

HOUSE JOURNAL

SEVENTY-FOURTH LEGISLATURE, REGULAR SESSION

PROCEEDINGS

SEVENTY-FIRST DAY — THURSDAY, MAY 11, 1995

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 386).

Present — Mr. Speaker; Alexander; Allen; Alonzo; Alvarado; Averitt; Bailey; Berlanga; Black; Bosse; Brady; Brimer; Carter; Chisum; Coleman; Combs; Conley; Cook; Corte; Counts; Crabb; Craddick; Cuellar, H.; Cuellar, R.; Culberson; Danburg; Davila; Davis; De La Garza; Dear; Delisi; Denny; Driver; Dukes; Duncan; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Farrar; Finnell; Gallego; Giddings; Glaze; Goodman; Goolsby; Gray; Greenberg; Grusendorf; Gutierrez; Haggerty; Hamric; Harris; Hartnett; Hawley; Heflin; Hernandez; Hightower; Hilbert; Hilderbran; Hill; Hochberg; Holzheuser; Horn; Howard; Hudson; Hunter, B.; Hunter, T.; Jackson; Janek; Johnson; Jones, D.; Jones, J.; Junell; Kamel; King; Krusee; Kubiak; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Maxey; McCall; McCoulskey; McDonald; Moffat; Moreno; Mowery; Munoz; Naishtat; Nixon; Oakley; Ogden; Oliveira; Park; Patterson; Pickett; Pitts; Place; Price; Puente; Rabuck; Ramsay; Rangel; Raymond; Rhodes; Rodriguez; Romo; Rusling; Sadler; Saunders; Seidlits; Serna; Shields; Siebert; Solis; Solomons; Staples; Stiles; Swinford; Talton; Telford; Thompson; Tillery; Torres; Turner, B.; Turner, S.; Uher; Van de Putte; Walker; West; Williamson; Willis; Wilson; Wohlgemuth; Wolens; Woolley; Yarbrough; Yost; Zbraneck.

Absent — Carona; Clemons; Hirschi; Reyna; Smithee.

The invocation was offered by Dr. John Rudd, Pedernales Valley Baptist Church, Spicewood, as follows:

Father, you are the creator of mankind and the giver of all wisdom. You ordain governments and determine their destinies. Therefore, we pray today that you will give to this legislature wisdom and courage to do what is right and best for Texas. Amen.

SIGNED BY THE SPEAKER

The speaker signed in the presence of the house, after giving due notice thereof, the following enrolled bills and resolutions:

HB 383, HCR 199, SB 409, SB 415, SB 770, SB 1070, SB 1154, SB 1236, SB 1633

(Hirschi now present)

HCR 197 - ADOPTED

Representative Ramsay moved to suspend all necessary rules to take up and consider at this time **HCR 197**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

By Ramsay,

HCR 197, Recognizing May 11, 1995, as Wood County Day at the Capitol.

(Harris in the chair)

The resolution was read and was adopted without objection.

LEAVE OF ABSENCE GRANTED

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

Driver on motion of Harris.

HCR 201 - ADOPTED

Representative Crabb moved to suspend all necessary rules to take up and consider at this time **HCR 201**.

The motion prevailed without objection.

The chair laid before the house the following resolution:

By Crabb,

HCR 201, Honoring Mayor Haden Edwards McKay, M.D., of Humble.

The resolution was adopted without objection.

CAPITOL PHYSICIAN

The chair presented Dr. Michael Lifshen of Austin as the "Doctor for the Day."

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

INTRODUCTION OF GUEST

The chair recognized Representative R. Cuellar, who introduced his grandchild, Gabriel Adam Cuellar

LEAVE OF ABSENCE GRANTED

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

Moffat on motion of Crabb.

(Carona now present)

HR 897 - ADOPTED

Representative Black moved to suspend all necessary rules to take up and consider at this time **HR 897**.

The motion prevailed without objection.

The chair laid before the house the following resolution:

By Black,

HR 897, In memory of James C. Sargent.

The resolution was read and was unanimously adopted by a rising vote.

HR 911 - ADOPTED

Representative Dutton moved to suspend all necessary rules to take up and consider at this time **HR 911**.

The motion prevailed without objection.

The chair laid before the house the following resolution:

By Dutton,

HR 911, Honoring Philip Lader for his distinguished service.

The resolution was adopted without objection.

(Reyna now present)

INTRODUCTION OF GUESTS

The chair recognized Representative Conley, who introduced members of the Alpha Tau Omega chapter of the Alpha Kappa Alpha sorority, and her mother, Katie Jones.

HR 605, honoring the Alpha Tau Omega chapter of the Alpha Kappa Alpha sorority, having been previously adopted, was read.

RESOLUTIONS REFERRED TO COMMITTEE

The following resolutions were laid before the house and referred to committee:

By Gallego, et al.,

HCR 202, In memory of Virginia Kelley.

To Committee on Rules and Resolutions.

By Bosse,

HR 887, Honoring the North Shore High School 400-meter relay team.

To Committee on Rules and Resolutions.

By Bosse,

HR 888, Honoring Kim McGruder.

To Committee on Rules and Resolutions.

By T. Hunter,

HR 889, In memory of Derek Harrison of Corpus Christi.

To Committee on Rules and Resolutions.

By T. Hunter,

HR 890, Commending the Texas Public Broadcasting Association.

To Committee on Rules and Resolutions.

By T. Hunter,

HR 891, In memory of Patty J. "Wendy" Gilmore.

To Committee on Rules and Resolutions.

By Swinford,

HR 893, Recognizing the week of May 7-13, 1995, as Suicide Prevention Week in Texas.

To Committee on Rules and Resolutions.

By Stiles,

HR 898, Honoring Charles D. Stutzenbaker.

To Committee on Rules and Resolutions.

By Gallego,

HR 899, In memory of Armando G. Figueroa.

To Committee on Rules and Resolutions.

By Gallego,

HR 900, In memory of William Autry "Bill" Sprinkle, Sr.

To Committee on Rules and Resolutions.

By Gallego,

HR 901, In memory of Tom G. Cross.

To Committee on Rules and Resolutions.

By Gallego,

HR 902, In memory of Daniel Ray Stacy.

To Committee on Rules and Resolutions.

By Gallego,

HR 903, Honoring Dr. James Franklin Scudday.

To Committee on Rules and Resolutions.

By Gallego,

HR 904, In memory of Ruth Golder.

To Committee on Rules and Resolutions.

By Gallego,

HR 905, In memory of Pat Godbold.

To Committee on Rules and Resolutions.

By Gallego,

HR 906, Honoring E. F. "Trip" Triplett on the occasion of his retirement.

To Committee on Rules and Resolutions.

By Gallego,

HR 907, In memory of Richard E. Morrow.

To Committee on Rules and Resolutions.

By Gallego,

HR 908, Honoring Judge Louise Christian on her retirement.

To Committee on Rules and Resolutions.

By Gallego,

HR 909, In memory of Jose Alberto Ramon.

To Committee on Rules and Resolutions.

By Gallego,

HR 910, In memory of Elvira Cobos.

To Committee on Rules and Resolutions.

SCR 144, Congratulating Clear Lake High School basketball coach Bill Krueger for winning the most basketball games of any high school coach in the country.

To Committee on Rules and Resolutions.

(Smithee now present)

(Speaker in the chair)

MESSAGE FROM THE SENATE

Austin, Texas, May 11, 1995

The Honorable Speaker of the House of Representatives
House Chamber

The Honorable
Mr. Speaker:

I am directed by the Senate to inform the House that the Senate has concurred in House Amendments to the following: **SB 701** by 31 Yeas, 0 Nays.

I am directed by the Senate to inform the House that the Senate has refused to concur in House Amendments to **SB 870** and requests the appointment of a Conference Committee to adjust the differences between the two Houses.

The following have been appointed on the part of the Senate: Senator Madla, chair, Senator Ellis, Senator Moncrief, Senator Lucio, and Senator Truan.

I am directed by the Senate to inform the House that the Senate has granted the request of the House for the appointment of a Conference Committee to adjust the differences between the two Houses on **HB 815**.

The following have been appointed on the part of the Senate: Senator Cain, chair, Senator Montford, Senator Bivins, Senator Shapiro, and Senator Barrientos.

Respectfully,
Betty King
Secretary of the Senate

CSHB 299 - VOTE RECONSIDERED

Representative Elkins moved to reconsider the vote by which **CSHB 299** failed to pass to engrossment Wednesday, May 10.

The motion to reconsider prevailed.

CSHB 299 ON SECOND READING

The speaker laid before the house, on its second reading and passage to engrossment, the complete committee substitute for **HB 299**.

CSHB 299, A bill to be entitled An Act relating to violations of rules or statutes applicable to personal care facilities.

Representative Hochberg moved to reconsider the vote by which Amendment No. 1 was adopted.

The motion to reconsider prevailed.

Amendment No. 1 was withdrawn.

Amendment No. 3

Representative Hochberg offered the following amendment to **CSHB 299**:

Amend **CSHB 299** as follows:

(1) On page 4, line 23, after the word "person", strike "who violates this chapter or a rule adopted under this chapter, including a person who violates Section 247.021," and substitute "for a violation of Section 247.021 or, when the department determines there is a substantial threat to the health and safety of a resident of a personal care facility, for a violation of a provision of this chapter or rule adopted under this chapter which relates to:

- (1) abuse, neglect, or exploitation of a resident;
- (2) control and supervision of medication;
- (3) food storage and preparation;
- (4) dietary or nutritional standards and requirements;
- (5) sanitation, cleanliness, and infection control; or
- (6) facility construction, security, and fire safety."

Amendment No. 3 was adopted without objection.

Amendment No. 4

Representative Elkins offered the following amendment to **CSHB 299**:

Amend **CSHB 299** as follows:

- (1) On page 2, line 26, strike "provide" and substitute "mail".
- (2) On page 3, lines 2 and 3, strike "when the facility renews its license".
- (3) On page 3, line 12, between "to" and "provide", by inserting "discuss the validity of any deficiency or".
- (4) On page 3, line 12, after "appropriate", add "or explanation".
- (5) On page 3, strike lines 20-25 and substitute the following:
"(c) An inspector may not add violations to a report after the exit conference."
- (6) On page 4, lines 26 and 27, strike "establish an advisory committee of consumer advocates and personal care providers" and substitute "utilize the Advisory Committee on Personal Care Facilities under Section 247.051".
- (7) On page 5, strike lines 9 and 10.
- (8) On page 5, line 11, strike "(d)" and substitute "(c)".
- (9) On page 5, line 22, strike "(e)" and substitute "(d)".

Amendment No. 4 was adopted without objection.

LEAVES OF ABSENCE GRANTED

The following member was granted leave of absence for the remainder of today because of a family emergency:

Clemons on motion of Smithee.

The following members were granted leaves of absence for the remainder of today to attend a meeting of the conference committee on SB 1:

Sadler on motion of Telford.

Dear on motion of Telford.

The following members were granted leaves of absence temporarily for today to attend a meeting of the conference committee on SB 1:

Hernandez on motion of Telford.

Williamson on motion of Telford.

CSHB 299 - (consideration continued)

A record vote was requested.

CSHB 299, as amended, was passed to engrossment by (Record 387): 69 Yeas, 65 Nays, 1 Present, not voting.

Yeas — Alexander; Alonzo; Alvarado; Bailey; Berlanga; Bosse; Brady; Chisum; Coleman; Combs; Counts; Cuellar, H.; Cuellar, R.; Danburg; Davila; De La Garza; Delisi; Ehrhardt; Eiland; Elkins; Farrar; Gallego; Giddings; Glaze; Gray; Greenberg; Gutierrez; Hawley; Hirschi; Hochberg; Hudson; Hunter, T.; Johnson; Kubiak; Lewis, G.; Lewis, R.; Longoria; Luna; Maxey; McDonald; Moreno; Mowery; Munoz; Naishtat; Oakley; Oliveira; Patterson; Pitts; Place; Rabuck; Ramsay; Rangel; Raymond; Rhodes; Rodriguez; Romo; Rusling; Saunders; Seidlits; Serna; Solis; Swinford; Thompson; Torres; Uher; Van de Putte; Wolens; Yarbrough; Zbranek.

Nays — Allen; Averitt; Black; Brimer; Carona; Carter; Cook; Corte; Crabb; Craddick; Culberson; Davis; Denny; Duncan; Dutton; Finnell; Goodman; Goolsby; Grusendorf; Haggerty; Hamric; Harris; Hartnett; Heflin; Hilbert; Hilderbran; Hill; Holzheuser; Horn; Howard; Hunter, B.; Jackson; Jones, D.; Jones, J.; Junell; Kamel; King; Krusee; Kuempel; Madden; Marchant; McCall; McCoulskey; Nixon; Ogden; Park; Pickett; Puente; Reyna; Shields; Siebert; Smithee; Solomons; Staples; Stiles; Talton; Telford; Tillery; Turner, B.; Walker; West; Wilson; Wohlgenuth; Woolley; Yost.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Clemons; Driver; Moffat.

Absent, Excused, Committee Meeting — Dear; Hernandez; Sadler; Williamson.

Absent — Conley; Dukes; Edwards; Hightower; Janek; Price; Turner, S.; Willis.

STATEMENT OF VOTE

When Record No. 387 was taken, I was temporarily out of the house chamber. I would have voted no.

Janek

LEAVE OF ABSENCE GRANTED

The following member was granted leave of absence temporarily for today to attend a meeting of the conference committee on SB 1:

Hochberg on motion of Bosse.

SB 532 ON THIRD READING
(Bosse - House Sponsor)

The speaker laid before the house, on its third reading and final passage,

SB 532, A bill to be entitled An Act relating to the retainage of payments for a contract to improve a state highway.

A record vote was requested.

The bill was read third time and was passed by (Record 388): 137 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Alonzo; Alvarado; Averitt; Bailey; Berlanga; Black; Bosse; Brady; Brimer; Carona; Carter; Chisum; Coleman; Combs; Conley; Cook; Corte; Counts; Crabb; Craddick; Cuellar, H.; Cuellar, R.; Culberston; Danburg; Davila; Davis; De La Garza; Delisi; Denny; Dukes; Duncan; Dutton; Edwards; Ehrhardt; Eiland; Farrar; Finnell; Gallego; Giddings; Glaze; Goodman; Goolsby; Gray; Greenberg; Grusendorf; Gutierrez; Haggerty; Hamric; Harris; Hartnett; Hawley; Heflin; Hightower; Hilbert; Hilderbran; Hill; Hirschi; Holzheuser; Horn; Howard; Hunter, B.; Hunter, T.; Jackson; Janek; Johnson; Jones, D.; Jones, J.; Junell; Kamel; King; Krusee; Kubiak; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Maxey; McCall; McCoulskey; McDonald; Moreno; Mowery; Munoz; Naishtat; Nixon; Oakley; Ogden; Oliveira; Park; Patterson; Pickett; Pitts; Place; Puente; Rabuck; Ramsay; Rangel; Raymond; Reyna; Rhodes; Rodriguez; Romo; Rusling; Saunders; Seidlits; Serna; Shields; Siebert; Smithee; Solis; Solomons; Staples; Stiles; Swinford; Talton; Telford; Tillery; Torres; Turner, B.; Turner, S.; Uher; Van de Putte; Walker; West; Willis; Wilson; Wohlgenuth; Wolens; Woolley; Yarbrough; Yost; Zbranek.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Clemons; Driver; Moffat.

Absent, Excused, Committee Meeting — Dear; Hernandez; Hochberg; Sadler; Williamson.

Absent — Elkins; Hudson; Price; Thompson.

SB 1454 ON SECOND READING
(Hirschi - House Sponsor)

The speaker laid before the house, in lieu of **CSHB 2288**, on its second reading and passage to third reading,

SB 1454, A bill to be entitled An Act relating to educational programs for medical students and physicians regarding pain management and treatment.

The bill was read second time and was passed to third reading.

CSHB 2288 - LAID ON THE TABLE SUBJECT TO CALL

Representative Hirschi moved to lay **CSHB 2288** on the table subject to call.

The motion prevailed without objection.

HB 439 ON SECOND READING

The speaker laid before the house, as postponed business, on its second reading and passage to engrossment,

HB 439, A bill to be entitled An Act relating to drug-free and weapon-free zones and to the imposition of penalties for the possession, delivery, manufacture, or possession with the intent to deliver or manufacture a controlled substance in drug-free zones or on school buses and penalties for certain offenses involving weapons committed in weapon-free zones.

HB 439 was read second time on May 8 and was postponed until 10 a.m. today.

Representative De La Garza moved to postpone consideration of **HB 439** until 10 p.m. today.

The motion prevailed without objection.

SB 793 ON SECOND READING
(Goodman - House Sponsor)

The speaker laid before the house, in lieu of **CSHB 2664**, on its second reading and passage to third reading, the complete committee substitute for **SB 793**.

CSSB 793, A bill to be entitled An Act relating to the enforcement of certain child support and medical support obligations; appropriating certain federal funds.

CSSB 793 was read second time.

Amendment No. 1

Representative Goodman offered the following amendment to **CSSB 793**:

In SECTION 5.01(d), add at the end of the subsection a new sentence to read as follows:

The Office of Court Administration shall cooperate with the implementation workgroup established by this Act to consolidate the new report with existing required reports in order to minimize duplicate data entry, and shall not require the report under this Act until sufficient automation is in place to prevent manual reporting by the responsible clerks.

Amendment No. 1 was adopted without objection.

Amendment No. 2

Representative Goodman offered the following amendment to **CSSB 793**:

Amend **CSSB 793** as follows:

In SECTION 1.01, which adds new Sec. 231.0011, Family Code, add at the end of the section a new subsection (1) to read as follows:

(1) Participation in the statewide integrated system for child support and medical support enforcement by a county is voluntary, and nothing in this section shall be construed to mandate participation.

In SECTION 1.06, amending Sec. 231.304, Family Code, strike "Section 14.061, Family Code" in the last line of new subsection (j), and substitute "Subchapter D, Chapter 154".

Amendment No. 2 was adopted without objection.

Amendment No. 3

Representative Goodman offered the following amendment to **CSSB 793**:

In ARTICLE 3, [beginning on page 20, line 12] add new SECTION 3.05 to read as follows:

SECTION 3.05. CHILD SUPPORT COLLECTION
PRIVATIZATION COUNCIL.

(a) To assist counties implementing the integrated system of child support and medical support enforcement established by Section 1.01 of this Act, the attorney general shall convene a Child Support Privatization Council, which shall include representatives of state and county officials, including fiscal officers.

(b) The council shall assist the attorney general, subject to federal approval, in implementing the provisions of this Act by helping to:

(1) develop criteria and standards for the selection of private collectors of child support to provide services under subcontract with the participating counties;

(2) develop and provide for use by the counties a model request for proposal for the selection of private child support collectors, which shall take into account the funding and cost-effectiveness of the program;

(3) establish guidelines and suggest minimum qualifications of private collectors, which shall include a recommendation that private collectors performing legal work should be attorneys licensed to practice in this state with not less than five years of experience in suits affecting parent child relationship;

(4) suggest procedures and models, consistent with federal requirements for the Title IV-D program, for the effective participation of private child support collectors in the unified enforcement system; and,

(5) engage in other activities necessary to encourage the cost-effective utilization of private collectors in the integrated system established by this Act.

Amendment No. 3 was adopted without objection.

Amendment No. 4

Representative Van de Putte offered the following amendment to **CSSB 793**:

Amend **CSSB 793** (House Committee Report) as follows:

(1) On page 4, between lines 3 and 4, insert the following appropriately numbered Sections:

SECTION . Sec.231.114. REPORTS OF CHILD SUPPORT PAYMENTS TO CONSUMER REPORTING AGENCIES. (a) The Title IV-D agency shall make information available in accordance with this section to a consumer reporting agency regarding the amount of child support owed and the amount paid by an obligor in a Title IV-D case.

(b) Before disclosing the information to consumer reporting agencies, the Title IV-D agency shall send the obligor a notice by mail to the obligor's last known address. The notice must include:

(1) the information to be released, including the amount of the obligor's child support obligation and delinquency, if any, that will be reported;

(2) the procedure available for the obligor to contest the accuracy of the information; and

(3) a statement that the information will be released if the obligor fails to contest the disclosure before the 30th day after the date of mailing of the notice.

(c) If the obligor does not contest the disclosure within the period specified by Subsection (b), the Title IV-D agency shall make the information available to the consumer reporting agency.

(d) The Title IV-D agency shall regularly update the information released to a consumer reporting agency under this section to ensure the accuracy of the released information.

(e) The Title IV-D agency may charge a consumer reporting agency a reasonable fee for making information available under this section, including all applicable mailing costs.

(f) In this section:

(1) "Consumer reporting agency" means any person that regularly engages in whole or in part in the practice of assembling or evaluating consumer credit information or other information on consumers for monetary fees, for dues, or on a cooperative nonprofit basis, to furnish consumer reports to third parties.

(2) "Obligor" means any person required to make payments under the terms of a support order for a child.

(3) "Title IV-D case" means a case in which services are being provided by the Title IV-D agency under Part D of Title IV of the federal Social Security Act (42 U.S.C. Section 651 et seq.) seeking to locate an absent parent, determine parentage, or establish, modify, enforce, or monitor a child support obligation.

SECTION . Section 231.108(c), Family Code, is amended to read as follows:

(c) The Title IV-D agency may use or release information from the files and records, including information that results from a communication made by a recipient of financial assistance under Chapter 31, Human Resources Code, or by an applicant for or recipient of services under this chapter, for purposes directly connected with the administration of the child support, paternity determination, parent locator, or aid to families with dependent children programs. The Title IV-D agency may release information from the files and records to a consumer reporting agency in accordance with Section 231.113.

(2) Renumber subsequent SECTIONs of the bill accordingly.

Amendment No. 4 was adopted without objection.

Amendment No. 5

Representative Van de Putte offered the following amendment to **CSSB 793**:

Amend **CSSB 793**, on page 2C, between lines 11 and 12, insert the following appropriately numbered SECTION:

SECTION ____ . Section 151.0036(b), Tax Code, is amended to read as follows:

(b) "Debt collection service" does not include the collection of:

(1) a judgment by an attorney or by a partnership or professional corporation of attorneys if the attorney, partnership, or corporation represented the person in the suit from which the judgment arose; or

(2) court-ordered child support or medical child support.

(2) Renumber subsequent sections of the bill accordingly.

Amendment No. 5 was adopted without objection.

CSSB 793, as amended, was passed to third reading.

CSHB 2664 - LAID ON THE TABLE SUBJECT TO CALL

Representative Goodman moved to lay **CSHB 2664** on the table subject to call.

The motion prevailed without objection.

SB 1504 ON SECOND READING

(Conley - House Sponsor)

The speaker laid before the house, in lieu of **CSHB 2261**, on its second reading and passage to third reading,

SB 1504, A bill to be entitled An Act relating to failure to appear on a complaint, citation, or court order to pay a fine for a violation of a traffic law.

The bill was read second time.

Amendment No. 1 (Committee Amendment No. 1)

On behalf of Representative Carter, Representative Conley offered the following committee amendment to the bill:

Amend **SB 1504** by adding a new paragraph at the end of Sec. 5. CONTRACT WITH PRIVATE VENDOR, to read as follows;

"Data collected as provided herein by the vendor, shall not be used by any party other than the Department, the political subdivision, and the vendor as provided for herein."

Amendment No. 1 was adopted without objection.

Amendment No. 2 (Committee Amendment No. 2)

On behalf of Representative Madden, Representative Conley offered the following committee amendment to the bill:

Amend **SB 1504** by adding the following appropriately numbered section to read as follows and renumbering subsequent sections accordingly:

SECTION ____ . Section 144, Uniform Act Regulating Traffic on Highways (Article 6701d, Vernon's Texas Civil Statutes), is amended by amending Subsection (b) and adding Subsections (f) and (g) to read as follows:

(b) In each fiscal year, a municipality may retain, from fines collected for

violation of any highway law as set forth in this Act and from special expenses collected under Article 45.54, Code of Criminal Procedure, in cases in which such violation is alleged, an amount equal to 30 percent of the municipality's revenue for the preceding fiscal year from all sources, other than federal funds and bond proceeds, as shown by the audit performed under Section 103.001, Local Government Code. After a municipality has retained that amount, the municipality shall send to the state treasurer any portion of a fine or special expense collected that exceeds one dollar (\$1). The state treasurer shall deposit funds received under this section in the state treasury to the credit of the general revenue fund.

(f) A municipality retaining amounts under Subsection (b) shall provide to the state treasurer not later than the 120th day after the last day of the municipality's fiscal year:

(1) a copy of its financial statement prepared for that fiscal year and filed as required by Chapter 103, Local Government Code; and

(2) a report that indicates the total amount collected for that fiscal year under Subsection (b).

(g) The treasurer shall enforce the limitation on the amount a municipality may retain under Subsection (b).

Amendment No. 2 was adopted without objection.

SB 1504, as amended, was passed to third reading. (Heflin recorded voting no)

CSHB 2261 - LAID ON THE TABLE SUBJECT TO CALL

Representative Conley moved to lay **CSHB 2261** on the table subject to call.

The motion prevailed without objection.

HJR 68 ON SECOND READING

The speaker laid before the house, as postponed business, on its second reading and passage to engrossment,

HJR 68, A joint resolution proposing a constitutional amendment to raise the limits of the exemption from ad valorem taxation of property owned by disabled veterans or by the surviving spouses and surviving minor children of disabled veterans.

