An Act relating to the enforcement of state and federal laws governing immigration by certain governmental entities.

REMARKS ORDERED PRINTED

On Friday, May 7, Representative Martinez Fischer moved to print remarks **CSHB 12**.

The motion prevailed. [Please refer to the supplement to today's journal for the text of today's debate on **CSHB 12**.]

Amendment No. 1

Representative Solomons offered the following amendment to **CSHB 12**:

Amend **CSHB 12** (house committee printing) by striking all below the enacting clause and substituting the following:

SECTION 1. Chapter 370, Local Government Code, is amended by adding Section 370.0031 to read as follows:

Sec. 370.0031. LOCAL GOVERNMENT POLICY REGARDING ENFORCEMENT OF STATE AND FEDERAL IMMIGRATION LAWS. (a) This section applies to:

(1) the governing body of a municipality, county, or special district or authority, subject to Subsections (b) and (b-1);

(2) an officer, employee, or other body that is part of a municipality, county, or special district or authority, including a sheriff, municipal police department, municipal attorney, or county attorney; and

(3) a district attorney or criminal district attorney.

(b) This section does not apply to a school district or open-enrollment charter school or a junior college district, except that this subsection does not exclude the application of this section to a commissioned peace officer employed or commissioned by a school district or open-enrollment charter school or a junior college district.

(b-1) This section does not apply to a hospital or hospital district created under Subtitle C or D, Title 4, Health and Safety Code, or a hospital district created under a general or special law authorized by Article IX, Texas Constitution, to the extent that the hospital or hospital district is providing access to or delivering medical or health care services as required under the following applicable federal or state laws:

(1) 42 U.S.C. Section 1395dd;

(2) 42 U.S.C. Section 1396b(v);

(3) Subchapter C, Chapter 61, Health and Safety Code;

(4) Chapter 81, Health and Safety Code; and

(5) Section 311.022, Health and Safety Code.

(b-2) Subsection (b-1) does not exclude the application of this section to a commissioned peace officer employed by or commissioned by a hospital or hospital district subject to Subsection (b-1).

(c) An entity described by Subsection (a) may not adopt a rule, order, ordinance, or policy under which the entity prohibits the enforcement of the laws of this state or federal law relating to immigrants or immigration, including the federal Immigration and Nationality Act (8 U.S.C. Section 1101 et seq.).

(d) In compliance with Subsection (c), an entity described by Subsection (a) may not prohibit a person employed by or otherwise under the direction or control of the entity from doing any of the following:

(1) inquiring into the immigration status of a person lawfully detained for the investigation of a criminal offense or arrested;

(2) with respect to information relating to the immigration status, lawful or unlawful, of any person lawfully detained for the investigation of a criminal offense or arrested:

(A) sending the information to or requesting or receiving the information from United States Citizenship and Immigration Services or United States Immigration and Customs Enforcement, including information regarding an individual's place of birth;

(B) maintaining the information; or

(C) exchanging the information with another federal, state, or local governmental entity;

(3) assisting or cooperating with a federal immigration officer as reasonable and necessary, including providing enforcement assistance; or

(4) permitting a federal immigration officer to enter and conduct enforcement activities at a municipal or county jail to enforce federal immigration laws.

(d-1) An entity described by Subsection (a) or a person employed by or otherwise under the direction or control of the entity may not consider race, color, language, or national origin while enforcing the laws described by Subsection (c) except to the extent permitted by the United States Constitution or the Texas Constitution.

(e) An entity described by Subsection (a) may not receive state grant funds if the entity adopts a rule, order, ordinance, or policy under which the entity prohibits the enforcement of the laws of this state or federal laws relating to Subsection (c) or, by consistent actions, prohibits the enforcement of the laws of this state or federal laws relating to Subsection (c). State grant funds for the entity shall be denied for the fiscal year following the year in which a final judicial determination in an action brought under this section is made that the entity has intentionally prohibited the enforcement of the laws of this state or federal laws relating to Subsection (c).

(f) Any citizen residing in the jurisdiction of an entity described by Subsection (a) may file a complaint with the attorney general if the citizen offers evidence to support an allegation that the entity has adopted a rule, order, ordinance, or policy under which the entity prohibits the enforcement of the laws

of this state or federal laws relating to Subsection (c) or that, by consistent actions, prohibits the enforcement of the laws of this state or federal laws relating to Subsection (c). The citizen must include with the complaint the evidence the citizen has that supports the complaint.

(g) If the attorney general determines that a complaint filed under Subsection (f) against an entity described by Subsection (a) is valid, the attorney general may file a petition for a writ of mandamus or apply for other appropriate equitable relief in a district court in Travis County or in a county in which the principal office of an entity described by Subsection (a) is located to compel the entity that adopts a rule, order, ordinance, or policy under which the local entity prohibits the enforcement of the laws of this state or federal laws relating to Subsection (c) or that, by consistent actions, prohibits the enforcement of the laws of this state or federal laws relating to Subsection (c) to comply with Subsection (c). The attorney general may recover reasonable expenses incurred in obtaining relief under this subsection, including court costs, reasonable attorney's fees, investigative costs, witness fees, and deposition costs.

(h) An appeal of a suit brought under Subsection (g) is governed by the procedures for accelerated appeals in civil cases under the Texas Rules of Appellate Procedure. The appellate court shall render its final order or judgment with the least possible delay.

SECTION 2. The heading to Chapter 370, Local Government Code, is amended to read as follows:

CHAPTER 370. MISCELLANEOUS PROVISIONS RELATING TO
[MUNICIPAL AND COUNTY] HEALTH AND PUBLIC SAFETY APPLYING
TO MORE THAN ONE TYPE OF LOCAL GOVERNMENT

SECTION 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2011.

(Speaker in the chair)

Representative Solomons moved to postpone consideration of **CSHB 12** until 4:30 p.m. today.

The motion prevailed.

**MAJOR STATE CALENDAR
HOUSE BILLS
SECOND READING**

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

**SB 1693 ON SECOND READING
(Thompson - House Sponsor)**

SB 1693, A bill to be entitled An Act relating to periodic rate adjustments by electric utilities.

SB 1693 was considered in lieu of **HB 3610**.

Amendment No. 1

Representative Turner offered the following amendment to **SB 1693**:

Amend **SB 1693**, SECTION 1, page 3, line 17, by adding new Subsection (e) and re-label the subsequent subsections properly: new Subsection (e) to read as follows:

(e) a periodic rate adjustment approved under this section may not include indirect corporate costs, or capitalized operations and maintenance expenses.

Amendment No. 1 was adopted.

Amendment No. 2

Representative Turner offered the following amendment to **SB 1693**:

Amend **SB 1693**, SECTION 1, page 3, line 17, by adding new Subsection (e) and re-label the subsequent subsections properly: new Subsection (e) to read as follows:

(e) the sum of the four periodic rate adjustments allowed under this section may not result in more than a ten percent increase from the base rate distribution revenues set in the most recent comprehensive base rate proceeding.

Representative Huberty moved to table Amendment No. 2.

The motion to table prevailed by (Record 862): 88 Yeas, 55 Nays, 3 Present, not voting.

Yeas — Aliseda; Alvarado; Anderson, C.; Anderson, R.; Beck; Berman; Bohac; Branch; Cain; Callegari; Chisum; Christian; Cook; Craddick; Creighton; Crownover; Davis, S.; Deshotel; Driver; Eissler; Elkins; Fletcher; Flynn; Frullo; Geren; Gonzales, L.; Gooden; Hamilton; Hancock; Hardcastle; Harless; Howard, C.; Huberty; Hughes; Hunter; Isaac; Jackson; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lyne; Madden; Margo; Menendez; Miller, D.; Miller, S.; Morrison; Murphy; Oliveira; Orr; Otto; Parker; Paxton; Peña; Perry; Phillips; Pickett; Pitts; Quintanilla; Ritter; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Taylor, L.; Taylor, V.; Thompson; Torres; Truitt; Weber; White; Woolley; Zedler; Zerwas.

Nays — Allen; Alonzo; Anchia; Aycock; Bonnen; Brown; Burkett; Burnam; Button; Castro; Darby; Davis, J.; Davis, Y.; Dukes; Dutton; Eiland; Farias; Farrar; Gallego; Garza; Giddings; Gonzales, V.; Gonzalez; Guillen; Gutierrez; Harper-Brown; Hartnett; Hochberg; Hopson; Howard, D.; Johnson; Kolkhorst; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McClendon; Miles; Muñoz; Naishtat; Nash; Patrick; Price; Raymond; Reynolds; Riddle; Rodriguez; Smithee; Strama; Turner; Veasey; Villarreal; Vo; Walle; Workman.

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

Absent, Excused — Coleman.

Absent — Hernandez Luna; Lucio; Solomons.

STATEMENTS OF VOTE

I was shown voting no on Record No. 862. I intended to vote yes.

Aycock

When Record No. 862 was taken, I was in the house but away from my desk. I would have voted yes.

Lucio

I was shown voting yes on Record No. 862. I intended to vote no.

Zedler

Amendment No. 3

Representative Turner offered the following amendment to **SB 1693**:

Amend **SB 1693** as follows:

On page 5, line 4, strike Subsection (g) and insert the following:

(g) The PUC shall undertake a study and conduct a report analyzing any periodic rate adjustment established under this section of PURA. The study shall be available for the legislature's review by January 31st, 2017 so that the legislature may properly be informed as to the need to continue the commission's authority to allow periodic rate adjustments. The report shall contain but shall not be limited to:

(1) an analysis of all periodic rate adjustment approved by the commission;

(2) an analysis of the amounts in real dollars and percentages of the approved amounts by the commission and the effects on all classes of ratepayers;

(3) the costs savings, if any, realized by all parties by utilizing periodic rate adjustment as opposed to rate making proceedings;

(4) an analysis on distribution costs included in periodic rate adjustment, and there appropriateness for inclusion in periodic rate adjustments;

(5) an analysis submitted by The Office of Public Counsel on the effects of periodic rate adjustments.

(h) This section expires January 1, 2017.

Amendment No. 3 was adopted.

Amendment No. 4

Representative Y. Davis offered the following amendment to **SB 1693**:

Amend **SB 1693** (house committee report) by inserting the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Subchapter E, Chapter 39, Utilities Code, is amended by adding Section 39.207 to read as follows:

Sec. 39.207. RELIABILITY OF RETAIL ELECTRIC PROVIDERS. Notwithstanding any other provision of this chapter, the commission by rule shall establish a mechanism to ensure that each retail electric provider is financially and organizationally reliable to provide services the retail electric provider offers. The commission may require a retail electric provider to disclose financial and business organization information as necessary for the commission to evaluate and ensure the provider's reliability.

Amendment No. 4 - Point of Order

Representative P. King raised a point of order against further consideration of Amendment No. 4 under Rule 11, Section 2 of the House Rules on the grounds that the amendment is not germane to the bill.

The point of order was withdrawn.

Amendment No. 4 was withdrawn.

SB 1693 - STATEMENT OF LEGISLATIVE INTENT

REPRESENTATIVE BRANCH: Ms. Thompson, isn't it true that your bill has solid protections in it to preserve the current jurisdictional status of cities' utilities rates and services?

REPRESENTATIVE THOMPSON: Yes.

BRANCH: And isn't it also correct, Ms. Thompson, that nothing in this bill negatively impacts the cities' jurisdiction over utilities?

THOMPSON: Yes, that's correct.

BRANCH: Thank you very much. I just wanted to get that intent into the record.

REMARKS ORDERED PRINTED

Representative Branch moved to print remarks between Representative Thompson and Representative Branch.

The motion prevailed.

SB 1693, as amended, was passed to third reading by (Record 863): 143 Yeas, 5 Nays, 1 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Branch; Brown; Burkett; Burnam; Cain; Callegari; Castro; Chisum; Christian; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Flynn; Frullo; Gallego; Garza; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hernandez Luna; Hilderbran; Hochberg; Hopson; Howard, C.; Howard, D.; Huberty; Hughes; Hunter; Isaac; Jackson; Johnson; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pickett; Pitts; Price; Quintanilla; Raymond; Reynolds; Riddle; Ritter; Rodriguez; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Taylor, V.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Woolley; Zedler; Zerwas.

Nays — Bonnen; Button; Carter; Hartnett; Workman.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Coleman.

HB 3610 - LAID ON THE TABLE SUBJECT TO CALL

Representative Thompson moved to lay **HB 3610** on the table subject to call.

The motion prevailed.

COMMITTEE GRANTED PERMISSION TO MEET

Representative Hilderbran requested permission for the Committee on Ways and Means to meet while the house is in session, at 5:15 p.m. today, in 3W.15, to consider pending business.

Permission to meet was granted.

FIVE-DAY POSTING RULE SUSPENDED

Representative Gallego moved to suspend the five-day posting rule and all necessary rules to allow the Committee on Criminal Jurisprudence to consider **SB 153, SB 348, SB 779, SB 838, SB 843, SB 882, SB 1116, SB 1273, SB 1522, SB 1681, SB 1682, SB 1701, and SB 1702** at 8 a.m. tomorrow in JHR 120.

The motion prevailed.

Representative Ritter moved to suspend the five-day posting rule to allow the Committee on Natural Resources to consider **HB 3864, HB 3865, HB 3866, SB 573, SB 728, SB 907, SB 987, SB 1132, SB 1225, SB 1295, SB 1361,** and pending business at 8 a.m. tomorrow in E2.010.

The motion prevailed.

COMMITTEE MEETING ANNOUNCEMENTS

The following committee meetings were announced:

Ways and Means, 5:15 p.m. today, 3W.15, for a formal meeting, to consider pending business.

Criminal Jurisprudence, 8 a.m. or upon final adjournment tomorrow, JHR 120, for a public hearing, to consider **SB 153, SB 348, SB 779, SB 838, SB 843, SB 882, SB 1116, SB 1273, SB 1522, SB 1681, SB 1682, SB 1701, and SB 1702.**

Natural Resources, 8 a.m. tomorrow, E2.010, for a public hearing, to consider **HB 3864, HB 3865, HB 3866, SB 573, SB 728, SB 907, SB 987, SB 1132, SB 1225, SB 1295, SB 1361,** and pending business.

CSHB 3025 ON SECOND READING

(by Branch, Guillen, and Lozano)

CSHB 3025, A bill to be entitled An Act relating to measures to facilitate the transfer of students within the public higher education system and the timely graduation of students from public institutions of higher education.

(Keffer in the chair)

Amendment No. 1

Representative Branch offered the following amendment to **CSHB 3025**:

Amend **CSHB 3025** (house committee report) as follows:

(1) On page 1, strike lines 12 through 19 and substitute the following:

(2) "Qualified degree-granting career school or college" means a career school or college determined by the board under Subsection (c) to be qualified to participate in a statewide transfer compact developed under this section.

(2) On page 2, between lines 5 and 6, insert the following:

(c) A career school or college may apply to the board to participate in a statewide transfer compact developed under this section. On application by a career school or college, the board shall review the school's or college's curriculum for the purpose of determining whether the school or college is qualified to participate in the compact. The board may determine that the career school or college is qualified to participate in the compact only if the board finds that the school or college:

(1) is authorized to grant degrees in this state;

(2) has adopted and implemented a core curriculum described by Section 61.822, applying the same assumptions and defining characteristics applicable to institutions of higher education; and

(3) has appropriately identified for each of its core curriculum courses the equivalent course number under the common course numbering system approved by the board under Section 61.832.

(3) Reletter the subsections of added Section 61.05135, Education Code, appropriately.

(4) On page 2, line 8, strike "Subsection (a)" and substitute "Subsection (b)".

Amendment No. 1 was adopted.

Amendment No. 2

Representative Branch offered the following amendment to **CSHB 3025**:

Amend **CSHB 3025** (house committee report) as follows:

(1) On page 6, line 22, strike "30" and substitute "45".

(2) On page 7, line 3, strike "30" and substitute "45".

Amendment No. 2 was adopted.

CSHB 3025, as amended, was passed to engrossment.

MESSAGE FROM THE SENATE

A message from the senate was received at this time (see the addendum to the daily journal, Messages from the Senate, Message No. 2).

**PROCLAMATION BY THE GOVERNOR
OF THE STATE OF TEXAS**

The chair laid before the house and had read the following proclamation by the governor:

TO THE MEMBERS OF THE SENATE AND HOUSE OF REPRESENTATIVES OF THE EIGHTY-SECOND TEXAS LEGISLATURE, REGULAR SESSION:

The Texas Constitution in Article IV, Sections 14 and 15 grants the governor power to approve or disapprove legislation passed by both houses of the legislature. Nothing in that section or the remainder of the Texas Constitution anticipates or describes the process of returning a bill to the legislature for the purpose of clerical correction and amendment once it has been delivered to the governor for review (*Teem v. State*, 79 Tex. Crim. 285, 183 S.W. 1144, 1151 (1916)).

HB 74 by Flynn was passed by the legislature and properly transmitted to my executive office on Friday, April 29, 2011. The legislature has now passed and properly transmitted to me **HCR 148** by Flynn requesting that I return **HB 74** to the legislature so that they may correct a clerical error on the certification page of the bill.

In this instance, I have taken no formal action on **HB 74** and I am agreeing to the request of the legislature. While I am under no obligation to comply with this request, pursuant to established practice and previous case law, I hereby return the enrolled copy of **HB 74** with this message to the house for further correction and consideration by the legislature.

IN TESTIMONY WHEREOF, I have signed my name officially and caused the Seal of the State to be affixed hereto at Austin, this 9th day of May, 2011.