HJR 68 was read second time on May 10 and was postponed until 10 a.m. today.

Amendment No. 1

Representative Haggerty offered the following amendment to the resolution:

Amend **HJR 68** as follows:

(1) On page 1, line 21, strike "\$10,000" and substitute "\$7,500".

(2) On page 1, line 23, strike "\$15,000" and substitute "\$10,000".

Amendment No. 1 was adopted without objection.

Amendment No. 2

Representative Haggerty offered the following amendment to the resolution:

Amend **HJR 68** as follows:

(1) On page 1, strike lines 6 and 7 and substitute the following:

SECTION 1. Section 2, Texas Constitution, is amended by amending Subsection (b) and adding Subsection (d) to read as follows:

(2) On page 2, between lines 13 and 14, insert the following:

(d) Unless otherwise provided by general law enacted after January 1, 1995, the amounts of the exemptions from ad valorem taxation to which a person is entitled under Section 11.22, Tax Code, for a tax year that begins on or after the date this subsection takes effect are the maximum amounts permitted under Subsection (b) of this section instead of the amounts specified by Section 11.22, Tax Code. This subsection may be repealed by the legislature by general law.

Amendment No. 2 was adopted without objection.

A record vote was requested.

HJR 68, as amended, was adopted by (Record 389): 140 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Alonzo; Alvarado; Averitt; Bailey; Berlanga; Black; Bosse; Brady; Brimer; Carona; Carter; Chisum; Coleman; Combs; Conley; Cook; Corte; Counts; Crabb; Craddick; Cuellar, H.; Cuellar, R.; Culberson; Danburg; Davila; Davis; De La Garza; Delisi; Denny; Dukes; Duncan; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Farrar; Finnell; Gallego; Giddings; Glaze; Goodman; Goolsby; Gray; Greenberg; Grusendorf; Gutierrez; Haggerty; Hamric; Harris; Hartnett; Hawley; Heflin; Hightower; Hilbert; Hilderbran; Hill; Hirschi; Holzheuser; Horn; Howard; Hudson; Hunter, B.; Hunter, T.; Jackson; Janek; Johnson; Jones, D.; Jones, J.; Junell; Kamel; King; Krusee; Kubiak; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Maxey; McCall; McCoulskey; McDonald; Moreno; Mowery; Munoz; Naishtat; Nixon; Oakley; Ogden; Oliveira; Park; Patterson; Pickett; Pitts; Place; Price; Puente; Rabuck; Ramsay; Rangel; Raymond; Reyna; Rhodes; Rodriguez; Romo; Rusling; Saunders; Seidlits; Serna; Shields; Siebert; Smithee; Solis; Solomons; Staples; Stiles; Swinford; Talton; Telford; Thompson; Tillery; Torres; Turner, B.; Turner, S.; Uher; Van de Putte; Walker; West; Willis; Wilson; Wohlgemuth; Wolens; Woolley; Yarbrough; Yost; Zbranek.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Clemons; Driver; Moffat.

Absent, Excused, Committee Meeting — Dear; Hernandez; Hochberg; Sadler; Williamson.

Absent — Marchant.

(Hochberg now present)

CSHJR 107 ON SECOND READING

The speaker laid before the house, as postponed business, on its second reading and passage to engrossment, the complete committee substitute for **HJR 107**.

CSHJR 107, A joint resolution proposing a constitutional amendment relating to the exemption from ad valorem taxation by certain taxing units of certain tangible personal property held at a location for not more than a specified period.

CSHJR 107 was read second time on May 10, postponed until 5 p.m., and was again postponed until 10 a.m. today.

Amendment No. 1

Representative Carter offered the following amendment to **CSHJR 107**:

Amend **CSHJR 107** by striking all below the resolving clause and substituting the following:

SECTION 1. Article VIII, Texas Constitution, is amended by adding Section 1-m to read as follows:

Sec. 1-m. (a) To promote economic development in this state, goods, wares, merchandise, other tangible personal property, and ores, other than oil, natural gas, and other petroleum products, are exempt from ad valorem taxation if:

(1) the property is acquired in or imported into this state to be forwarded to another location in this state or outside this state, whether the intention to forward the property to another location in this state or outside this state is formed or the destination to which the property is forwarded is specified when the property is acquired in or imported into this state;

(2) the property is detained at a location in this state for assembling, storing, manufacturing, processing, or fabricating purposes by the person who acquired or imported the property;

(3) the property is transported to another location in this state or outside of this state not later than 270 days after the date the person acquired or imported the property in this state; and

(4) the exemption is adopted by the governing body of a taxing unit.

(b) Subsection (a) of this section does not apply to a school district created under Section 3, Article VII, Texas Constitution, other than a junior college district.

(c) For purposes of this section:

(1) tangible personal property includes aircraft and aircraft parts;

(2) property imported into this state includes property brought into this state;

(3) property forwarded to another location in this state or outside this state includes property transported to another location in this state or outside this state or to be affixed to an aircraft to be transported to another location in this state or outside this state; and

(4) property detained at a location in this state for assembling, storing, manufacturing, processing, or fabricating purposes includes property, aircraft,

or aircraft parts brought into this state or acquired in this state and used by the person who acquired the property, aircraft, or aircraft parts in or who brought the property, aircraft, or aircraft parts into this state for the purpose of repair or maintenance of aircraft operated by a certificated air carrier.

(d) If the governing body of a taxing unit to which Subsection (a) of this section applies adopts the exemption authorized by this section, the governing body may provide that the exemption applies in the tax year in which the exemption is adopted and each subsequent tax year, or that the exemption applies in each tax year that begins on or after January 1 of the tax year in which the exemption is adopted.

SECTION 2. Article VIII, Texas Constitution, is amended by adding Section 1-m-1 to read as follows:

Sec. 1-m-1. The constitutional amendment proposed by the 74th Legislature, Regular Session, 1995, to provide for the exemption from ad valorem taxation by certain taxing units of certain tangible personal property held at a location for not more than a specified period, takes effect January 1, 1996. This section expires January 1, 1997.

SECTION 3. This proposed constitutional amendment shall be submitted to the voters at an election to be held November 7, 1995. The ballot shall be printed to permit voting for or against the proposition: "The constitutional amendment relating to the promotion of equal tax treatment for products produced, acquired, and distributed in the State of Texas by extending the exemption from ad valorem taxation of certain tangible personal property held at a location for not more than a specified period."

Amendment No. 1 was adopted without objection.

A record vote was requested.

CSHJR 107, as amended, was adopted by (Record 390): 114 Yeas, 20 Nays, 2 Present, not voting.

Yeas — Alexander; Allen; Averitt; Bailey; Berlanga; Black; Bosse; Brimer; Carona; Carter; Chisum; Coleman; Combs; Cook; Corte; Counts; Crabb; Craddock; Cuellar, H.; Culberson; Danburg; Davis; Denny; Duncan; Ehrhardt; Eiland; Elkins; Finnell; Gallego; Giddings; Glaze; Goodman; Goolsby; Greenberg; Grusendorf; Gutierrez; Haggerty; Hamric; Harris; Hawley; Heflin; Hilbert; Hilderbran; Hill; Hirschi; Hochberg; Holzheuser; Horn; Howard; Hudson; Hunter, B.; Hunter, T.; Jackson; Janek; Jones, D.; Jones, J.; Junell; Kamel; Krusee; Kubiak; Kuempel; Lewis, G.; Lewis, R.; Madden; Maxey; McCall; McCoulskey; McDonald; Mowery; Munoz; Naishtat; Nixon; Oakley; Ogden; Oliveira; Park; Patterson; Pickett; Pitts; Place; Price; Rabuck; Ramsay; Raymond; Reyna; Rhodes; Rodriguez; Romo; Rusling; Saunders; Seidlits; Serna; Shields; Siebert; Smithee; Solomons; Staples; Stiles; Swinford; Talton; Telford; Tillery; Torres; Turner, B.; Uher; Van de Putte; Walker; West; Willis; Wohlgemuth; Wolens; Woolley; Yost; Zbranek.

Nays — Alonzo; Alvarado; Conley; Cuellar, R.; Davila; De La Garza; Dutton; Edwards; Farrar; Gray; King; Longoria; Luna; Puente; Rangel; Solis; Thompson; Turner, S.; Wilson; Yarbrough.

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

Absent, Excused — Clemons; Driver; Moffat.

Absent, Excused, Committee Meeting — Dear; Hernandez; Sadler; Williamson.

Absent — Brady; Delisi; Dukes; Hightower; Johnson; Marchant; Moreno.

CSHB 2608 ON SECOND READING

The speaker laid before the house, as postponed business, on its second reading and passage to engrossment, the complete committee substitute for **HB 2608**

CSHB 2608, A bill to be entitled An Act relating to the exemption from ad valorem taxation of certain tangible personal property held at a location for not more than a specified period.

CSHB 2608 was read second time on May 10, postponed until 5:15 p.m., and was again postponed until 10 a.m. today.

Amendment No. 1

Representative Carter offered the following amendment to **CSHB 2608**:

Amend **CSHB 2608** by striking all below the enacting clause and substituting the following:

SECTION 1. Subchapter B, Chapter 11, Tax Code, is amended by adding Section 11.252 to read as follows:

Sec. 11.252. TANGIBLE PERSONAL PROPERTY IN TRANSIT EXEMPT. (a) In this section, "goods-in-transit" means property that has been exempted from taxation by the governing body of a taxing unit under Section 1-m, Article VIII, Texas Constitution.

(b) A person is entitled to an exemption from taxation of the appraised value of that portion of the person's property that consists of goods-in-transit.

(c) The exemption provided by Subsection (b) is subtracted from the market value of the property determined under Section 23.12 to determine the taxable value of the property.

(d) Except as provided by Subsections (f) and (g), the chief appraiser shall determine the appraised value of goods-in-transit under this subsection. The chief appraiser shall determine the percentage of the market value of inventory or property owned by the property owner in the preceding calendar year that was contributed by goods-in-transit. The chief appraiser shall apply that percentage to the market value of the property owner's inventory or property for the current year to determine the appraised value of goods-in-transit for the current year.

(e) In determining the market value of goods-in-transit that in the preceding year were assembled, manufactured, repaired, maintained, processed, or fabricated in this state or used by the person who acquired or imported the property in the repair or maintenance of aircraft operated by a certificated air carrier, the chief appraiser shall exclude the cost of equipment, machinery, or materials that entered into and became component parts of the goods-in-transit but were not themselves goods-in-transit or that were not transported to another location in this state or out of this state before the expiration of 270 days after

the date they were brought into this state by the property owner or acquired by the property owner in this state. For component parts held in bulk, the chief appraiser may use the average length of time a component part was held at a location in this state by the property owner during the preceding year in determining whether the component parts were transported to another location in this state or out of this state before the expiration of 270 days.

(f) If the property owner was not engaged in transporting goods-in-transit to other locations in this state or out of this state for the entire preceding year, the chief appraiser shall calculate the percentage of market value described in Subsection (d) for the portion of the year in which the property owner was engaged in transporting goods-in-transit to other locations in this state or out of this state.

(g) If the property owner or the chief appraiser demonstrates that the method provided by Subsection (d) significantly understates or overstates the market value of the property qualified for an exemption under Subsection (b) in the current year, the chief appraiser shall determine the market value of the goods-in-transit to be exempt by determining, according to the property owner's records and any other available information, the market value of those goods-in-transit owned by the property owner on January 1 of the current year, excluding the cost of equipment, machinery, or materials that entered into and became component parts of the goods-in-transit but were not themselves goods-in-transit or that were not transported to other locations in this state or outside the state before the expiration of 270 days after the date they were brought into this state by the property owner or acquired by the property owner in this state.

(h) The chief appraiser by written notice delivered to a property owner who claims an exemption under this section may require the property owner to provide copies of property records to determine the amount and value of goods-in-transit. If the property owner fails to deliver the information requested in the notice before the 31st day after the date the notice is delivered to the property owner, the property owner forfeits the right to claim or receive the exemption for that year.

(i) The exemption provided by Subsection (b) does not apply to a school district created under Section 3, Article VII, Texas Constitution, other than a junior college district.

(j) Petroleum products as set forth in Section 1-m, Article VIII, Texas Constitution, means liquid and gaseous materials that are the immediate derivatives of the refining of oil or natural gas.

(k) Property that meets the requirements of Section 1-m(a), Article VIII, Texas Constitution, and that is transported to another location in this state or outside of this state not later than 270 days after the date the person who owns it on January 1 acquired it or imported it into this state constitutes goods-in-transit regardless of whether the person who owns the property on January 1 is the person who transports it to another location in this state or outside of this state.

SECTION 2. Section 11.436(a), Tax Code, as added by Chapter 779, Acts of the 73rd Legislature, Regular Session, 1993, is amended to read as follows:

(a) A person who operates a warehouse used primarily for the storage of cotton for transportation to other locations in this state or outside of this state

may apply for an exemption under Section 11.251 or 11.252 for cotton stored in the warehouse on behalf of all the owners of the cotton. An exemption granted under this section applies to all cotton stored in the warehouse that is eligible to be exempt under Section 11.251 or 11.252. Cotton that is stored in a warehouse covered by an exemption granted under this section and that is transported to other locations in this state or outside of this state is presumed to have been transported to other locations in this state or outside of this state within the time permitted by Section 1-j or 1-m, Article VIII, [Section 1-j, of the] Texas Constitution, for cotton to qualify for an exemption under that section.

SECTION 3. Section 22.01(e), Tax Code, is amended to read as follows:

(e) Notwithstanding Subsections (a) and (b), a person is not required to render for taxation cotton that:

- (1) the person manages and controls as a fiduciary;
- (2) is stored in a warehouse for which an exemption for cotton has been granted under Section 11.436; and
- (3) the person intends to transport to other locations in this state or outside of this [the] state within the time permitted by Section 1-j or 1-m, Article VIII, [Section 1-j, of the] Texas Constitution, for cotton to qualify for an exemption under that section.

SECTION 4. Section 26.04, Tax Code, is amended by adding Subsection (m) to read as follows:

(m) The rollback tax rate in the 1996 tax year of a taxing unit that in the 1995 tax year taxed property exempt under Section 11.252 in the 1996 tax year is calculated as otherwise provided by this section, except that last year's levy used to calculate the effective maintenance and operations rate of the unit is increased by the amount of taxes imposed by the unit in the 1995 tax year on property exempt under Section 11.252 in the 1996 tax year. This subsection expires January 1, 1997.

SECTION 5. This Act takes effect January 1, 1996, and applies only to taxes imposed for tax years beginning on or after that date, but only if the constitutional amendment proposed by H.J.R. No. 107, 74th Legislature, Regular Session, 1995, takes effect. If that amendment is not approved by the voters, this Act has no effect.

SECTION 6. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Amendment No. 1 was adopted without objection.

CSHB 2608, as amended, was passed to engrossment.

SB 1336 ON SECOND READING
(Naishtat - House Sponsor)

The speaker laid before the house, in lieu of **HB 2703**, on its second reading and passage to third reading,

SB 1336, A bill to be entitled An Act relating to the eligibility of the Texas Department on Aging to participate in certain block grant programs.

The bill was read second time and was passed to third reading.

HB 2703 - LAID ON THE TABLE SUBJECT TO CALL

Representative Naishtat moved to lay **HB 2703** on the table subject to call.

The motion prevailed without objection.

HB 3235 ON THIRD READING

The speaker laid before the house, on its third reading and final passage,

HB 3235, A bill to be entitled An Act relating to the creation of a judicial district composed of Polk, Trinity, and San Jacinto counties and to the composition of the 9th Judicial District and the Second 9th Judicial District.

The bill was read third time.

Amendment No. 1

On behalf of Representative Alexander, Representative Hightower offered the following amendment to the bill:

Amend **HB 3235** on third reading by striking SECTION 5 of the bill as added by the Alexander amendment on second reading and substituting a new SECTION 5 to read as follows:

SECTION 5. Subchapter C, Chapter 24, Government Code, is amended by adding Section 24.537 to read as follows:

Sec. 24.537. 392ND JUDICIAL DISTRICT (HENDERSON COUNTY).

(a) The 392nd Judicial District is composed of Henderson County.

(b) A judge of the 392nd Judicial District may not be assigned under Chapter 74 to serve as a visiting judge in Bexar, Dallas, Ector, Fort Bend, Harris, Jefferson, Lubbock, Midland, Tarrant, or Travis County.

Amendment No. 1 was adopted without objection.

Amendment No. 2

Representatives Hightower and Brady offered the following amendment to the bill:

Amend **HB 3235**, on third reading, as follows:

(1) Strike page 2, line 11, committee printing, and substitute "Sec. 24.110. 409TH [SECOND-9TH] JUDICIAL DISTRICT (MONTGOMERY)".

(2) Strike page 2, line 13, committee printing, and substitute "409th [Second-9th] Judicial District is composed of Montgomery County [;]".

(3) Strike page 2, line 23, committee printing, and substitute "[~~(e)~~] The terms of the 409th [Second-9th] District Court begin [;]".

Amendment No. 2 was adopted without objection.

Amendment No. 3

Representative Hightower offered the following amendment to the bill:

Amend **HB 3235**, on third reading, as follows:

(1) Strike page 2, line 11, committee printing, and substitute "Sec. 24.110. 409TH [SECOND-9TH] JUDICIAL DISTRICT (MONTGOMERY)".

(2) Strike page 2, line 13, committee printing, and substitute "409th [~~Second 9th~~] Judicial District is composed of Montgomery County [;".

(3) Strike page 2, line 23, committee printing, and substitute "[~~(c)~~] The terms of the 409th [~~Second 9th~~] District Court begin [;".

(4) Insert the following appropriately numbered Section to the bill:

SECTION _____. Section 43.105(a), Government Code, is amended to read as follows:

(a) The voters of Montgomery County elect a district attorney for the 9th Judicial District who represents the state in that district court only in that county. The district attorney also acts as district attorney for the 409th [~~Second 9th~~] Judicial District in Montgomery County.

(5) Insert the following appropriately numbered Section to the bill:

SECTION _____. Section 43.171(b), Government Code, is amended to read as follows:

(b) The district attorney of the 258th Judicial District also acts as district attorney for the 409th [~~Second 9th~~] Judicial District in Trinity County.

(6) Insert the following appropriately numbered Section to the bill:

SECTION _____. Section 44.287(a), Government Code, is amended to read as follows:

(a) The criminal district attorney shall attend each term and session of the 9th, 409th [~~second 9th~~], and 258th district courts of Polk County and each term and session of the inferior courts held for the transaction of criminal business and shall exclusively represent the state in all criminal matters before those courts.

(7) Insert the following appropriately numbered Section to the bill:

SECTION _____. Section 44.304(a), Government Code, is amended to read as follows:

(a) The criminal district attorney shall attend each term and session of the 9th, 409th [~~Second 9th~~], and 258th district courts of San Jacinto County and each term and session of the inferior courts held for the transaction of criminal business and shall exclusively represent the state in all criminal matters before those courts.

(8) Renumber the remaining sections as appropriate.

Amendment No. 3 was adopted without objection.

HB 3235, as amended, was passed.

HB 142 ON THIRD READING

The speaker laid before the house, on its third reading and final passage,

HB 142, A bill to be entitled An Act relating to the identification and legislative review of unfunded mandates on political subdivisions.

A record vote was requested.

The bill was read third time and was passed by (Record 391): 135 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Alonzo; Alvarado; Averitt; Bailey; Berlanga; Black; Bosse; Brady; Brimer; Carona; Carter; Chisum; Coleman; Combs; Conley; Cook; Corte; Crabb; Craddick; Cuellar, H.; Cuellar, R.; Culberson;

Danburg; Davila; Davis; De La Garza; Delisi; Denny; Dukes; Duncan; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Farrar; Finnell; Gallego; Giddings; Glaze; Goodman; Goolsby; Gray; Greenberg; Grusendorf; Gutierrez; Haggerty; Hamric; Harris; Hartnett; Hawley; Heflin; Hightower; Hilbert; Hilderbran; Hill; Hirschi; Hochberg; Holzheuser; Horn; Howard; Hudson; Hunter, B.; Hunter, T.; Jackson; Janek; Jones, D.; Jones, J.; Junell; Kamel; King; Krusee; Kubiak; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Maxey; McCall; McCoulskey; McDonald; Moreno; Mowery; Munoz; Naishtat; Nixon; Ogden; Oliveira; Park; Patterson; Pickett; Pitts; Place; Puente; Rabuck; Ramsay; Rangel; Raymond; Reyna; Rhodes; Rodriguez; Romo; Rusling; Saunders; Seidlits; Serna; Shields; Siebert; Smithee; Solis; Solomons; Staples; Stiles; Swinford; Talton; Telford; Thompson; Tillery; Torres; Turner, B.; Turner, S.; Uher; Van de Putte; Walker; West; Wilson; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbranek.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Clemons; Driver; Moffat.

Absent, Excused, Committee Meeting — Dear; Hernandez; Sadler; Williamson.

Absent — Counts; Johnson; Marchant; Oakley; Price; Willis; Yost.

HB 3049 ON THIRD READING

The speaker laid before the house, on its third reading and final passage,

HB 3049, A bill to be entitled An Act making appropriations for and directing payment of certain miscellaneous claims and judgments out of funds designated by this Act and requiring approval of the claims in the manner specified in this Act before payment is made.

The bill was read third time and was passed.

The speaker stated that **HB 3049** was passed subject to the provisions of Article III, Section 49a, of the Texas Constitution.

HB 757 ON THIRD READING

The speaker laid before the house, on its third reading and final passage,

HB 757, A bill to be entitled An Act relating to the creation of a judicial district composed of Starr County.

The bill was read third time and was passed.

HB 273 ON THIRD READING

The speaker laid before the house, on its third reading and final passage,

HB 273, A bill to be entitled An Act relating to the creation of a judicial district composed of Ellis County.

The bill was read third time and was passed.

HB 2801 ON THIRD READING

The speaker laid before the house, on its third reading and final passage,

HB 2801, A bill to be entitled An Act relating to the creation of an additional judicial district in Rockwall County and to the composition of the 354th judicial district.

The bill was read third time and was passed.

HB 1697 ON THIRD READING

The speaker laid before the house, on its third reading and final passage,

HB 1697, A bill to be entitled An Act relating to providing information to students applying for guaranteed student loans relating to the graduation, placement, and student loan default rates for certain postsecondary educational institutions.

The bill was read third time and was passed.

HB 2490 ON THIRD READING

The speaker laid before the house, on its third reading and final passage,

HB 2490, A bill to be entitled An Act relating to state agency loan and loan guarantee programs and the creation, administration, and operation of the Texas Development Bank to administer state agency loan and loan guarantee programs and to engage in capital formation initiatives to further the state's economic and community development goals of job creation and retention.

The bill was read third time and was passed.

HB 1622 ON THIRD READING

The speaker laid before the house, on its third reading and final passage,

HB 1622, A bill to be entitled An Act relating to the exemption of a residence homestead from ad valorem taxation by a school district.

The bill was read third time and was passed. (Ogden recorded voting no)

HB 2418 ON THIRD READING

The speaker laid before the house, on its third reading and final passage,

HB 2418, A bill to be entitled An Act relating to bail, the forfeiture of bail, and the licensing and regulation of bail bondsmen.

The bill was read third time.

Representative Danburg moved to postpone consideration of **HB 2418** until 2 p.m. today.

The motion prevailed without objection.

HB 1305 ON THIRD READING

The speaker laid before the house, on its third reading and final passage,

HB 1305, A bill to be entitled An Act relating to the continuation and functions of the Texas Racing Commission and to the transfer of certain commission functions to the Texas Department of Commerce; creating a criminal offense; providing a criminal penalty.

The bill was read third time.

Amendment No. 1

Representative R. Lewis offered the following amendment to the bill:

Amend **HB 1305** on third reading as follows:

On page 20, after line 22, add a new Section 17 and renumber subsequent Sections, new Section 17 to read as follows:

SECTION 17. Subsections 5.03(a) & (b), Texas Racing Act (Article 176e Vernon's Texas Civil Statutes) are amended to read as follows:

(a) ~~The Commission may promulgate rules that require~~ an applicant for any license under this Act ~~to~~ [must] submit to the commission a complete set of fingerprints of the individual natural person applying for the license or, if the applicant is not an individual natural person, a complete set of fingerprints of each officer or director and of each person owning an interest of at least five percent in the applicant. ~~[The Department of Public Safety may request any person owning any interest in an applicant to submit a complete set of fingerprints.]~~

(b) If a complete set of fingerprints is required by the commission, the commission shall, not later than the next day after receiving the prints, forward the prints to the Department of Public Safety or the Federal Bureau of Investigation. If the prints are forwarded to the Department of Public Safety, the department shall classify the prints and check them against its fingerprint files and shall report to the commission its finding concerning the criminal record of the applicant or the lack of such a record. A racetrack license may not be issued until the report is made to the commission. A temporary occupational license may be issued before a report is made to the commission.

Amendment No. 1 was adopted without objection.

HB 1305, as amended, was passed.

HB 3226 ON THIRD READING

The speaker laid before the house, on its third reading and final passage,

HB 3226, A bill to be entitled An Act relating to protection of coastal resources.

A record vote was requested.