Rick Perry
Governor of Texas

(SEAL)

Esperanza "Hope" Andrade
Secretary of State

CSHB 400 ON SECOND READING

(by Eissler, Aycock, Crownover, C. Anderson, Garza, et al.)

CSHB 400, A bill to be entitled An Act relating to flexibility for public schools to administer primary and secondary education efficiently.

Representative Eissler moved to postpone consideration of **CSHB 400** until 6 p.m. today.

The motion prevailed.

HB 2660 ON SECOND READING

(by J. Davis and Dutton)

HB 2660, A bill to be entitled An Act relating to transferring certain functions of the Texas Department of Housing and Community Affairs to the Texas State Affordable Housing Corporation.

Amendment No. 1

On behalf of Representative Dutton, Representative J. Davis offered the following amendment to **HB 2660**:

Amend **HB 2660** (house committee report) as follows:

- (1) Strike SECTIONS 5, 6, 7, 10, 12, and 13 of the bill.
- (2) On page 9, strike lines 1 through 5 and substitute the following:

- (1) Section 1372.023(a);
- (2) Sections 2306.142 and 2306.143; and
- (3) Subchapter MM, Chapter 2306.

- (3) Strike SECTION 16 of the bill.

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

SECTION _____. Section 1372.023, Government Code, is amended by adding Subsection (d) to read as follows:

(d) The Texas Department of Housing and Community Affairs may not issue qualified mortgage bonds after September 1, 2011, except as necessary to complete its activity under the New Issue Bond Program.

SECTION _____. Section 1372.025(b), Government Code, is amended to read as follows:

- (b) Subsection (a) does not apply to:

(1) ~~qualified mortgage bonds or~~ qualified residential rental project bonds made available exclusively to the Texas Department of Housing and Community Affairs under Section 1372.023; or

(2) qualified mortgage bonds made available exclusively to the Texas State Affordable Housing Corporation under Sections 1372.0221, ~~and~~ 1372.0222, and 1372.02221.

SECTION _____. Subchapter Y, Chapter 2306, Government Code, is amended by adding Section 2306.5622 to read as follows:

Sec. 2306.5622. TEXAS FIRST-TIME HOMEBUYER PROGRAM. (a) In this section:

(1) "First-time homebuyer" means a person who has not owned a home during the three years preceding the date on which an application under this section is filed.

(2) "Home" means a dwelling in this state in which a first-time homebuyer intends to reside as the homebuyer's principal residence.

(3) "Program" means the Texas First-Time Homebuyer Program.

(b) The Texas First-Time Homebuyer Program shall facilitate the origination of single-family mortgage loans for eligible first-time homebuyers.

(c) The program may include down payment and closing cost assistance.

(d) The corporation shall administer the program.

(e) The board of directors of the corporation shall adopt rules governing:

(1) the administration of the program;

(2) the making of loans under the program;

(3) the criteria for approving participating mortgage lenders;

(4) the use of insurance on the loans and the homes financed under the program, as considered appropriate by the corporation's board to provide additional security for the loans;

(5) the verification of occupancy of the home by the homebuyer as the homebuyer's principal residence; and

(6) the terms of any contract made with any mortgage lender for processing, originating, servicing, or administering the loans.

(f) To be eligible for a mortgage loan under this section, a homebuyer must:

(1) qualify as a first-time homebuyer under this section;

(2) have an income of not more than 115 percent of area median family income or 140 percent of area median family income in targeted areas; and

(3) meet any additional requirements or limitations prescribed by the corporation.

(g) To be eligible for a loan under this section to assist a homebuyer with down payment and closing costs, a homebuyer must:

(1) qualify as a first-time homebuyer under this section;

(2) have an income of not more than 80 percent of area median family income; and

(3) meet any additional requirements or limitations prescribed by the corporation.

(h) The corporation may contract with other agencies of the state or with private entities to determine whether applicants qualify as first-time homebuyers under this section or otherwise to administer all or part of this section.

(i) The board of directors of the corporation may set and collect from each applicant any fees that board considers reasonable and necessary to cover the expenses of administering the program.

(j) The corporation shall ensure that a loan under this section is structured in a way that complies with any requirements associated with the source of the funds used for the loan.

(k) In addition to funds set aside for the program under Section 1372.0223(1), the corporation may solicit and accept funding for the program from gifts and grants for the purposes of this section.

SECTION _____. Section 2306.591(b), Government Code, is amended to read as follows:

(b) An owner of a manufactured home is not eligible to participate in a grant loan program offered by the department[~~including the single family mortgage revenue bond program under Section 2306.142,~~] unless the owner complies with Subsection (a).

SECTION _____. (a) As soon as practicable after the effective date of this Act, the Texas Department of Housing and Community Affairs and the Texas State Affordable Housing Corporation shall develop a transition plan for transferring the functions performed by the department under Subchapter MM, Chapter 2306, Government Code, to the corporation. The transition plan must include a timetable with specific steps and deadlines needed to complete the transfer.

(b) In accordance with the transition plan developed by the Texas Department of Housing and Community Affairs and the Texas State Affordable Housing Corporation under Subsection (a) of this section, on November 1, 2011:

(1) all functions and activities relating to Subchapter MM, Chapter 2306, Government Code, performed by the Texas Department of Housing and Community Affairs immediately before that date are transferred to the Texas State Affordable Housing Corporation under Section 2306.5622, Government Code, as added by this Act;

(2) a rule or form adopted by the executive director of the Texas Department of Housing and Community Affairs that relates to Subchapter MM, Chapter 2306, Government Code, is a rule or form of the Texas State Affordable Housing Corporation and remains in effect until amended or replaced by the corporation;

(3) a reference in law to or an administrative rule of the Texas Department of Housing and Community Affairs that relates to Subchapter MM, Chapter 2306, Government Code, means the Texas State Affordable Housing Corporation;

(4) a loan issued by the Texas Department of Housing and Community Affairs under Subchapter MM, Chapter 2306, Government Code, or an application for a loan under that subchapter pending before the department on the effective date of this Act is transferred without change in status to the Texas State Affordable Housing Corporation, and the corporation assumes, as appropriate and without a change in status, the position of the department in relation to that loan or application;

(5) any employee of the Texas Department of Housing and Community Affairs who is primarily involved in administering Subchapter MM, Chapter 2306, Government Code, becomes an employee of the Texas State Affordable Housing Corporation;

(6) all money, contracts, leases, property, and obligations of the Texas Department of Housing and Community Affairs that are related to Subchapter MM, Chapter 2306, Government Code, are transferred to the Texas State Affordable Housing Corporation;

(7) all property that is in the custody of the Texas Department of Housing and Community Affairs and related to Subchapter MM, Chapter 2306, Government Code, is transferred to the Texas State Affordable Housing Corporation; and

(8) the unexpended and unobligated balance of any money that is appropriated by the legislature for the Texas Department of Housing and Community Affairs and related to Subchapter MM, Chapter 2306, Government Code, is transferred to the Texas State Affordable Housing Corporation.

(c) Before November 1, 2011, the Texas Department of Housing and Community Affairs may agree with the Texas State Affordable Housing Corporation to transfer any property of the department to the corporation to implement the transfer required by this Act.

(d) In the period beginning on the effective date of this Act and ending on November 1, 2011, the Texas Department of Housing and Community Affairs shall continue to perform functions and activities under Subchapter MM, Chapter 2306, Government Code, as if that subchapter had not been repealed by this Act, and the former law is continued in effect for that purpose.

SECTION _____. This Act takes effect September 1, 2011.

Amendment No. 1 was adopted.

HB 2660, as amended, was passed to engrossment. (Quintanilla, Rodriguez, and Weber recorded voting no.)

HB 1818 ON SECOND READING
(by Harper-Brown)

HB 1818, A bill to be entitled An Act relating to the continuation and functions of the Texas State Affordable Housing Corporation; providing penalties.

Amendment No. 1

Representative Y. Davis offered the following amendment to **HB 1818**:

Amend **HB 1818** (house committee report) by inserting the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Subchapter Y, Chapter 2306, Government Code, is amended by adding 2306.5549 as follows:

Sec. 2306.5549. BOARD MEETINGS. (a) The board may hold meetings when called by the presiding officer, the director, or three of the members.

(b) The board shall keep minutes and complete transcripts of board meetings. The department shall post the transcripts on its website and shall otherwise maintain all accounts, minutes, and other records related to the meetings.

(c) All materials provided to the board that are relevant to a matter proposed for discussion at a board meeting must be posted on the department's website not later than the third day before the date of the meeting.

(d) Any materials made available to the board by the department at a board meeting must be made available in hard copy format to the members of the public in attendance at the meeting.

(e) The board shall conduct its meetings in accordance with Chapter 551, except as otherwise required by this chapter.

(f) For each item on the board's agenda at the meeting, the board shall provide for public comment after the presentation made by department staff and the motions made by

Amendment No. 2

Representative Y. Davis offered the following amendment to Amendment No. 1:

Amend Floor Amendment No. 1 by Rep. Y. Davis to **HB 1818** (house committee report) by striking lines 7-26 and insert the following:

Sec. 2306.5549. BOARD MEETINGS. (a) The board may hold meetings when called by the presiding officer, the director, or three of the members.

(b) The board shall keep minutes and complete transcripts of board meetings. The department shall post the transcripts on its website and shall otherwise maintain all accounts, minutes, and other records related to the meetings.

(c) All materials provided to the board that are relevant to a matter proposed for discussion at a board meeting must be posted on the department's website not later than the third day before the date of the meeting.

(d) Any materials made available to the board by the department at a board meeting must be made available in hard copy format to the members of the public in attendance at the meeting.

(e) The board shall conduct its meetings in accordance with Chapter 551, except as otherwise required by this chapter.

(f) For each item on the board's agenda at the meeting, the board shall provide for public comment after the presentation made by department staff and the motions made by the board on that topic.

(g) The board shall adopt rules that give the public a reasonable amount of time for testimony at meetings.

Amendment No. 2 was adopted.

Amendment No. 1, as amended, was adopted.

Amendment No. 3

On behalf of Representative Gutierrez, Representative Y. Davis offered the following amendment to **HB 1818**:

Amend **HB 1818** (house committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Subchapter Y, Chapter 2306, Government Code, is amended by adding Section 2306.5553 to read as follows:

Sec. 2306.5553. HISTORICALLY UNDERUTILIZED BUSINESSES. (a) The corporation shall make a good faith effort to provide contracting opportunities for, and to increase contract awards to, historically underutilized businesses for all services that may be required by the corporation, including professional and consulting services and commodities purchases.

(b) In accordance with Subchapter B, Chapter 20, Title 34, Texas Administrative Code, a good faith effort under Subsection (a) must include awarding historically underutilized businesses at least a portion of the total contract value of all contracts the corporation expects to award in a state fiscal year.

(c) The corporation may achieve annual procurement goals under this section by contracting directly with historically underutilized businesses or by contracting indirectly with those businesses through the provision of subcontracting opportunities.

Amendment No. 3 was adopted.

Amendment No. 4

Representative Christian offered the following amendment to **HB 1818**:

Amend **HB 1818** (house committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Section 392.0331, Local Government Code, is amended by amending Subsections (b) and (f) and adding Subsections (b-1) and (f-1) to read as follows:

(b) Except as provided by Subsection (b-1), in [H] appointing commissioners under Section 392.031, a municipality with a municipal housing authority composed of five commissioners shall appoint at least one commissioner to the authority who is a tenant of a public housing project over which the authority has jurisdiction. In appointing commissioners under Section 392.031, a municipality with a municipal housing authority composed of seven or more commissioners shall appoint at least two commissioners to the authority who are tenants of a public housing project over which the authority has jurisdiction.

(b-1) The presiding officer of the governing body of a municipality that has a municipal housing authority in which the total number of units is 300 or fewer is not required to appoint a tenant to the position of commissioner as otherwise required by Subsection (b) if the presiding officer has provided timely notice of a vacancy in the position to all eligible tenants and is unable to fill the position with an eligible tenant before the 60th day after the date the position becomes vacant.

(f) Except as provided by Subsection (f-1), a [A] commissioner appointed under this section may not serve more than two consecutive two-year terms.

(f-1) Subsection (f) does not apply to a municipality that has a municipal housing authority in which the total number of units is 300 or fewer.

Amendment No. 4 was adopted.

HB 1818, as amended, was passed to engrossment. (Riddle recorded voting no.)

COMMITTEE GRANTED PERMISSION TO MEET

Representative Creighton requested permission for the Select Committee on State Sovereignty to meet while the house is in session, at 6:30 p.m. today, in 3W.9, to consider **HR 243** and pending business.

Permission to meet was granted.

COMMITTEE MEETING ANNOUNCEMENT

The following committee meeting was announced:

Select Committee on State Sovereignty, 6:30 p.m. today, 3W.9, for a formal meeting, to consider **HR 243** and pending business.

**GENERAL STATE CALENDAR
HOUSE BILLS
SECOND READING**

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

**CSHB 2825 ON SECOND READING
(by Otto)**

CSHB 2825. A bill to be entitled An Act relating to the composition and appointment of the board of directors of a corporation to which the board of regents of The University of Texas System delegates investment authority for the permanent university fund or other funds under the control of the board of regents.

CSHB 2825 - STATEMENT OF LEGISLATIVE INTENT

REPRESENTATIVE ALONZO: Mr. Otto, I just wanted to visit with you for a few minutes. I know this is an agreed to bill, we had a conversation about that, I'm not interfering with that. But, the reason I want to have a discussion with you is to relate to the qualification in selecting these board members. One of them is that they have experience in investments, is that correct?

REPRESENTATIVE OTTO: That's correct.

ALONZO: And I mentioned to you that one of the interests, or concerns, I had was to make sure that they—not in your bill, but as it relates to the board—that they deal with emergency fund managers that do investments up to \$5 billion. Is that correct?

OTTO: That's correct.

ALONZO: And you mentioned that you didn't want to put it on this bill because you had worked on it. But I told you that was a concern of mine, and I want to make sure that the board members feel about it and that was an interest I had.

OTTO: And the board members currently have the opportunity to appoint those people that you're talking about.

ALONZO: Okay, and the reason I bring it to your attention is I want the board members to know that's a big interest of mine, and I'm sure there's other members on the floor that have this interest, because we want to make sure that they're open in wanting to include folks that have experience in emergency fund managers as it relates up to \$5 billion.

OTTO: That's correct.

REMARKS ORDERED PRINTED

Representative Alonzo moved to print remarks between Representative Otto and Representative Alonzo.

The motion prevailed.

CSHB 2825 was passed to engrossment.

SB 529 ON SECOND READING**(Hunter, Margo, Cook, Guillen, and Woolley - House Sponsors)**

SB 529, A bill to be entitled An Act relating to the regulation of motor vehicle dealers, manufacturers, distributors, and representatives.

SB 529 was considered in lieu of **HB 2293**.

SB 529 was passed to third reading.

HB 2293 - LAID ON THE TABLE SUBJECT TO CALL

Representative Hunter moved to lay **HB 2293** on the table subject to call.

The motion prevailed.

HB 1799 ON SECOND READING**(by Bonnen)**

HB 1799, A bill to be entitled An Act relating to the exemption of certain real estate professionals from registration as property tax consultants.

HB 1799 was passed to engrossment.

SB 1024 ON SECOND READING**(Rodriguez - House Sponsor)**

SB 1024, A bill to be entitled An Act relating to the prosecution of the offense of theft of service.

SB 1024 was considered in lieu of **HB 2196**.

(Bonnen in the chair)

SB 1024 was passed to third reading. (Fletcher and Riddle recorded voting no.)

HB 2196 - LAID ON THE TABLE SUBJECT TO CALL

Representative Rodriguez moved to lay **HB 2196** on the table subject to call.

The motion prevailed.

SB 198 ON SECOND READING**(T. Smith - House Sponsor)**

SB 198, A bill to be entitled An Act relating to exempting persons who are convicted of certain sexual offenses from registering as a sex offender in this state.

SB 198 was considered in lieu of **HB 227**.

Amendment No. 1

Representative Dutton offered the following amendment to **SB 198**:

Amend **SB 198** (house committee report) by adding the following appropriately numbered SECTIONS to the bill and renumbering the remaining SECTIONS of the bill accordingly:

SECTION _____. Section 21.11(b), Penal Code, is amended to read as follows:

(b) It is an affirmative defense to prosecution under this section that the actor:

(1) was [~~not more than three years older than the victim and~~] of the opposite sex and not more than three years older than the victim, or not more than five years older if both the actor and victim were enrolled in a public or private school in grade level nine or above at the time of the offense;

(2) did not use duress, force, or a threat against the victim at the time of the offense; and

(3) at the time of the offense:

(A) was not required under Chapter 62, Code of Criminal Procedure, to register for life as a sex offender; or

(B) was not a person who under Chapter 62 had a reportable conviction or adjudication for an offense under this section.

SECTION _____. Section 22.011(e), Penal Code, is amended to read as follows:

(e) It is an affirmative defense to prosecution under Subsection (a)(2):

(1) that the actor was the spouse of the child at the time of the offense;
or

(2) that:

(A) the actor was not more than three years older than the victim, or not more than five years older if both the actor and victim were enrolled in a public or private school in grade level nine or above at the time of the offense, and at the time of the offense:

(i) was not required under Chapter 62, Code of Criminal Procedure, to register for life as a sex offender; or

(ii) was not a person who under Chapter 62, Code of Criminal Procedure, had a reportable conviction or adjudication for an offense under this section; and

(B) the victim:

(i) was a child of 14 years of age or older; and

(ii) was not a person whom the actor was prohibited from marrying or purporting to marry or with whom the actor was prohibited from living under the appearance of being married under Section 25.01.