The bill was read third time and was passed by (Record 392): 136 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Alonzo; Averitt; Bailey; Berlanga; Black; Bosse; Brady; Brimer; Carona; Carter; Chisum; Coleman; Combs; Conley; Cook; Corte; Counts; Crabb; Craddick; Cuellar, H.; Cuellar, R.; Culberson; Davila; Davis; De La Garza; Delisi; Denny; Dukes; Duncan; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Farrar; Finnell; Gallego; Giddings; Glaze; Goodman; Goolsby; Gray; Greenberg; Grusendorf; Gutierrez; Haggerty; Hamric; Hartnett; Hawley; Heflin; Hightower; Hilbert; Hilderbran; Hill; Hirschi; Hochberg; Holzheuser; Horn; Howard; Hudson; Hunter, B.; Hunter, T.; Jackson; Janek; Johnson; Jones, D.; Jones, J.; Junell; Kamel; King; Krusee; Kubiak; Kuempel; Lewis, G.;

Lewis, R.; Longoria; Luna; Madden; Marchant; Maxey; McCall; McCoulskey; McDonald; Moreno; Mowery; Munoz; Naishtat; Nixon; Oakley; Oliveira; Park; Patterson; Pickett; Pitts; Place; Price; Puente; Ramsay; Rangel; Raymond; Reyna; Rhodes; Rodriguez; Romo; Rusling; Saunders; Seidlits; Serna; Shields; Siebert; Smithee; Solis; Solomons; Staples; Stiles; Swinford; Talton; Telford; Thompson; Tillery; Torres; Turner, B.; Turner, S.; Uher; Van de Putte; Walker; West; Willis; Wilson; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbraneck.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Clemons; Driver; Moffat.

Absent, Excused, Committee Meeting — Dear; Hernandez; Sadler; Williamson.

Absent — Alvarado; Danburg; Harris; Ogden; Rabuck; Yost.

HB 3054 ON SECOND READING

The speaker laid before the house, on its second reading and passage to engrossment, the complete committee substitute for **HB 3054**.

CSHB 3054, A bill to be entitled An Act relating to the creation of crime control and prevention districts in certain municipalities; authorizing certain taxes.

(Davis in the chair)

CSHB 3054 was read second time and was passed to engrossment.

HB 2769 ON SECOND READING

The chair laid before the house, on its second reading and passage to engrossment, the complete committee substitute for **HB 2769**.

CSHB 2769, A bill to be entitled An Act relating to the purchase of goods and services by the state and to purchasing services provided by the state to local governments.

CSHB 2769 was read second time.

Amendment No. 1

Representative Romo offered the following amendment to **CSHB 2769**:

Amend **CSHB 2769** on page 16 by striking the sentence that begins on line 20 and ends on line 24 and substituting the following:

A protest brought under protest procedures adopted under this section is not a contested case under Chapter 2001, Government Code.

Representative Chisum raised a point of order against further consideration of **CSHB 2769** on the grounds that **CSHB 2769** violates Rule 4, Section 32(c)(4) of the House Rules.

The chair sustained the point of order.

(Speaker in the chair)

HB 2646 ON SECOND READING

The speaker laid before the house, on its second reading and passage to engrossment,

HB 2646, A bill to be entitled An Act relating to the Code of Criminal Procedure.

The bill was read second time.

Amendment No. 1

Representatives Gallego and De La Garza offered the following amendment to the bill:

Amend **HB 2646** by striking all below the enacting clause and substituting the following:

SECTION 1. Article 30.01, Code of Criminal Procedure, is amended to read as follows:

Art. 30.01. CAUSES WHICH DISQUALIFY. No judge or justice of the peace shall sit in any case where:

- (1) he may be the party injured;
- (2) [~~or where~~] he has been of counsel for the State or the accused;
- (3) [~~or where~~] the accused or the party injured may be connected with the judge or the justice of the peace [him] by consanguinity or affinity within the third degree [~~as determined~~] under Chapter 573, Government Code; or [Article 5996h, Revised Statutes]

(4) he has initiated or presided over a court of inquiry regarding the case under Chapter 52 of this code.

SECTION 2. Article 52.01, Code of Criminal Procedure, is amended to read as follows:

Art. 52.01. COURTS OF INQUIRY CONDUCTED BY DISTRICT JUDGES. (a) When a judge of any district court of this state, acting in his capacity as magistrate, has good cause to believe that an offense has been committed against the laws of this state, he may initiate a Court of Inquiry in accordance with the rules and procedures provided by this article [~~summon and examine any witness in relation thereto in accordance with the rules hereinafter provided, which procedure is defined as a "Court of Inquiry"~~].

(b) Before initiating [~~calling~~] a Court of Inquiry, a judge must:

(1) enter into the minutes of his court a sworn affidavit stating the good cause establishing his belief that an offense has been committed against the laws of this state; and

(2) no later than three [~~10~~] days prior to the commencement of the Court of Inquiry, file with the district clerk a copy of the sworn affidavit and a written order calling the Court of Inquiry and stating its scope.

(c) When a district judge initiates a Court of Inquiry by signing the affidavit required by Subsection (b), the administrative judge of the judicial district shall assign an active district judge to preside over the Court of Inquiry.

(d) The district or county attorney of the district or county in which the Court of Inquiry is held shall assist the assigned district judge in conducting the Court of Inquiry. The attorney shall examine witnesses and evidence admitted before the court to determine if an offense has been committed and shall render other assistance to the judge as is necessary in the proceeding.

(e) [(†)] If the Court of Inquiry pertains to the activities of the district or county attorney or to the attorney's office, deputies, or employees, or if the attorney is otherwise disqualified in the proceeding, the judge assigned to preside over the Court of Inquiry shall appoint one attorney pro tem to assist in the proceeding. The judge who initiated the Court of Inquiry may not appoint as attorney pro tem an attorney who is a former business partner or associate of either the judge who initiated the Court of Inquiry or the judge presiding over the Court of Inquiry [~~In any other circumstance, the judge may appoint an attorney pro tem to assist in the proceeding~~].

SECTION 3. Section 22.221(b), Government Code, is amended to read as follows:

(b) Each court of appeals for a court of appeals district may issue all writs of mandamus, agreeable to the principles of law regulating those writs, against a:

(1) judge of a district or county court in the court of appeals district;
or

(2) judge of a district court who is acting as a magistrate at a court of inquiry under Chapter 52, Code of Criminal Procedure, in the court of appeals district.

SECTION 4. The change in law made by Article 30.01, Code of Criminal Procedure, as amended by this Act, applies only to a case commenced on or after the effective date of this Act. A case commenced before the effective date of this Act is governed by the law in effect when the case commenced, and the former law is continued in effect for that purpose.

SECTION 5. This Act takes effect September 1, 1995.

SECTION 6. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

(Hernandez now present)

Representative Bosse moved to table Amendment No. 1.

The motion to table prevailed.

(Williamson now present)

A record vote was requested.

HB 2646 was passed to engrossment by (Record 393): 94 Yeas, 46 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Averitt; Black; Bosse; Brady; Brimer; Carona; Carter; Chisum; Coleman; Combs; Cook; Corte; Counts; Crabb; Craddick; Cuellar, H.; Culberson; Danburg; De La Garza; Delisi; Denny; Elkins; Finnell; Gallego; Glaze; Goodman; Goolsby; Greenberg; Grusendorf; Hamric; Harris; Hartnett; Hawley; Heflin; Hightower; Hilbert; Hilderbran; Hill; Holzheuser; Horn; Howard; Hunter, B.; Hunter, T.; Jackson; Johnson; Jones, D.; Junell; Kamel; King; Krusee; Kubiak; Kuempel; Lewis, R.; Madden; Marchant; McCall; McCoulskey; Nixon; Oakley; Ogden; Park; Patterson; Pitts; Place; Rabuck; Ramsay; Reyna; Rhodes; Rusling; Saunders; Seidlits; Shields; Siebert;

Solomons; Staples; Stiles; Swinford; Talton; Telford; Tillery; Turner, B.; Turner, S.; Uher; Walker; West; Williamson; Wohlgenuth; Wolens; Woolley; Yarbrough; Yost; Zbranek.

Nays — Alonzo; Alvarado; Bailey; Berlanga; Conley; Cuellar, R.; Davila; Davis; Dukes; Duncan; Dutton; Edwards; Ehrhardt; Farrar; Gray; Gutierrez; Haggerty; Hernandez; Hirschi; Hudson; Jones, J.; Lewis, G.; Longoria; Luna; Maxey; McDonald; Moreno; Mowery; Munoz; Naishtat; Oliveira; Pickett; Price; Puente; Rangel; Raymond; Rodriguez; Romo; Serna; Smithee; Solis; Thompson; Torres; Van de Putte; Willis; Wilson.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Clemons; Driver; Moffat.

Absent, Excused, Committee Meeting — Dear; Sadler.

Absent — Eiland; Giddings; Hochberg; Janek.

STATEMENTS OF VOTE

I was shown voting no on Record No. 393. I intended to vote yes.

Dukes

I was shown voting no on Record No. 393. I intended to vote yes.

Duncan

When Record No. 393 was taken, I was in the house but away from my desk. I would have voted yes.

Eiland

RULES SUSPENDED

Representative Smithee moved to suspend the 5-day posting rule to allow the Committee on Insurance to consider **SB 202**, **SB 1410**, and **SB 1232**.

The motion prevailed without objection.

Representative Danburg moved to suspend the 5-day posting rule to allow the Committee on Elections to consider **SB 94**.

The motion prevailed without objection.

COMMITTEE MEETING ANNOUNCEMENTS

The following committee meetings were announced:

Insurance, on recess today, Desk 24, to consider **SB 202**, **SB 628**, **SB 1232**, **SB 1365**, and **SB 1410**.

Public Health, on recess today, Desk 138.

Land and Resource Management, on recess today, Desk 1.

Higher Education, on recess today, Desk 118, to consider **SB 525**.

Natural Resources, on recess today, Desk 9.

Criminal Jurisprudence, on recess today, Desk 5.

Transportation, on recess today, Desk 22.

RECESS

Representative Stiles moved that the house recess until 2 p.m. today.

The motion prevailed without objection.

The house accordingly, at 12:26 p.m., recessed until 2 p.m. today.

AFTERNOON SESSION

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

(Moffat now present)

LEAVES OF ABSENCE GRANTED

The following member was granted leave of absence for the remainder of today to attend a meeting of the conference committee on SB 1:

Hernandez on motion of Combs.

The following members were granted leaves of absence temporarily for today to attend a meeting of the conference committee on SB 1:

Hochberg on motion of Combs.

Williamson on motion of Combs.

HB 2418 ON THIRD READING

The speaker laid before the house, on its third reading and final passage,

HB 2418, A bill to be entitled An Act relating to bail, the forfeiture of bail, and the licensing and regulation of bail bondsmen.

The bill was read third time earlier today and was postponed until this time.

Amendment No. 1

On behalf of Representative Danburg, Representative De La Garza offered the following amendment to the bill:

Amend **CSHB 2418** on third reading by inserting the appropriately numbered section of the bill and renumber the remaining sections of the bill:

SECTION _____. Amend Article 2372p-3, Texas Civil Statutes Annotate, Section 5(b) to read as follows:

(d) Four members of the board shall constitute a quorum, for the conduct of business. All action by the board shall require the vote of majority of the members present and voting, except an action to refuse to renew a license, to revoke a license, or to suspend a license for more than 10 days shall require the vote of two-thirds of the entire membership of the board. The board shall meet at least one a month.

Representative De La Garza moved to table Amendment No. 1.

The motion to table prevailed.

HB 2418 was passed.

HB 175 ON SECOND READING

The speaker laid before the house, on its second reading and passage to engrossment, the complete committee substitute for **HB 175**.

CSHB 175, A bill to be entitled An Act relating to the protection of a public employee who reports a violation of law.

CSHB 175 was read second time and was passed to engrossment.

HB 982 ON SECOND READING

The speaker laid before the house, on its second reading and passage to engrossment, the complete committee substitute for **HB 982**.

CSHB 982, A bill to be entitled An Act relating to the children's trust fund and the Children's Trust Fund of Texas Council operating fund.

CSHB 982 was read second time and was passed to engrossment.

HB 1598 ON SECOND READING

The speaker laid before the house, on its second reading and passage to engrossment,

HB 1598, A bill to be entitled An Act relating to the organization of the district courts in Brewster, Culberson, Hudspeth, Jeff Davis, and Presidio counties and the offices of the district attorneys of the 34th and 83rd judicial districts.

The bill was read second time.

Amendment No. 1 (Committee Amendment No. 1)

On behalf of Representative Alonzo, Representative Gallego offered the following committee amendment to the bill:

Amend **HB 1598** on page 3, following line 27, by adding Subsection (c) to read as follows:

(c) The judge of the 394th Judicial District may not be assigned under Chapter 74 of the Government Code to serve as a visiting judge in Bexar, Dallas, Ector, Fort Bend, Harris, Jefferson, Lubbock, Midland, Tarrant or Travis counties.

Amendment No. 1 was adopted without objection.

Amendment No. 2 (Committee Amendment No. 2)

On behalf of Representative Alonzo, Representative Gallego offered the following committee amendment to the bill:

Amend **HB 1598** on page 3, following line 1, by adding Subsection (e) as follows:

(e) The changes made in this section become inoperative if the U.S. Justice Department files a timely objection pursuant to Section 5 of the Voting Rights Act of 1965 as amended (42 U.S.C. Sec. 1973 et seq.).

Amendment No. 2 was adopted without objection.

HB 1598, as amended, was passed to engrossment. (Heflin recorded voting no)

HB 1777 ON SECOND READING

The speaker laid before the house, on its second reading and passage to engrossment, the complete committee substitute for **HB 1777**.

CSHB 1777, A bill to be entitled An Act relating to the regulation of small telecommunications utilities and telephone cooperative corporations.

CSHB 1777 was read second time and was passed to engrossment.

HB 1053 ON SECOND READING

The speaker laid before the house, on its second reading and passage to engrossment,

HB 1053, A bill to be entitled An Act relating to funding for victims of family violence.

The bill was read second time and was passed to engrossment.

HB 1826 ON SECOND READING

The speaker laid before the house, on its second reading and passage to engrossment, the complete committee substitute for **HB 1826**.

CSHB 1826, A bill to be entitled An Act relating to the approval of disposal system plans by the Texas Natural Resource Conservation Commission.

CSHB 1826 was read second time.

(Junell in the chair)

Amendment No. 1

Representative Jackson offered the following amendment to **CSHB 1826**:

Amend **CSHB 1826**, beginning on page 1, line 16, and ending on page 2, line 23, by striking proposed Subsections (c), (d), (e), and (f) and substituting the following:

(c) The commission by rule shall adopt standards to determine which plans and specifications the commission will review for approval. If the commission excludes certain plans and specifications from review and approval, the commission shall require that a registered professional engineer submit the plans to the commission and make a finding that the plans and specifications are in substantial compliance with commission standards and that any deviation from those standards is based on the best professional judgment of the registered professional engineer.

(d) Except as provided by Subsection (e), the commission may not require plans and specifications for a sewer system that transports primarily domestic waste to be submitted to the commission from:

(1) a municipality if:

(A) the municipality has its own internal engineering review staff;

(B) the plans and specifications subject to review are prepared by private engineering consultants; and

(C) the review is conducted by a registered professional engineer who is an employee of or consultant to the municipality separate from the private engineering consultant charged with the design of the plans and specifications under review; or

(2) an entity that is required by local ordinance to submit the plans and specifications for review and approval to a municipality.

(e) If the commission finds that a municipality's review and approval process does not provide for substantial compliance with commission standards, the commission shall require all plans and specifications reviewed by the municipality under Subsection (d) to be submitted to the commission for review and approval

Amendment No. 1 was adopted without objection.

CSHB 1826, as amended, was passed to engrossment.

HB 2460 ON SECOND READING

The chair laid before the house, on its second reading and passage to engrossment, the complete committee substitute for **HB 2460**.

CSHB 2460, A bill to be entitled An Act relating to the possession, purchase, sale, distribution, and receipt of cigarettes and tobacco products; providing penalties.

CSHB 2460 was read second time.

(Speaker in the chair)

Amendment No. 1

Representatives Berlanga, Hirschi, Maxey, McDonald, Coleman, Glaze, Delisi, and Rodriguez, offered the following amendment to **CSHB 2460**:

Amend **CSHB 2460** by striking all below the enacting clause and substituting the following:

SECTION 1. The heading to Subchapter H, Chapter 161, Health and Safety Code, is amended to read as follows:

SUBCHAPTER H. SALE OF CIGARETTES OR TOBACCO PRODUCTS TO MINORS; POSSESSION BY MINORS

SECTION 2. Section 161.081, Health and Safety Code is amended to read as follows:

Sec. 161.081. SALE OF CIGARETTES OR TOBACCO PRODUCTS TO MINORS PROHIBITED. (a) A person commits an offense if the person, as a commercial enterprise:

(1) sells, gives, or causes to be sold or given a cigarette or other tobacco product to ~~another~~~~[someone the]~~ person who ~~[knows]~~ is younger than 18 years of age; or

(2) sells, gives, or causes to be sold or given a cigarette or other tobacco product to another person, knowing that the person receiving the cigarette or other tobacco product intends to deliver it to someone who is younger than 18 years of age.

(b) An offense under Subsection (a) ~~[this section]~~ is a Class C misdemeanor.

(c) It is a defense to prosecution under this section that the person to whom the cigarette or other tobacco product was sold or given presented to the defendant an apparently valid Texas driver's license or an identification card, issued by the Department of Public Safety and containing a physical description consistent with the person's appearance, that purported to establish that the person was 18 years of age or older.

(d) Civil liability for a violation of this section extends, in the manner authorized by Section 7.22, Penal Code, to a corporation or association that is a permit holder and that employs a person who commits an offense under Subsection (a).

(e) A permit holder that is adjudged guilty of an offense under Subsection (d) is subject to the following penalties:

(1) a warning for the first offense;

(2) \$100 for an offense if, within a five-year period preceding the offense, one other offense under this section was committed;

(3) \$200 for an offense if, within a five-year period preceding the offense, two other offenses under this section were committed; or

(4) \$400 for an offense if, within a five-year period preceding the offense, three or more offenses under this section were committed.

(f) In this section, "permit holder" has the meaning assigned that term by Section 155.001, Tax Code.

SECTION 3. Subchapter H, Chapter 161, Health and Safety Code, is amended by adding Section 161.0815 to read as follows:

Sec. 161.0815. POSSESSION OF CIGARETTES OR TOBACCO PRODUCTS BY MINORS PROHIBITED. (a) A person commits an offense if the person is younger than 18 years of age and possesses a cigarette or other tobacco product.

(b) An offense under this section is punishable by a fine of not more than \$25.

(c) It is an affirmative defense to prosecution under this section that the person who possesses a cigarette or other tobacco product does so for a bona fide medical, psychiatric, judicial, legislative, or law enforcement purpose.

(d) It is an affirmative defense to prosecution under this section that the person who possesses a cigarette or other tobacco product does so while in the course and scope of employment if the person is an employee of a permit holder, as that term is defined by Section 155.001, Tax Code.

SECTION 4. Subchapter H., Chapter 161, Health and Safety Code, is amended by adding Sections 161.083 and 161.084 to read as follows:

Sec. 161.083. COORDINATION OF LOCAL ENFORCEMENT BY TEXAS D.A.R.E. INSTITUTE; SPECIAL ACCOUNT. (a) An account is created in the state treasury for the deposit of revenue under Sections 154.121(b) and 155.058(b), Tax Code. Money from the account shall be appropriated only to the Texas Commission on Alcohol and Drug Abuse for the Texas D.A.R.E. Institute for the institute's programs relating to education and awareness concerning the use of drugs, alcohol, and tobacco.

(b) In this section, "Texas D.A.R.E. Institute" means the Texas Drug Abuse Resistance Education Institute that is a grant program of Southwest Texas State University.

Sec. 161.084. LOCATION OF VENDING MACHINES CONTAINING CIGARETTES OR OTHER TOBACCO PRODUCTS. (a) Except as provided by Subsection (b), a person may not install or maintain a vending machine containing cigarettes or other tobacco products in a place that is generally accessible to the public or to person younger than 18 years of age regardless of whether it is accessible to the public.

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

(1) a bar, lounge, or similar place where a person younger than 18 years of age may not enter unless accompanied by a parent or guardian;

(2) a private business office that is not open to persons younger than 18 years of age;

(3) An industrial or manufacturing plant; or

(4) an installation or facility of the state military forces.

(c) This section does not preempt a local regulation of the installation or maintenance of a vending machine containing cigarettes or other tobacco products or affect the authority of a political subdivision to adopt or enforce an ordinance or requirement relating to the installation or maintenance of a vending machine containing cigarettes or other tobacco products if the regulation, ordinance, or requirement is compatible with and equal to or more stringent than this section.

(d) A person commits an offense if the person violates Subsection (a) of this section. An offense under this subsection is a Class C misdemeanor.

SECTION 5. Section 154.111(b), Tax Code, is amended to read as follows:

(b) An application for a permit required by this chapter must be accompanied by a fee of:

(1) \$100 for a bonded agent's permit;

(2) \$100 for a distributor's permit;

(3) \$50 for a wholesaler's permit; [and]

(4) ~~\$50~~ for a retailer's permit; and

(5) \$15 for each permit for a vehicle if the applicant is also applying for a permit as a bonded agent, distributor, or wholesaler or has received a current permit from the treasurer under Sections 154.101 and 154.110.

SECTION 6. Sections 154.111(c) and 155.049, Tax Code, are repealed.

SECTION 7. Section 154.114, Tax Code, is amended by adding Subsection (h) to read as follows:

(h) The treasurer may suspend a retailer's permit for up to 60 days if the treasurer finds, after notice and hearing as provided by this section, that the retailer has been adjudged guilty of an offense under Section 161.081(d), Health and Safety Code, on seven or more occasions within a five-year period.

SECTION 8. Section 154.121, Tax Code is amended to read as follows:

Sec. 154.121. REVENUE. (a) Revenue from the sale of permits to distributors, wholesalers, and bonded agents is allocated in the same manner as other revenue allocated by Subchapter J.

(b) Subject to Section 154.602, revenue from the sale of permits to retailers shall be deposited in the state treasury to the credit of the account created by Section 161.083, Health and Safety Code.

SECTION 9. Section 155.059, Tax Code, is amended by adding Subsection (h) to read as follows:

(h) The treasurer may suspend a retailer's permit for up to 60 days if the treasurer finds, after notice and hearing as provided by this section, that the retailer has been adjudged guilty of an offense under Section 161.081(d), Health and Safety Code, on seven or more occasions within a five-year period.

SECTION 10. Section 154.602, Tax Code, is amended to read as follows:

Sec. 154.602. FUNDS FOR ENFORCEMENT. The legislature may appropriate money from the cigarette tax to the treasurer for manufacturing and printing of cigarette tax stamps and for the administration of the duties of the treasurer under this chapter. Amounts appropriated under this subsection shall be taken from revenue received from the cigarette tax before the revenue is allocated under Section 154.121(b) or 154.603 of this code to the funds specified by those sections [that section] and shall be deposited to the credit of the treasury fiscal agency fund. The amount withheld from revenue received from retailers under Section 154.111(b)(4) shall be in proportion to the costs of issuing retailers' permits and the enforcement of this chapter on retail premises.

SECTION 11. Section 155.049(b), Tax Code, is amended to read as follows:

(b) An application for a permit required by this chapter must be accompanied by a fee of:

- (1) \$100 for a bonded agent's permit;
- (2) \$100 for a distributor's permit;
- (3) \$50 for a wholesaler's permit; [and]
- (4) \$50 for a retailer's permit; and
- (5) \$15 for each permit for a vehicle if the applicant is also applying

for a permit as a bonded agent, distributor, or wholesaler or has received a current permit from the treasurer under Sections 155.041 and 155.048.

SECTION 12. Section 155.058, Tax Code, is amended to read as follows:

Sec. 155.058. REVENUE. (a) Revenue from the sale of permits to distributors, wholesalers, and bonded agents is allocated in the same manner that other revenue is allocated by Subchapter H.

(b) Subject to Section 155.242, revenue from the sale of permits to retailers shall be deposited in the state treasury to the credit of the account created by Section 161.083, Health and Safety Code.

SECTION 13. Subchapter H, Chapter 155, Tax Code, is amended by adding Section 155.242 to read as follows:

Sec. 155.242. ENFORCEMENT FUNDS: RETAILER'S PERMIT REVENUE. The legislature may appropriate money from the revenue received from permits issued to retailers under Section 155.049(b)(4) to the treasurer for the administration of the duties of the treasurer in issuing those permits and in enforcing this chapter on retail premises. Amounts appropriated under this section shall be taken from revenue received from the permits before the revenue is allocated under Section 155.058 to the fund specified by that section and shall be deposited to the credit of the treasury fiscal agency fund.

SECTION 14. (a) Except as provided by Subsection (b) of this section, this Act takes effect September 1, 1995.

(b) Sections 1 and 5 of this Act take effect May 1, 1996, and apply only to a retailer's permit that expires on or after May 31, 1996.

SECTION 15. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

(Stiles in the chair)

(Speaker in the chair)

Representative Seidlits moved to table Amendment No. 1.

The motion to table was lost.

A record vote was requested.