SECTION _____. Sections 21.11 and 22.011, Penal Code, as amended by this Act, apply only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect at the time of the offense, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

Amendment No. 1 was withdrawn.

SB 198 was passed to third reading. (Carter and Phillips recorded voting no.)

HB 227 - LAID ON THE TABLE SUBJECT TO CALL

Representative T. Smith moved to lay **HB 227** on the table subject to call.

The motion prevailed.

CSHB 2078 ON SECOND READING

(by Villarreal)

CSHB 2078, A bill to be entitled An Act relating to the independence of appraisal review boards; changing the elements of an offense.

Amendment No. 1

Representative Otto offered the following amendment to **CSHB 2078**:

Amend **CSHB 2078** (house committee report) as follows:

(1) On page 4, strike lines 19-21 and substitute the following:

(1) that constitute social conversation;

(2) On page 4, line 22, strike "(3)" and substitute "(2)".

(3) On page 5, line 1, strike "(4)" and substitute "(3)".

Amendment No. 1 was adopted.

CSHB 2078, as amended, was passed to engrossment. (C. Anderson, Berman, Cook, Flynn, Laubenberg, and Sheets recorded voting no.)

SB 758 ON SECOND READING

(Hilderbran - House Sponsor)

SB 758, A bill to be entitled An Act relating to sales and use tax information provided to certain local governmental entities.

SB 758 was considered in lieu of **HB 270**.

SB 758 was passed to third reading.

HB 270 - LAID ON THE TABLE SUBJECT TO CALL

Representative Hilderbran moved to lay **HB 270** on the table subject to call.

The motion prevailed.

CSHB 1671 ON SECOND READING

(by Marquez)

CSHB 1671, A bill to be entitled An Act relating to allowing a governmental body to redact certain personal information under the public information law without the necessity of requesting a decision from the attorney general and the calculation of certain deadlines under the public information law.

Representative Marquez moved to postpone consideration of **CSHB 1671** until 6 a.m. Wednesday, May 11.

The motion prevailed.

CSHB 2203 ON SECOND READING
(by Otto)

CSHB 2203, A bill to be entitled An Act relating to the pilot program authorizing a property owner to appeal to the State Office of Administrative Hearings certain appraisal review board determinations.

Amendment No. 1

Representative Otto offered the following amendment to **CSHB 2203**:

Amend **CSHB 2203** (house committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Section 2003.906, Government Code, is amended to read as follows:

Sec. 2003.906. NOTICE OF APPEAL TO OFFICE; DEPOSIT. (a) To appeal an appraisal review board order to the office under this subchapter, a property owner must file with the chief appraiser of the appraisal district ~~[not later than the 30th day after the date the property owner receives notice of the order]:~~

- (1) a completed notice of appeal to the office in the form prescribed by Section 2003.907; and
- (2) a deposit [filing fee] in the amount of \$1,500 [~~\$300~~], made payable to the office.

(a-1) The notice of appeal required under Subsection (a)(1) must be filed with the chief appraiser not later than the 30th day after the date the property owner receives notice of the order.

(a-2) The deposit required under Subsection (a)(2) must be filed with the chief appraiser not later than the 90th day after the date the property owner receives notice of the order. The deposit is refundable:

- (1) less the filing fee if the property owner and the appraisal district settle before the appeal is heard; or
- (2) less the filing fee and the office's costs if the property owner and the appraisal district settle after the appeal is heard.

(a-3) If the property owner fails to pay the deposit as required under Subsection (a-2):

- (1) the office shall dismiss the property owner's appeal; and
- (2) the property owner is not entitled to file an appeal under this subchapter in any subsequent tax year.

(b) As soon as practicable after receipt of a notice of appeal, the chief appraiser for the appraisal district shall:

- (1) indicate, where appropriate, those entries in the records that are subject to the appeal;
- (2) submit the notice of appeal and deposit [filing fee] to the office; and
- (3) request the appointment of a qualified administrative law judge to hear the appeal.

Amendment No. 1 was adopted.

CSHB 2203, as amended, was passed to engrossment.

CSHB 2237 ON SECOND READING**(by Lyne, et al.)**

CSHB 2237, A bill to be entitled An Act relating to the taxation and titling of certain off-road vehicles.

CSHB 2237 was passed to engrossment. (Berman, Bohac, Cook, Flynn, Landtroop, Perry, and Weber recorded voting no.)

CSHB 2596 ON SECOND READING**(by Garza)**

CSHB 2596, A bill to be entitled An Act relating to the authority of local governments to enact and enforce certain traffic regulations.

Amendment No. 1

On behalf of Representative Bonnen, Representative Rodriguez offered the following amendment to **CSHB 2596**:

Amend **CSHB 2596** (house committee printing) by striking SECTIONS 1 and 2 of the bill (page 1, lines 5-22) and renumbering remaining SECTIONS of the bill as appropriate.

Amendment No. 1 was adopted.

CSHB 2596, as amended, was passed to engrossment.

HB 2098 ON SECOND READING**(by J. Davis)**

HB 2098, A bill to be entitled An Act relating to the authority of physicians and physician assistants to form certain entities.

Amendment No. 1

Representative J. Davis offered the following amendment to **HB 2098**:

Amend **HB 2098** (house committee report) by striking all below the enacting clause and substituting the following:

SECTION 1. Subchapter B, Chapter 22, Business Organizations Code, is amended by adding Section 22.0561 to read as follows:

Sec. 22.0561. CORPORATIONS FORMED BY PHYSICIANS AND PHYSICIAN ASSISTANTS. (a) Physicians licensed under Subtitle B, Title 3, Occupations Code, and physician assistants licensed under Chapter 204, Occupations Code, may form a corporation to perform a professional service that falls within the scope of practice of those practitioners and consists of:

(1) carrying out research in the public interest in medical science, medical economics, public health, sociology, or a related field;

(2) supporting medical education in medical schools through grants or scholarships;

(3) developing the capabilities of individuals or institutions studying, teaching, or practicing medicine or acting as a physician assistant;

(4) delivering health care to the public; or

(5) instructing the public regarding medical science, public health, hygiene, or a related matter.

(b) A physician assistant may not be an officer of the corporation.

(c) A physician assistant may not contract with or employ a physician to be a supervising physician of the physician assistant or of any physician in the corporation.

(d) The authority of each practitioner is limited by the scope of practice of the respective practitioner. An organizer of the entity must be a physician and ensure that a physician or physicians control and manage the entity.

(e) Nothing in this section may be construed to allow the practice of medicine by someone not licensed as a physician under Subtitle B, Title 3, Occupations Code, or to allow a person not licensed as a physician to direct the activities of a physician in the practice of medicine.

(f) A physician assistant or combination of physician assistants may have only a minority ownership interest in an entity created under this section. The ownership interest of an individual physician assistant may not equal or exceed the ownership interest of any individual physician owner. A physician assistant or combination of physician assistants may not interfere with the practice of medicine by a physician owner or the supervision of physician assistants by a physician owner.

(g) The Texas Medical Board and the Texas Physician Assistant Board continue to exercise regulatory authority over their respective license holders according to applicable law. To the extent of a conflict between Subtitle B, Title 3, Occupations Code, and Chapter 204, Occupations Code, or any rules adopted under those statutes, Subtitle B, Title 3, or a rule adopted under that subtitle controls.

SECTION 2. Subchapter B, Chapter 152, Business Organizations Code, is amended by adding Section 152.0551 to read as follows:

Sec. 152.0551. PARTNERSHIPS FORMED BY PHYSICIANS AND PHYSICIAN ASSISTANTS. (a) Physicians licensed under Subtitle B, Title 3, Occupations Code, and physician assistants licensed under Chapter 204, Occupations Code, may create a partnership to perform a professional service that falls within the scope of practice of those practitioners.

(b) A physician assistant may not be a general partner or participate in the management of the partnership.

(c) A physician assistant may not contract with or employ a physician to be a supervising physician of the physician assistant or of any physician in the partnership.

(d) The authority of each practitioner is limited by the scope of practice of the respective practitioner. An organizer of the entity must be a physician and ensure that a physician or physicians control and manage the entity.

(e) Nothing in this section may be construed to allow the practice of medicine by someone not licensed as a physician under Subtitle B, Title 3, Occupations Code, or to allow a person not licensed as a physician to direct the activities of a physician in the practice of medicine.

(f) A physician assistant or combination of physician assistants may have only a minority ownership interest in an entity created under this section. The ownership interest of an individual physician assistant may not equal or exceed the ownership interest of any individual physician owner. A physician assistant or combination of physician assistants may not interfere with the practice of medicine by a physician owner or the supervision of physician assistants by a physician owner.

(g) The Texas Medical Board and the Texas Physician Assistant Board continue to exercise regulatory authority over their respective license holders according to applicable law. To the extent of a conflict between Subtitle B, Title 3, Occupations Code, and Chapter 204, Occupations Code, or any rules adopted under those statutes, Subtitle B, Title 3, or a rule adopted under that subtitle controls.

SECTION 3. Section 301.012, Business Organizations Code, is amended by adding Subsections (a-1), (a-2), (a-3), (a-4), (a-5), (a-6), and (a-7) to read as follows:

(a-1) Persons licensed as physicians under Subtitle B, Title 3, Occupations Code, and persons licensed as physician assistants under Chapter 204, Occupations Code, may form and own a professional association or a professional limited liability company to perform professional services that fall within the scope of practice of those practitioners.

(a-2) A physician assistant may not be an officer in the professional association or limited liability company.

(a-3) A physician assistant may not contract with or employ a physician to be a supervising physician of the physician assistant or of any physician in the professional association or limited liability company.

(a-4) The authority of each practitioner is limited by the scope of practice of the respective practitioner. An organizer of the entity must be a physician and ensure that a physician or physicians control and manage the entity.

(a-5) Nothing in this section may be construed to allow the practice of medicine by someone not licensed as a physician under Subtitle B, Title 3, Occupations Code, or to allow a person not licensed as a physician to direct the activities of a physician in the practice of medicine.

(a-6) A physician assistant or combination of physician assistants may have only a minority ownership interest in an entity created under this section. The ownership interest of an individual physician assistant may not equal or exceed the ownership interest of any individual physician owner. A physician assistant or combination of physician assistants may not interfere with the practice of medicine by a physician owner or the supervision of physician assistants by a physician owner.

(a-7) The Texas Medical Board and the Texas Physician Assistant Board continue to exercise regulatory authority over their respective license holders according to applicable law. To the extent of a conflict between Subtitle B, Title 3, Occupations Code, and Chapter 204, Occupations Code, or any rules adopted under those statutes, Subtitle B, Title 3, or a rule adopted under that subtitle controls.

SECTION 4. Subchapter B, Chapter 162, Occupations Code, is amended by adding Section 162.053 to read as follows:

Sec. 162.053. JOINTLY OWNED ENTITIES WITH PHYSICIAN ASSISTANTS. (a) A physician who jointly owns an entity with a physician assistant shall report annually to the board the ownership interest and other information required by board rule.

(b) The board shall assess a fee for processing each report required by Subsection (a).

(c) A report filed under Subsection (a) is public information for purposes of Chapter 552, Government Code.

SECTION 5. Subchapter E, Chapter 204, Occupations Code, is amended by adding Section 204.209 to read as follows:

Sec. 204.209. JOINTLY OWNED ENTITIES WITH PHYSICIANS. (a) A physician assistant who jointly owns an entity with a physician shall report annually to the physician assistant board the ownership interest and other information required by physician assistant board rule.

(b) The physician assistant board shall assess a fee for processing each report required by Subsection (a).

(c) A report filed under Subsection (a) is public information for purposes of Chapter 552, Government Code.

SECTION 6. The restrictions on ownership interests in Sections 22.0561, 152.0551, and 301.012, Business Organizations Code, apply to an ownership interest acquired on or after the effective date of this Act. An ownership interest acquired before the effective date of this Act is governed by the law in effect at the time the interest was acquired, and the former law is continued in effect for that purpose.

SECTION 7. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2011.

Amendment No. 1 was adopted.

HB 2098, as amended, was passed to engrossment. (Garza recorded voting no.)

CSHB 2746 ON SECOND READING **(by Martinez Fischer)**

CSHB 2746, A bill to be entitled An Act relating to liability for the additional tax imposed on land appraised for ad valorem tax purposes as qualified open-space land in the event of a change of use of the land if the land is transferred to a charitable organization for purposes of building housing for sale without profit to a low-income individual or family.

Representative Marquez moved to postpone consideration of **CSHB 2746** until 6 a.m. tomorrow.

The motion prevailed.

CSHB 2439 ON SECOND READING
(by Gallego)

CSHB 2439, A bill to be entitled An Act relating to posting suggestions and ideas on cost-efficiency on certain state agency websites.

Amendment No. 1

Representative Gallego offered the following amendment to **CSHB 2439**:

Amend **CSHB 2439** (house committee printing) on page 1, line 20, by striking "(a)" and substituting "(b)".

Amendment No. 1 was adopted.

**PROVIDING FOR A LOCAL, CONSENT,
AND RESOLUTIONS CALENDAR**

Representative Thompson moved to suspend all necessary rules to set a local, consent, and resolutions calendar for 10 a.m. Wednesday, May 11.

The motion prevailed.

COMMITTEE GRANTED PERMISSION TO MEET

Representative Thompson requested permission for the Committee on Local and Consent Calendars to meet while the house is in session, at 6:50 p.m. today, in 1W.14, to set a calendar.

Permission to meet was granted.

CSHB 2439 - (consideration continued)

Amendment No. 2

Representative Gallego offered the following amendment to **CSHB 2439**:

Amend **CSHB 2439** (house committee report) by adding the following appropriately numbered SECTIONS to the bill and renumbering the remaining SECTIONS of the bill accordingly:

SECTION _____. Chapter 322, Government Code, is amended by adding Section 322.0081 to read as follows:

Sec. 322.0081. BUDGET DOCUMENTS ONLINE. (a) In order to assist members of the public in posting cost-efficiency suggestions and ideas, the board shall post on the board's Internet website all documents prepared by the board that are provided to a committee, subcommittee, or conference committee of either house of the legislature in connection with an appropriations bill.

(b) The board shall post a document to which this section applies as soon as practicable after the document is provided to a committee, subcommittee, or conference committee.

(c) The document must be downloadable and provide data in an open standard format that allows the public to search, extract, organize, and analyze the information in the document.

SECTION _____. Section 322.0081, Government Code, as added by this Act, applies only to documents provided to a committee, subcommittee, or conference committee on or after October 1, 2011.

Amendment No. 2 was adopted.

CSHB 2439, as amended, was passed to engrossment. (Berman, Cain, Cook, Flynn, Landtroop, and Perry recorded voting no.)

COMMITTEE MEETING ANNOUNCEMENT

The following committee meeting was announced:

Local and Consent Calendars, 6:50 p.m. today, 1W.14, for a formal meeting, to set a calendar.

CSHB 2389 ON SECOND READING
(by Fletcher)

CSHB 2389, A bill to be entitled An Act relating to records of a holder of a motor vehicle title service license.

CSHB 2389 was passed to engrossment.

HB 2889 ON SECOND READING
(by Madden)

HB 2889, A bill to be entitled An Act relating to the expunction of records and files relating to a person's arrest.

HB 2889 was passed to engrossment.

HB 3017 ON SECOND READING
(by Smithee)

HB 3017, A bill to be entitled An Act relating to the prohibited use of discretionary clauses in certain health maintenance organization and insurance contracts.

HB 3017 was passed to engrossment.

CSHB 3036 ON SECOND READING
(by Alvarado)

CSHB 3036, A bill to be entitled An Act relating to the municipal sales and use tax for street maintenance.

Amendment No. 1

Representative Phillips offered the following amendment to **CSHB 3036**:

Amend **CSHB 3036** (house committee printing) as follows:

(1) On page 1, strike lines 12-21 and substitute the following:

(2) the first day of the first calendar quarter occurring not earlier than ~~[after]~~ the fourth anniversary and not later than the tenth anniversary of the date the tax was last reauthorized under this section.

(2) On page 2, line 5, strike "(insert fourth or 10th)" and substitute "(insert "fourth", "fifth", "sixth", "seventh", "eighth", "ninth", or "tenth", as appropriate)".

(3) On page 2, line 10, strike "10-year period" and substitute "period of more than four years but not more than 10 years".

Amendment No. 1 was adopted.

CSHB 3036, as amended, was passed to engrossment. (C. Anderson, Aycock, Berman, Bohac, Cook, Flynn, Landtroop, Laubenberg, Nash, Perry, and Sheets recorded voting no.)

CSHB 3133 ON SECOND READING
(by Rodriguez)

CSHB 3133, A bill to be entitled An Act relating to the appraisal for ad valorem tax purposes of property on which housing is being or has been built or repaired for sale to a low-income individual or family.

CSHB 3133 was passed to engrossment. (Berman, Bohac, Cook, and Flynn recorded voting no.)

CSHB 1359 ON SECOND READING
(by Veasey)

CSHB 1359, A bill to be entitled An Act relating to authorization for a caregiver who is a relative to enroll a child in school.

Representative Deshotel moved to postpone consideration of **CSHB 1359** until 6:45 p.m. today.

The motion prevailed.

HB 2759 ON SECOND READING
(by Hartnett)

HB 2759, A bill to be entitled An Act relating to the nonsubstantive revision of provisions of the Texas Probate Code relating to durable powers of attorney, guardianships, and other related proceedings and alternatives, and the redesignation of certain other provisions of the Texas Probate Code, including conforming amendments and repeals.

HB 2759 was passed to engrossment.

CSHB 1013 ON SECOND READING
(by Brown, Callegari, Creighton, J. Davis, et al.)

CSHB 1013, A bill to be entitled An Act relating to the powers and duties of the Texas Medical Board.

Amendment No. 1

Representative Brown offered the following amendment to **CSHB 1013**:

Amend **CSHB 1013** by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. The legislature finds that tick-borne diseases are an important public health issue in Texas. The legislature further finds that medical and nursing education on the appropriate care and treatment of tick-borne diseases is essential to the delivery of necessary health care to individuals in Texas suffering from tick-borne diseases. It is the intent of the legislature to address the need for medical and nursing education on tick-borne diseases through the continuing medical education requirements for physicians and nurses.

SECTION _____. Subchapter B, Chapter 156, Occupations Code, is amended by adding Section 156.059 to read as follows:

Sec. 156.059. CONTINUING EDUCATION IN TICK-BORNE DISEASES. (a) A physician licensed under this subtitle who submits an application for renewal of a license to practice medicine and whose practice includes the treatment of tick-borne diseases is encouraged to include continuing medical education in the treatment of tick-borne diseases among the hours of continuing medical education completed for purposes of rules adopted under Section 156.051(a)(2).

(b) The board shall adopt rules to establish the content of and approval requirements for continuing medical education relating to the treatment of tick-borne diseases. In adopting rules, the board shall review relevant courses, including courses that have been approved in other states. Rules adopted under this section must provide for the identification and approval of accredited continuing medical education courses that represent an appropriate spectrum of relevant medical clinical treatment relating to tick-borne diseases.

(c) If relevant, the board shall consider a physician's participation in a continuing medical education course approved under Subsection (b) if:

(1) the physician is being investigated by the board regarding the physician's selection of clinical care for the treatment of tick-borne diseases; and

(2) the physician completed the course not more than two years before the start of the investigation.

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

SECTION _____. Subchapter G, Chapter 301, Occupations Code, is amended by adding Section 301.304 to read as follows:

Sec. 301.304. CONTINUING EDUCATION IN TICK-BORNE DISEASES. (a) As part of the continuing education requirements under Section 301.303, a license holder whose practice includes the treatment of tick-borne diseases shall be encouraged to participate, during each two-year licensing period, in continuing education relating to the treatment of tick-borne diseases.

(b) The board shall adopt rules to identify the license holders who are encouraged to complete continuing education under Subsection (a) and establish the content of that continuing education. In adopting rules, the board shall review relevant courses, including courses that have been approved in other states. Rules adopted under this section must provide for the identification and approval of accredited continuing education courses that represent an appropriate spectrum of relevant medical clinical treatment relating to tick-borne diseases.

(c) If relevant, the board shall consider a license holder's participation in a continuing education course approved under Subsection (b) if:

(1) the license holder is being investigated by the board regarding the license holder's selection of clinical care for the treatment of tick-borne diseases; and

(2) the license holder completed the course not more than two years before the start of the investigation.

(d) The board may adopt other rules to implement this section, including rules under Section 301.303(c) for the approval of education programs and providers.

SECTION _____. The Texas Medical Board and the Texas Board of Nursing shall consult and cooperate in adopting the rules required under Sections 156.059 and 301.304, Occupations Code, as added by this Act.

SECTION _____. Not later than January 31, 2012, the Texas Medical Board shall adopt rules required by Section 156.059, Occupations Code, as added by this Act.

SECTION _____. Not later than January 31, 2012, the Texas Board of Nursing shall adopt rules required by Section 301.304, Occupations Code, as added by this Act.

SECTION _____. Not later than February 6, 2012, the Texas Medical Board and the Texas Board of Nursing shall report to the governor, the lieutenant governor, and the speaker of the house of representatives concerning the adoption of rules as required by Sections 156.059 and 301.304, Occupations Code, as added by this Act.

SECTION _____. Sections 156.059(c) and 301.304(c), Occupations Code, as added by this Act, apply only to the investigation of a complaint or a disciplinary action based on a complaint filed on or after the effective date of this Act. The investigation of a complaint or a disciplinary action based on a complaint filed before that date is governed by the law in effect on the date the complaint was filed, and that law is continued in effect for that purpose.

Amendment No. 1 was adopted.

Amendment No. 2

Representative D. Howard offered the following amendment to **CSHB 1013**:

Amend **CSHB 1013** (house committee printing) as follows:

(1) On page 3, line 4, strike "or".

(2) On page 3, line 5, after the semicolon, insert the following:

or

(D) a registered nurse or a licensed vocational nurse;

(3) On page 4, line 4, strike "or".

(4) On page 4, line 5, strike the period and substitute the following:

; or

(D) a registered nurse or a licensed vocational nurse.

Amendment No. 2 was adopted.

Amendment No. 3

Representative Naishtat offered the following amendment to **CSHB 1013**:

Amend **CSHB 1013** (house committee report) as follows:

1. Page 10, line 3, strike the designation Subsection "(a)".

2. Page 10, strike Subsection (b), lines 8 through 10.

Amendment No. 3 was adopted.

Amendment No. 4

Representative Zedler offered the following amendment to **CSHB 1013**:

Amend **CSHB 1013** (house committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Section 164.0032, Occupations Code, is amended by adding Subsection (f-1) to read as follows:

(f-1) At least 21 days before the date the board conducts a meeting to consider the panel's recommendations under Subsection (f), the board must notify the affected physician and the physician's authorized representative of the meeting. The physician and the physician's representative may be present at the meeting.

Amendment No. 4 was adopted.

Amendment No. 5

Representative Chisum offered the following amendment to **CSHB 1013**:

Amend **CSHB 1013** by adding a new appropriately numbered section to read as follows:

SECTION _____. Section 155.056(a), Occupations Code, is amended to read as follows:

(a) An applicant must pass each part of an examination within four~~three~~ attempts.

Representative Schwertner moved to table Amendment No. 5.

The motion to table prevailed.

CSHB 1013, as amended, was passed to engrossment by (Record 864): 147 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Aliseda; Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen(C); Branch; Brown; Burkett; Burnam; Button; Cain; Callegari; Carter; Castro; Chisum; Christian; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Driver; Dukes; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Flynn; Frullo; Gallego; Garza; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Gooden; Guillen; Gutierrez; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hernandez Luna; Hilderbran; Hochberg; Hopson; Howard, C.; Howard, D.; Huberty; Hughes; Hunter; Isaac; Jackson; Johnson; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lozano; Lucio; Lyne; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Miller, D.; Miller, S.; Morrison; Muñoz; Murphy; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pickett; Pitts; Price; Quintanilla; Raymond; Reynolds; Riddle; Ritter; Rodriguez; Schwertner; Scott; Sheets; Sheffield; Simpson; Smith, T.; Smith, W.; Smithee;

Solomons; Strama; Taylor, L.; Taylor, V.; Thompson; Torres; Truitt; Turner; Veasey; Villarreal; Vo; Walle; Weber; White; Woolley; Workman; Zedler; Zerwas.

Present, not voting — Mr. Speaker.

Absent, Excused — Coleman.

Absent — Shelton.

CSHB 3727 ON SECOND READING
(by Hilderbran and Martinez Fischer)

CSHB 3727, A bill to be entitled An Act relating to the appraisal for ad valorem tax purposes of certain commercial aircraft that are temporarily located in this state for manufacturing or assembly purposes.

CSHB 3727 was passed to engrossment.

HB 174 ON SECOND READING
(by Jackson, Burkett, Branch, Bohac, Patrick, et al.)

HB 174, A bill to be entitled An Act relating to the cancellation of the voter registration and to the eligibility to vote of persons who are deceased or not citizens of the United States.

HB 174 was passed to engrossment.

HB 2817 ON SECOND READING
(by L. Taylor)

HB 2817, A bill to be entitled An Act relating to certain election practices and procedures.

Amendment No. 1

Representative Price offered the following amendment to **HB 2817**:

Amend **HB 2817** (house committee printing) on page 15, line 17, by striking "and" and substituting "127.201, and".

Amendment No. 1 was adopted.

COMMITTEES GRANTED PERMISSION TO MEET

Representative Dutton requested permission for the Committee on Urban Affairs to meet while the house is in session, at 7 p.m. today, in 3W.15, to consider pending business.

Permission to meet was granted.

Representative Guillen requested permission for the Committee on Culture, Recreation, and Tourism to meet while the house is in session, at 7:15 p.m. today, in 1W.14, to consider pending business.

Permission to meet was granted.

COMMITTEE MEETING ANNOUNCEMENTS

The following committee meetings were announced:

Urban Affairs, 7 p.m. today, 3W.15, for a formal meeting, to consider pending business.

Culture, Recreation, and Tourism, 7:15 p.m. today, 1W.14, for a formal meeting, to consider pending business.

HB 2817 - (consideration continued)

Amendment No. 2

Representative T. Smith offered the following amendment to **HB 2817**:

Amend **HB 2817** by adding the following appropriately numbered SECTIONS and by renumbering the existing SECTIONS as appropriate:

SECTION _____. Section 4.004(a), Election Code, is amended to read as follows:

(a) The notice of a general or special election must state:

- (1) the nature and date of the election;
- (2) except as provided by Subsection (c), the location of each polling place, ~~including each early voting polling place~~;
- (3) the hours that the polls will be open; and
- (4) any other information required by other law.

SECTION _____. Section 85.004, Election Code, is amended to read as follows:

Sec. 85.004. PUBLIC NOTICE OF MAIN POLLING PLACE LOCATION. The election order and the election notice must state the location of the main ~~each~~ early voting polling place.

Amendment No. 2 was adopted.

Amendment No. 3

Representative Sheffield offered the following amendment to **HB 2817**:

Amend **HB 2817** by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Section 13.031(d), Election Code, is amended to read as follows:

(d) To be eligible for appointment as a volunteer deputy registrar, a person must:

- (1) be a registered voter ~~[18 years of age or older]~~; ~~and~~
- (2) not have been finally convicted of a felony or, if so convicted, must have:

(A) fully discharged the person's sentence, including any term of incarceration, parole, or supervision, or completed a period of probation ordered by any court; or

(B) been pardoned or otherwise released from the resulting disability to vote; ~~and~~

(3) not have been finally convicted of an offense under Section 32.51, Penal Code.

SECTION _____. Section 13.033(b), Election Code, is amended to read as follows:

(b) If a person is to be appointed, the registrar shall prepare a certificate of appointment in duplicate containing:

(1) the date of appointment;

(2) the statement: "I, _____, Voter Registrar for _____ County, do hereby appoint _____ as a volunteer deputy registrar for _____ County.";

(3) the person's residence address;

(4) the person's voter registration number, if any;

(5) a statement that the term of the appointment expires December 31 of an even-numbered year; and

(6) a statement that the appointment:

(A) terminates on the person's final conviction for an offense;

(i) for failure to deliver a registration application; or

(ii) under Section 32.51, Penal Code; and

(B) may terminate on the registrar's determination that the person failed to adequately review a registration application.

SECTION _____. Section 13.036(a), Election Code, is amended to read as follows:

(a) An appointment as a volunteer deputy registrar is terminated on:

(1) the expiration of the volunteer deputy's term of appointment; or

(2) the final conviction of the volunteer deputy for an offense prescribed by Section 13.043 of this code or Section 32.51, Penal Code.

SECTION _____. Sections 13.031(d), 13.033(b), and 13.036(a), Election Code, as amended by this Act, apply only to the appointment of a volunteer deputy voter registrar on or after the effective date of this Act. The appointment of a volunteer deputy voter registrar before the effective date of this Act is governed by the law in effect when the registrar was appointed, and the former law is continued in effect for that purpose.

Amendment No. 3 was adopted.

Amendment No. 4

Representative Burkett offered the following amendment to **HB 2817**:

Amend **HB 2817** by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Section 64.036(d), Election Code, is amended to read as follows:

(d) An offense under this section is a state jail felony [~~Class A misdemeanor~~].

SECTION _____. Section 86.0051, Election Code, is amended by adding Subsection (b-1) and amending Subsections (c), (d), and (e) to read as follows:

(b-1) A person may not deposit in the mail or with a common or contract carrier more than two carrier envelopes containing ballots voted by other persons in an election.

(c) A person commits an offense if the person knowingly violates Subsection (b) or (b-1). It is not a defense to an offense under this subsection that the voter voluntarily gave another person possession of the voter's carrier envelope.

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

(e) Subsections (a) and (c) do not apply if the person is related to the applicant within the second degree by affinity or the third degree by consanguinity, as determined under Subchapter B, Chapter 573, Government Code, ~~or is registered to vote at the same address as the applicant~~. Subsection (c) does not apply to an employee of a state licensed care facility where the voter resides who is working in the normal course of the employee's authorized duties.

SECTION _____. Section 86.006(f), Election Code, is amended to read as follows:

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

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

(2) registered to vote at the same address as the voter;

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

(4) a person who possesses the carrier envelope in order to deposit the envelope in the mail or with a common or contract carrier and who provides the information required by Section 86.0051(b) in accordance with that section;

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

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

(7) an employee of a state licensed care facility where the voter resides who is working in the normal course of the employee's authorized duties.

SECTION _____. Sections 86.010(g) and (h), Election Code, are amended to read as follows:

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

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

SECTION _____. The changes in law made by this Act to Sections 64.036, 86.0051, 86.006, and 86.010, Election Code, apply only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

Amendment No. 4 was adopted.

Amendment No. 5

Representative V. Taylor offered the following amendment to **HB 2817**:

Amend **HB 2817** by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill appropriately:

SECTION _____. Section 129.023(c), Election Code, is amended to read as follows:

(c) The general custodian of election records shall adopt procedures for testing that:

- (1) direct the testing board to cast votes;
- (2) verify that each contest position, as well as each precinct and ballot style, on the ballot can be voted and is accurately counted ~~[for each precinct and ballot style]~~;
- (3) include overvotes and undervotes for each race, if applicable to the system being tested;
- (4) include straight-party votes and crossover votes;
- (5) include write-in votes, when applicable to the election;
- (6) include provisional votes, if applicable to the system being tested;
- (7) calculate the expected results from the test ballots;
- (8) ensure that each voting machine has any public counter reset to zero and presented to the testing board for verification before testing;
- (9) require that, for each feature of the system that allows disabled voters to cast a ballot, at least one vote be cast and verified by a two-person testing board team using that feature; and
- (10) require that, when all votes are cast, the general custodian of election records and the testing board observe the tabulation of all ballots and compare the actual results to the expected results.

Amendment No. 5 was adopted.

Amendment No. 6

Representative Isaac offered the following amendment to **HB 2817**:

Amend **HB 2817** by adding the following appropriately numbered SECTION to the bill and renumbering the remaining SECTIONS of the bill accordingly:

SECTION _____. Subchapter C, Chapter 85, Election Code, is amended by adding Section 85.073 to read as follows:

Sec. 85.073. MOBILE VOTING STATIONS IN CERTAIN COUNTIES IN CERTAIN ELECTIONS. (a) This section applies to early voting in an election that includes a bond proposition in a city or school district located in a county with a population of more than one million.

(b) If a mobile voting station is used, the mobile voting station:

(1) may not change locations during the early voting period; and

(2) shall be placed within the territory covered by the election in a manner to allow all of the voters in the territory the same access to the mobile voting station during the early voting period.

Amendment No. 6 was adopted.

Amendment No. 7

Representative Isaac offered the following amendment to **HB 2817**:

Amend **HB 2817** (house committee printing) by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Section 84.007(b), Election Code, is amended to read as follows:

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

(1) mail;

(2) common or contract carrier; or

(3) telephonic facsimile machine, ~~[if the applicant is absent from the county and]~~ if a machine is available in the clerk's office.

SECTION _____. Subchapter B, Chapter 87, Election Code, is amended by adding Section 87.0211 to read as follows:

Sec. 87.0211. ELECTRONIC DELIVERY OF MATERIALS RECORDED ELECTRONICALLY. If ballot materials and ballot applications are recorded electronically as provided by Section 87.126, the early voting clerk may deliver those materials to the early voting ballot board through electronic means.

SECTION _____. Section 87.027, Election Code, is amended by adding Subsection (m) to read as follows:

(m) If ballot materials or ballot applications are recorded electronically as provided by Section 87.126, the signature verification committee may use an electronic copy of a carrier envelope certificate or the voter's ballot application in making the comparison under Subsection (i).

SECTION _____. Subchapter G, Chapter 87, Election Code, is amended by adding Section 87.126 to read as follows:

Sec. 87.126. ELECTRONIC RECORDING OF BALLOT MATERIALS AND APPLICATIONS. (a) The early voting clerk may electronically record applications for a ballot to be voted by mail, jacket envelopes, carrier envelopes, and ballots.

(b) The secretary of state may adopt rules providing requirements for the electronic image quality and storage of the electronic images of the documents described by Subsection (a).

Amendment No. 7 was adopted.

Amendment No. 8

Representative Murphy offered the following amendment to **HB 2817**:

Amend **HB 2817** by adding the following appropriately numbered SECTION and by renumbering the existing SECTIONS as appropriate:

SECTION _____. Chapter 1, Election Code, is amended by adding Section 1.016 to read as follows:

Sec. 1.016. RESIDENCE FOR CERTAIN REGISTERED VOTERS.