Amendment No. 1 failed of adoption by (Record 394): 52 Yeas, 86 Nays, 1 Present, not voting.

Yeas — Alexander; Alonzo; Alvarado; Averitt; Berlanga; Brady; Coleman; Counts; Cuellar, H.; Cuellar, R.; Davila; Davis; Delisi; Dutton; Ehrhardt; Farrar; Finnell; Gallego; Glaze; Greenberg; Gutierrez; Harris; Hirschi; Holzheuser; Howard; Hudson; Hunter, T.; Janek; Jones, J.; Krusee; Kubiak; Longoria; Luna; Maxey; McCoulskey; McDonald; Moreno; Naishtat; Ogden; Pickett; Puente; Rangel; Reyna; Rodriguez; Romo; Serna; Smithee; Solis; Solomons; Torres; Walker; Wilson.

Nays — Allen; Bailey; Black; Bosse; Brimer; Carona; Carter; Chisum; Combs; Cook; Corte; Crabb; Craddick; Culberson; Danburg; De La Garza; Denny; Dukes; Duncan; Eiland; Elkins; Goodman; Goolsby; Gray; Grusendorf; Haggerty; Hamric; Hartnett; Hawley; Heflin; Hightower; Hilbert; Hilderbran; Hill; Horn; Hunter, B.; Jackson; Johnson; Jones, D.; Junell; Kamel; King; Kuempel; Lewis, G.; Lewis, R.; Madden; Marchant; McCall; Moffat; Mowery; Munoz; Nixon; Oakley; Oliveira; Park; Patterson; Pitts; Place; Price; Rabuck; Ramsay; Raymond; Rhodes; Rusling; Saunders; Seidlits; Shields; Siebert; Staples; Stiles; Swinford; Talton; Telford; Thompson; Tillery; Turner, B.; Turner, S.; Uher; Van de Putte; West; Willis; Wohlgenuth; Wolens; Woolley; Yost; Zbranek.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Clemons; Driver.

Absent, Excused, Committee Meeting — Dear; Hernandez; Hochberg; Sadler; Williamson.

Absent — Conley; Edwards; Giddings; Yarbrough.

STATEMENT OF VOTE

I was shown voting yes on Record No. 394. I intended to vote no.

Counts

Amendment No. 2

Representative Davila offered the following amendment to **CSHB 2460**:

Amend **CSHB 2460** (House Committee Report) as follows:

(1) On page 13, between lines 14 and 15, insert a new SECTION 2 of the bill to read as follows and renumber subsequent SECTIONS appropriately:

SECTION 2. Subchapter D, Chapter 154, Tax Code, is amended by adding Section 154.1016 to read as follows:

Sec. 154.1016. SALES; MINIMUM PACKAGE SIZE. A permit holder may not sell or distribute cigarettes in a package that contains fewer than 20 individual cigarettes.

(2) On page 17, between lines 1 and 2, insert a new Subsection (c) to read as follows:

(c) Section 2 of this Act applies only to the sale or distribution of cigarettes on or after January 1, 1996. The sale or distribution of cigarettes before January 1, 1996, is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose.

(3) On page 17, line 2, strike "(c) Sections 2 and 5" and substitute "(d) Sections 3 and 6".

Amendment No. 2 was adopted without objection.

MESSAGE FROM THE SENATE

Austin, Texas, May 11, 1995

The Honorable Speaker of the House of Representatives
House Chamber

The Honorable
Mr. Speaker:

I am directed by the Senate to inform the House that the Senate has passed the following:

HCR 197 by Ramsay (Sponsor-Cain), recognizing May 11, 1995, as Wood County Day at the Capitol.

SCR 137 by Haywood, declaring support for the death penalty for a capitol felony.

SCR 151 by Cain, declaring May 11, 1995, as Wood County Day at the State Capitol.

SB 101 by Bivins, relating to the payment of an ad valorem tax under protest.

SB 434 by West, Royce, relating to the appellate process for applicants and recipients of certain state-administered assistance programs.

SB 698 by Barrientos, relating to the statute of limitations for the offense of securing execution of a document by deception.

SB 879 by Barrientos, relating to the composition of the workforce in certain fire departments.

SB 1119 by Bivins, relating to the application of the doctrine of forum non conveniens.

SB 1362 by Wentworth, relating to the purposes for which a county correctional center may be used.

SB 1398 by Barrientos, relating to the regulation of certain residential rental locators; providing penalties.

SB 1564 by Lucio, et al., relating to the enhancement of international trade by granting an exemption from taxation of certain property owned by a navigation district, a port authority, or a municipality that operates a public port.

SB 1709 by Rosson, relating to the validation of certain acts of, including the exclusion of land from, the El Paso County Water Authority.

Respectfully,
Betty King
Secretary of the Senate

CSHB 2460 - (consideration continued)

Amendment No. 3

Representative Carter offered the following amendment to **CSHB 2460**:

Amend **CSHB 2460** as follows:

- (1) On page 13, line 22, strike "15" and replace with "50".
- (2) On page 15, line 13, strike "15" and replace with "50".
- (3) On page 15, line 15, between lines 26 and 27, insert: SECTION 7. Sections 154.111(c) and 155.049(c), Tax Code, are repealed.
- (4) Renumber the subsequent sections of the bill appropriately.
- (5) On page 14, strike lines 10 through 14 and replace with the following: "for the Texas D.A.R.E. Institute for the Institute's programs relating to tobacco enforcement projects and education and awareness concerning the use of drugs, alcohol, and tobacco.

Amendment No. 3 was adopted without objection.

Amendment No. 4

Representative Kamel offered the following amendment to **CSHB 2460**:

Amend **CSHB 2460**, SECTION 1, SUBCHAPTER H, Sec. 161.081(5) after the words "'Proof of age" means a driver's license or" by striking "other documentary or written evidence that purports to establish" and substituting "an identification card, issued by the Department of Public Safety and containing a physical description consistent with the person's appearance".

Amendment No. 4 was adopted without objection.

Amendment No. 5

Representative Davila offered the following amendment to **CSHB 2460**:

Amend **CSHB 2460** (House Committee Report) on page 5 by striking lines 22-27 and on page 6 by striking lines 1-14 and substituting the following:

Sec. 161.085. DELIVERY OF FREE CIGARETTES OR OTHER TOBACCO PRODUCTS. (a) A person in the business of selling or promoting cigarettes or other tobacco products, or an agent or employee of that person, may not deliver or offer to deliver to another person free cigarettes or other tobacco products in any of their forms in a public place.

(b) A person commits an offense if the person violates this section. An offense under this subsection is a Class C misdemeanor.

Representative Seidlits moved to table Amendment No. 5.

(Black in the chair)

The motion to table prevailed.

Amendment No. 6

Representative Berlanga offered the following amendment to **CSHB 2460**:

Amend **CSHB 2460**, SECTION 1, SUBCHAPTER H, Sec. 161.092 by deleting subsection (b) and substituting the following:

(b) This chapter does not preempt or supersede any ordinance, rule, regulation, or statute relating to the sale or distribution of tobacco products.

Representative Seidlits moved to table Amendment No. 6.

The motion to table prevailed.

A record vote was requested.

CSHB 2460, as amended, was passed to engrossment by (Record 395): 87 Yeas, 49 Nays, 2 Present, not voting.

Yeas — Allen; Alvarado; Bosse; Brady; Brimer; Carter; Chisum; Combs; Corte; Crabb; Craddick; Cuellar, H.; Culberson; Danburg; Davis; De La Garza; Denny; Dukes; Duncan; Eiland; Elkins; Giddings; Gray; Grusendorf; Gutierrez; Haggerty; Hamric; Hawley; Heflin; Hightower; Hilbert; Hilderbran; Holzheuser; Horn; Hunter, B.; Hunter, T.; Jackson; Johnson; Jones, D.; Kamel; King; Krusee; Kubiak; Kuempel; Lewis, G.; Lewis, R.; Marchant; McCall; McCoulskey; Moffat; Mowery; Munoz; Nixon; Oakley; Ogden; Oliveira; Patterson; Pitts; Place; Price; Ramsay; Raymond; Rhodes; Rodriguez; Rusling; Saunders; Seidlits; Shields; Siebert; Smithee; Solis; Staples; Stiles; Swinford; Talton; Telford; Thompson; Tillery; Turner, S.; Uher; West; Willis; Wilson; Wolens; Woolley; Yost; Zbranek.

Nays — Alexander; Alonzo; Averitt; Bailey; Berlanga; Coleman; Conley; Cook; Counts; Cuellar, R.; Davila; Delisi; Dutton; Ehrhardt; Farrar; Finnell; Gallego; Glaze; Goodman; Greenberg; Harris; Hartnett; Hill; Hirschi; Howard; Hudson; Janek; Jones, J.; Longoria; Luna; Madden; Maxey; McDonald; Moreno; Naishtat; Park; Pickett; Puente; Rabuck; Rangel; Reyna; Romo; Serna; Solomons; Torres; Turner, B.; Van de Putte; Walker; Wohlgemuth.

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

Absent, Excused — Clemons; Driver.

Absent, Excused, Committee Meeting — Dear; Hernandez; Hochberg; Sadler; Williamson.

Absent — Carona; Edwards; Goolsby; Junell; Yarbrough.

STATEMENT OF VOTE

I was shown voting no on Record No. 395. I intended to vote yes.

Luna

COMMITTEE GRANTED PERMISSION TO MEET

Representative Rodriguez moved to suspend all necessary rules to allow the Committee on Local and Consent Calendars to meet while the house is in session.

The motion prevailed without objection.

COMMITTEE MEETING ANNOUNCEMENT

The following committee meeting was announced:

Local and Consent Calendars, at this time, speakers committee room.

HB 2330 ON SECOND READING

The chair laid before the house, on its second reading and passage to engrossment, the complete committee substitute for **HB 2330**.

CSHB 2330, A bill to be entitled An Act relating to the statute of limitations for personal injury or death as a result of sexual assault.

CSHB 2330 was read second time and was passed to engrossment.

HB 1433 ON SECOND READING

The chair laid before the house, on its second reading and passage to engrossment,

HB 1433, A bill to be entitled An Act relating to the eligibility for release on mandatory supervision of certain inmates of the institutional division of the Texas Department of Criminal Justice.

The bill was read second time.

Amendment No. 1 (Committee Amendment No. 1)

On behalf of Representative Gray, Representative Hamric offered the following committee amendment to the bill:

Amend **HB 1433** in Section 1, Subsection (c), page 1, line 24 by striking "served a sentence" and substituting "been convicted".

Amendment No. 1 was adopted without objection.

Amendment No. 2

Representative Hamric offered the following amendment to the bill:

Amend **HB 1433** (House Committee Report) as follows:

In Section 2, page 3, line 12, strike the word "unreasonably".

Amendment No. 2 was adopted without objection.

HB 1433, as amended, was passed to engrossment.

HB 3021 ON SECOND READING

The chair laid before the house, on its second reading and passage to engrossment, the complete committee substitute for **HB 3021**.

CSHB 3021, A bill to be entitled An Act relating to the regulation of bingo.

CSHB 3021 was read second time.

Amendment No. 1

Representative Wolens offered the following amendment to **CSHB 3021**:

Amend **CSHB 3021** as follows:

(1) On page 1, line 6, strike "(24) and (25)" and substitute "(24), (25), (26), and (27)"

(2) On page 2, between lines 10 and 11, add the following subdivisions:

(26) "System service provider" means a person who holds a license to provide automated bingo services only to a licensed authorized organization licensed to conduct bingo or a group of licensed authorized organizations licensed to conduct bingo.

(27) "Automated bingo services" means a computer program or system for providing bingo sales, prizes, inventory and prize fees, for generating required reports to the commission and for providing the conductor of a bingo game with other information requested for accounting or other business purposes.

(3) Add the following appropriately numbered section:

SECTION____. Section 13, Bingo Enabling Act (Article 179d, Vernon's Texas Civil Statutes), is amended by adding Subsection (s) to read as follows:

(s) It is an offense for a person not licensed under this Act to sell or attempt to induce the sale of bingo equipment, devices, supplies, or automated bingo services to a person licensed to conduct bingo games.

(t) A System Service Provider shall not provide these services to anyone other than an authorized licensed organization or a group of authorized licensed organizations to conduct bingo. It is an offense for a System Service Provider to provide these services to anyone other than an authorized licensed organization or a group of authorized licensed organizations to conduct bingo.

(u) An offense under Subsection (s) or (t) would be a Class A misdemeanor.

(5) Add the following appropriately numbered section:

SECTION____: The Bingo Enabling Act (Article 179d, Vernon's Texas Civil Statutes), is amended by adding Section 13e to read as follows:

Sec. 13e. SYSTEM SERVICE PROVIDER'S LICENSE. (a) To sell or supply, in any manner, automated bingo services for the use of licensed authorized organizations, each system service provider must obtain a license from the commission.

(b) An applicant for a license must file with the commission a written application that includes:

(1) the name and address of the applicant;

(2) if a non-corporate entity, the name and address of each owner;

(3) if a corporation, the name and address of each officer and director and each person owning 10 percent or more of any class of stock in the corporation;

(4) information regarding whether the applicant or any person who is required to be named in the application has been convicted of a felony, criminal fraud, gambling, or gambling related offense or a crime of moral turpitude; and

(5) information regarding whether the applicant or any person required to be named in the application is an owner, officer, director, shareholder, agent, or employee of a commercial lessor licensed under this Act.

(c) A person is not eligible for a license under this section if:

(1) the person has been convicted of a felony, criminal fraud, a gambling offense, a gambling related offense, or a crime of moral turpitude and it has been less than 10 years since the termination of the sentence, parole, or probation related to the offense; or

(2) the person is an owner, officer, or director of a holder of a commercial lessor licensed under this Act.

(d) The fee for a System Service Provider license is \$1,000.00 plus any cost incurred to conduct the criminal background checks.

(e) A System Service Provider shall not hold another license under this Act.

(f) A license for a System Service Provider shall be revoked if within the license period any disqualifications under this section 13e occurs.

(g) A System Service Provider is subject to the same licensing provisions for manufacturers and distributors as stated in Sections 13a(a) and 13b(b).

(h) The Commission upon receipt of a complaint may inspect the System Service Provider services. The System Service Provider shall provide sufficient information to the commission in regards to a complaint.

(6) Add the following appropriately numbered section:

SECTION____. Section 19a(d), Bingo Enabling Act (Article 179d, Vernon's Texas Civil Statutes), is amended to read as follows:

(d) The following items of expense incurred or paid by an organization in connection with bingo must be paid from the organization's bingo account:

- (1) advertising;
- (2) security during a bingo occasion;
- (3) the purchase and repair of bingo supplies and equipment;
- (4) prizes, other than authorized cash prizes;
- (5) stated rental;
- (6) bookkeeping, legal, or accounting services;
- (7) fees for callers, cashiers, and ushers;
- (8) license fees; ~~and~~
- (9) janitorial services; and

(10) payment for services provided by a system service provider, which may be paid from gross receipts as defined in this Act.

(7) Renumber the other sections of the bill appropriately.

Amendment No. 1 was adopted without objection.

LEAVES OF ABSENCE GRANTED

The following members were granted leaves of absence temporarily for today to attend a meeting of the conference committee on HB 1:

Junell on motion of Hilbert.

Delisi on motion of Hilbert.

CSHB 3021 - (consideration continued)

Amendment No. 2

Representative Seidlits offered the following amendment to **CSHB 3021**:

Amend **CSHB 3021** on page 2, line 5, by striking "continuously".

Amendment No. 2 was adopted without objection.

Amendment No. 3

Representative Kubiak offered the following amendment to **CSHB 3021**:

Amend **CSHB 3021** as follows:

(2) On page 7, line 8, strike "\$4,000" and substitute "\$10,000".

Amendment No. 3 was adopted without objection.

Amendment No. 4

Representative Hartnett offered the following amendment to **CSHB 3021**:

Amend **CSHB 3021** as follows:

(1) On page 1, line 6, strike "(2) and (22)", and substitute "(2), (5), and (22)".

(2) On page 1, between lines 11 and 12, insert the following:

(5) "Religious society" means a church, synagogue, or other organization or association that is organized primarily for religious purposes and that has been in existence within Texas for at least eight [~~10~~] years.

Amendment No. 4 was adopted without objection.

CSHB 3021, as amended, was passed to engrossment. (Heflin, Patterson, and Solomons recorded voting no)

HB 3164 ON SECOND READING

The chair laid before the house, on its second reading and passage to engrossment, the complete committee substitute for **HB 3164**.

CSHB 3164, A bill to be entitled An Act relating to the continuation, operations, and functions of the Public Utility Commission of Texas and the Office of Public Utility Counsel; providing penalties.

CSHB 3164 was read second time.

The chair postponed consideration of **CSHB 3164** until 4:30 p.m. today.

HB 2677 ON SECOND READING

The chair laid before the house, on its second reading and passage to engrossment,

HB 2677, A bill to be entitled An Act relating to the civil liability of certain chambers of commerce and to the volunteers and employees of the organizations.

The bill was read second time.

Amendment No. 1

Representative T. Hunter offered the following amendment to the bill:

Amend **HB 2677** as follows:

(1) On page 2, line 20, between "a" and "chamber", insert "local".

(2) On page 2, line 21, strike "Sect on" and substitute "Section".

(3) On page 2, line 22, strike "organizations in Section 501(c)(6) of the code" and substitute the following:

"organization in Section 501(c)(6) of the Internal Revenue Code of 1986, and that does not directly or indirectly participate or intervene in any political campaign on behalf of or in opposition to any candidate for public office".

Amendment No. 1 was adopted without objection.

HB 2677, as amended, was passed to engrossment. (Brady recorded present, not voting)

HOUSE AT EASE

At 4:23 p.m., the chair announced that the house would stand at ease.

(Speaker in the chair)

The speaker called the house to order at 4:30 p.m.

CSHB 3164 ON SECOND READING

The speaker laid before the house, as postponed business, on its second reading and passage to engrossment, the complete committee substitute for **HB 3164**.

CSHB 3164, A bill to be entitled An Act relating to the continuation, operations, and functions of the Public Utility Commission of Texas and the Office of Public Utility Counsel; providing penalties.

CSHB 3164 was read second time earlier today and was postponed until this time.

Amendment No. 1

Representative Oliveira offered the following amendment to **CSHB 3164**:

Amend **CSHB 3164** by adding the following appropriately numbered sections and renumbering subsequent sections appropriately:

SECTION __. Chapter 166, Acts of the 63rd Legislature, Regular Session, 1973 (Article 1435a, Vernon's Texas Civil Statutes), is amended by adding Section 4c to read as follows:

Sec. 4c. (a) Subject to the approval of the Public Utility Commission of Texas, an electric cooperative corporation may form a joint powers agency with one or more public entities and participate in an existing joint powers agency in which at least one public entity is a member and participant, as if the electric cooperative corporation were a public entity.

(b) The Public Utility Commission of Texas shall approve participation by an electric cooperative corporation under this section if the commission determines that the participation meets the requirements of law.

(c) A joint powers agency in which an electric cooperative corporation participates under this section is a governmental body subject to Chapter 551, Government Code.

(d) This section may not be construed to authorize or entitle an electric cooperative corporation to issue bonds or other securities that are exempt from taxation under federal law.

SECTION __. Section 4A, Electric Cooperative Corporation Act (Article 1528b, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 4A. ADDITIONAL POWERS. Notwithstanding any other provision of this Act, a corporation has authority to generate, manufacture, purchase, acquire, and accumulate electric energy and to transmit, distribute, sell, furnish, and dispose of such electric energy to the following entities if the same are engaged in the generation, ~~[and] transmission, or distribution~~ of electricity ~~[for resale]~~:

(1) firms, associations, corporations, except those who meet the criteria for a small power production facility and/or a cogeneration facility under Section 201 of the Public Utility Regulatory Policies Act of 1978 (PURPA);

(2) federal agency;

(3) state or political subdivision of a state ~~[with an installed generation capacity in excess of 500 MW]~~; or

(4) a municipal power agency or political subdivision of a state which is a co-owner with such corporation of a jointly owned electric generation facility.

~~[A corporation may also sell, furnish, and dispose of the electric energy to a political subdivision of the state which is engaged in the generation, transmission, or distribution of electricity for resale and to which the corporation was selling and furnishing electric energy on December 31, 1982.]~~

The members-only requirement of Section 4(4) of this Act shall continue to apply to all sales by a corporation to other persons and entities.

SECTION __. Section 171.079, Tax Code, is amended to read as follows:

Sec. 171.079. EXEMPTION—ELECTRIC COOPERATIVE CORPORATION. An electric cooperative corporation incorporated under the Electric Cooperative Corporation Act (Article 1528b, Vernon's Texas Civil Statutes) that is not a participant in a joint powers agency is exempted from the franchise tax.

(Dukes in the chair)

(Hochberg now present)

A record vote was requested.

Amendment No. 1 was adopted by (Record 396): 106 Yeas, 25 Nays, 3 Present, not voting.

Yeas — Alexander; Alonzo; Bailey; Berlanga; Black; Bosse; Brimer; Coleman; Combs; Conley; Cook; Corte; Counts; Crabb; Craddick; Cuellar, H.; Cuellar, R.; Culberson; Danburg; Davila; Davis; De La Garza; Duncan; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Farrar; Finnell; Gallego; Giddings; Goodman; Goolsby; Gray; Greenberg; Hamric; Harris; Hawley; Heflin; Hilbert; Hilderbran; Hill; Hirschi; Hochberg; Holzheuser; Horn; Hudson; Hunter, T.; Janek; Johnson; Jones, D.; Jones, J.; Kamel; Krusee; Kuempel; Lewis, R.; Longoria; Luna; Madden; Maxey; McCall; McCoulskey; McDonald; Moreno; Munoz; Naishtat; Oakley; Ogden; Oliveira; Patterson; Pickett; Pitts; Place; Price; Puente; Rabuck; Ramsay; Rangel; Raymond; Reyna; Rhodes; Rodriguez; Romo; Rusling; Saunders; Seidlits; Serna; Solis; Solomons; Stiles; Telford; Thompson; Tillery; Torres; Turner, S.; Van de Putte; West; Willis; Wilson; Wohlgemuth; Wolens; Woolley; Yarbrough; Yost; Zbranek.

Nays — Allen; Alvarado; Averitt; Carter; Denny; Grusendorf; Haggerty; Hartnett; Hightower; Howard; Hunter, B.; Jackson; King; Kubiak; Marchant; Moffat; Nixon; Park; Shields; Smithee; Staples; Swinford; Talton; Turner, B.; Walker.

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

Absent, Excused — Clemons; Driver.

Absent, Excused, Committee Meeting — Dear; Delisi; Hernandez; Junell; Sadler; Williamson.

Absent — Brady; Carona; Chisum; Glaze; Lewis, G.; Mowery; Siebert; Uher.

STATEMENT OF VOTE

I was shown voting no on Record No. 396. I intended to vote yes.

Park

Amendment No. 2

Representative S. Turner offered the following amendment to **CSHB 3164**:

Amend **CSHB 3164** by adding an appropriately numbered section to read as follows and renumbering subsequent sections appropriately:

Section _____. Subtitle K, Title I, Public Utility Regulatory Act of 1995, as enacted by S.B. 319, Acts of the 74th Legislature, Regular Session, 1995, is amended by adding Section 1.407 to read as follows:

Sec. 1.407. HISTORICALLY UNDERUTILIZED BUSINESSES. (a) The commission by rule shall require each utility to make a good faith effort to overcome the underuse of historically underutilized business as shown for private industry by the disparity study conducted under H.B. 2626, Acts of the 73rd Legislature, 1993.

(b) The commission may conduct further research and analysis to adjust the results of the disparity study as necessary to account for specific underuse of historically underutilized businesses by the utility industry.

(c) The rules adopted under this section must require each utility to prepare and submit to the commission a strategic plan for use of historically underutilized businesses.

(Speaker in the chair)

LEAVE OF ABSENCE GRANTED

The following member was granted leave of absence temporarily for today to attend a meeting of the conference committee on SB 1:

Hochberg on motion of Danburg.

CSHB 3164 - (consideration continued)

A record vote was requested.

Amendment No. 2 was adopted by (Record 397): 80 Yeas, 56 Nays, 1 Present, not voting.

Yeas — Alonzo; Alvarado; Bailey; Berlanga; Black; Bosse; Brimer; Coleman; Conley; Cook; Corte; Counts; Cuellar, H.; Cuellar, R.; Danburg; Davila; Davis; De La Garza; Dukes; Dutton; Edwards; Ehrhardt; Eiland; Farrar; Gallego; Giddings; Glaze; Goodman; Gray; Greenberg; Gutierrez; Hightower; Hirschi; Hudson; Hunter, T.; Johnson; Jones, D.; Jones, J.; King; Lewis, G.; Lewis, R.; Longoria; Luna; Maxey; McCoulskey; McDonald; Moreno; Munoz; Naishtat; Oakley; Oliveira; Pickett; Place; Price; Puente; Rangel; Raymond; Rhodes; Rodriguez; Romo; Rusling; Saunders; Seidlits; Serna; Siebert; Solis; Stiles; Telford; Thompson; Tillery; Torres; Turner, B.; Turner, S.; Uher; Van de Putte; Willis; Wilson; Wolens; Yarbrough; Zbranek.

Nays — Allen; Averitt; Brady; Carona; Carter; Combs; Crabb; Craddick; Culberston; Denny; Duncan; Elkins; Finnell; Goolsby; Grusendorf; Haggerty; Hamric; Harris; Hartnett; Hawley; Heflin; Hilbert; Hilderbran; Hill; Holzheuser; Horn; Howard; Hunter, B.; Jackson; Janek; Kamel; Krusee; Kubiak; Kuempel; Madden; McCall; Moffat; Mowery; Nixon; Ogden; Park; Patterson; Pitts; Rabuck; Ramsay; Reyna; Shields; Smithee; Solomons; Staples; Talton; Walker; West; Wohlgemuth; Woolley; Yost.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Clemons; Driver.

Absent, Excused, Committee Meeting — Dear; Delisi; Hernandez; Hochberg; Junell; Sadler; Williamson.

Absent — Alexander; Chisum; Marchant; Swinford.

STATEMENT OF VOTE

I was shown voting yes on Record No. 397. I intended to vote no.

Siebert

CSHB 3164, as amended, was passed to engrossment. (Berlanga, Finnell, T. Hunter, and Talton recorded voting no)

HB 3028 ON SECOND READING

The speaker laid before the house, on its second reading and passage to engrossment, the complete committee substitute for **HB 3028**.

CSHB 3028, A bill to be entitled An Act relating to security deposits and application deposits provided by residential tenants and prospective residential tenants; providing a civil penalty.

CSHB 3028 was read second time.

Amendment No. 1

Representative Corte offered the following amendment to **CSHB 3028**:

Amend **CSHB 3028** as follows:

(1) On page 1, line 8, strike "a".

(2) On page 1, strike lines 13-19.

(3) On page 2, strike lines 9 and 10 and substitute the following:

SECTION 3. Section 92.103, Property Code, is amended by amending Subsection (c) and adding Subsection (d) to read as follows:

(4) On page 2, between lines 13 and 14, insert the following:

(d) If a dwelling occupied by a tenant is purchased at a foreclosure or tax sale or is purchased from a bankruptcy trustee and if the new owner accepts rent from the tenant or honors any landlord obligation under the lease after the purchase, the new owner is liable for performing all landlord obligations under the lease, including the return of any security deposit, less lawful deductions.

(5) Strike SECTIONS 2 and 5 of the bill and renumber sections appropriately.

Representative Ehrhardt moved to table Amendment No. 1.

A record vote was requested.

The motion to table was lost by (Record 398): 65 Yeas, 67 Nays, 4 Present, not voting.

Yeas — Alexander; Alonzo; Alvarado; Bailey; Berlanga; Bosse; Brady; Coleman; Combs; Conley; Cuellar, H.; Cuellar, R.; Danburg; Davila; Davis; De La Garza; Dukes; Dutton; Edwards; Ehrhardt; Eiland; Farrar; Gallego; Giddings; Glaze; Gray; Greenberg; Gutierrez; Hawley; Hudson; Hunter, T.; Janek; Jones, J.; Kubiak; Longoria; Luna; Maxey; McCoulskey; McDonald; Moreno; Naishtat; Oakley; Oliveira; Price; Puente; Ramsay; Rangel; Raymond; Rhodes; Rodriguez; Romo; Seidlits; Serna; Solis; Solomons; Thompson; Tillery; Torres; Turner, S.; Van de Putte; Willis; Wilson; Wolens; Yarbrough; Zbranek.

Nays — Allen; Averitt; Black; Brimer; Carona; Carter; Chisum; Cook; Corte; Crabb; Craddick; Culberson; Denny; Duncan; Elkins; Goodman; Goolsby; Grusendorf; Haggerty; Hamric; Harris; Hartnett; Heflin; Hightower; Hilbert; Hilderbran; Hill; Holzheuser; Horn; Howard; Hunter, B.; Jackson; Johnson; Kamel; King; Krusee; Kuempel; Lewis, R.; Madden; Marchant; McCall; Moffat; Mowery; Munoz; Nixon; Ogden; Park; Patterson; Pickett; Pitts; Rabuck; Reyna; Rusling; Saunders; Shields; Siebert; Smithee; Staples; Swinford; Talton; Telford; Turner, B.; Uher; Walker; West; Wohlgemuth; Woolley.

Present, not voting — Mr. Speaker(C); Counts; Finnell; Hirschi.

Absent, Excused — Clemons; Driver.

Absent, Excused, Committee Meeting — Dear; Delisi; Hernandez; Hochberg; Junell; Sadler; Williamson.

Absent — Jones, D.; Lewis, G.; Place; Stiles; Yost.

A record vote was requested.

The vote of the house was taken on the adoption of Amendment No. 1 and the vote was announced yeas 67, nays 67.

A verification of the vote was requested and was granted.

The roll of those voting yea and nay was again called and the verified vote resulted, as follows (Record 399): 66 Yeas, 65 Nays, 6 Present, not voting.

Yeas — Allen; Averitt; Black; Brimer; Carona; Carter; Chisum; Cook; Corte; Crabb; Culberson; Denny; Duncan; Elkins; Goodman; Goolsby; Grusendorf; Haggerty; Hamric; Harris; Hartnett; Heflin; Hightower; Hilbert; Hilderbran; Hill; Holzheuser; Horn; Howard; Hunter, B.; Jackson; King; Krusee; Kuempel; Madden; Marchant; McCall; McCoulskey; Moffat; Mowery; Munoz; Nixon; Ogden; Park; Patterson; Pitts; Rabuck; Reyna; Rusling; Saunders; Shields; Siebert; Smithee; Staples; Stiles; Swinford; Talton; Telford; Turner, B.; Uher; Walker; West; Willis; Wohlgemuth; Woolley; Yost.

Nays — Alexander; Alonzo; Alvarado; Bailey; Berlanga; Bosse; Brady; Coleman; Combs; Conley; Cuellar, H.; Cuellar, R.; Danburg; Davila; Davis; De La Garza; Dukes; Dutton; Edwards; Ehrhardt; Eiland; Farrar; Gallego; Giddings; Glaze; Gray; Greenberg; Gutierrez; Hawley; Hudson; Hunter, T.; Janek; Johnson; Jones, J.; Kubiak; Lewis, G.; Lewis, R.; Longoria; Luna; Maxey; McDonald; Naishtat; Oakley; Oliveira; Pickett; Price; Puente; Ramsay; Rangel; Raymond; Rhodes; Rodriguez; Romo; Seidlits; Solis; Solomons; Thompson; Tillery; Torres; Turner, S.; Van de Putte; Wilson; Wolens; Yarbrough; Zbranek.

Present, not voting — Mr. Speaker(C); Counts; Finnell; Hirschi; Jones, D.; Kamel.

Absent, Excused — Clemons; Driver.

Absent, Excused, Committee Meeting — Dear; Delisi; Hernandez; Hochberg; Junell; Sadler; Williamson.

Absent — Craddick; Moreno; Place; Serna.

The speaker stated that Amendment No. 1 was adopted by the above vote.

LEAVE OF ABSENCE GRANTED

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

Serna on motion of McDonald.

CSHB 3028 - (consideration continued)

Amendment No. 2

Representative Ramsay offered the following amendment to **CSHB 3028**:

Amend **CSHB 3028** by inserting the following appropriately numbered section of the bill and renumbering subsequent sections of the bill accordingly:

SECTION . Subchapter C, Chapter 92, Property Code, is amended by adding Section 92.1031 to read as follows:

Sec. 92.1031. REFUND OF SECURITY DEPOSIT OR RENTAL PREPAYMENT TO PERSON WHO DOES NOT OCCUPY DWELLING. Notwithstanding another provision of this subchapter, if a landlord receives a security deposit or full or partial prepayment of rent from a person who does not then occupy the dwelling and the landlord later leases the same dwelling on or before the date set for occupancy by the non-occupying person, the landlord shall refund the security deposit or rental prepayment paid by the

non-occupying person. In addition, the landlord may not charge a releasing fee for refunding the money.

Amendment No. 2 was adopted without objection.

Amendment No. 3

Representative Ehrhardt offered the following amendment to **CSHB 3028**:

Amend **CSHB 3028** as follows:

(1) On page 4, strike line 23.
 (2) On page 4, line 24, strike "rental applicant, the", and substitute the following in its place:

"(c) The"

(3) On page 5, strike lines 4 through 7.

Amendment No. 3 was adopted without objection.

Amendment No. 4

Representative Averitt offered the following amendment to **CSHB 3028**:

Amend **CSHB 3028** as follows:

(1) On page 1, between lines 5 and 6, insert the following section of the bill:

SECTION 1. Section 92.101, Property Code, is amended to read as follows:
 Sec. 92.101. APPLICATION. (a) This subchapter applies to a lease executed or entered into after September 1, 1973.

(b) This subchapter does not apply to:

(1) a residential housing facility that is owned, leased, or operated by a public or private college or university; or

(2) a landlord who owns no more than ten dwellings and does not use a management company or managing agent to manage the landlord's dwellings.

(2) Renumber subsequent sections of the bill accordingly.

Amendment No. 4 was adopted without objection.

CSHB 3028, as amended, was passed to engrossment. (Cook, T. Hunter, Kamel, Marchant, and Talton recorded voting no)

LEAVES OF ABSENCE GRANTED

The following members were granted leaves of absence temporarily for today to attend a meeting of the conference committee on HB 1:

Coleman on motion of R. Lewis.

Gallego on motion of R. Lewis.

HJR 20 ON SECOND READING

The speaker laid before the house, on its second reading and passage to engrossment, the complete committee substitute for **HJR 20**.

CSHJR 20, A joint resolution proposing a constitutional amendment to limit the tax rate on the income and stated capital or asset components of the franchise tax.

CSHJR 20 was read second time.

Amendment No. 1

Representative Corte offered the following amendment to **CSHJR 20**:

Amend **CSHJR 20** on page 1 by striking lines 11-13 and substituting the following:

"impose the tax on the component determined on stated capital or assets at a rate that exceeds 0.25 percent per year of privilege period or on the component determined on income at a rate that exceeds 4.5 percent. This section does not affect a temporary credit on the tax due on net taxable earned surplus that is in effect on September 1, 1995, or any related additional tax imposed on a corporation for taking that credit."

Amendment No. 1 was adopted without objection.

LEAVE OF ABSENCE GRANTED

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

Moreno on motion of Pickett.

CSHJR 20 - (consideration continued)

A record vote was requested.

CSHJR 20, as amended, was passed to engrossment by (Record 400): 95 Yeas, 36 Nays, 2 Present, not voting.

Yeas — Alexander; Allen; Averitt; Black; Bosse; Brady; Brimer; Carona; Carter; Chisum; Combs; Conley; Cook; Corte; Counts; Crabb; Craddick; Cuellar, H.; Culberson; Denny; Duncan; Eiland; Elkins; Finnell; Giddings; Goodman; Goolsby; Grusendorf; Gutierrez; Haggerty; Hamric; Harris; Hartnett; Hawley; Heflin; Hightower; Hilbert; Hilderbran; Hill; Holzheuser; Horn; Howard; Hunter, B.; Hunter, T.; Jackson; Janek; Johnson; Jones, D.; Kamel; King; Krusee; Kubiak; Kuempel; Lewis, G.; Lewis, R.; Madden; Marchant; McCall; McCoulskey; Moffat; Mowery; Munoz; Nixon; Oakley; Ogden; Park; Patterson; Pitts; Rabuck; Ramsay; Raymond; Reyna; Rhodes; Rusling; Saunders; Seidlits; Shields; Siebert; Smithee; Solomons; Staples; Stiles; Swinford; Talton; Telford; Tillery; Turner, B.; Uher; Van de Putte; Walker; West; Wohlgemuth; Wolens; Woolley; Yost.

Nays — Alonzo; Alvarado; Bailey; Berlanga; Danburg; Davila; Davis; De La Garza; Dukes; Dutton; Edwards; Ehrhardt; Farrar; Glaze; Gray; Hirschi; Hudson; Jones, J.; Longoria; Luna; Maxey; McDonald; Naishtat; Oliveira; Pickett; Price; Puente; Rangel; Rodriguez; Romo; Thompson; Torres; Turner, S.; Willis; Yarbrough; Zbranek.

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

Absent, Excused — Clemons; Driver; Moreno; Serna.

Absent, Excused, Committee Meeting — Coleman; Dear; Delisi; Gallego; Hernandez; Hochberg; Junell; Sadler; Williamson.

Absent — Cuellar, R.; Place; Solis; Wilson.

HB 1300 ON THIRD READING

The speaker laid before the house, on its third reading and final passage,

HB 1300, A bill to be entitled An Act relating to certain annexations by a municipality with a population of more than 1.5 million.

The bill was read third time and was passed.

LEAVE OF ABSENCE GRANTED

The following member was granted leave of absence temporarily for today to attend a meeting of the conference committee on HB 1:

Ogden on motion of Talton.

HB 725 ON THIRD READING

The speaker laid before the house, on its third reading and final passage,

HB 725, A bill to be entitled An Act relating to the transfer of servicing of certain residential real estate loans; providing a penalty.

The bill was read third time and was passed.

HB 1214 ON THIRD READING

The speaker laid before the house, on its third reading and final passage,

HB 1214, A bill to be entitled An Act relating to the establishment of a prepaid higher education tuition program.

The bill was read third time.

Amendment No. 1

Representative Kamel offered the following amendment to the bill:

Amend **HB 1214** on third reading on page 13, between lines 5 and 6 (2nd Reading Engrossment) by inserting the following at the end of proposed Section 54.619, Education Code:

(g) If there is not enough money in the fund to pay the tuition and required fees of the institution of higher education in which a beneficiary enrolls or the appropriate portion of the tuition and required fees of the private or independent institution of higher education on which the beneficiary enrolls as provided by the prepaid tuition contract, the legislature may appropriate to the fund the amount necessary for the board to pay the applicable amount of tuition and required fees of the institution.

Amendment No. 1 was adopted without objection.

HB 1214, as amended, was passed.

HB 228 ON THIRD READING

The speaker laid before the house, on its third reading and final passage,

HB 228, A bill to be entitled An Act relating to the penalty for certain violations of the law relating to automotive wrecking and salvage yards in certain counties.

The bill was read third time and was passed.

HB 1987 ON THIRD READING

The speaker laid before the house, on its third reading and final passage,

HB 1987, A bill to be entitled An Act relating to surplus lines insurance.

The bill was read third time and was passed.

HB 2331 ON THIRD READING

The speaker laid before the house, on its third reading and final passage,

HB 2331, A bill to be entitled An Act relating to the creation of the offense of preventing execution of civil process.

The bill was read third time and was passed.

HB 2516 ON THIRD READING

The speaker laid before the house, on its third reading and final passage,

HB 2516, A bill to be entitled An Act relating to payment of certain amounts due to the operator of a vehicle storage facility.

The bill was read third time and was passed.

HB 2558 ON THIRD READING

The speaker laid before the house, on its third reading and final passage,

HB 2558, A bill to be entitled An Act relating to the right of a person arrested for the offense of public intoxication to request an analysis of the person's blood to determine intoxication.

The bill was read third time and was passed.

HB 2596 ON THIRD READING

The speaker laid before the house, on its third reading and final passage,

HB 2596, A bill to be entitled An Act relating to the extinguishment of a taxpayer's liability for delinquent ad valorem taxes following a tax sale.

The bill was read third time and was passed.

HB 2644 ON THIRD READING

The speaker laid before the house, on its third reading and final passage,

HB 2644, A bill to be entitled An Act relating to licensing and Medicaid certification requirements for certain nursing facilities and related penalties and dispute resolution.

The bill was read third time and was passed.

HB 2712 ON THIRD READING

The speaker laid before the house, on its third reading and final passage,

HB 2712, A bill to be entitled An Act relating to removing the authority of certain local governments to participate directly in regional habitat

conservation plans; requiring the Parks and Wildlife Department to coordinate with governmental entities affected by the plan and to submit the plan to the legislature for review.

A record vote was requested.

The bill was read third time and was passed by (Record 401): 121 Yeas, 10 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Alonzo; Alvarado; Averitt; Bailey; Berlanga; Black; Bosse; Brady; Brimer; Carona; Carter; Chisum; Combs; Cook; Corte; Counts; Crabb; Craddick; Cuellar, H.; Cuellar, R.; Culberson; Davila; Davis; De La Garza; Denny; Dukes; Duncan; Dutton; Eiland; Elkins; Farrar; Giddings; Glaze; Goodman; Goolsby; Greenberg; Grusendorf; Gutierrez; Haggerty; Hamric; Harris; Hartnett; Hawley; Heflin; Hightower; Hilbert; Hilderbran; Hill; Hirschi; Holzheuser; Horn; Howard; Hudson; Hunter, B.; Hunter, T.; Jackson; Janek; Johnson; Jones, D.; Jones, J.; Kamel; King; Krusee; Kubiak; Kuempel; Lewis, G.; Lewis, R.; Luna; Madden; Marchant; Maxey; McCall; McCoulskey; McDonald; Moffat; Mowery; Munoz; Naishtat; Nixon; Oakley; Oliveira; Park; Patterson; Pitts; Place; Price; Puente; Rabuck; Ramsay; Rangel; Raymond; Reyna; Rodriguez; Romo; Rusling; Saunders; Seidlits; Shields; Siebert; Smithee; Solis; Solomons; Staples; Stiles; Swinford; Talton; Tillery; Torres; Turner, B.; Uher; Van de Putte; Walker; West; Willis; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbranek.

Nays — Conley; Danburg; Finnell; Gray; Longoria; Pickett; Rhodes; Telford; Thompson; Turner, S.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Clemons; Driver; Moreno; Serna.

Absent, Excused, Committee Meeting — Coleman; Dear; Delisi; Gallego; Hernandez; Hochberg; Junell; Ogden; Sadler; Williamson.

Absent — Edwards; Ehrhardt; Wilson; Yost.

STATEMENT OF VOTE

I was shown voting no on Record No. 401. I intended to vote yes.

Rhodes

HB 277 ON THIRD READING

The speaker laid before the house, on its third reading and final passage,

HB 277, A bill to be entitled An Act relating to creation of an offense for parking a commercial motor vehicle overnight in certain residential subdivisions.

The bill was read third time and was passed.

HB 2584 ON THIRD READING

The speaker laid before the house, on its third reading and final passage,

HB 2584, A bill to be entitled An Act relating to the weight of vehicles transporting recyclable materials.

The bill was read third time and was passed.

HB 2704 ON THIRD READING

The speaker laid before the house, on its third reading and final passage,

HB 2704, A bill to be entitled An Act relating to criminal history checks of employees and applicants for employment in certain facilities serving the elderly or persons with disabilities.

A record vote was requested.

The bill was read third time and was passed by (Record 402): 134 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Alonzo; Alvarado; Averitt; Berlanga; Black; Bosse; Brady; Brimer; Carona; Carter; Chisum; Combs; Conley; Cook; Corte; Counts; Crabb; Craddick; Cuellar, H.; Cuellar, R.; Culberson; Danburg; Davila; Davis; De La Garza; Denny; Dukes; Duncan; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Farrar; Finnell; Giddings; Glaze; Goodman; Goolsby; Gray; Greenberg; Grusendorf; Gutierrez; Haggerty; Hamric; Harris; Hartnett; Hawley; Heflin; Hightower; Hilbert; Hilderbran; Hill; Hirschi; Holzheuser; Horn; Howard; Hudson; Hunter, B.; Hunter, T.; Jackson; Janek; Johnson; Jones, D.; Jones, J.; Kamel; King; Krusee; Kubiak; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Maxey; McCall; McCoulskey; McDonald; Moffat; Mowery; Munoz; Naishtat; Nixon; Oakley; Oliveira; Park; Patterson; Pickett; Pitts; Place; Price; Puente; Rabuck; Ramsay; Rangel; Raymond; Reyna; Rhodes; Rodriguez; Romo; Rusling; Saunders; Seidlits; Shields; Siebert; Smithee; Solis; Solomons; Staples; Stiles; Swinford; Talton; Telford; Thompson; Tillery; Torres; Turner, B.; Turner, S.; Uher; Van de Putte; Walker; West; Willis; Wilson; Wohlgenuth; Wolens; Woolley; Yarbrough; Yost; Zbranek.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Clemons; Driver; Moreno; Serna.

Absent, Excused, Committee Meeting — Coleman; Dear; Delisi; Gallego; Hernandez; Hochberg; Junell; Ogden; Sadler; Williamson.

Absent — Bailey.

HB 433 ON THIRD READING

The speaker laid before the house, on its third reading and final passage,

HB 433, A bill to be entitled An Act relating to the parent-child relationship, suits affecting the parent-child relationship, and the protection of children.

The bill was read third time and was passed.

HB 712 ON THIRD READING

The speaker laid before the house, on its third reading and final passage,

HB 712, A bill to be entitled An Act relating to the offense of passing a school bus.

The bill was read third time and was passed. (Averitt recorded voting no)

HB 1180 ON THIRD READING

The speaker laid before the house, on its third reading and final passage,

HB 1180, A bill to be entitled An Act relating to providing employment services and other information to persons formerly confined in the institutional division or the state jail division of the Texas Department of Criminal Justice.

The bill was read third time and was passed.

HB 1817 ON THIRD READING

The speaker laid before the house, on its third reading and final passage,

HB 1817, A bill to be entitled An Act relating to the retrieval of personal property after the entry of certain temporary orders in a suit for divorce.

The bill was read third time and was passed.

HB 1395 ON THIRD READING

The speaker laid before the house, on its third reading and final passage,

HB 1395, A bill to be entitled An Act relating to the dismissal of prosecutions of certain misdemeanor traffic offenses punishable by fine only.

The bill was read third time.

Amendment No. 1

Representative Place offered the following amendment to the bill:

Amend **HB 1395** by adding the following appropriately numbered section to the bill and renumbering existing sections of the bill accordingly:

SECTION____. Sections 143A(a) and (a-1), Uniform Act Regulating Traffic on Highways (Article 6701d, Vernon's Texas Civil Statutes), are amended to read as follows:

(a) When a person is charged with a misdemeanor offense under this Act, other than a violation of Section 39, 40, 51, 104, or 186 or a serious traffic violation as defined in Section 3(26), Texas Commercial Driver's License Act (Article 6687b-2, Revised Statutes), committed while operating a motor vehicle, the defendant shall be advised by the court of his right to successfully complete a driving safety course and the court:

(1) in its discretion may defer proceedings and allow the person 90 days to present a uniform certificate of course completion as evidence that, subsequent to the alleged act, the person has successfully completed a driving safety course approved under the Texas Driver and Traffic Safety Education Act (Article 4413(29c), Vernon's Texas Civil Statutes); or

(2) shall defer proceedings and allow the person 90 days to present a uniform certificate of course completion as written evidence that, subsequent to the alleged act, the person has successfully completed a driving safety course approved under the Texas Driver and Traffic Safety Education Act (Article 4413(29c), Vernon's Texas Civil Statutes), if:

(A) the person enters a plea in person or in writing of No Contest or Guilty and presents to the court an oral request or a written request, in person or by mail [~~postmarked on or before the answer date on the citation~~], to take a course;

(B) the court enters judgment on the person's plea of No Contest or Guilty at the time the plea is made but defers imposition of the judgment for 90 days;

(C) the person has a valid Texas driver's license or permit;

(D) the person's driving record as maintained by the Texas Department of Public Safety does not indicate successful completion of a driving safety course under this subdivision within the one year immediately preceding the date of the alleged offense;

(E) the person files an affidavit with the court stating that the person is not in the process of taking a course under this subdivision and has not completed a course under this subdivision that is not yet reflected on the person's driving record;

(F) the offense charged is for an offense covered by this section other than speeding 25 miles per hour or more over the posted speed limit at the place where the alleged offense occurred; and

(G) the person provides proof of financial responsibility as required by Section 1A, Texas Motor Vehicle Safety-Responsibility Act (Article 6701h, Vernon's Texas Civil Statutes).

(a-1) A written request to take a driving safety course under Subsection (a)(2) of this section ~~that is mailed must be [timely if it is]~~ sent by certified mail, return receipt requested~~[- and is postmarked on or before the answer date on the citation]~~; however, the court may, in its discretion, upon written motion submitted to the court at any time prior to the final disposition of the case, grant a request to take a driving safety course under Subsection (a)(1) or (a)(2) of this section.

Amendment No. 1 was adopted without objection.

HB 1395, as amended, was passed.

(Gallego now present)

HB 1681 ON THIRD READING

The speaker laid before the house, on its third reading and final passage,

HB 1681, A bill to be entitled An Act relating to the lease and sale of certain land by the Texas Low-Level Radioactive Waste Disposal Authority.

The bill was read third time and was passed.

HB 2925 ON THIRD READING

The speaker laid before the house, on its third reading and final passage,

HB 2925, A bill to be entitled An Act relating to the sale or transfer of Water Supply or Sewer Service Corporation stock, membership or other right of participation of the person or entity to whom the membership is transferred.

The bill was read third time and was passed.

HB 1836 ON THIRD READING

The speaker laid before the house, on its third reading and final passage,

HB 1836, A bill to be entitled An Act relating to the tuition charged to certain residents of bordering states at certain two-year public institutions of higher education.

The bill was read third time.

LEAVE OF ABSENCE GRANTED

The following member was granted leave of absence temporarily for today to attend a meeting of the conference committee on HB 1.

Gallego on motion of Kubiak.