(a) For purposes of registration under this code, a person's residence is established at the first residence address in the following list that is applicable to the person:

(1) the address the person claims as a homestead in this state;

(2) the address stated on a driver's license issued to the person by the Department of Public Safety that has not expired or, if the person has notified the department of a change of address under Section 521.054, Transportation Code, the new address contained in the notification;

(3) the address stated on a personal identification card issued to the person by the Department of Public Safety that has not expired or, if the person has notified the department of a change of address under Section 521.054, Transportation Code, the new address contained in the notification;

(4) the address stated on a license to carry a concealed handgun issued to the person by the Department of Public Safety that has not expired or, if the person has notified the department of a change of address under Section 411.181, Government Code, the new address contained in the notification; or

(5) an address corresponding to a residence at which the person receives mail.

(b) The address described by Subsection (a)(5) may not be a commercial post office box or similar location that does not correspond to a residence.

(c) This section does not apply to:

(1) a person who is a member of the armed forces of the United States or the spouse or a dependent of a member; or

(2) a person enrolled as a full-time student at an institution of higher education.

(d) The secretary of state shall adopt rules as necessary to implement this section.

Amendment No. 8 was adopted by (Record 865): 92 Yeas, 48 Nays, 2 Present, not voting.

Yeas — Aliseda; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Branch; Brown; Burkett; Button; Cain; Callegari; Carter; Chisum; Christian; Cook; Craddick; Creighton; Crownover; Davis, J.; Davis, S.; Driver; Eissler; Fletcher; Flynn; Frullo; Garza; Geren; Gonzales, L.; Gooden; Hamilton;

Hardcastle; Harless; Hilderbran; Hopson; Huberty; Hughes; Hunter; Isaac; Jackson; Keffer; King, P.; King, S.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lyne; Madden; Margo; Miller, D.; Miller, S.; Morrison; Murphy; Nash; Orr; Otto; Parker; Patrick; Peña; Perry; Phillips; Pitts; Price; Riddle; Ritter; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Taylor, L.; Taylor, V.; Torres; Truitt; Weber; White; Woolley; Workman; Zedler; Zerwas.

Nays — Allen; Alonzo; Alvarado; Anchia; Burnam; Castro; Davis, Y.; Deshotel; Dukes; Dutton; Eiland; Farias; Farrar; Gallego; Giddings; Gonzales, V.; Gonzalez; Guillen; Gutierrez; Hernandez Luna; Hochberg; Howard, D.; Johnson; King, T.; Lozano; Lucio; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Muñoz; Naishtat; Oliveira; Pickett; Quintanilla; Raymond; Reynolds; Rodriguez; Strama; Thompson; Turner; Veasey; Villarreal; Vo; Walle.

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

Absent, Excused — Coleman.

Absent — Darby; Elkins; Hancock; Harper-Brown; Hartnett; Howard, C.; Paxton.

STATEMENTS OF VOTE

When Record No. 865 was taken, I was in the house but away from my desk. I would have voted yes.

Harper-Brown

When Record No. 865 was taken, I was in the house but away from my desk. I would have voted yes.

Paxton

Amendment No. 9

Representative Zedler offered the following amendment to **HB 2817**:

Amend **HB 2817** (house committee report) by adding the following appropriately numbered SECTIONS to the bill and renumbering the remaining SECTIONS of the bill accordingly:

SECTION _____. Section 32.075, Election Code, is amended by adding Subsections (f) and (g) to read as follows:

(f) The presiding judge or a special peace officer appointed under this section may not remove an alternate presiding judge from the polling place without:

(1) the approval of the county clerk, county elections administrator, or similar official administering the election for a political subdivision; and

(2) the documentation and certification by the presiding judge of the reason for removal.

(g) A person is eligible for appointment as a special peace officer under Subsection (b) only if the person is licensed as a peace officer by the Commission on Law Enforcement Officer Standards and Education.

SECTION _____. Subchapter A, Chapter 33, Election Code, is amended by adding Section 33.008 to read as follows:

Sec. 33.008. CONFIDENTIAL INFORMATION. (a) During the administration of the election, any information provided by a watcher under this chapter that may be used to identify the watcher is confidential and may be used only for election administration purposes. The information may be made available to the public beginning on the day after election day.

(b) It is an offense to disclose information described by Subsection (a) during the administration of the election without the permission of the watcher.

(c) An offense under this section is a Class B misdemeanor.

Amendment No. 9 was adopted by (Record 866): 71 Yeas, 67 Nays, 3 Present, not voting. (The vote was reconsidered later today, and Amendment No. 9 was withdrawn.)

Yeas — Aliseda; Anderson, C.; Anderson, R.; Beck; Berman; Branch; Brown; Cain; Callegari; Carter; Chisum; Cook; Craddick; Creighton; Darby; Driver; Fletcher; Flynn; Frullo; Garza; Gonzales, L.; Hamilton; Hardcastle; Harless; Harper-Brown; Howard, C.; Huberty; Hughes; Hunter; Isaac; Jackson; Keffer; King, P.; King, S.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Legler; Lyne; Miller, D.; Miller, S.; Morrison; Murphy; Orr; Otto; Parker; Patrick; Peña; Perry; Phillips; Pitts; Riddle; Ritter; Schwertner; Sheets; Sheffield; Shelton; Smith, T.; Smith, W.; Smithee; Solomons; Taylor, V.; Torres; Truitt; White; Woolley; Zedler; Zerwas.

Nays — Allen; Alonzo; Alvarado; Anchia; Aycock; Bohac; Burkett; Burnam; Castro; Crownover; Davis, J.; Davis, S.; Davis, Y.; Deshotel; Dukes; Dutton; Eiland; Farias; Farrar; Gallego; Giddings; Gonzales, V.; Gonzalez; Gooden; Guillen; Gutierrez; Hartnett; Hernandez Luna; Hilderbran; Hochberg; Hopson; Howard, D.; Johnson; Lavender; Lewis; Lozano; Lucio; Madden; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Muñoz; Naishtat; Nash; Oliveira; Pickett; Price; Quintanilla; Raymond; Reynolds; Rodriguez; Scott; Simpson; Strama; Thompson; Turner; Veasey; Villarreal; Vo; Walle; Weber; Workman.

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

Absent, Excused — Coleman.

Absent — Christian; Eissler; Elkins; Geren; Hancock; King, T.; Paxton; Taylor, L.

STATEMENTS OF VOTE

When Record No. 866 was taken, I was in the house but away from my desk. I would have voted no.

Geren

When Record No. 866 was taken, I was in the house but away from my desk. I would have voted yes.

Paxton

Amendment No. 9 - Vote Reconsidered

Representative Zedler moved to reconsider the vote by which Amendment No. 9 was adopted.

The motion to reconsider prevailed.

Amendment No. 9 was withdrawn.

Amendment No. 10

Representative Martinez Fischer offered the following amendment to **HB 2817**:

Amend **HB 2817** (house committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Subchapter B, Chapter 171, Election Code, is amended by adding Section 171.029 to read as follows:

Sec. 171.029. REMOVAL OF COUNTY CHAIR. (a) In this section:

(1) "Incompetency" means:

(A) gross ignorance of official duties;

(B) gross carelessness in the discharge of official duties; or

(C) unfitness or inability to promptly and properly discharge

official duties because of a serious physical or mental defect that did not exist at the time of the county chair's election.

(2) "Official misconduct" means intentional, unlawful behavior relating to a county chair's official duties. The term includes an intentional or corrupt failure, refusal, or neglect of a county chair to perform an official duty.

(b) The state executive committee of a political party may call a hearing on the issue of removing the county chair for incompetency or official misconduct in response to a complaint from a member of the political party in the county from which the chair was elected.

(c) The state executive committee shall give notice to the county chair not later than the 14th day before the date of the hearing, stating the allegations of incompetency or official misconduct. At the hearing, evidence must be presented of the chair's incompetency or official misconduct, and the county chair shall have the opportunity to examine or question the evidence against the chair.

(d) After conducting the hearing and reviewing the evidence, the state executive committee shall vote on the question of the removal of the county chair. If at least three-fifths of the membership of the state executive committee finds that the county chair has demonstrated incompetency or committed official misconduct, the committee shall suspend any party rules to the extent necessary to remove the chair.

(e) The county executive committee shall fill a vacancy created by the removal of a county chair under this section as provided by Sections 171.024 and 171.025, except that the appointment must be approved by three-fifths of the membership of the state executive committee.

Amendment No. 10 was adopted. (Aycock, Cook, Driver, Hunter, Kuempel, Phillips, and Schwertner recorded voting no.)

Amendment No. 11

Representative P. King offered the following amendment to **HB 2817**:

Amend **HB 2817** by adding the following appropriately numbered SECTIONS to the bill and renumbering the remaining SECTIONS of the bill accordingly:

SECTION _____. Section 101.001, Election Code, is amended to read as follows:

Sec. 101.001. ELIGIBILITY. (a) A person is eligible for early voting by mail as provided by this chapter if:

(1) the person is qualified to vote in this state or, if not registered to vote in this state, would be qualified if registered; and

(2) the person is:

(A) a member of the armed forces of the United States, or the spouse or a dependent of a member;

(B) a member of the merchant marine of the United States, or the spouse or a dependent of a member; or

(C) domiciled in this state but temporarily living outside the territorial limits of the United States and the District of Columbia.

(b) Notwithstanding Subsection (a) and Chapter 114, a person who indicates on a federal postcard application that the person is a United States citizen residing outside the United States indefinitely is entitled to vote a full ballot as provided by this chapter if the person is otherwise eligible to vote under this chapter and is a registered voter at the address contained on the application.

SECTION _____. The change in law made by this Act applies to a federal postcard application that requests a ballot for an election that is held on or after the effective date of this Act.

Amendment No. 11 was adopted.

Amendment No. 12

Representative Gallego offered the following amendment to **HB 2817**:

Amend **HB 2817** by adding the following appropriately numbered SECTION to the bill and renumbering the remaining SECTIONS of the bill accordingly:

SECTION _____. Subchapter A, Chapter 141, Election Code, is amended by adding Section 141.005 to read as follows:

Sec. 141.005. RESIDENCY REQUIREMENT IN CERTAIN POLITICAL SUBDIVISIONS. (a) This section applies only to a political subdivision that:

(1) is located in a county with territory greater than 4,600 square miles;
and

(2) is either:
(A) an independent school district servicing less than 1,500 students; or
(B) a municipality with a population of less than 8,000.

(b) Notwithstanding Section 141.001, a municipal charter provision, or any other law, a candidate for the governing body of an independent school district or a municipality is eligible for any position of the governing body if the candidate resides anywhere in the territory from which any member of the governing body is elected.

Amendment No. 12 was adopted.

Amendment No. 13

Representative Parker offered the following amendment to **HB 2817**:

Amend **HB 2817** by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Subchapter A, Chapter 13, Election Code, is amended by adding Section 13.008 to read as follows:

Sec. 13.008. PERFORMANCE-BASED COMPENSATION FOR REGISTERING VOTERS PROHIBITED. (a) A person commits an offense if the person:

(1) compensates another person based on the number of voter registrations that the other person successfully facilitates;

(2) presents another person with a quota of voter registrations to facilitate as a condition of payment or employment;

(3) engages in another practice that causes another person's compensation from or employment status with the person to be dependent on the number of voter registrations that the other person facilitates; or

(4) accepts compensation for an activity described by Subdivision (1), (2), or (3).

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

(c) An officer, director, or other agent of an entity that commits an offense under this section is punishable for the offense.

SECTION _____. Section 13.036(a), Election Code, is amended to read as follows:

(a) An appointment as a volunteer deputy registrar is terminated on:

(1) the expiration of the volunteer deputy's term of appointment; or

(2) the final conviction of the volunteer deputy for an offense prescribed by Section 13.008 or 13.043.

Amendment No. 13 was adopted.

Amendment No. 14

Representative Alonzo offered the following amendment to **HB 2817**:

Amend **HB 2817** (house committee report) by adding the following appropriately numbered SECTION to the bill and renumbering the remaining SECTIONS of the bill accordingly:

SECTION _____. Subchapter A, Chapter 43, Election Code, is amended by adding Section 43.008 to read as follows:

Sec. 43.008. MAIN POLLING PLACE FOR CERTAIN VOTERS. (a) An authority conducting an election may establish on election day an additional polling place at the location of the main early voting polling place that is open during the first two hours of voting and during the last two hours of voting.

(b) A voter may cast a ballot at the additional polling place established under this section if the voter executes an affidavit stating that the voter:

(1) is unable to find the polling place in the voter's precinct; and

(2) has not previously voted in the election.

(c) The secretary of state shall adopt rules as necessary to implement this section.

Amendment No. 14 failed of adoption by (Record 867): 43 Yeas, 100 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Burnam; Davis, Y.; Deshotel; Dukes; Dutton; Farias; Farrar; Gallego; Giddings; Gonzales, V.; Gonzalez; Guillen; Gutierrez; Hernandez Luna; Hochberg; Howard, D.; Johnson; King, T.; Lozano; Lucio; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Muñoz; Naishtat; Oliveira; Quintanilla; Raymond; Reynolds; Rodriguez; Thompson; Turner; Veasey; Villarreal; Walle.

Nays — Aliseda; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen(C); Branch; Brown; Burkett; Button; Cain; Callegari; Carter; Chisum; Christian; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Driver; Eiland; Eissler; Elkins; Fletcher; Flynn; Frullo; Garza; Geren; Gonzales, L.; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hilderbran; Hopson; Howard, C.; Huberty; Hughes; Hunter; Isaac; Jackson; Keffer; King, P.; King, S.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lyne; Madden; Margo; Miller, D.; Miller, S.; Morrison; Murphy; Nash; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pitts; Price; Riddle; Ritter; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Taylor, L.; Taylor, V.; Torres; Truitt; Weber; White; Woolley; Workman; Zedler; Zerwas.

Present, not voting — Mr. Speaker.

Absent, Excused — Coleman.

Absent — Castro; Gooden; Pickett; Strama; Vo.

STATEMENT OF VOTE

When Record No. 867 was taken, I was in the house but away from my desk. I would have voted no.

Gooden

Amendment No. 15

Representative Phillips offered the following amendment to **HB 2817**:

Amend **HB 2817** (house committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Subchapter A, Chapter 122, Election Code, is amended by adding Section 122.006 to read as follows:

Sec. 122.006. EXEMPTION FROM USE OF VOTING SYSTEM FOR CERTAIN POLITICAL SUBDIVISIONS. (a) This section applies only to:

- (1) a city with a population of 40,000 or less; and
 - (2) a school district with a student population of 10,000 or less.
- (b) A political subdivision is not required to use n electronic voting system.

Amendment No. 15 was adopted.

Amendment No. 16

Representative Aycock offered the following amendment to **HB 2817**:

Amend **HB 2817** (house committee report) by adding the following appropriately numbered SECTIONS to the bill and renumbering the remaining SECTIONS of the bill accordingly:

SECTION _____. Sections 174.022(a), (b), and (c), Election Code, are amended to read as follows:

(a) The precinct conventions may ~~shall~~ be held in the regular county election precincts on:

- (1) general primary election day; and
- (2) a date determined by the county executive committee that occurs not later than the fifth day after the date of the general primary election ~~in the regular county election precincts~~.

(b) Consistent with Subsection (c), not ~~Not~~ later than the date of the regular drawing for position on the general primary election ballot, the county executive committee shall set the hour and place for convening each precinct convention for the precincts served by the committee. If the county executive committee fails to do so, the county chair shall set, consistent with Subsection (c), the hour and place.

(c) If precinct conventions are held on general primary election day, the ~~The~~ hour set for convening the conventions may not be earlier than 7 p.m. or later than 9 p.m., but a ~~Notwithstanding the hour set for convening, the~~ convention may not convene until the last voter has voted at the precinct polling place. If precinct conventions are held on a day other than general primary election day, the county executive committee shall set the hour for convening or a time frame in which the conventions must convene.

SECTION _____. Section 174.023, Election Code, is amended to read as follows:

Sec. 174.023. NOTICE OF DATE, HOUR, AND PLACE. (a) The county chair shall post a notice of the date, hour, and place for convening each precinct convention on the bulletin board used for posting notice of meetings of the commissioners court. The notice must remain posted continuously for the 10 days immediately preceding the date of the convention.

(b) Not later than the 10th day before the date of the precinct conventions, the county chair shall deliver to the county clerk written notice of the date, hour, and place for convening each precinct convention.

(c) If the county chair fails to post or deliver notice in accordance with this section, another member of the county executive committee may post or deliver the notice.

Amendment No. 16 was adopted.

Amendment No. 17

Representative Peña offered the following amendment to **HB 2817**:

Amend **HB 2817** by adding the following appropriately numbered SECTIONS and renumbering the existing SECTIONS as appropriate:

SECTION _____. Section 64.032, Election Code, is amended by adding Subsection (c-1) and amending Subsection (d) to read as follows:

(c-1) The person selected under Subsection (c) must also be a registered voter of the county in which the election is being held unless the person is related to the voter within the second degree by consanguinity or affinity, as determined under Subchapter B, Chapter 573, Government Code.

(d) If assistance is provided by a person of the voter's choice, the person shall provide a photo identification to an election officer and the officer shall enter the person's name and address on the poll list beside the voter's name.

SECTION _____. Subchapter B, Chapter 64, Election Code, is amended by adding Section 64.0325 to read as follows:

Sec. 64.0325. LIMITATION ON ASSISTANCE. (a) A person chosen under Section 64.032(c) may not assist more than two voters in a day, including assistance provided during the period for early voting by personal appearance and assistance provided under Section 86.010.

(b) A person who violates Subsection (a) is liable to the state for a civil penalty not to exceed \$10,000. The attorney general or the appropriate district or county attorney may bring suit to recover a penalty under this subsection.