HB 1836 - (consideration continued)**Amendment No. 1**

Representative Finnell offered the following amendment to the bill:

Amend **HB 1836** (2nd Reading Engrossment) on third reading as follows:

(1) On page 1, line 6, strike "Subsections (f) and (g)" and substitute "Subsections (f), (g), and (h)".

(2) On page 2, line 16, between "section" and "does", insert "or at an institution of higher education as authorized by Subsection (f)".

(3) On page 2, between lines 19 and 20, insert the following:

(f) The nonresident tuition fee prescribed by this chapter does not apply to a nonresident student who is a resident of a county or parish of Arkansas, Louisiana, New Mexico, or Oklahoma that is adjacent to this state and who registers in an institution of higher education, as defined by Section 61.003, the governing board of which has agreed to admit the student at the resident tuition fee prescribed by this chapter. The state in which the student resides must allow a resident of a county of this state that is adjacent to that state to register in a public institution of higher education in that state at the tuition fee charged residents of that state. The student shall pay tuition equal to that charged residents of this state at the institution.

(4) On page 2, line 20, strike "(f)" and substitute "(g)".

(5) On page 3, line 2, strike "(g)" and substitute "(h)".

Amendment No. 1 was adopted without objection.

HB 1836, as amended, was passed. (Horn, Rabuck, and Talton recorded voting no)

HB 2031 ON THIRD READING

The speaker laid before the house, on its third reading and final passage,

HB 2031, A bill to be entitled An Act relating to a Buffalo Soldier Heritage pilot program for at-risk youth.

The bill was read third time.

Amendment No. 1

Representative G. Lewis offered the following amendment to the bill:

Amend **HB 2031** on third reading as follows:

(1) On page 1, line 12, insert "Tarrant," between "Dallas," and "Tom Green,".

Amendment No. 1 was adopted without objection.

HB 2031, as amended, was passed.

HB 2389 ON THIRD READING

The speaker laid before the house, on its third reading and final passage,

HB 2389, A bill to be entitled An Act relating to the lawful operation of a motor vehicle by certain chemically dependent persons and persons who are adjudged to be mentally incompetent.

A record vote was requested.

The bill was read third time and was passed by (Record 403): 132 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Alonzo; Alvarado; Averitt; Bailey; Berlanga; Black; Bosse; Brimer; Carona; Carter; Chisum; Combs; Conley; Cook; Corte; Counts; Crabb; Craddick; Cuellar, H.; Cuellar, R.; Culberson; Danburg; Davis; De La Garza; Denny; Dukes; Duncan; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Farrar; Finnell; Giddings; Glaze; Goodman; Goolsby; Gray; Greenberg; Grusendorf; Gutierrez; Haggerty; Hamric; Harris; Hartnett; Hawley; Heflin; Hightower; Hilbert; Hilderbran; Hill; Hirschi; Holzheuser; Horn; Howard; Hudson; Hunter, B.; Hunter, T.; Jackson; Janek; Johnson; Jones, D.; Jones, J.; Kamel; King; Krusee; Kubiak; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Maxey; McCall; McCoulskey; McDonald; Moffat; Mowery; Munoz; Naishtat; Nixon; Oakley; Oliveira; Park; Patterson; Pickett; Pitts; Place; Price; Puente; Rabuck; Ramsay; Rangel; Raymond; Reyna; Rhodes; Rodriguez; Romo; Rusling; Saunders; Seidlits; Shields; Siebert; Smithee; Solis; Solomons; Staples; Stiles; Swinford; Talton; Telford; Thompson; Tillery; Torres; Turner, B.; Turner, S.; Uher; Van de Putte; Walker; West; Willis; Wilson; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbranek.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Clemons; Driver; Moreno; Serna.

Absent, Excused, Committee Meeting — Coleman; Dear; Delisi; Gallego; Hernandez; Hochberg; Junell; Ogden; Sadler; Williamson.

Absent — Brady; Davila; Yost.

HB 2464 ON THIRD READING

The speaker laid before the house, on its third reading and final passage,

HB 2464, A bill to be entitled An Act relating to the provision at certain retail establishments of security measures and devices to protect employees and customers.

The bill was read third time and was passed.

HB 2522 ON THIRD READING

The speaker laid before the house, on its third reading and final passage,

HB 2522, A bill to be entitled An Act relating to participation in benefits from the Employees Retirement System of Texas for certain law enforcement and custodial officers.

The bill was read third time and was passed.

HB 1362 ON THIRD READING

The speaker laid before the house, on its third reading and final passage,

HB 1362, A bill to be entitled An Act relating to certain health care liability claims for which the state provides indemnification.

A record vote was requested.

The bill was read third time and was passed by (Record 404): 131 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Alexander; Alonzo; Alvarado; Averitt; Bailey; Berlanga; Black; Bosse; Brimer; Carona; Carter; Chisum; Combs; Conley; Cook; Corte; Counts; Crabb; Craddick; Cuellar, H.; Cuellar, R.; Culberson; Danburg; Davis; De La Garza; Denny; Dukes; Duncan; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Farrar; Finnell; Giddings; Glaze; Goodman; Goolsby; Gray; Greenberg; Grusendorf; Gutierrez; Haggerty; Hamric; Harris; Hartnett; Hawley; Heflin; Hightower; Hilbert; Hilderbran; Hill; Hirschi; Holzhauser; Horn; Howard; Hudson; Hunter, B.; Hunter, T.; Jackson; Janek; Johnson; Jones, D.; Jones, J.; Kamel; King; Krusee; Kubiak; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Maxey; McCall; McCoulskey; McDonald; Moffat; Mowery; Munoz; Nixon; Oakley; Oliveira; Park; Patterson; Pickett; Pitts; Place; Price; Puente; Rabuck; Ramsay; Rangel; Raymond; Reyna; Rhodes; Rodriguez; Romo; Rusling; Saunders; Seidlits; Shields; Siebert; Smithee; Solis; Solomons; Staples; Stiles; Swinford; Talton; Telford; Thompson; Tillery; Torres; Turner, B.; Turner, S.; Uher; Van de Putte; Walker; West; Willis; Wilson; Wohlgemuth; Wolens; Woolley; Yarbrough; Yost; Zbranek.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Clemons; Driver; Moreno; Serna.

Absent, Excused, Committee Meeting — Coleman; Dear; Delisi; Gallego; Hernandez; Hochberg; Junell; Ogden; Sadler; Williamson.

Absent — Allen; Brady; Davila; Naishtat.

HB 1390 ON THIRD READING

The speaker laid before the house, on its third reading and final passage,

HB 1390, A bill to be entitled An Act relating to requiring a quail stamp for hunting quail; providing a penalty.

The bill was read third time and failed to pass. (Bosse, Gutierrez, and Talton recorded voting no)

HB 354 ON THIRD READING

The speaker laid before the house, on its third reading and final passage,

HB 354, A bill to be entitled An Act relating to insurance for a charitable organization.

The bill was read third time and was passed.

HB 613 ON THIRD READING

The speaker laid before the house, on its third reading and final passage,

HB 613, A bill to be entitled An Act relating to the composition and functions of the Commission on Fire Protection.

The bill was read third time and was passed.

HB 614 ON THIRD READING

The speaker laid before the house, on its third reading and final passage,

HB 614, A bill to be entitled An Act relating to the eligibility of a defendant for placement in the state boot camp program.

The bill was read third time and was passed.

HB 1379 ON THIRD READING

The speaker laid before the house, on its third reading and final passage,

HB 1379, A bill to be entitled An Act relating to the registration, release, and supervision of sex offenders.

The bill was read third time and was passed.

HB 1420 ON THIRD READING

The speaker laid before the house, on its third reading and final passage,

HB 1420, A bill to be entitled An Act relating to the appointment of bailiffs for the district courts in Tarrant County that give preference to criminal cases.

The bill was read third time and was passed.

HB 1511 ON THIRD READING

The speaker laid before the house, on its third reading and final passage,

HB 1511, A bill to be entitled An Act relating to maximum liability under underinsured motorist insurance coverage.

The bill was read third time.

Amendment No. 1

Representative Bosse offered the following amendment to the bill:

Amend **HB 1511** on third reading by striking SECTION 3 of the bill and substituting the following:

SECTION 3. On or before December 31, 1995, the commissioner shall hold a hearing for the purpose of determining the impact on rate reduction resulting

from the passage of this Act. After such hearing, the commissioner shall order a reduction if appropriate in underinsured and uninsured motorist coverage rates for each insurance company operating in this state. If the commissioner has not issued an order in accordance with this section by March 1, 1996, or the order has not become final because of judicial intervention or any other reason, such rates for underinsured and uninsured motorist coverage shall be reduced 10 percent below the rates in effect on April 1, 1995. If an insurance company can show that such a rate reduction is confiscatory, that company's underinsured and uninsured motorist coverage rates shall be reduced by an amount that is not confiscatory.

Amendment No. 1 was adopted without objection.

HB 1511, as amended, was passed.

HB 1662 ON SECOND READING

The speaker laid before the house, on its second reading and passage to engrossment, the complete committee substitute for **HB 1662**.

CSHB 1662, A bill to be entitled An Act relating to the powers and duties of the Department of Protective and Regulatory Services; providing penalties.

(Speaker pro tempore in the chair)

CSHB 1662 was read second time.

Amendment No. 1

Representative Brady offered the following amendment to **CSHB 1662**:

Amend **CSHB 1662**, house committee report, on page 16, between lines 2 and 3, by inserting the following new section to Subchapter C, Chapter 40, Human Resources Code, as added by the bill:

Sec. 40.065. COMMUNICATIONS OFFICER; PLAN. (a) The department shall designate a communications officer to be the department employee with primary responsibility for communicating with the public regarding the department's powers and duties. The individual designated under this subsection shall:

(1) oversee the department's communications with persons seeking to report abuse or neglect or inquiring about the status of a case;

(2) encourage monitoring of cases under investigation by the department; and

(3) oversee the department's effective and timely response to questions from the public within the department's confidentiality guidelines.

(b) The department shall develop and implement a communication plan in each county to ensure public and government awareness of abuse investigated by the department. The plan shall include information detailing the procedure followed by the department during the investigation and the responsibilities of the department in child abuse cases. In implementing the plan, the department shall establish a process for expediting the reporting of abuse to the department. The department shall adopt rules to implement this subsection.

Amendment No. 1 was adopted without objection.

CSHB 1662, as amended, was passed to engrossment

HB 1726 ON SECOND READING

The chair laid before the house, on its second reading and passage to engrossment, the complete committee substitute for **HB 1726**.

CSHB 1726, A bill to be entitled An Act relating to certain criminal background information obtained by the Texas Commission on Alcohol and Drug Abuse.

CSHB 1726 was read second time and was passed to engrossment.

HB 1830 ON SECOND READING

The chair laid before the house, on its second reading and passage to engrossment,

HB 1830, A bill to be entitled An Act relating to the use of certain lighting equipment on motor vehicles.

The bill was read second time.

Amendment No. 1 (Committee Amendment No. 1)

On behalf of Representative Siebert, Representative Alexander offered the following committee amendment to the bill:

Amend **HB 1830** as follows:

- (1) On page 1, line 10, strike "or blue" and substitute "blue, amber or white".
- (2) On page 1, line 18 strike "or white".

Amendment No. 1 was adopted without objection.

HB 1830, as amended, was passed to engrossment.

HB 1953 ON SECOND READING

The chair laid before the house, on its second reading and passage to engrossment, the complete committee substitute for **HB 1953**.

CSHB 1953, A bill to be entitled An Act relating to initial training and continuing education for police chiefs.

CSHB 1953 was read second time.

Representative Oakley moved to postpone consideration of **CSHB 1953** until 8 p.m. today.

The motion prevailed without objection.

HB 1997 ON SECOND READING

The chair laid before the house, on its second reading and passage to engrossment, the complete committee substitute for **HB 1997**.

CSHB 1997, A bill to be entitled An Act relating to the guarantee of certain loans under the linked deposit program.

CSHB 1997 was read second time and was passed to engrossment. (Corte, Horn, T. Hunter, and Swinford recorded voting no)

MESSAGE FROM THE SENATE

Austin, Texas, May 11, 1995

The Honorable Speaker of the House of Representatives
House Chamber

The Honorable
Mr. Speaker:

I am directed by the Senate to inform the House that the Senate has passed the following:

SB 1214 by Ellis, relating to the registration of and reporting by charitable organizations; providing penalties.

SB 1334 by Barrientos, relating to the relationship between landlords and tenants and to the regulation of residential rental locators; providing penalties.

SB 1677 by Barrientos, Armbrister, Montford, Wentworth, and Turner, Jim, relating to studying the feasibility of constructing a motion-picture soundstage facility on state-owned property in certain counties and authorizing the construction if it is feasible; making an appropriation.

SB 1696 by Bivins, relating to the creation of development districts in certain counties; authorizing certain taxes, the issuance of bonds, and the exercise of eminent domain.

Respectfully,
Betty King
Secretary of the Senate

HB 2000 ON SECOND READING

The chair laid before the house, on its second reading and passage to engrossment,

HB 2000, A bill to be entitled An Act relating to the application of nepotism laws to the employment of a substitute teacher in certain school districts.

The bill was read second time.

Amendment No. 1

Representative Madden offered the following amendment to the bill:

Amend **HB 2000** as follows:

- (1) On page 1, strike lines 22 and 23, and substitute the following:
"(4) an appointment or employment of a [~~substitute teacher or~~] bus driver by a school district if:"
- (2) On page 2, strike lines 6 through 8 and substitute the following:
"teacher by a school district; or"

Amendment No. 1 was adopted without objection.

HB 2000, as amended, was passed to engrossment.

(Pitts in the chair)

HB 2032 ON SECOND READING

The chair laid before the house, on its second reading and passage to engrossment, the complete committee substitute for **HB 2032**.

CSHB 2032, A bill to be entitled An Act relating to the administration of medical and dental units of public institutions of higher education.

CSHB 2032 was read second time and was passed to engrossment.

(Speaker pro tempore in the chair)

HB 2037 ON SECOND READING

The chair laid before the house, on its second reading and passage to engrossment,

HB 2037, A bill to be entitled An Act relating to the creation of the offense of indecency with a disabled individual.

The bill was read second time and was passed to engrossment.

HB 2085 ON SECOND READING

The chair laid before the house, on its second reading and passage to engrossment, the complete committee substitute for **HB 2085**.

CSHB 2085, A bill to be entitled An Act relating to the liability of certain private and governmental owners of agricultural land used for recreation.

CSHB 2085 was read second time and was passed to engrossment.

SB 707 ON SECOND READING

(Serna - House Sponsor)

The chair laid before the house, in lieu of **HB 2115**, on its second reading and passage to third reading, the complete committee substitute for **SB 707**.

CSSB 707, A bill to be entitled An Act relating to the accessibility of certain paints to business patrons in certain municipalities.

CSSB 707 was read second time.

Amendment No. 1

Representative Cook offered the following amendment to **CSSB 707**:

Amend **CSSB 707** as follows:

(1) On page 1, line 9 insert "residing in a county with a population of more than 50,000" between "age" and "commits".

Amendment No. 1 was adopted without objection.

SB 707, as amended, was passed to third reading. (Corte and Heflin recorded voting no)

HB 2115 - LAID ON THE TABLE SUBJECT TO CALL

Representative G. Lewis moved to lay **HB 2115** on the table subject to call.

The motion prevailed without objection.

HCR 196 - ADOPTED

Representative Holzheuser moved to suspend all necessary rules to take up and consider at this time **HCR 196**.

The motion prevailed without objection.

The chair laid before the house the following resolution:

By Holzheuser,

HCR 196, Honoring Mayor Ted B. Reed of Victoria.

The resolution was adopted without objection.

**SB 1198 ON SECOND READING
(Thompson - House Sponsor)**

The chair laid before the house, in lieu of **HB 2097**, on its second reading and passage to third reading,

SB 1198, A bill to be entitled An Act relating to the power of a municipality to abate certain nuisances, including substandard buildings, that are dangerous to the public health or safety; creating a civil penalty.

The bill was read second time.

Amendment No. 1

Representative Park offered the following amendment to the bill:

Amend **SB 1198** (House Committee Report) on page 1 by striking line 23 and on page 2 by striking lines 1-2 and substituting the following:

Subordinate only to; and

(1) tax liens; and

(2) all [~~previously~~] recorded bona fide mortgage liens attached to the real property before September 1, 1995, and before the date on [to] which the municipality's lien attaches.

Amendment No. 1 was adopted without objection.

SB 1198, as amended, was passed to third reading.

HB 2097 - LAID ON THE TABLE SUBJECT TO CALL

Representative Thompson moved to lay **HB 2097** on the table subject to call.

The motion prevailed without objection.

HB 2177 ON SECOND READING

The chair laid before the house, on its second reading and passage to engrossment,

HB 2177, A bill to be entitled An Act relating to the validation of all acts, governmental proceedings, officials, bonds, and obligations of navigation districts.

The bill was read second time and was passed to engrossment.

HB 2296 ON SECOND READING

The chair laid before the house, on its second reading and passage to engrossment, the complete committee substitute for **HB 2296**.

CSHB 2296, A bill to be entitled An Act relating to the creation of a voluntary cleanup program for solid and hazardous wastes.

CSHB 2296 was read second time.

Amendment No. 1

Representative Zbrank offered the following amendment to **CSHB 2296**:

Amend **CSHB 2296** as follows:

On page 2, line 9, after the word "action", and add ", and is restricted to voluntary actions"

Amendment No. 1 was adopted without objection.

Amendment No. 2

Representative Zbrank offered the following amendment to **CSHB 2296**:

Amend **CSHB 2296**, Sec. 361.610, Health and Safety Code, as follows:

On page 9, line 25, after the word "subchapter.", add a sentence: "A person shall coordinate a voluntary cleanup with ongoing federal and state hazardous waste programs."

Amendment No. 2 was adopted without objection.

Amendment No. 3

Representative Hirschi offered the following amendment to **CSHB 2296**:

Amend **CSHB 2296** as follows:

On page 3, amend Section 361.604, Health and Safety Code as follows:

After line 25 insert the following: "(5) relevant information of which the applicant is aware concerning the potential for human exposure to contamination at the site."

Amendment No. 3 was adopted without objection.

CSHB 2296, as amended, was passed to engrossment.

(Hochberg now present)

HB 2428 ON SECOND READING

The chair laid before the house, on its second reading and passage to engrossment,

HB 2428, A bill to be entitled An Act relating to criminal history record information maintained by and disseminated from the Department of Public Safety.

The bill was read second time.

Amendment No. 1

Representative Allen offered the following amendment to the bill:

Amend **HB 2428** by adding an appropriately numbered SECTION to read as follows and by renumbering existing SECTIONS accordingly.

SECTION _____. (a) The Private Investigators and Private Security Agencies Act (Article 4413(29bb), Vernon's Texas Civil Statutes) is amended by adding Section 39A to read as follows:

Sec. 39A. DENIAL, SUSPENSION, OR REVOCATION OF LICENSE BASED ON CRIMINAL HISTORY BACKGROUND CHECK. (a) The board may obtain any criminal history record relating to an applicant for a license or a license holder regulated under this Act that is maintained by the Department of Public Safety and the Federal Bureau of Investigation. The board shall deny an application for a person who does not provide two complete sets of fingerprints on forms prescribed by the board or fails to pay any required fee under this section.

(b) The board shall suspend a license, registration, security officer commission, letter of approval, or permit issued to an individual under this Act if the board receives written notification from the Department of Public Safety or any other law enforcement agency that the individual has been arrested for or charged with a felony or a misdemeanor involving moral turpitude.

(c) The board shall deny an application for a license, registration, security officer commission, letter of approval, or permit for an individual if the board receives written notification from the Department of Public Safety or any other law enforcement agency that the individual has been arrested for or charged with a felony or a misdemeanor involving moral turpitude.

(d) A license, security officer commission, registration, letter of approval, or permit is conditional on the board's receipt of criminal history information from the Department of Public Safety and shall be denied, suspended, or revoked if the board receives information from the Federal Bureau of Investigation or any other law enforcement agency that the individual or applicant has a record of having committed a criminal offense.

(b) Section 39A, The Private Investigators and Private Security Agencies Act (Article 4413(29bb), Vernon's Texas Civil Statutes), as added by this Act, applies only to an arrest for or charge of a felony or a misdemeanor involving moral turpitude that occurs on or after the effective date of this Act. An arrest for or charge of a felony or a misdemeanor involving moral turpitude that occurs before the effective date of this Act is governed by The Private Investigators and Private Security Agencies Act (Article 4413(29bb), Vernon's Texas Civil Statutes) as it existed on the date of the arrest or charge, and the former law is continued in effect for that purpose.

Amendment No. 1 was adopted without objection.

Amendment No. 2

Representative Hochberg offered the following amendment to the bill:

Amend **HB 2428** as follows:

(1) Add the following appropriately numbered section:

SECTION _____. Article 60.061, Code of Criminal Procedure, is amended to read as follows:

Art. 60.061. INFORMATION ON PERSONS LICENSED BY CERTAIN AGENCIES. (a) The Texas State Board of Medical Examiners, the Texas

State Board of Podiatry Examiners, the State Board of Dental Examiners, the Texas State Board of Pharmacy, ~~and~~ the State Board of Veterinary Medical Examiners, and any state agency entitled to receive criminal history record information under Subchapter F, Chapter 411, Government Code, and that may take disciplinary action against a person licensed or otherwise regulated by the agency for engaging in a criminal act may, not more than once every three months. ~~shall~~ provide to the Department of Public Safety through electronic means, magnetic tape, or disk, as specified by the department, a list including the name, date of birth, and any other personal descriptive information required by the department for each person licensed by the respective agency. ~~Each agency shall update this information and submit to the Department of Public Safety the updated information monthly.]~~

(b) The Department of Public Safety may establish a schedule for the voluntary provision of information to the department under Subsection (a) of this article to balance the department's workload.

(c) The Department of Public Safety shall perform ~~[at least monthly]~~ a computer match of the licensing list against the convictions maintained in the computerized criminal history system. The Department of Public Safety shall report to the appropriate licensing agency for verification and administrative action, as considered appropriate by the licensing agency, the name of any person found to have a record of conviction, except a defendant whose prosecution is deferred during a period of community supervision ~~[probation]~~ without an adjudication or plea of guilt.

(d) ~~[(e)]~~ The transmission of information by electronic means under Subsection (a) of this article does not affect whether the information is subject to disclosure under Chapter 552, Government Code ~~[the open records law, Chapter 424, Acts of the 63rd Legislature, Regular Session, 1973 (Article 6252-17a, Vernon's Texas Civil Statutes)].~~

(e) The Department of Public Safety may not charge or assess a fee under this article to an agency providing information to the department under Subsection (a) of this article for performing the department's duties under this article.

(f) A criminal justice agency that provides information to a political subdivision under Section 411.124(c), Government Code, may provide to and receive from the Department of Public Safety requests for or results of a criminal history information search in the same manner as described in Subsections (a)-(e) of this article.

(2) Add the following appropriately numbered section:

SECTION _____. (a) In addition to changes in the law made by this Act relating to the use by certain state agencies of the computerized criminal history search system of the Department of Public Safety, this Act conforms the Code of Criminal Procedure regarding criminal history searches to changes in the law made by Section 38, Chapter 790, and Section 2, Chapter 1025, Acts of the 73rd Legislature, Regular Session, 1993.

(b) Section 38, Chapter 790, and Section 2, Chapter 1025, Acts of the 73rd Legislature, Regular Session, 1993, are repealed.

(3) Renumber the subsequent sections of the bill appropriately.

Amendment No. 2 was adopted without objection.

HB 2428, as amended, was passed to engrossment.

HB 2402 ON SECOND READING

The chair laid before the house, on its second reading and passage to engrossment, the complete committee substitute for **HB 2402**.

CSHB 2402, A bill to be entitled An Act relating to the regulation of tattoo studios.

CSHB 2402 was read second time.

Amendment No. 1

Representative Thompson offered the following amendment to **CSHB 2402**:

Amend **HB 2402** by striking everything below the enabling clause and substituting the following:

SECTION 1. The heading to Chapter 146, Health and Safety Code, as added by Chapter 580, Acts of the 73rd Legislature, Regular Session, 1993, is amended to read as follows:

CHAPTER 146. TATTOO STUDIOS [PARLORS]

SECTION 2. Section 146.001, Health and Safety Code, as added by Chapter 580, Acts of the 73rd Legislature, Regular Session, 1993, is amended by amending Subdivision (3) and by adding Subdivision (4) to read as follows:

(3) "Tattoo studio [parlor]" means an establishment or facility in which tattooing is performed.

(4) "Temporary location" means a fixed location at which an individual operator performs tattooing for a specified period of not more than seven days in conjunction with a single event or celebration, where the primary function of the event or celebration is tattooing.

SECTION 3. Section 146.002, Health and Safety Code, as added by Chapter 580, Acts of the 73rd Legislature, Regular Session, 1993, is amended to read as follows:

Sec. 146.002. LICENSE REQUIRED. (a) A person may not conduct, operate, or maintain a tattoo studio [parlor] unless the person holds a license issued by the department to operate the studio [parlor].

(b) A person may not practice tattooing at a temporary location unless the person holds a temporary location license issued by the department.

(c) The license must [shall] be displayed in a prominent place in the tattoo studio or temporary location [parlor].

(d) Tattooing is permitted only at a location that is in compliance with this chapter and rules adopted under this chapter.

(e) This chapter does not apply to:

(1) a medical facility licensed under other law; or

(2) an office or clinic of a person licensed by the Texas State Board of Medical Examiners.

SECTION 4. Section 146.003, Health and Safety Code, as added by Chapter 580, Acts of the 73rd Legislature, Regular Session, 1993, is amended to read as follows:

Sec. 146.003. LICENSE APPLICATION. (a) To receive a tattoo studio

[parlor] license or temporary location license, a person must submit a signed, verified license application to the department on a form prescribed by the department and must submit an application fee.

(b) On receipt of a license application, the department shall [~~inspect the proposed tattoo parlor to determine compliance with this chapter and rules adopted by the board under this chapter. In addition, the department shall~~] request confirmation from the appropriate building and zoning officials in the municipality or county in which the studio or temporary location [parlor] is proposed to be located to determine compliance with applicable existing building and zoning codes [~~applicable to the parlor~~].

(c) The department may issue a license after determining that the studio or temporary location [parlor] is in compliance with ~~the [applicable statutes, rules, and]~~ building and zoning codes in effect on the date of the applicaton.

SECTION 5. Section 146.004, Health and Safety Code, as added by Chapter 580, Acts of the 73rd Legislature, Regular Session, 1993, is amended to read as follows:

Sec. 146.004. LICENSE Term; RENEWAL. (a) A tattoo studio license is valid for one year from the date of issuance. A temporary tattooing location license is valid for a specified period not to exceed seven days.

(b) A tattoo studio license [and] may be renewed annually on payment of the required renewal fee.

SECTION 6. Section 146.006(a), Health and Safety Code, as added by Chapter 580, Acts of the 73rd Legislature, Regular Session, 1993, is amended to read as follows:

(a) A person holding a tattoo studio license under this chapter who intends to change the location of the tattoo studio [parlor] shall notify the department in writing of that intent not less than 30 days before the change is to occur. The notice shall include the street address of the new location and the name and residence address of the individual in charge of the business at the new location.

SECTION 7. Section 146.007, Health and Safety Code, as added by Chapter 580, Acts of the 73rd Legislature, Regular Session, 1993, is amended to read as follows:

Sec. 146.007. COMPLIANCE WITH CHAPTER AND RULES. A person who owns, operates, or maintains a tattoo studio or practices tattooing at a temporary location [parlor] shall comply with this chapter and rules adopted under this chapter.

SECTION 8. Section 146.008, Health and Safety Code, as added by Chapter 580, Acts of the 73rd Legislature, Regular Session, 1993, is amended to read as follows:

Sec. 146.008. SASEPTIC TECHNIQUES. A person who owns, operates, or maintains a tattoo studio [parlor] and each tattooist who works in the studio or at a temporary location [parlor] shall take precautions to prevent the spread of infection, including:

- (1) using germicidal soap to clean the hands of the tattooist and the skin area of the client to be tattooed;
- (2) wearing clean apparel and rubber gloves;

(3) using sterile tools and equipment as provided by Section 146.011; and

(4) keeping the tattoo studio or temporary location [parlor] in a sanitary condition.

SECTION 9. Section 146.009, Health and Safety Code, as added by Chapter 580, Acts of the 73rd Legislature, Regular Session, 1993, is amended to read as follows:

Sec. 146.009. BUILDING AND LOCATION. A tattoo studio [parlor] must be in a permanent, nondwelling building located in an area in which the location is permissible under local zoning codes, if any.

SECTION 10. Section 146.010, Health and Safety Code, as added by Chapter 580, Acts of the 73rd Legislature, Regular Session, 1993, is amended to read as follows:

Sec. 146.010. ANITATION REQUIREMENTS. (a) The board by rule shall establish sanitation requirements for tattoo studios [parlors] and any other necessary requirements relating to the building or part of the building in which a tattoo studio [parlor] is located.

(b) A person who owns, operates, or maintains a tattoo studio [parlor] shall comply with the rules adopted under this section.

SECTION 11. Section 146.012, Health and Safety Code, as added by Chapter 580, Acts of the 73rd Legislature, Regular Session, 1993, is amended to read as follows:

Sec. 146.012. TATTOOS PROHIBITED FOR CERTAIN PERSONS. (1) A tattooist may not tattoo person younger than 18 years of age without written and notarized consent from a parent or guardian who determines it to be in the best interest to cover a tattoo which:

(a) obscene or offensive language or symbols;

(b) gang-related names, symbols, or markings;

(c) drug-related names, symbols, or pictures; or

(d) some other type of words, symbols, or markings that the court considers would be in the best interest of the minor to cover; or

(2) a person whom the tattooist suspects is under the influence of alcohol or drugs.

(b) If a parent or guardian of the minor and the minor agree to the covering of a tattoo described by Subsection (a), a justice court may issue the order. If the parent or guardian and the minor do not agree, the order must be issued by a district court or other court with jurisdiction of a suit affecting the parent-child relationship or a civil proceeding brought under Title 3 or 4, Family Code.

SECTION 12. Section 146.014, Health and Safety Code, as added by Chapter 580, Acts of the 73rd Legislature, Regular Session, 1993, is amended to read as follows:

Sec. 146.014. REPORT OF INFECTION. A person who owns, operates, or maintains a tattoo studio [parlor] shall report to the department any infection resulting from tattooing as soon as it becomes known.

SECTION 13. Section 146.016, Health and Safety Code, as added by Chapter 580, Acts of the 73rd Legislature, Regular Session, 1993, is amended to read as follows:

Sec. 146.016. INSPECTIONS. (a) The department shall inspect a tattoo studio [~~parlor~~] to determine if the studio [~~parlor~~] complies with this chapter and the rules adopted under this chapter.

(b) A person who owns, operates, or maintains a tattoo studio [~~parlor~~] shall allow inspection of the studio [~~parlor~~] by the department at any time the studio [~~parlor~~] is in operation.

(c) The department shall inform the person who owns, operates, or maintains a tattoo studio [~~parlor~~] of any violation discovered by the department under this section and shall give the person a reasonable period in which to take necessary corrective action.

SECTION 14. This Act takes effect September 1, 1995.

SECTION 15. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

LEAVE OF ABSENCE GRANTED

The following member was granted leave of absence temporarily for today to attend a meeting of the conference committee on SB 1:

Hochberg on motion of R. Lewis.

CSHB 2402 - (consideration continued)

Amendment No. 2

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

Amend the Thompson floor substitute to **CSHB 2402** as follows:

(1) On page 4, line 12, before "A", strike "(1)" and insert "(a)".

(2) On page 5, between lines 1 and 2, insert the following:

"(c) The written consent required by Subsection (a) must indicate the location on the person's body at which the tattoo may be placed."

Amendment No. 2 was adopted without objection.

Amendment No. 1, as amended, was adopted without objection.

CSHB 2402, as amended, was passed to engrossment. (Corte and Kamel recorded voting no)

HB 2491 ON SECOND READING

The chair laid before the house, on its second reading and passage to engrossment, the complete committee substitute for **HB 2491**.

CSHB 2491, A bill to be entitled An Act relating to certain environmental permitting procedures of the Texas Natural Resource Conservation Commission.

CSHB 2491 was read second time.

Amendment No. 1

Representative S. Turner offered the following amendment to **CSHB 2491**:

Amend **CSHB 2491** as follows:

On page 1, line 13, replace "shall" with "may"

On page 1, line 18, replace "shall" with "may"

On page 1, line 20, replace "shall" with "may"

Representative Yost moved to table Amendment No. 1.

A record vote was requested.

The motion to table prevailed by (Record 405): 79 Yeas, 53 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Averitt; Black; Brady; Brimer; Carona; Carter; Chisum; Combs; Cook; Corte; Counts; Crabb; Craddick; Cuellar, H.; Culberson; Denny; Duncan; Eiland; Elkins; Finnell; Glaze; Goodman; Goolsby; Grusendorf; Gutierrez; Haggerty; Hamric; Hartnett; Hawley; Heflin; Hightower; Hilbert; Hilderbran; Hill; Holzheuser; Horn; Howard; Hunter, B.; Hunter, T.; Jackson; Janek; Johnson; Jones, D.; Kamel; Krusee; Kubiak; Kuempel; Lewis, R.; Madden; Marchant; McCall; Moffat; Mowery; Nixon; Oakley; Park; Patterson; Pitts; Rabuck; Rhodes; Saunders; Shields; Siebert; Smithee; Solomons; Staples; Stiles; Swinford; Talton; Telford; Turner, B.; Uher(C); Walker; West; Wohlgemuth; Woolley; Yost.

Nays — Alonzo; Alvarado; Bailey; Berlanga; Bosse; Conley; Cuellar, R.; Danburg; Davila; Davis; De La Garza; Dukes; Dutton; Edwards; Ehrhardt; Farrar; Giddings; Gray; Greenberg; Harris; Hirschi; Jones, J.; King; Lewis, G.; Longoria; Luna; Maxey; McCoulskey; McDonald; Munoz; Naishtat; Oliveira; Pickett; Place; Puente; Ramsay; Rangel; Raymond; Reyna; Rodriguez; Romo; Seidlits; Solis; Thompson; Tillery; Torres; Turner, S.; Van de Putte; Willis; Wilson; Wolens; Yarbrough; Zbranek.

Present, not voting — Mr. Speaker.

Absent, Excused — Clemons; Driver; Moreno; Serna.

Absent, Excused, Committee Meeting — Coleman; Dear; Delisi; Gallego; Hernandez; Hochberg; Junell; Ogden; Sadler; Williamson.

Absent — Hudson; Price; Rusling.

STATEMENT OF VOTE

I was shown voting yes on Record No. 405. I intended to vote no.

Eiland

Amendment No. 2

Representative Hirschi offered the following amendment to **CSHB 2491**:

Amend **CSHB 2491** as follows:

On page 2, line 1 strike the word "significant"

On page 2, line 13, strike the word "significant"

On page 2, line 15, strike the word "significant"

Representative Yost moved to table Amendment No. 2.

The motion to table prevailed.

Amendment No. 3

Representative Saunders offered the following amendment to **CSHB 2491**:

Amend **CSHB 2491** in SECTION 1 by deleting new Sections 5.378 and 5.379, Water Code, and inserting in lieu thereof the following:

Sec. 5.378. PETITION FOR COMMISSION REVIEW. (a) The commission shall review the executive director's decision on a permit application as provided by this section.

(b) Any person affected by the decision of the executive director may file a petition for review with the commission. A petition for review must be filed on or before the 30th day after the date the executive director's notice of final decision is mailed.

(c) The petition must include a statement of the reasons that support commission review of the decision, demonstrate that the issue raised by the petition was raised during the public comment period or public hearing, identify all provisions of the draft permit or order of denial of the application with which the appellant disagrees, and show that the decision or a permit condition is based on:

(1) a finding of fact or a conclusion of law that is clearly in error; or

(2) an important policy consideration or an exercise of discretion that the commission should review.

(d) The commission shall determine if the petitioner is an affected person not later than the 60th day after the notice of final decision is mailed. Any valid petition granted by the commission shall be referred by the commission to the State Office of Administrative hearings for a hearing in accordance with Section 2003.047, Government Code. If the commission does not act on or before that date, the petition is automatically referred as provided in this subsection.

(e) At all stages of the petition to the commission and the hearing at the State Office of Administrative Hearings, each factual representation contained in the draft permit prepared by the executive director and in the application, to the extent not inconsistent with the draft permit, shall be deemed to be true and correct, unless specifically controverted by sworn testimony or other competent evidence in accordance with the requirements of Subsection (f).

(f) Any participant in the permitting procedures established by this subchapter desiring to challenge the appropriateness of any term, condition, or other provision of the draft permit, or the accuracy of any factual representation of the underlying application, shall bear the burdens of production and persuasion with respect to the specification, condition, provisions, or facts at issue. Any draft permit prepared by the executive director shall be recommended for approval by the administrative law judge as written unless it is established by a preponderance of the evidence before the State office of Administrative Hearings that the permit should be modified or denied.

(g) A petition filed under this section does not affect the validity of a permit issued by the executive director unless and until the commission modifies or rejects the executive director's permit decision.

Sec. 5.379. COMMISSION ACTION. (a) After the administrative law judge of the State Office of Administrative Hearings submits a proposal for decision to the commission, the commission shall proceed as provided in Sec. 2003.047(i), Government Code.

(b) The commission decision is final as provided in Sec. 2001.144, Government Code.

(c) Any motions for commission rehearing shall be governed by Sections 2001.145 and 2001.146, Government Code.

Sec. 5.380. JUDICIAL REVIEW OF COMMISSION PERMIT DECISIONS.

(a) A person affected by the commission's final decision on a permit application may petition for judicial review. The petition must be filed on or before the 30th day after the date the commission mails its final decision on the application.

(b) Failure to timely petition for commission review of the executive director's decision is a bar to judicial review of the decision.

(c) Judicial review of decisions of the commission under this subchapter shall be under the substantial evidence rules as provided by Sec. 2001.174, Government Code.

(d) The filing of an appeal does not stay any action required by the commission's decision.

(e) The record of appeal shall include the record of proceedings of the contested case hearing at the State Office of Administrative Hearings.

Amendment No. 4

Representatives S. Turner and Zbranek offered the following amendment to Amendment No. 3:

Amend the Saunders Amendment to **CSHB 2491** by adding the following provision:

On page 9, line 25, after the word, "mailed" add the following:

, unless a petition for review is filed in accordance with Section 5.738,

(2) in Section 5.378(g), Water Code, strike "does not" and add "stays the"

Amendment No. 4 was adopted without objection.

Amendment No. 3, as amended, was adopted without objection.

CSHB 2491, as amended, was passed to engrossment. (Danburg and Denny recorded voting no)

CSHB 1953 ON SECOND READING

The chair laid before the house, as postponed business, on its second reading and passage to engrossment, the complete committee substitute for **HB 1953**.

CSHB 1953, A bill to be entitled An Act relating to initial training and continuing education for police chiefs.

CSHB 1953 was read second time earlier today and was postponed until this time.

Amendment No. 1

Representative Oakley offered the following amendment to **CSHB 1953**:

Amend **CSHB 1953** as follows:

On page 2, line 20, insert as SECTION 2 of the bill and renumber the subsequent sections appropriately as follows:

SECTION 2. Sections 96.64 (b), (c), and (h), Education Code, are amended to read as follows:

(b) The Bill Blackwood Law Enforcement Management Institute of Texas is created for the training of police management personnel. The headquarters of the institute are at Sam Houston State University. The institute is under the supervision and direction of the president of Sam Houston State University ~~and shall be operated and managed as a joint program between Sam Houston State University, Texas A&M University, and Texas Women's University.~~

(c) The institute's advisory board is composed of seven ~~nine~~ members appointed as follows:

(1) one by the governor, who must be a licensed peace officer with supervisory experience;

(2) one by the lieutenant governor, who must be a licensed peace officer with supervisory experience;

(3) one by the speaker of the house of representatives, who must be a licensed peace officer with supervisory experience;

(4) one by the president of Sam Houston State University; and

(5) ~~one by the president of Texas A&M University;~~

(6) ~~one by the president of Texas Woman's University; and~~

(7) three by the Commission on Law Enforcement Officer Standards and Education, two of whom must be licensed, nonsupervisory peace officers.

(h) The board shall elect a chairman, a vice-chairman, and a secretary from the appointed members at its first meeting after new appointments to fill regular terms. The board shall meet at least once in each calendar quarter and may meet at other times as necessary to perform the duties of the board. Four ~~Five~~ of the appointed members constitute a quorum.

On page 3, line 1, at the end of Section 3 of the bill add subsection (d) as follows:

(d) The positions of the members of the advisory board of the Bill Blackwood Law Enforcement Management Institute of Texas that are filled by appointment by the presidents of Texas A&M University and Texas Woman's University are abolished on September 1, 1995.

Amendment No. 1 was adopted without objection.

CSHB 1953, as amended, was passed to engrossment.

SB 81 ON SECOND READING
(Brady and Goodman - House Sponsors)

The chair laid before the house, in lieu of **HB 2571**, on its second reading and passage to third reading, the complete committee substitute for **SB 81**.

CSSB 81, A bill to be entitled An Act relating to the establishment of children's advocacy centers.

(Driver now present)

CSSB 81 was read second time.

Amendment No. 1

Representative Van de Putte offered the following amendment to **CSSB 81**:

Amend **CSSB 81** (House Committee Report) as follows:

(1) On page 4, between lines 19 and 20, insert new Sections 2-7 to the bill to read as follows:

"SECTION 2. Chapter 264, Family Code, as added by H.B. 655, Acts of the 74th Legislature, Regular Session, 1995, is amended by adding Subchapter F to read as follows:

SUBCHAPTER F. CHILD FATALITY REVIEW AND INVESTIGATION
Sec. 264.501. DEFINITIONS. In this subchapter:

(1) "Autopsy" and "inquest" have the meanings assigned by Section 49.01, Code of Criminal Procedure.

(2) "Bureau of vital statistics" means the bureau of vital statistics of the Texas Department of Health.

(3) "Child" means a person younger than 18 years of age.

(4) "Committee" means the child fatality review team committee.

(5) "Council" means the Children's Trust Fund of Texas Council.

(6) "Department" means the Department of Protective and Regulatory Services.

(7) "Health care provider" means any health care practitioner or facility that provides medical evaluation or treatment, including dental and mental health evaluation or treatment.

(8) "Meeting" means an in-person meeting or a meeting held by telephone or other electronic medium.

(9) "Preventable death" means a death that may have been prevented by reasonable medical, social, legal, psychological, or educational intervention. The term includes the death of a child from:

(A) intentional or unintentional injuries;

(B) medical neglect;

(C) lack of access to medical care;

(D) neglect and reckless conduct, including failure to supervise and failure to seek medical care; and

(E) premature birth associated with any factor described by Paragraphs (A)-(D).

(10) "Review" means a reexamination of information regarding a deceased child from relevant agencies, professionals, and health care providers.

(11) "Review team" means a child fatality review team established under this subchapter.

(12) "Unexpected death" includes a death of a child that, before investigation:

(A) appears to have occurred without anticipation or forewarning; and

(B) was caused by trauma, suspicious or obscure circumstances, sudden infant death syndrome, abuse or neglect, or an unknown cause.

Sec. 264.502. COMMITTEE. (a) The child fatality review team committee is composed of:

(1) a person appointed by and representing the state registrar for the bureau of vital statistics;

(2) a person appointed by and representing the director of Protective Services for Families and Children of the department;

(3) a person appointed by and representing the director of the bureau of epidemiology of the Texas Department of Health;

(4) a person appointed by and representing the executive director of the council; and

(5) individuals selected under Subsection (b).

(b) The members of the committee who serve under Subsections (a)(1)-(4) shall select the following additional committee members:

(1) a criminal prosecutor involved in prosecuting crimes against children;

(2) a sheriff;

(3) a justice of the peace;

(4) a medical examiner;

(5) a police chief;

(6) a pediatrician experienced in diagnosing and treating child abuse and neglect;

(7) a child educator;

(8) a child mental health provider;

(9) a public health professional;

(10) a child protective services specialist;

(11) a sudden infant death syndrome family service provider;

(12) a neonatologist;

(13) a child advocate; and

(14) a chief juvenile probation officer.

(c) Members of the committee selected under Subsection (b) serve two-year terms that expire on February 1 of each even-numbered year.

(d) Members selected under Subsection (b) must reflect the geographical, cultural, racial, and ethnic diversity of the state.

(e) An appointment to a vacancy on the committee shall be made in the same manner as the original appointment.

(f) Members of the committee shall select a presiding officer from the members of the committee.

(g) The presiding officer of the committee shall call the meetings of the committee, which shall be held at least quarterly.

(h) A member of the committee is not entitled to compensation for serving on the committee but is entitled to reimbursement for the member's travel expenses as provided in the General Appropriations Act. Reimbursement under this subsection for a person serving on the committee under Subsection (a)(1) or (3) shall be paid from funds appropriated to the Texas Department of Health. Reimbursement for other persons serving on the committee shall be paid equally from funds appropriated to the department and funds appropriated to the council.

Sec. 264.503. PURPOSE AND DUTIES OF COMMITTEE AND SPECIFIED STATE AGENCIES. (a) The purpose of the committee is to:

(1) develop an understanding of the causes and incidence of child deaths in this state;

(2) identify procedures within the agencies represented on the committee to reduce the number of preventable child deaths; and

(3) promote public awareness and make recommendations to the governor and the legislature for changes in law, policy, and practice to reduce the number of preventable child deaths.

(b) To ensure that the committee achieves its purpose, the department, the council, and the Texas Department of Health shall perform the duties specified by this section.

(c) The department shall:

(1) recognize the creation and participation of review teams;

(2) promote and coordinate training to assist the review teams in carrying out their duties;

(3) assist the committee in developing model protocols for:

(A) the reporting and investigating of child fatalities for law enforcement agencies, child protective services, justices of the peace and medical examiners, and other professionals involved in the investigations of child deaths;

(B) the collection of data regarding child deaths; and

(C) the operation of the review teams; and

(4) develop and implement procedures necessary for the operation of the committee.

(d) The council shall promote education of the public regarding the incidence and causes of child deaths, the public role in preventing child deaths, and specific steps the public can undertake to prevent child deaths. The committee shall enlist the support and assistance of civic, philanthropic, and public service organizations in the performance of the duties imposed under this subsection.

(e) The Texas Department of Health shall:

(1) collect data under this subchapter and coordinate the collection of data under this subchapter with other data collection activities; and

(2) perform annual statistical studies of the incidence and causes of child fatalities using the data collected under this subchapter.

(f) The committee shall issue annual reports on the committee's activities, including findings and recommendations relating to each purpose and duty of the committee described by this section. Not later than December 1 of each even-numbered year, the committee shall publish the report and submit a copy of the report to the governor, lieutenant governor, and speaker of the house of representatives.

Sec. 264.504. MEETINGS OF COMMITTEE. (a) Except as provided by Subsections (b), (c), and (d), meetings of the committee are subject to Chapter 551, Government Code, as if the committee were a governmental body under that chapter.

(b) Any portion of a meeting of the committee during which the committee discusses an individual child's death is closed to the public and is not subject to Chapter 551, Government Code.

(c) Information identifying a deceased child, a member of the child's family, a guardian or caretaker of the child, or an alleged or suspected perpetrator of abuse or neglect of the child may not be disclosed during a public meeting.

(d) Information regarding the involvement of a state or local agency with the deceased child or another person described by Subsection (c) may not be disclosed during a public meeting.

(e) The committee may conduct an open or closed meeting by telephone conference call or other electronic medium. A meeting held under this subsection is subject to the notice requirements applicable to other meetings. The notice of the meeting must specify as the location of the meeting the location where meetings of the committee are usually held. Each part of the meeting by telephone conference call that is required to be open to the public shall be audible to the public at the location specified in the notice of the meeting as the location of the meeting and shall be tape-recorded. The tape recording shall be made available to the public.

(f) This section does not prohibit the committee from requesting the attendance at a closed meeting of a person who is not a member of the committee and who has information regarding a deceased child.

Sec. 264.505. ESTABLISHMENT OF REVIEW TEAM. (a) A multidisciplinary and multiagency child fatality review team may be established for a county to review child deaths in that county. A review team for a county with a population of less than 50,000 may join with an adjacent county or counties to establish a combined review team.

(b) Any person who may be a member of a review team under Subsection (c) may initiate the establishment of a review team and call the first organizational meeting of the team.

(c) A review team may include:

(1) a criminal prosecutor involved in prosecuting crimes against children;

(2) a sheriff;

(3) a justice of the peace or medical examiner;

(4) a police chief;

(5) a pediatrician experienced in diagnosing and treating child abuse and neglect;

(6) a child educator;

(7) a child mental health provider;

(8) a public health professional;

(9) a child protective services specialist;

(10) a sudden infant death syndrome family service provider;

(11) a neonatologist;

(12) a child advocate; and

(13) a chief juvenile probation officer.

(d) Members of a review team may select additional team members according to community resources and needs.

(e) A review team shall select a presiding officer from its members.

Sec. 264.506. PURPOSE AND DUTIES OF REVIEW TEAM. (a) The purpose of a review team is to decrease the incidence of preventable child deaths by:

(1) providing assistance, direction, and coordination to investigations of child deaths;

(2) promoting cooperation, communication, and coordination among agencies involved in responding to child fatalities;

(3) developing an understanding of the causes and incidence of child deaths in the county or counties in which the review team is located;

(4) recommending changes to agencies, through the agency's representative member, that will reduce the number of preventable child deaths; and

(5) advising the committee on changes to law, policy, or practice that will assist the team and the agencies represented on the team in fulfilling their duties.

(b) To achieve its purpose, a review team shall:

(1) adapt and implement, according to local needs and resources, the model protocols developed by the department and the committee;

(2) meet on a regular basis to review child fatality cases and recommend methods to improve coordination of services and investigations between agencies that are represented on the team;

(3) collect and maintain data as required by the committee; and

(4) submit to the bureau of vital statistics data reports on deaths reviewed as specified by the committee.

(c) A review team shall initiate prevention measures as indicated by the review team's findings.