(c) Subsection (a) does not apply to a person assisting a voter if the person:

(1) is an employee of a state-licensed care facility in which the voter resides and is providing assistance to the voter in the normal course of the employee's authorized duties;

(2) is a sign language interpreter providing interpretation services to the voter; or

(3) is related to the voter within the second degree by consanguinity or affinity, as determined under Subchapter B, Chapter 573, Government Code.

AMENDMENT NO. 17 - STATEMENT OF LEGISLATIVE INTENT

REPRESENTATIVE VEASEY: Representative Peña, obviously the issue of assisting voters and what not has become controversial. But, I wanted to ask you—let's say someone at the First Baptist Church wanted to help some of the elderly people, some of the golden angels, or some of the senior citizens in the church. They go and vote with that person and they wanted to help. Let's say there were six people that needed some help at the end of one of the senior meetings. Would that person be held criminally liable for assisting those voters in their church?

REPRESENTATIVE PEÑA: This is a civil penalty, and if they're family members, no. If these people come from a registered nursing home, no. If they are disabled, no. However, if they are not related in the sense that I've described, then yes, it is prohibited, but it'd be a civil penalty.

VEASEY: So civilly—let's say it could be somebody who is a volunteer at a senior citizen center. Not necessarily a nursing home, but a senior citizen center, or someone at church. If there was someone who was a volunteer at the First Baptist Church, or another church, you're saying that they would be held civilly liable for just assisting their church members help fill out—help them maybe to be able to see, to be able to understand what the layout of a ballot is like? Obviously, the person who has that ballot—once you have that ballot, wherever you are, whether it's your living room or it's your church, whether it's your synagogue or your living room, that place becomes your personal polling place. You're allowed to ask for assistance. Now you're saying that someone who is a good samaritan, who wants to help different individuals in their church, or the senior citizens home—they will no longer be allowed to do that, or they could be penalized?

PEÑA: Well, we have a lot of those good samaritans in the Valley. I think there were 8,000 in one election, and it is something highly frowned upon because people are actually carrying people to vote, who are college educated, telling people how to vote, and the political bosses in South Texas are determining whether they or their family members get jobs based on whether or not they accept the acceptance that they prescribed.

VEASEY: Well, I understand what you're saying, but not every place is the Valley. Is your bill bracketed just for the Valley?

PEÑA: No. Listen, if these are your family members or they are in a nursing home and this is a registered place, they're exempted. Those sort of exemptions were requested.

VEASEY: Well, if the budget passes, we're going to have a lot of people that won't be able to afford to be in a nursing home, and they may be sick and shut-in—

PEÑA: Well listen, I voted against that budget as well, so I understand. This is a real problem where we live and it's a growing problem in Dallas and other places—

VEASEY: Why don't you do an amendment to the amendment to bracket your bill?

PEÑA: I'm very happy with this being applied to Texas, because it is a problem that is deforming politics, certainly in my community, but in other communities, and is encouraging the corruption of the political process.

VEASEY: Now, Representative Taylor has said that he would accept amendments that were passed out of the committee. Was your bill passed out of the committee?

PEÑA: That's a fair enough argument, Mr. Veasey. It was heard in committee, but I cannot tell you that it was passed. So, fair enough, but I'll leave it to the house to decide. This is a real problem. For those of you members who are concerned about voter integrity, we had 8,000 people come out and vote for a write-in candidate ballot down in South Texas—it was a corruption of the system. It went to court, and a judge, a district court judge, demanded that the legislature get involved. It is an abuse of the poor, and an abuse of the elderly in elderly daycare centers. And, I'm concerned about our family members. I'm concerned about disabilities, and so we've made exceptions. There is an absolute corruption of the political process, and people need to stand up for it, and they need to stand up for it now. If it doesn't happen this session, I dare say it won't happen again.

REPRESENTATIVE GUTIERREZ: Colleague, are you talking about A. C. Cuellar; is that the election you're talking about, the write-in candidate?

PEÑA: Listen, all I know is that our district court judge was really offended and demanded that this legislature be involved—

GUTIERREZ: Is that the election you are talking about, colleague? The write-in candidate for Acequias for county commissioner, is that the election you're talking about?

PEÑA: I can't recall.

GUTIERREZ: Well, which is it? We want to know. You seem to have an idea of who it is. I want to know which candidate it was, because—

PEÑA: I answered your question, do you have another?

GUTIERREZ: Well, I do have another question, as a matter of fact. Do you know the people in the city of Weslaco and the people of Hidalgo County demanded that A. C. Cuellar be—he had so much support, he was able to get that kind of support in his community. There was no indication of any kind there was any kind of wrongdoing. Do you have any evidence of wrongdoing in that election, colleague?

PEÑA: Let me answer, if you would allow me. This went to the secretary of state, it went to the attorney general, and it went to the Texas Supreme Court. And everyone said, there is a problem in what's going on here, and it is a corruption of our process. And you, sir, ought to appreciate the corruption of the process to the poor and the people in elderly daycare centers.

GUTIERREZ: I know the people are voting rightly in the Valley, they are voting rightly in southern Bexar County, I know that people are—have access. I know that my district attorney has found no voter ID fraud of any kind. That's what I know. Legitimate investigations by my district attorney, legitimate investigations by the attorney general. I'm sorry, but you're committing a fraud on this body by going out and perpetuating an idea that A. C. Cuellar did not have a legitimate race down there in the Valley. I find it completely wrong that you don't even want to admit who that election is about.

PEÑA: Well let me say, Mr. Guererro was not the democrat, the democrats elected somebody. This was a write-in candidate that was pushed by the political machines of South Texas, and he appropriately lost.

GUTIERREZ: Colleague, I will have you know that my district attorney and the attorney general have investigated voter fraud and they have found nothing.

PEÑA: Well, the Supreme Court of Texas disagrees. Thank you very much, move passage.

REPRESENTATIVE TURNER: I just want to focus on one part and I was quickly reading it. There's a part in the amendment that says—I guess the election person, or if I go in, or somebody goes into the system, they can only have two people a day. What is that about?

PEÑA: Listen, if it is a family member, you're free to assist your entire family. If it is an adult daycare center, you are free to assist if you are a member of that center. If you are a disabled person, the rule doesn't apply to you. These are exemptions requested in committee and so I've asked for them. But, we have a particularly growing problem used by people with money—not necessarily all democrats—to buy elections.

TURNER: Right, and I got that. I'm just focusing on that helping two people per day, that's what I'm trying to—it doesn't just apply to your area, it would apply across the board, correct?

PEÑA: That's correct.

TURNER: I'm trying to understand the logistics, by helping only two persons a day. Help me understand that piece.

PEÑA: Well, there's a process in South Texas where you go out and pay people who have a cadre of votes that they bring in, and they go and they say, "I want to assist you with your vote," and they say, "No, thank you, I can do it myself," or "I have my son." "No, I'm telling you, I want to assist you to vote." And if they refuse to vote, well their family and other family members do not get jobs. That is what happens. And, if you do consent to vote, they then tell you how to vote.

TURNER: Let's say there is a person, and they are assisting a person to vote. Do they have to show identification? I'm just trying to understand the amendment.

PEÑA: Yes, the person assisting has to be—a voter has to show identification.

TURNER: And show identification to whom?

PEÑA: To the people in charge of the election process there.

TURNER: Okay. Is all of this, Representative Peña, aimed at a particular problem?

PEÑA: It is a growing problem. There was testimony out of Dallas, Texas. It is a South Texas problem, but it is growing statewide, and Sylvester, it is a corruption of the good people where I live. It is an absolute shame and corruption, and people should be standing up, and I wish your party would assist in it.

TURNER: I don't know about the areas that you speak. Hey, I do not know, but the amendment applies to all of us, all of our areas. Will you geographically restrict the amendment?

PEÑA: I tell you what, Sylvester, I'll be glad to accept an amendment to increase the size. If you have a big family, and you say, "Hey, I want my family of five," that's fine. We have to start somewhere, Sylvester. You know I wouldn't say this if I didn't firmly believe this, if I didn't see this with my own eyes. It is an absolute corruption of the process, and it creates elected officials that are, in themselves, corrupt. That is why, where I live, a good sizeable portion of the elected class has been indicted or thrown out of office. And we demand reform, and that's why I brought this amendment forward.

Amendment No. 17 - Point of Order

Representative Gutierrez raised a point of order against further consideration of Amendment No. 17 under Rule 11, Section 2 of the House Rules on the grounds that the amendment is not germane to the bill.

The chair overruled the point of order.

REMARKS ORDERED PRINTED

Representative Weber moved to print remarks on Amendment No. 17.

The motion prevailed.

Amendment No. 17 was adopted by (Record 868): 100 Yeas, 41 Nays, 3 Present, not voting.

Yeas — Aliseda; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen(C); Branch; Brown; Button; Cain; Callegari; Carter; Chisum; Christian; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Driver; Eissler; Elkins; Fletcher; Flynn; Frullo; Garza; Geren; Gonzales, L.; Gooden; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hilderbran; Hopson; Howard, C.; Huberty; Hughes; Hunter; Isaac; Jackson; Keffer; King, P.; King, S.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lyne; Madden; Margo; Miller, D.; Miller, S.; Morrison; Murphy; Nash; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pickett; Pitts; Price; Riddle; Ritter; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Taylor, L.; Taylor, V.; Torres; Truitt; Weber; White; Woolley; Workman; Zedler; Zerwas.

Nays — Allen; Alonzo; Alvarado; Burnam; Castro; Davis, Y.; Deshotel; Dukes; Farias; Farrar; Gallego; Giddings; Gonzales, V.; Guillen; Gutierrez; Hernandez Luna; Hochberg; Howard, D.; Johnson; King, T.; Lozano; Lucio; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Muñoz; Naishtat; Oliveira; Quintanilla; Raymond; Reynolds; Rodriguez; Thompson; Turner; Veasey; Vo; Walle.

Present, not voting — Mr. Speaker; Dutton; Gonzalez.

Absent, Excused — Coleman.

Absent — Anchia; Burkett; Eiland; Strama; Villarreal.

STATEMENT OF VOTE

When Record No. 868 was taken, my vote failed to register. I would have voted yes.

Burkett

Amendment No. 18

Representatives Branch, Villarreal, Burkett, Murphy, Hopson, Button, Laubenberg, Peña, D. Howard, Aliseda, R. Anderson, Carter, and Sheets offered the following amendment to **HB 2817**:

Amend **HB 2817** by adding the following appropriately numbered SECTIONS to the bill and renumbering the remaining SECTIONS of the bill accordingly:

SECTION _____. Section 62.011(c), Election Code, is amended to read as follows:

(c) The poster must include instructions applicable to the election on:

(1) marking and depositing the ballot;

(2) voting for a write-in candidate;

(3) ~~casting a straight party vote;~~

~~[(4)]~~ casting a provisional ballot;

~~[(5)] until the expiration of Section 13.122(d), voting for the first time by a person who registered by mail;~~ and

~~[(4)] [(6)]~~ securing an additional ballot if the voter's original ballot is spoiled.

SECTION _____. Section 65.011, Election Code, is amended to read as follows:

Sec. 65.011. OVERVOTING. If ~~[Except as provided by Section 65.007(e) or (d), if]~~ a voter marks the ballot for more candidates for an office than the number of persons to be elected for that office, none of the votes may be counted for that office.

SECTION _____. Section 105.002(c), Election Code, is amended to read as follows:

(c) The secretary of state shall prescribe the form of the ballot to allow a voter to cast a vote in each federal, state, or local race in the election. The ballot must allow a voter to write in the name of a candidate ~~[or, if applicable, cast a straight party vote].~~

- (1) direct the testing board to cast votes;
- (2) verify that each contest position on the ballot can be voted and is accurately counted for each precinct and ballot style;
- (3) include overvotes and undervotes for each race, if applicable to the system being tested;
- (4) ~~include straight party votes and crossover votes;~~
- ~~(5)~~ include write-in votes, when applicable to the election;
- (5) ~~(6)~~ include provisional votes, if applicable to the system being tested;
- (6) ~~(7)~~ calculate the expected results from the test ballots;
- (7) ~~(8)~~ ensure that each voting machine has any public counter reset to zero and presented to the testing board for verification before testing;
- (8) ~~(9)~~ require that, for each feature of the system that allows disabled voters to cast a ballot, at least one vote be cast and verified by a two-person testing board team using that feature; and
- (9) ~~(10)~~ require that, when all votes are cast, the general custodian of election records and the testing board observe the tabulation of all ballots and compare the actual results to the expected results.

SECTION _____. Sections 1.005(20), 52.071, 64.004, 65.007, 122.001(b), 124.001, 124.003(d), 124.063(d), and 232.050(d), Election Code, are repealed.

Amendment No. 18 failed of adoption by (Record 869): 31 Yeas, 111 Nays, 1 Present, not voting.

Yeas — Aliseda; Anderson, R.; Berman; Branch; Burkett; Button; Carter; Cook; Davis, S.; Driver; Gonzalez; Hardcastle; Hartnett; Hopson; Howard, D.; Jackson; Kolkhorst; Larson; Laubenberg; Lavender; Margo; Menendez; Murphy; Peña; Pickett; Sheets; Shelton; Simpson; Taylor, V.; Villarreal; Workman.

Nays — Allen; Alonzo; Alvarado; Anchia; Anderson, C.; Aycock; Beck; Bohac; Bonnen(C); Brown; Burnam; Cain; Callegari; Castro; Chisum; Christian; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, Y.; Deshotel; Dutton; Eiland; Eissler; Elkins; Farias; Farrar; Fletcher; Flynn; Gallego; Garza; Geren; Giddings; Gonzales, L.; Gonzales, V.; Gooden; Guillen; Gutierrez; Hamilton; Hancock; Harless; Hernandez Luna; Hilderbran; Hochberg; Howard, C.; Huberty; Hughes; Hunter; Isaac; Johnson; Keffer; King, P.; King, S.; Kleinschmidt; Kuempel; Landtroop; Legler; Lewis; Lozano; Lucio; Lyne; Mallory Caraway; Marquez; Martinez; Martinez Fischer; Miles; Miller, D.; Miller, S.; Morrison; Muñoz; Naishtat; Nash; Oliveira; Orr; Otto; Parker; Patrick; Paxton; Perry; Phillips; Pitts; Price; Quintanilla; Raymond; Reynolds; Riddle; Ritter; Rodriguez; Schwertner; Scott; Sheffield; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Taylor, L.; Thompson; Torres; Truitt; Turner; Veasey; Vo; Walle; Weber; White; Woolley; Zedler; Zerwas.

Present, not voting — Mr. Speaker.

Absent, Excused — Coleman.

Absent — Dukes; Frullo; Harper-Brown; King, T.; Madden; McClendon.

STATEMENTS OF VOTE

I was shown voting no on Record No. 869. I intended to vote yes.

Cain

When Record No. 869 was taken, I was in the house but away from my desk. I would have voted no.

Dukes

When Record No. 869 was taken, I was in the house but away from my desk. I would have voted yes.

Frullo

When Record No. 869 was taken, my vote failed to register. I would have voted no.

McClendon

Amendment No. 19

Representative Zedler offered the following amendment to **HB 2817**:

Amend **HB 2817** (house committee report) by adding the following appropriately numbered SECTIONS to the bill and renumbering the remaining SECTIONS of the bill accordingly:

SECTION _____. Section 32.075, Election Code, is amended by adding Subsections (f) and (g) to read as follows:

(f) The presiding judge or a special peace officer appointed under this section may not remove an alternate presiding judge from the polling place without cause or:

(1) the approval of the county clerk, county elections administrator, or similar official administering the election for a political subdivision; and

(2) the documentation and certification by the presiding judge of the reason for removal.

(g) A person is eligible for appointment as a special peace officer under Subsection (b) only if the person is licensed as a peace officer by the Commission on Law Enforcement Officer Standards and Education.

SECTION _____. Subchapter A, Chapter 33, Election Code, is amended by adding Section 33.008 to read as follows:

Sec. 33.008. CONFIDENTIAL INFORMATION. (a) During the administration of the election, any information provided by a watcher under this chapter that may be used to identify the watcher is confidential and may be used only for election administration purposes. The information may be made available to the public beginning on the day after election day.

(b) It is an offense to disclose information described by Subsection (a) during the administration of the election without the permission of the watcher.

(c) An offense under this section is a Class B misdemeanor.

Amendment No. 19 was adopted by (Record 870): 85 Yeas, 60 Nays, 2 Present, not voting.

Yeas — Aliseda; Anderson, C.; Anderson, R.; Beck; Berman; Bohac; Branch; Brown; Burkett; Button; Cain; Carter; Chisum; Christian; Cook; Craddick; Creighton; Crownover; Darby; Davis, S.; Driver; Eissler; Elkins; Fletcher; Flynn; Frullo; Garza; Gonzales, L.; Gooden; Hamilton; Hancock; Harless; Harper-Brown; Howard, C.; Huberty; Hughes; Hunter; Isaac; Jackson; Johnson; Keffer; King, P.; King, S.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Madden; Miller, S.; Morrison; Murphy; Nash; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pitts; Price; Riddle; Schwertner; Sheets; Sheffield; Shelton; Simpson; Smith, W.; Smithee; Solomons; Taylor, L.; Taylor, V.; Torres; Truitt; White; Woolley; Workman; Zedler; Zerwas.

Nays — Allen; Alonzo; Alvarado; Anchia; Aycock; Burnam; Castro; Davis, J.; Davis, Y.; Deshotel; Dukes; Dutton; Eiland; Farias; Farrar; Gallego; Geren; Giddings; Gonzales, V.; Gonzalez; Guillen; Gutierrez; Hardcastle; Hartnett; Hernandez Luna; Hilderbran; Hochberg; Hopson; Howard, D.; King, T.; Lozano; Lucio; Lyne; Mallory Caraway; Margo; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Miller, D.; Muñoz; Naishtat; Oliveira; Pickett; Quintanilla; Raymond; Reynolds; Ritter; Rodriguez; Scott; Strama; Thompson; Turner; Veasey; Villarreal; Vo; Walle; Weber.

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

Absent, Excused — Coleman.

Absent — Callegari; Smith, T.

STATEMENT OF VOTE

I was shown voting no on Record No. 870. I intended to vote yes.

Aycock

Amendment No. 20

Representative S. Davis offered the following amendment to **HB 2817**:

Amend **HB 2817** (house committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering the remaining SECTIONS of the bill accordingly:

SECTION _____. (a) Section 15.022(a), Election Code, is amended to read as follows:

(a) The registrar shall make the appropriate corrections in the registration records, including, if necessary, deleting a voter's name from the suspense list:

(1) after receipt of a notice of a change in registration information under Section 15.021;

(2) after receipt of a voter's reply to a notice of investigation given under Section 16.033;

(3) after receipt of a copy of the poll ~~[registration omissions]~~ list and any affidavits executed under Section 63.006 ~~[63.007]~~, following an election;

(4) after receipt of a voter's statement of residence executed under Section 63.0011;

(5) before the effective date of the abolishment of a county election precinct or a change in its boundary;

(6) after receipt of United States Postal Service information indicating an address reclassification;

(7) after receipt of a voter's response under Section 15.053; or

(8) after receipt of a registration application or change of address under Chapter 20.

(b) Section 63.003(b), Election Code, is amended to read as follows:

(b) The poll list shall be maintained as an original and three ~~two~~ copies.

(c) Section 63.006, Election Code, is amended to read as follows:

Sec. 63.006. VOTER WITH REQUIRED DOCUMENTATION [CORRECT CERTIFICATE] WHO IS NOT ON LIST. (a) A voter who, when offering to vote, presents the documentation required under Section 63.001(b) [a voter registration certificate indicating that the voter is currently registered in the precinct in which the voter is offering to vote,] but whose name is not on the precinct list of registered voters[.] shall be accepted for voting if the voter presents a voter registration certificate indicating that the voter is currently registered:

(1) in the precinct in which the voter is offering to vote; or

(2) in a different precinct in the same county as the precinct in which the voter is offering to vote and the voter executes an affidavit stating that the voter:

(A) is a resident of the precinct in which the voter is offering to vote or is otherwise entitled by law to vote in that precinct;

(B) was a resident of the precinct in which the voter is offering to vote at the time the information on the voter's residence address was last provided to the voter registrar;

(C) did not deliberately provide false information to secure registration in a precinct in which the voter does not reside; and

(D) is voting only once in the election.

(b) After the voter is accepted, an election officer shall:

(1) indicate beside the voter's name on the poll list that the voter was accepted under this section;

(2) enter beside the voter's name on the poll list the precinct of the voter's registration and the voter's registration number as indicated by the voter's registration certificate; and

(3) enter the voter's address beside the voter's name on the poll list.

(d) Section 63.009, Election Code, is amended to read as follows:

Sec. 63.009. VOTER WITHOUT CERTIFICATE WHO IS NOT ON LIST. A [a] Except as provided by Subsection (b), a voter who does not present a voter registration certificate when offering to vote, and whose name is not on the list of registered voters for the precinct in which the voter is offering to vote, shall be accepted for provisional voting if the voter executes an affidavit in accordance with Section 63.011.

~~[(b) If an election officer can determine from the voter registrar that the person is a registered voter of the county and the person presents proof of identification, the affidavits required by Sections 63.007 and 63.008 are substituted for the affidavit required by Section 63.011 in complying with that section. After the voter is accepted under this subsection, an election officer shall also indicate beside the voter's name on the poll list that the voter was accepted under this section.]~~

(e) Section 63.011, Election Code, is amended by amending Subsections (a) and (b) and adding Subsection (b-1) to read as follows:

(a) A person to whom Section 63.001(g) ~~[63.008(b)]~~ or 63.009 ~~[63.009(a)]~~ applies may cast a provisional ballot if the person executes an affidavit stating that the person:

(1) is a registered voter in the precinct in which the person seeks to vote; and

(2) is eligible to vote in the election.

(b) A form for an affidavit required by this section must ~~[shall]~~ be printed on an envelope in which the provisional ballot voted by the person may be placed and must include:

(1) a space for entering the identification number of the provisional ballot voted by the person; and

(2) a space for an election officer to indicate whether the person presented a form of identification described by Section 63.0101.

(b-1) The affidavit form may include space for disclosure of any necessary information to enable the person to register to vote under Chapter 13. The secretary of state shall prescribe the form of the affidavit under this section.

(f) Section 66.0241, Election Code, is amended to read as follows:

Sec. 66.0241. CONTENTS OF ENVELOPE NO. 4. Envelope no. 4 must contain:

(1) the precinct list of registered voters;

(2) the registration correction list;

(3) a copy of the poll list ~~[the registration omissions list];~~

(4) any statements of residence executed under Section 63.0011; and

(5) any affidavits executed under Section 63.006 ~~[63.007]~~ or 63.011.

(g) Section 85.031(b), Election Code, is amended to read as follows:

(b) On accepting a voter, the clerk shall indicate beside the voter's name on the list of registered voters ~~[or registration omissions list, as applicable,]~~ that the voter is accepted to vote by personal appearance unless the form of the ~~[either]~~ list makes it impracticable to do so, and the clerk shall enter the voter's name on the poll list.

(h) Sections 63.005, 63.007, and 63.008, Election Code, are repealed.

(i) Notwithstanding any other provision of this Act, this SECTION takes effect January 1, 2012.

Amendment No. 20 was adopted.

Amendment No. 21

Representative Gutierrez offered the following amendment to **HB 2817**:

Amend **HB 2817** (house committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering the remaining SECTIONS of the bill accordingly:

SECTION _____. Notwithstanding any other law, a special election must be called for an office in which a person who was elected to the office changes political party membership.

Amendment No. 21 failed of adoption by (Record 871): 35 Yeas, 104 Nays, 4 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Burnam; Castro; Davis, Y.; Dutton; Farias; Farrar; Gallego; Gonzales, V.; Gonzalez; Guillen; Gutierrez; Hernandez Luna; Hochberg; Howard, D.; Johnson; Lucio; Marquez; Martinez; Martinez Fischer; Menendez; Miles; Muñoz; Naishtat; Pickett; Quintanilla; Raymond; Reynolds; Strama; Veasey; Vo; Walle.

Nays — Aliseda; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen(C); Branch; Brown; Burkett; Button; Cain; Callegari; Carter; Chisum; Christian; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Deshotel; Driver; Eiland; Eissler; Elkins; Fletcher; Flynn; Frullo; Garza; Geren; Gonzales, L.; Gooden; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hilderbran; Hopson; Howard, C.; Huberty; Hughes; Hunter; Isaac; Jackson; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lyne; Madden; Margo; Miller, D.; Miller, S.; Morrison; Murphy; Nash; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pitts; Price; Riddle; Ritter; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Taylor, L.; Taylor, V.; Torres; Truitt; Villarreal; Weber; White; Woolley; Workman; Zedler; Zerwas.

Present, not voting — Mr. Speaker; Giddings; Mallory Caraway; Turner.

Absent, Excused — Coleman.

Absent — Dukes; Lozano; McClendon; Oliveira; Rodriguez; Thompson.

STATEMENTS OF VOTE

When Record No. 871 was taken, I was in the house but away from my desk. I would have voted yes.

Dukes

When Record No. 871 was taken, I was in the house but away from my desk. I would have voted yes.

McClendon

HB 2817, as amended, was passed to engrossment by (Record 872): 104 Yeas, 40 Nays, 1 Present, not voting.

Yeas — Aliseda; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen(C); Branch; Brown; Burkett; Button; Cain; Callegari; Carter; Chisum; Christian; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Driver; Eiland; Eissler; Elkins; Fletcher; Flynn; Frullo; Gallego; Garza;

Geren; Gonzales, L.; Gooden; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hilderbran; Hochberg; Hopson; Howard, C.; Huberty; Hughes; Hunter; Isaac; Jackson; Keffer; King, P.; King, S.; King, T.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lyne; Madden; Margo; Miller, D.; Miller, S.; Morrison; Murphy; Nash; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pitts; Price; Riddle; Ritter; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Taylor, L.; Taylor, V.; Torres; Truitt; Weber; White; Woolley; Workman; Zedler; Zerwas.

Nays — Allen; Alonzo; Alvarado; Anchia; Burnam; Castro; Davis, Y.; Deshotel; Dutton; Farrar; Giddings; Gonzales, V.; Gonzalez; Guillen; Gutierrez; Hernandez Luna; Howard, D.; Johnson; Lozano; Lucio; Mallory Caraway; Marquez; Martinez; Martinez Fischer; Menendez; Miles; Muñoz; Naishtat; Oliveira; Pickett; Quintanilla; Raymond; Reynolds; Rodriguez; Strama; Thompson; Turner; Veasey; Villarreal; Vo.

Present, not voting — Mr. Speaker.

Absent, Excused — Coleman.

Absent — Dukes; Farias; McClendon; Walle.

STATEMENTS OF VOTE

When Record No. 872 was taken, I was in the house but away from my desk. I would have voted no.

Dukes

When Record No. 872 was taken, I was in the house but away from my desk. I would have voted no.

McClendon

COMMITTEE MEETING ANNOUNCEMENTS

The following committee meetings were announced:

Judiciary and Civil Jurisprudence meeting is cancelled.

Ways and Means meeting is cancelled.

State Affairs meeting is cancelled.

POSTPONED BUSINESS

The following bills were laid before the house as postponed business:

(Speaker in the chair)

CSHB 12 ON SECOND READING (by Solomons, Bohac, Harless, et al.)

CSHB 12, A bill to be entitled An Act relating to the enforcement of state and federal laws governing immigration by certain governmental entities.

CSHB 12 was read second time earlier today and was postponed until this time. Amendment No. 1 was pending at the time of postponement.

Amendment No. 1 was withdrawn.

Amendment No. 2

Representative Menendez offered the following amendment to **CSHB 12**:

Amend **CSHB 12** (house committee printing) by striking the enacting clause (page 1, line 4).

Amendment No. 2 failed of adoption by (Record 873): 46 Yeas, 100 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Alvarado; Anchia; Burnam; Castro; Davis, Y.; Deshotel; Dukes; Dutton; Farias; Farrar; Gallego; Giddings; Gonzales, V.; Gonzalez; Guillen; Gutierrez; Hernandez Luna; Hochberg; Howard, D.; Johnson; King, T.; Lozano; Lucio; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Muñoz; Naishtat; Oliveira; Pickett; Quintanilla; Raymond; Reynolds; Rodriguez; Strama; Thompson; Turner; Veasey; Villarreal; Vo; Walle.

Nays — Aliseda; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Button; Cain; Callegari; Carter; Chisum; Christian; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Driver; Eiland; Eissler; Elkins; Fletcher; Flynn; Frullo; Garza; Geren; Gonzales, L.; Gooden; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hilderbran; Hopson; Howard, C.; Huberty; Hughes; Hunter; Isaac; Jackson; Keffer; King, P.; King, S.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lyne; Madden; Margo; Miller, D.; Miller, S.; Morrison; Murphy; Nash; Orr; Otto; Parker; Patrick; Paxton; Perry; Phillips; Pitts; Price; Riddle; Ritter; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Taylor, L.; Taylor, V.; Torres; Truitt; Weber; White; Woolley; Workman; Zedler; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Coleman.

Absent — Miles; Peña.

STATEMENT OF VOTE

When Record No. 873 was taken, I was in the house but away from my desk. I would have voted yes.

Miles

Amendment No. 3

Representatives Solomons, Peña, Aliseda, and Torres offered the following amendment to **CSHB 12**:

Amend **CSHB 12** (house committee printing) as follows:

(1) On page 1, line 11, strike "Subsection (b)" and substitute "Subsections (b) and (b-1)".

(2) On page 1, between lines 22 and 23, add the following:

(b-1) This section does not apply to a hospital or hospital district created under Subtitle C or D, Title 4, Health and Safety Code, or a hospital district created under a general or special law authorized by Article IX, Texas Constitution, to the extent that the hospital or hospital district is providing access to or delivering medical or health care services as required under the following applicable federal or state laws:

- (1) 42 U.S.C. Section 1395dd;
- (2) 42 U.S.C. Section 1396b(v);
- (3) Subchapter C, Chapter 61, Health and Safety Code;
- (4) Chapter 81, Health and Safety Code; and
- (5) Section 311.022, Health and Safety Code.

(b-2) Subsection (b-1) does not exclude the application of this section to a commissioned peace officer employed by or commissioned by a hospital or hospital district subject to Subsection (b-1).

Amendment No. 3 was adopted.

Amendment No. 4

Representatives Solomons, Anchia, V. Gonzales, Rodriguez, Martinez Fischer, Menendez, Reynolds, Aliseda, Guillen, Villarreal, Peña, Sheets, Veasey, Farrar, L. Gonzales, V. Taylor, Garza, Farias, Thompson, Dukes, Chisum, Isaac, Alvarado, Y. Davis, Scott, Kuempel, Perry, Marquez, Torres, Turner, Frullo, Otto, Lozano, Burkett, Keffer, Jackson, Castro, Lucio, Allen, Orr, Cook, T. King, Pitts, W. Smith, Dutton, Harper-Brown, Lewis, D. Howard, Driver, S. Davis, Eissler, Gonzalez, Gutierrez, Burnam, R. Anderson, Button, Parker, Paxton, Gallego, L. Taylor, Hilderbran, Kleinschmidt, Kolkhorst, Alonzo, D. Miller, Shelton, Johnson, Lavender, Madden, Schwertner, Workman, Vo, Fletcher, and Miles offered the following amendment to **CSHB 12**:

Amend **CSHB 12** on page 2, after line 27, by adding a new Subsection (d-1) to read as follows:

(d-1) An entity described by Subsection (a) or a person employed by or otherwise under the direction or control of the entity may not consider race, color, language, or national origin while enforcing the laws described by Subsection (c) except to the extent permitted by the United States Constitution or the Texas Constitution.

Amendment No. 4 was adopted.

Amendment No. 5

Representatives Solomons, Hochberg, Huberty, Eissler, and Hancock offered the following amendment to **CSHB 12**:

Amend **CSHB 12** on page 1, line 22, after the period by inserting the following:

This section does not apply to the release of information contained in education records of an educational agency or institution, except in conformity with the Family Educational Rights and Privacy Acts of 1974, Sec. 513, Pub. L. No. 93-380, 20 U.S.C. Sec. 1232g.

Amendment No. 6

Representatives Oliveira and Huberty offered the following amendment to Amendment No. 5:

Amend the Oliveira amendment to **CSHB 12** (Floor Amendment No. __) by striking the text of the amendment and substituting the following:

Amend **CSHB 12** (house committee printing) as follows:

(1) On page 1, line 21, strike "a school district or open-enrollment charter school or".

(2) On page 1, line 22, after the period insert the following:

This section does not apply to the release of information contained in education records of an educational agency or institution, except in conformity with the Family Educational Rights and Privacy Acts of 1974, Sec. 513, Pub. L. No. 93-380, 20 U.S.C. Sec. 1232g.

Amendment No. 6 was withdrawn.

Amendment No. 5 was adopted.

Amendment No. 7

Representatives Solomons and Gutierrez offered the following amendment to **CSHB 12**:

Amend **CSHB 12** (house committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering the subsequent SECTIONS of the bill accordingly:

SECTION _____. Subchapter A, Chapter 411, Government Code, is amended by adding Section 411.0208 to read as follows:

Sec. 411.0208. POLICY REGARDING ENFORCEMENT OF STATE AND FEDERAL IMMIGRATION LAWS. Notwithstanding Section 370.0031(a), Local Government Code, the department is subject to Section 370.0031, Local Government Code.

Amendment No. 7 was withdrawn.

Amendment No. 8

Representatives Huberty and Oliveira offered the following amendment to **CSHB 12**:

Amend **CSHB 12** on page 1, line 21, by striking "a school district or open-enrollment charter school or".

Representative Solomons moved to table Amendment No. 8.

The motion to table prevailed by (Record 874): 80 Yeas, 65 Nays, 1 Present, not voting.

Yeas — Anderson, C.; Anderson, R.; Beck; Berman; Bonnen; Branch; Burkett; Button; Callegari; Carter; Chisum; Christian; Cook; Creighton; Crownover; Davis, J.; Davis, S.; Driver; Eissler; Elkins; Fletcher; Frullo; Garza; Geren; Gooden; Hancock; Hardcastle; Harless; Harper-Brown; Hilderbran; Hopson; Howard, C.; Hughes; Hunter; Isaac; Jackson; Keffer; King, P.; King, S.;

Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lyne; Madden; Margo; Miller, D.; Miller, S.; Morrison; Murphy; Nash; Orr; Otto; Parker; Paxton; Perry; Phillips; Price; Riddle; Ritter; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, W.; Smithee; Solomons; Taylor, L.; Torres; Truitt; White; Woolley; Zedler.

Nays — Aliseda; Allen; Alonzo; Alvarado; Anchia; Aycock; Brown; Burnam; Cain; Castro; Craddick; Darby; Davis, Y.; Deshotel; Dukes; Dutton; Eiland; Farias; Farrar; Gallego; Giddings; Gonzales, L.; Gonzales, V.; Gonzalez; Guillen; Gutierrez; Hamilton; Hartnett; Hernandez Luna; Hochberg; Howard, D.; Huberty; Johnson; King, T.; Lozano; Lucio; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Muñoz; Naishtat; Oliveira; Patrick; Peña; Pickett; Pitts; Raymond; Reynolds; Rodriguez; Smith, T.; Strama; Taylor, V.; Thompson; Turner; Veasey; Villarreal; Vo; Walle; Weber; Workman; Zerwas.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Coleman.

Absent — Bohac; Flynn; Quintanilla.

STATEMENTS OF VOTE

When Record No. 874 was taken, my vote failed to register. I would have voted yes.

Bohac

I was shown voting yes on Record No. 874. I intended to vote no.

Branch

I was shown voting yes on Record No. 874. I intended to vote no.

Callegari

I was shown voting yes on Record No. 874. I intended to vote no.

Eissler

CSHB 12 - MOTION FOR PREVIOUS QUESTION

Representative Solomons moved the previous question on passage to engrossment of **CSHB 12**, as amended.

The motion was seconded by Representatives Burkett, Scott, L. Gonzales, Torres, Orr, Otto, Chisum, Keffer, Christian, Eissler, Huberty, Pitts, Gooden, Lewis, V. Taylor, S. King, Phillips, Flynn, Parker, Button, Cain, White, Zedler, Morrison, L. Taylor, Aycock, Shelton, D. Miller, S. Miller, Frullo, Darby, P. King, Harper-Brown, Crownover, Hughes, Isaac, Simpson, Lyne, Aliseda, Landtroop, Driver, Beck, Cook, Lavender, Hardcastle, Jackson, R. Anderson, Hunter, S. Davis, Sheets, Elkins, J. Davis, Hancock, Harless, Truitt, Berman, Ritter, Bonnen, Paxton, Smithee, Laubenberg, Hilderbran, Legler, Schwertner, Price, Margo, Workman, Nash, Zerwas, C. Howard, Craddick, W. Smith,

Murphy, Kuempel, Carter, Hardcastle, Kolkhorst, Branch, Larson, Geren, Weber, Hartnett, Sheffield, Kleinschmidt, C. Anderson, Creighton, Fletcher, Brown, Solomons, Madden, Riddle, Patrick, T. Smith, Woolley, and Peña.

The motion for the previous question prevailed by (Record 875): 99 Yeas, 47 Nays, 1 Present, not voting.

Yeas — Aliseda; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Button; Cain; Callegari; Carter; Chisum; Christian; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Driver; Eissler; Elkins; Fletcher; Flynn; Frullo; Garza; Geren; Gonzales, L.; Gooden; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hilderbran; Hopson; Howard, C.; Huberty; Hughes; Hunter; Isaac; Jackson; Keffer; King, P.; King, S.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lyne; Madden; Margo; Miller, D.; Miller, S.; Morrison; Murphy; Nash; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pitts; Price; Riddle; Ritter; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Taylor, L.; Torres; Truitt; Weber; White; Woolley; Workman; Zedler; Zerwas.

Nays — Allen; Alonzo; Alvarado; Anchia; Burnam; Castro; Davis, Y.; Deshotel; Dukes; Eiland; Farias; Farrar; Gallego; Giddings; Gonzales, V.; Gonzalez; Guillen; Gutierrez; Hernandez Luna; Hochberg; Howard, D.; Johnson; King, T.; Lozano; Lucio; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Muñoz; Naishtat; Oliveira; Pickett; Quintanilla; Raymond; Reynolds; Rodriguez; Strama; Thompson; Turner; Veasey; Villarreal; Vo; Walle.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Coleman.

Absent — Dutton; Taylor, V.

STATEMENT OF VOTE

When Record No. 875 was taken, my vote failed to register. I would have voted yes.

V. Taylor

CSHB 12, as amended, was passed to engrossment by (Record 876): 100 Yeas, 47 Nays, 1 Present, not voting.

Yeas — Aliseda; Anderson, C.; Anderson, R.; Aycock; Beck; Berman; Bohac; Bonnen; Branch; Brown; Burkett; Button; Cain; Callegari; Carter; Chisum; Christian; Cook; Craddick; Creighton; Crownover; Darby; Davis, J.; Davis, S.; Driver; Eissler; Elkins; Fletcher; Flynn; Frullo; Garza; Geren; Gonzales, L.; Gooden; Hamilton; Hancock; Hardcastle; Harless; Harper-Brown; Hartnett; Hilderbran; Hopson; Howard, C.; Huberty; Hughes; Hunter; Isaac; Jackson; Keffer; King, P.; King, S.; Kleinschmidt; Kolkhorst; Kuempel; Landtroop; Larson; Laubenberg; Lavender; Legler; Lewis; Lyne; Madden;

Margo; Miller, D.; Miller, S.; Morrison; Murphy; Nash; Orr; Otto; Parker; Patrick; Paxton; Peña; Perry; Phillips; Pitts; Price; Riddle; Ritter; Schwertner; Scott; Sheets; Sheffield; Shelton; Simpson; Smith, T.; Smith, W.; Smithee; Solomons; Taylor, L.; Taylor, V.; Torres; Truitt; Weber; White; Woolley; Workman; Zedler; Zerwas.

Nays — Allen; Alonzo; Alvarado; Anchia; Burnam; Castro; Davis, Y.; Deshotel; Dukes; Eiland; Farias; Farrar; Gallego; Giddings; Gonzales, V.; Gonzalez; Guillen; Gutierrez; Hernandez Luna; Hochberg; Howard, D.; Johnson; King, T.; Lozano; Lucio; Mallory Caraway; Marquez; Martinez; Martinez Fischer; McClendon; Menendez; Miles; Muñoz; Naishtat; Oliveira; Pickett; Quintanilla; Raymond; Reynolds; Rodriguez; Strama; Thompson; Turner; Veasey; Villarreal; Vo; Walle.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Coleman.

Absent — Dutton.

HR 1671 - ADOPTED
(by Gallego)

Representative Gallego moved to suspend all necessary rules to take up and consider at this time **HR 1671**.

The motion prevailed.

The following resolution was laid before the house:

HR 1671, Commending Roberto "Bobby" Barrera of Del Rio, chair of the Disabled American Veterans.

HR 1671 was adopted.

On motion of Representative Gallego, the names of all the members of the house were added to **HR 1671** as signers thereof.

COMMITTEE GRANTED PERMISSION TO MEET

Representative Hunter requested permission for the Committee on Calendars to meet while the house is in session, at 11:55 p.m. today, in 3W.15, to set a calendar.

Permission to meet was granted.

COMMITTEE MEETING ANNOUNCEMENT

The following committee meeting was announced:

Calendars, 11:55 p.m. today, 3W.15, for a formal meeting, to set a calendar.

POSTPONED BUSINESS

The following bills were laid before the house as postponed business:

SB 1478 ON SECOND READING
(Crownover - House Sponsor)

SB 1478, A bill to be entitled An Act relating to deadlines for the Railroad Commission of Texas to review certain applications for surface coal mining operation permits.

SB 1478 was considered in lieu of **CSHB 2963**.

SB 1478 was read second time and was passed to third reading.

CSHB 2963 - LAID ON THE TABLE SUBJECT TO CALL

Representative Crownover moved to lay **CSHB 2963** on the table subject to call.

The motion prevailed.

CSHB 400 ON SECOND READING
(by Eissler, Aycock, Crownover, C. Anderson, Garza, et al.)

CSHB 400, A bill to be entitled An Act relating to flexibility for public schools to administer primary and secondary education efficiently.

CSHB 400 was read second time earlier today and was postponed until this time.

CSHB 400 - POINT OF ORDER

Representative Y. Davis raised a point of order against further consideration of **CSHB 400** under Rule 6, Section 16 of the House Rules.

The point of order was withdrawn.

Representative Eissler moved to postpone consideration of **CSHB 400** until 9:30 a.m. tomorrow.

The motion prevailed.

BILLS AND RESOLUTIONS SIGNED BY THE SPEAKER

Notice was given at this time that the speaker had signed bills and resolutions in the presence of the house (see the addendum to the daily journal, Signed by the Speaker, House List No. 25).

COMMITTEE MEETING ANNOUNCEMENT

The following committee meeting was announced:

Elections meeting is cancelled.

PROVIDING FOR ADJOURNMENT

Representative Hopson moved that, at the conclusion of the reading of bills and resolutions on first reading and referral to committees, the house adjourn until 9:30 a.m. today, May 10, in memory of Dixie Lincoln of Arkansas.

The motion prevailed.

**BILLS AND JOINT RESOLUTIONS ON FIRST READING
AND REFERRAL TO COMMITTEES
RESOLUTIONS REFERRED TO COMMITTEES**

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

(V. Taylor in the chair)

ADJOURNMENT

In accordance with a previous motion, the house, at 12:14 a.m. May 10, adjourned until 9:30 a.m. today.

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

HB 3866 (By D. Miller), Relating to the date for the election of directors of the Hill Country Underground Water Conservation District.

To Natural Resources.

HCR 146 (By V. Gonzales), Urging Congress to enact legislation to provide sufficient manpower, infrastructure, and technology to ensure the security and efficiency of land ports of entry on the southwestern border.

To Border and Intergovernmental Affairs.

HCR 147 (By Button), Encouraging cities to promote long-term economic development and job growth by working together on the regional level to attract and retain business investment.

To Economic and Small Business Development.

HCR 149 (By S. Davis), Recognizing the King Street Patriots for their commitment to freedom and election integrity.

To Rules and Resolutions.

SB 32 to Higher Education.

SB 34 to Higher Education.

SB 66 to Public Education.

SB 105 to Energy Resources.

SB 546 to Public Health.

- SB 570 to Public Education.
- SB 682 to Ways and Means.
- SB 812 to Pensions, Investments, and Financial Services.
- SB 905 to Criminal Jurisprudence.
- SB 954 to County Affairs.
- SB 955 to County Affairs.
- SB 956 to Natural Resources.
- SB 1032 to Agriculture and Livestock.
- SB 1057 to Transportation.
- SB 1113 to Public Education.
- SB 1120 to Ways and Means.
- SB 1198 to Judiciary and Civil Jurisprudence.
- SB 1209 to Corrections.
- SB 1214 to Public Education.
- SB 1234 to Urban Affairs.
- SB 1286 to Pensions, Investments, and Financial Services.
- SB 1334 to Licensing and Administrative Procedures.
- SB 1386 to Transportation.
- SB 1417 to Judiciary and Civil Jurisprudence.
- SB 1422 to Transportation.
- SB 1438 to Public Health.
- SB 1471 to Environmental Regulation.
- SB 1529 to Homeland Security and Public Safety.
- SB 1532 to Homeland Security and Public Safety.
- SB 1533 to Public Education.
- SB 1543 to Public Education.
- SB 1579 to Appropriations.
- SB 1583 to Appropriations.
- SB 1584 to Appropriations.
- SB 1636 to Homeland Security and Public Safety.
- SB 1727 to Higher Education.
- SB 1729 to Higher Education.
- SB 1731 to Higher Education.
- SB 1737 to Defense and Veterans' Affairs.
- SB 1742 to Transportation.
- SB 1743 to State Affairs.
- SB 1751 to Judiciary and Civil Jurisprudence.
- SB 1760 to Land and Resource Management.
- SB 1789 to Land and Resource Management.

SB 1806 to Insurance.

SB 1816 to Land and Resource Management.

SB 1849 to State Affairs.

SB 1875 to Natural Resources.

SB 1877 to Natural Resources.

SB 1878 to Human Services.

SB 1882 to Urban Affairs.

SB 1895 to Natural Resources.

SB 1905 to Culture, Recreation, and Tourism.

SB 1909 to Higher Education.

SB 1910 to State Affairs.

SCR 35 to Culture, Recreation, and Tourism.

SCR 39 to Culture, Recreation, and Tourism.

SCR 54 to Rules and Resolutions.

SIGNED BY THE SPEAKER

The following bills and resolutions were today signed in the presence of the house by the speaker:

House List No. 24

HB 15, HB 46, HB 906, HB 984, HB 1032, HB 1346, HB 1625, HB 2561, HCR 45

House List No. 25

HB 74

Senate List No. 24

SB 18, SB 265, SB 378, SB 528, SB 653, SB 820, SB 877, SB 918, SB 1195, SB 1272, SB 1303, SB 1490, SB 1568, SB 1716, SJR 4

MESSAGES FROM THE SENATE

The following messages from the senate were today received by the house:

Message No. 1

MESSAGE FROM THE SENATE

SENATE CHAMBER

Austin, Texas

Monday, May 9, 2011

The Honorable Speaker of the House
House Chamber
Austin, Texas

Mr. Speaker:

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

THE SENATE HAS PASSED THE FOLLOWING MEASURES:

HB 571 Huberty **SPONSOR: Williams**
Relating to the regulation of certain aggregate production operations by the Texas Commission on Environmental Quality; providing penalties.

HB 610 Zerwas SPONSOR: Seliger
Relating to certain notices sent by the Texas Commission on Environmental Quality.

HB 1806 Flynn SPONSOR: Hegar
Relating to fishing tournament fraud; providing penalties.

HB 1832 Ritter SPONSOR: Williams
Relating to the law governing the Lower Neches Valley Authority; providing authority to issue bonds.

HB 2785 Davis, John SPONSOR: Shapiro
Relating to the creation of the Select Committee on Economic Development.

HCR 116 Davis, John SPONSOR: Harris
In memory of the Reverend Clinton Roderick Dobson of Arlington.

HCR 139 Beck SPONSOR: Ellis
In memory of former Texas secretary of state Myra McDaniel.

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

SB 501 (31 Yeas, 0 Nays)

SB 893 (31 Yeas, 0 Nays)

SB 980 (31 Yeas, 0 Nays)

THE SENATE HAS REFUSED TO CONCUR IN THE HOUSE AMENDMENTS TO THE FOLLOWING MEASURES AND REQUESTS THE APPOINTMENT OF A CONFERENCE COMMITTEE TO ADJUST THE DIFFERENCES BETWEEN THE TWO HOUSES:

SB 201
Senate Conferees: Uresti - Chair/Birdwell/Hinojosa/Wentworth/Williams

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

HB 1555
Senate Conferees: Ellis - Chair/Huffman/Patrick/Shapiro/Whitmire

THE SENATE HAS ADOPTED THE FOLLOWING CONFERENCE COMMITTEE REPORTS:

SB 14 (19 Yeas, 12 Nays)

Respectfully,
Patsy Spaw
Secretary of the Senate

Message No. 2

MESSAGE FROM THE SENATE
SENATE CHAMBER
Austin, Texas
Monday, May 9, 2011 - 2

The Honorable Speaker of the House
House Chamber
Austin, Texas

Mr. Speaker:

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

THE SENATE HAS PASSED THE FOLLOWING MEASURES:

SB 303 Nichols
Relating to health care services provided or paid by a hospital district.

SB 905 Patrick
Relating to the application of certain concealed handgun license laws to statewide elected officials, certain current and former members of the legislature, and certain federal and state employees.

SB 1334 Deuell
Relating to the dismissal of complaints against property tax professionals.

SB 1386 Lucio
Relating to the refusal to register motor vehicles by a county assessor-collector or the Texas Department of Motor Vehicles.

SB 1809 Lucio
Relating to a study by the comptroller of public accounts of the economic impact of the Texas-Mexico border wall in the State of Texas.

SB 1866 Davis
Relating to the selection of providers of professional services by governmental entities.

SB 1895 Hegar
Relating to director elections and powers of the Texana Groundwater Conservation District.

SCR 32 Seliger
Expressing opposition to federal regulation of intrastate water resources.

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

SB 656 (31 Yeas, 0 Nays)

SB 1153 (31 Yeas, 0 Nays)

SB 1160 (31 Yeas, 0 Nays)

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

HB 1
Senate Conferees: Ogden - Chair/Duncan/Hinojosa/Nelson/Williams

HB 1956
Senate Conferees: Carona - Chair/Eltife/Harris/Lucio/Watson

Respectfully,
Patsy Spaw
Secretary of the Senate

APPENDIX

STANDING COMMITTEE REPORTS

Favorable reports have been filed by committees as follows:

May 7

Business and Industry - **HB 3593**

County Affairs - **SB 860**

Criminal Jurisprudence - **SB 887**

Environmental Regulation - **HB 3399, HR 930, SB 1250**

Homeland Security and Public Safety - **SB 244**

Human Services - **HB 2819, HB 3451**

Insurance - **HB 1192, HB 3799**

Judiciary and Civil Jurisprudence - **HB 3172, SB 479**

Licensing and Administrative Procedures - **HB 1563, HB 1809, HB 3042**

Natural Resources - **HB 3859**

Pensions, Investments, and Financial Services - **HB 1681**

Public Health - **HB 167, HB 1128, HB 2788, HB 3371**

State Affairs - **HB 12**

Transportation - **SB 469, SB 1043, SB 1100, SB 1248, SB 1578, SB 1608**

Urban Affairs - **HB 2672, HB 3344**

Ways and Means - **HB 199, HB 472, HB 1358, HB 3704, HJR 48, SB 432, SB 551, SB 977, SB 1385, SB 1505**

ENGROSSED

May 7 - HB 710, HB 751, HB 1278, HB 1418, HB 1788, HB 2029, HB 2329, HB 2610, HB 2678, HB 2704, HB 2814, HB 3393, HB 3483

ENROLLED

May 7 - HB 15, HB 46, HB 906, HB 984, HB 1032, HB 1346, HB 1625, HB 2561, HCR 45