Sec. 264.507. DUTIES OF PRESIDING OFFICER. The presiding officer of a review team shall:

(1) send notices to the review team members of a meeting to review a child fatality;

(2) provide a list to the review team members of each child fatality to be reviewed at the meeting;

(3) submit data reports to the bureau of vital statistics not later than the 30th day after the date on which the review took place; and

(4) ensure that the review team operates according to the protocols developed by the department and the committee, as adapted by the review team.

Sec. 264.508. REVIEW PROCEDURE. (a) The review team of the county in which the injury, illness, or event that was the cause of the death of the child occurred, as stated on the child's death certificate, shall review the death.

(b) On receipt of the list of child fatalities under Section 264.507, each review team member shall review the member's records and the records of the member's agency for information regarding each listed child.

Sec. 264.509. ACCESS TO INFORMATION. (a) A review team may request information and records regarding a deceased child as necessary to carry out the review team's purpose and duties. Records and information that may be requested under this section include:

(1) medical, dental, and mental health care information; and

(2) information and records maintained by any state or local government agency, including:

(A) a birth certificate;

(B) law enforcement investigative data;

(C) medical examiner investigative data;

(D) juvenile court records;

(E) parole and probation information and records; and

(F) child protective services information and records.

(b) On request of the presiding officer of a review team, the custodian of the relevant information and records relating to a deceased child shall provide those records to the review team.

Sec. 264.510. MEETING OF REVIEW TEAM. (a) A meeting of a review team is closed to the public and not subject to Chapter 551, Government Code.

(b) This section does not prohibit a review team from requesting the attendance at a closed meeting of a person who is not a member of the review team and who has information regarding a deceased child.

(c) Except as necessary to carry out a review team's purpose and duties, members of a review team and persons attending a review team meeting may not disclose what occurred at the meeting.

(d) A member of a review team participating in the review of a child death is immune from civil or criminal liability arising from information presented in or opinions formed as a result of a meeting.

Sec. 264.511. USE OF INFORMATION AND RECORDS; CONFIDENTIALITY. (a) Information and records acquired by the committee or by a review team in the exercise of its purpose and duties under this subchapter are confidential and exempt from disclosure under Chapter 552, Government Code, and may only be disclosed as necessary to carry out the committee's or review team's purpose and duties.

(b) A report of the committee or of a review team or a statistical compilation of data reports is a public record subject to Chapter 552, Government Code, as if the committee or review team were a governmental body under that chapter, if the report or statistical compilation does not contain any information that would permit the identification of an individual.

(c) A member of a review team may not disclose any information that is confidential under this section.

(d) Information, documents, and records of the committee or of a review team that are confidential under this section are not subject to subpoena or discovery and may not be introduced into evidence in any civil or criminal proceeding, except that information, documents, and records otherwise available from other sources are not immune from subpoena, discovery, or introduction into evidence solely because they were presented during proceedings of the committee or a review team or are maintained by the committee or a review team.

Sec. 264.512. GOVERNMENTAL UNITS. The committee and a review team are governmental units for purposes of Chapter 101, Civil Practice and Remedies Code. A review team is a unit of local government under that chapter.

Sec. 264.513. REPORT OF DEATH OF CHILD. (a) A person who knows of the death of a child younger than six years of age shall immediately report the death to the medical examiner of the county in which the death occurs or, if the death occurs in a county that does not have a medical examiner's office or that is not part of a medical examiner's district, to a justice of the peace in that county.

(b) The requirement of this section is in addition to any other reporting requirement imposed by law, including any requirement that a person report child abuse or neglect under this code.

(c) A person is not required to report a death under this section that is the result of a motor vehicle accident. This subsection does not affect a duty imposed by another law to report a death that is the result of a motor vehicle accident.

Sec. 264.514. PROCEDURE IN THE EVENT OF REPORTABLE DEATH. (a) A medical examiner or justice of the peace notified of a death of a child under Section 264.513 shall hold an inquest under Chapter 49, Code of Criminal Procedure, to determine whether the death is unexpected.

(b) The medical examiner or justice of the peace shall immediately notify an appropriate local law enforcement agency if the medical examiner or justice of the peace determines that the death is unexpected, and that agency shall investigate the child's death.

Sec. 264.515. INVESTIGATION. (a) The investigation required by Section 264.514 must include:

(1) an autopsy, unless an autopsy was conducted as part of the inquest;

(2) an inquiry into the circumstances of the death, including an investigation of the scene of the death and interviews with the parents of the child, any guardian or caretaker of the child, and the person who reported the child's death; and

(3) a review of relevant information regarding the child from an agency, professional, or health care provider.

(b) The review required by Subsection (a)(3) must include a review of any applicable medical record, child protective services record, record maintained by an emergency medical services provider, and law enforcement report.

(c) The committee shall develop a protocol relating to investigation of an unexpected death of a child under this section. In developing the protocol, the committee shall consult with individuals and organizations that have knowledge and experience in the issues of child abuse and child deaths.

SECTION 3. Article 49.04(a), Code of Criminal Procedure, is amended to read as follows:

(a) A justice of the peace shall conduct an inquest into the death of a person who dies in the county served by the justice if:

(1) the person dies in prison or in jail;

(2) the person dies an unnatural death from a cause other than a legal execution;

(3) the body of the person is found and the cause or circumstances of death are unknown;

(4) the circumstances of the death indicate that the death may have been caused by unlawful means;

(5) the person commits suicide or the circumstances of the death indicate that the death may have been caused by suicide;

(6) the person dies without having been attended by a physician;

(7) the person dies while attended by a physician who is unable to certify the cause of death and who requests the justice of the peace to conduct an inquest; or

(8) the person is a child who is younger than six years [~~18 months~~] of age and the death is reported under Chapter 264, Family Code [~~suspected cause of death is sudden infant death syndrome~~].

SECTION 4. Article 49.10(e), Code of Criminal Procedure, is amended to read as follows:

(e) A justice of the peace shall order an autopsy performed on a body if:

(1) the justice determines that an autopsy is necessary to determine or confirm the nature and cause of death; ~~or~~

(2) the deceased was a child younger than six years of age and the death was reported under Chapter 264, Health and Safety Code; or

(3) directed to do so by the district attorney, criminal district attorney, or, if there is no district or criminal district attorney, the county attorney.

SECTION 5. Section 6, Article 49.25, Code of Criminal Procedure, is amended to read as follows:

Sec. 6. DEATH INVESTIGATIONS. Any medical examiner, or his duly authorized deputy, shall be authorized, and it shall be his duty, to hold inquests with or without a jury within his county, in the following cases:

1. When a person shall die within twenty-four hours after admission to a hospital or institution or in prison or in jail;

2. When any person is killed; or from any cause dies an unnatural death, except under sentence of the law; or dies in the absence of one or more good witnesses;

3. When the body of a human being is found, and the circumstances of his death are unknown;

4. When the circumstances of the death of any person are such as to lead to suspicion that he came to his death by unlawful means;

5. When any person commits suicide, or the circumstances of his death are such as to lead to suspicion that he committed suicide;

6. When a person dies without having been attended by a duly licensed and practicing physician, and the local health officer or registrar required to report the cause of death under Section 193.005, Health and Safety Code, does not know the cause of death. When the local health officer or registrar of vital statistics whose duty it is to certify the cause of death does not know the cause of death, he shall so notify the medical examiner of the county in which the death occurred and request an inquest; ~~and~~

7. When the person is a child who is younger than six years of age and the death is reported under Chapter 264, Family Code; and

8. When a person dies who has been attended immediately preceding his death by a duly licensed and practicing physician or physicians, and such physician or physicians are not certain as to the cause of death and are unable to certify with certainty the cause of death as required by Section 193.004, Health and Safety Code. In case of such uncertainty the attending physician or physicians, or the superintendent or general manager of the hospital or institution in which the deceased shall have died, shall so report to the medical examiner of the county in which the death occurred, and request an inquest.

The inquests authorized and required by this Article shall be held by the medical examiner of the county in which the death occurred.

In making such investigations and holding such inquests, the medical examiner or an authorized deputy may administer oaths and take affidavits. In the absence of next of kin or legal representatives of the deceased, the medical examiner or authorized deputy shall take charge of the body and all property found with it.

SECTION 6. (a) The executive directors of the Children's Trust Fund of Texas Council and the Department of Protective and Regulatory Services shall jointly call a meeting of the individuals to serve on the child fatality review team committee under Sections 264.502(a)(1)-(4), Family Code, as added by this Act, to be held not later than October 1, 1995. Those members of the committee shall select the members to serve under Section 264.502(b), Family Code, as added by this Act, not later than December 1, 1995.

(b) The initial members of the committee are appointed to serve terms expiring February 1, 1996.

(c) The first meeting of the child fatality review team committee that includes members selected under Section 264.502(b), Family Code, as added by this Act, shall be held not later than January 1, 1996.

SECTION 7. The child fatality review team committee shall develop the protocol required by Section 264.515(c), Family Code, as added by this Act, not later than September 1, 1996."

(2) On page 4, line 20, strike "SECTION 2" and substitute "SECTION 8".

(3) On page 4, strike line 24 and substitute "SECTION 9. Subject to Section 8 of this Act, this Act takes".

(4) On page 4, line 26, strike "SECTION 4" and substitute "SECTION 10".

Amendment No. 1 was adopted without objection.

CSSB 81, as amended, was passed to third reading.

HB 2571 - LAID ON THE TABLE SUBJECT TO CALL

Representative Brady moved to lay **HB 2571** on the table subject to call.

The motion prevailed without objection.

HB 2745 ON SECOND READING

The chair laid before the house, on its second reading and passage to engrossment, the complete committee substitute for **HB 2745**.

CSHB 2745, A bill to be entitled An Act relating to user safety at unmanned teller machines.

CSHB 2745 was read second time and was passed to engrossment.

HB 2858 ON SECOND READING

The chair laid before the house, on its second reading and passage to engrossment, the complete committee substitute for **HB 2858**.

CSHB 2858, A bill to be entitled An Act relating to the operation of the smart jobs fund and the employment training program created under that fund.

CSHB 2858 was read second time.

Amendment No. 1

Representative Raymond offered the following amendment to **CSHB 2858**:

Amend **CSHB 2858**, page 4, lines 2 through 8, to read as follows:

(16) "Provider" means a person that provides employment-related training. The term includes employers, employer associations, labor organizations,

community-based organizations, training consultants, public and private schools, technical institutes, junior or community colleges, senior colleges, universities, other institutions of higher education as defined in Section 61.003 of the Education Code, and proprietary schools, as defined by Section 32.11, Education Code.

Amendment No. 1 was adopted without objection.

Amendment No. 2

Representative Horn offered the following amendment to **CSHB 2858**:

Amend **CSHB 2858** by inserting the following new language after "agreements" (on page 7, line 11) to read as follows:

"to which the grant application is subject at the time of the application"

Amendment No. 2 was adopted without objection.

CSHB 2858, as amended, was passed to engrossment.

HB 2859 ON SECOND READING

The chair laid before the house, on its second reading and passage to engrossment,

HB 2859, A bill to be entitled An Act relating to the powers, duties, and name of the Texas Commission for the Deaf and Hearing Impaired.

The bill was read second time.

Amendment No. 1 (Committee Amendment No. 1)

On behalf of Representative Maxey, Representative King offered the following committee amendment to the bill:

Amend **HB 2859** as follows:

Section 81.002(b) add at the end of that part: A majority of the members shall be deaf.

Amendment No. 1 was adopted without objection.

HB 2859, as amended, was passed to engrossment.

HB 2958 ON SECOND READING

The chair laid before the house, on its second reading and passage to engrossment, the complete committee substitute for **HB 2958**.

CSHB 2958, A bill to be entitled An Act relating to regulation of private investigators and private security agencies; providing a criminal penalty.

CSHB 2958 was read second time.

Amendment No. 1

Representative Chisum offered the following amendment to **CSHB 2958**:

Amend **CSHB 2958** on page 14, between lines 5 and 6, by inserting the following:

(d) A person performing a service or function relating to an animal cruelty

investigation is not be required to hold a certificate under this section. A person who holds a certificate issued under this section is not entitled to perform any function or service relating to an animal cruelty investigation that may not be performed by a person who does not hold a certificate under this section.

(e) Sections 44 (c) and (f) of this Act do not apply to a person's failure to hold a certificate under this section.

Amendment No. 1 was adopted without objection.

Amendment No. 2

Representative Longoria offered the following amendment to **CSHB 2958**:

Amend **CSHB 2958** by striking page 3, line 26 through page 4, line 9 and substituting the following:

(3) a person who is ~~[has full-time employment as]~~ a peace officer as defined by Article 2.12, Code of Criminal Procedure, who receives compensation for private employment on an individual or an independent contractor basis as a patrolman, guard, or watchman if such person is[;]

~~[(A)]~~ employed in an employee-employer relationship[;] or

~~[(B) employed]~~ on an individual contractual basis and is[;]

~~[(C)]~~ not in the employ of another peace officer, except that:

(A) a reserve law enforcement officer who, while serving as an officer, may not work more hours in off-duty employment in a calendar month than the officer worked in the actual discharge of his duties as a reserve law enforcement officer in an average calendar month, as determined by the preceding quarter of the fiscal year; and

(B) the reserve law enforcement officer's commissioning officer shall certify the reserve law enforcement officer's compliance with Paragraph (A)[; and]

~~[(D) not a reserve peace officer];~~

Representative Carter moved to table Amendment No. 2.

(Delisi, Gallego, Junell, and Ogden now present)

The motion to table was lost.

LEAVE OF ABSENCE GRANTED

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

Smithee on motion of Averitt.

CSHB 2958 - (consideration continued)

Amendment No. 2 was adopted without objection.

CSHB 2958, as amended, was passed to engrossment.

HB 2941 ON SECOND READING

The chair laid before the house, on its second reading and passage to engrossment, the complete committee substitute for **HB 2941**.

CSHB 2941, A bill to be entitled An Act relating to the appraisal of property for tax purposes.

CSHB 2941 was read second time.

Amendment No. 1

Representative Heflin offered the following amendment to **CSHB 2941**:

Amend **CSHB 2941** as follows:

(1) In SECTION 8 of the bill (Committee Printing, page 3, between lines 26 and 27), insert the following:

(a) A delinquent tax incurs a penalty of six percent of the amount of the tax for the first calendar month it is delinquent plus one percent for each additional month or portion of a month the tax remains unpaid prior to July 1 of the year in which it becomes delinquent. However, a tax delinquent on July 1 incurs a total penalty of twelve percent of the amount of the delinquent tax without regard to the number of months the tax has been delinquent. A delinquent tax continues to incur the penalty provided by this subsection as long as the tax remains unpaid, regardless of whether a judgment for the delinquent tax has been rendered.

(2) Add a new SECTION 9 and SECTION 10 to read as follows and renumber the subsequent sections accordingly:

SECTION 9. Section 33.07(a), Tax Code, is amended to read as follows:

(a) A taxing unit or appraisal district may provide, in the manner required by law for official action by the body, that taxes that remain delinquent on July 1 of the year in which they become delinquent incur an additional penalty to defray costs of collection, if the unit or district or another unit that collects taxes for the unit has contracted with an attorney pursuant to Section 6.30 of this code. The amount of the penalty may not exceed 15 percent of the amount of taxes, penalty, and interest due. A delinquent tax incurs the penalty provided by this subsection regardless of whether a judgment for the delinquent tax has been rendered.

SECTION 10. Section 4, Article 1.05, Title 79, Revised Statutes (Article 5069-1.05, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 4. This article does not apply to a judgment;

(1) in favor of a taxing unit in a suit to collect a delinquent tax under Subchapter C, Chapter 33, Tax Code; or

(2) that earns interest that is set by Title 2, Tax Code.

Amendment No. 1 was adopted without objection.

Amendment No. 2

Representative Heflin offered the following amendment to **CSHB 2941**:

Amend **CSHB 2941** as follows:

In SECTION 18 of the bill, Section 41.45, Subsection (d), insert the following after "before a new panel" and before "," or the board".

Amendment No. 2 was adopted without objection.

Amendment No. 3

Representative Haggerty offered the following amendment to **CSHB 2941**:

Amend **CSHB 2941** by adding an appropriately numbered section to read as follows and renumbering subsequent sections accordingly:

SECTION _____. Effective January 1, 1996, Section 11.23(i), Tax Code, is amended to read as follows:

(i) Community Service Clubs. An association that qualifies as a community service club is entitled to an exemption from taxation of the tangible property the club owns that qualifies under Article VIII, Section 2, of the constitution and that is not used for profit or held for gain. To qualify as a community service club for the purposes of this subsection, an association must:

(1) be organized to promote and must engage [~~primarily~~] in promoting:

(A) the religious, educational, and physical development of boys, girls, young men, or young women;

(B) the development of the concepts of patriotism and love of country; or [~~and~~]

(C) the development of interest in community, national, and international affairs;

(2) be affiliated with a state or national organization of similar purpose;

(3) be open to membership without regard to race, religion, or national origin; and

(4) be operated in a way that does not result in accrual of distributable profits, realization of private gain resulting from payment of compensation in excess of a reasonable allowance for salary or other compensation for services rendered, or realization of any other form of private gain.

Amendment No. 3 was adopted without objection.

Amendment No. 4

Representative Haggerty offered the following amendment to **CSHB 2941**:

Amend **CSHB 2941** by adding an appropriately numbered section to read as follows and renumbering subsequent sections accordingly:

SECTION _____. Effective January 1, 1996, Section 6.03(a), Tax Code, is amended to read as follows:

(a) The appraisal district is governed by a board of five directors. To be eligible to serve on the board of directors, an individual must be a resident of the district and [~~must~~] have resided in the district for at least two years immediately preceding the date the individual takes office and may not owe delinquent taxes to any taxing unit served by the district. In an appraisal district established for a county having a population of more than 50,000, an individual who has served for all or part of three previous terms on the board is ineligible to serve on the board. In an appraisal district established for any other county, an individual who has served for all or part of two consecutive terms on the board is ineligible to serve on the board during a term that begins on the next January 1 following the second of those consecutive terms. To be eligible to serve on the board of an appraisal district established for a county having a population of at least 200,000 bordering a county having a population of at least 2,000,000 and the Gulf of Mexico, an individual must be a member of the governing body or an elected officer of a taxing unit entitled to vote on the

appointment of board members under this section. However, an employee of a taxing unit that participates in the district is not eligible to serve on the board unless the individual is also a member of the governing body or an elected official of a taxing unit that participates in the district.

Amendment No. 4 was adopted without objection.

Amendment No. 5

Representative Pitts offered the following amendment to **CSHB 2941**:

Amend **CSHB 2941** by inserting the following section and renumbering the subsequent sections accordingly:

SECTION . Subchapter A, Chapter 5, Property Code, is amended by adding Section 5.010 to read as follows:

Sec. 5.010. OWNER'S DISCLOSURE OF PROPERTY TAX INFORMATION. (a) A person who is the owner of a fee simple interest in real property that, for the current tax year or any of the preceding five tax years, was appraised as agricultural or open-space land, timberland, recreational, park, or scenic-use land, or public access airport property and who contracts for the sale of that interest shall give to each party who is a purchaser a written notice that is signed by the owner and that is substantially in the following form:

OWNER'S DISCLOSURE OF TAX INFORMATION

1. Property description:

2. Did the property, for the current tax year or any of the preceding five tax years, receive a total or partial exemption from ad valorem taxation? Yes No . If yes, explain. (Attach additional sheets if necessary.)

3. Was the property, for the current tax year or any of the preceding five tax years, appraised as agricultural or open-space land, timberland, recreational, park, or scenic-use land, or public access airport property so that an additional tax may be imposed as a penalty if the property no longer qualifies to be appraised in that manner? Yes No . If yes, explain. (Attach additional sheets if necessary.)

Date Signature of Owner
The undersigned purchaser acknowledges receipt of this notice.

Date Signature of Purchaser

- (b) This section does not apply to a contract for a transfer:
(1) under a court order or foreclosure sale;
(2) by a trustee in bankruptcy;

(3) to a mortgagee by a mortgagor or successor in interest or to a beneficiary of a deed of trust by a trustor or successor in interest;

(4) by a mortgagee or a beneficiary under a deed of trust who has acquired the property at a sale conducted under a power of sale under a deed of trust or a sale under a court-ordered foreclosure or has acquired the property by a deed in lieu of foreclosure;

(5) by a fiduciary in the course of the administration of a decedent's estate, guardianship, conservatorship, or trust; or

(6) to or from a governmental entity.

(c) The notice described by Subsection (a) is not required to be given to:

(1) a person who is a co-owner with an owner described by Subsection (a) of an undivided interest in the property; or

(2) the spouse or a person in the lineal line of consanguinity of an owner described by Subsection (a).

(d) The owner shall deliver the notice to the purchaser on or before the effective date of the contract binding the purchaser to purchase the property.

(e) An owner who enters into a contract to sell a fee simple interest in real property without disclosing as required by this section that the property, for the current tax year or any of the preceding five tax years, was appraised as agricultural or open-space land, timberland, recreational, park, or scenic-use land, or public access airport property is liable to the purchaser for any additional taxes, penalties, and interest imposed under Chapter 23, Tax Code, and paid by the purchaser.

Amendment No. 5 was adopted without objection.

Amendment No. 6

Representative Willis offered the following amendment to **CSHB 2941**:

Amend **CSHB 2941** by adding an appropriately numbered section to read as follows and renumbering subsequent sections accordingly:

SECTION _____. Subchapter D, Chapter 23, Tax Code, is amended by adding Section 23.551 to read as follows:

Sec. 23.551. CERTAIN VETERANS LAND EXEMPTED FROM SANCTIONS. (a) the sanctions provided by Section 23.55(a) do not apply to:

(1) land owned by a disabled veteran or the unmarried surviving spouse of a disabled veteran and acquired by the veteran through the Veterans' Land Program at least 20 years before the date the change of use of the land occurs; or

(2) land purchased from a disabled veteran or from the unmarried surviving spouse of a disabled veteran that was acquired by the veteran through the Veterans' Land Program at least 20 years before the date the land was sold by the veteran or the veteran's spouse, while the land is owned exclusively by the purchaser.

(b) In this section, "disabled veteran" has the meaning assigned by Section 11.22(h).

Amendment No. 6 was adopted.

Amendment No. 7

Representative Horn offered the following amendment to **CSHB 2941**:

Amend **CSHB 2941** as follows:

(1) On page 1, line 15, between "a" and "training", insert "local".

(2) On page 1, line 15, after "program", add "in the community where the member serves that is".

Amendment No. 7 was adopted without objection.

CSHB 2941, as amended, was passed to engrossment.

HB 76 ON SECOND READING

The chair laid before the house, on its second reading and passage to engrossment, the complete committee substitute for **HB 76**.

CSHB 76, A bill to be entitled An Act relating to the release of certain medical records of missing persons.

CSHB 76 was read second time and was passed to engrossment.

HB 246 ON SECOND READING

The chair laid before the house, on its second reading and passage to engrossment, the complete committee substitute for **HB 246**.

CSHB 246, A bill to be entitled An Act relating to removing a county official from office.

CSHB 246 was read second time.

Amendment No. 1

Representative Chisum offered the following amendment to **CSHB 246**:

Amend **CSHB 246** on page 1, line 7, by inserting the following language between the words "officer" and "by" so that the line reads accordingly:

.....officer involved with law enforcement by.....

Amendment No. 1 was adopted.

CSHB 246, as amended, was passed to engrossment.

HB 1108 ON SECOND READING

The chair laid before the house, on its second reading and passage to engrossment, the complete committee substitute for **HB 1108**.

CSHB 1108, A bill to be entitled An Act relating to requiring a criminal background check for a prospective adoptive parent.

CSHB 1108 was read second time and was passed to engrossment.

HB 1109 ON SECOND READING

The chair laid before the house, on its second reading and passage to engrossment, the complete committee substitute for **HB 1109**.

CSHB 1109, A bill to be entitled An Act relating to a mandatory study into the circumstances and condition of the home of a person seeking to adopt a child.

CSHB 1109 was read second time and was passed to engrossment.

HB 2543 ON SECOND READING

The chair laid before the house, on its second reading and passage to engrossment, the complete committee substitute for **HB 2543**.

CSHB 2543, A bill to be entitled An Act relating to interactive access to driver license records of the Department of Public Safety, creating access to National Driver Register (NDR) records through the Department of Public Safety, and authorizing fees for access to such information.

CSHB 2543 was read second time and was passed to engrossment.

HB 2200 ON SECOND READING

The chair laid before the house, on its second reading and passage to engrossment,

HB 2200, A bill to be entitled An Act relating to the exemption of certain training programs for plumbers from the regulations applicable to proprietary schools.

The bill was read second time and was passed to engrossment.

SB 1228 ON SECOND READING

(Gutierrez - House Sponsor)

The chair laid before the house, in lieu of **HB 2486**, on its second reading and passage to third reading,

SB 1228, A bill to be entitled An Act relating to review of public institutions of higher education by the state postsecondary review entity.

The bill was read second time.

Amendment No. 1

Representative Gutierrez offered the following amendment to the bill:

Amend **SB 1228** as follows:

(1) In Section 61.791, Education Code, as added by SECTION 1 of the bill (House committee printing page 1, between lines 14 and 15), insert the following:

(3) "Educational institution" means an institution of higher education, private or independent institution of higher education, private postsecondary educational institution, or educational or training establishment, as those terms are defined in Chapter 61, Education Code.

(2) In Section 61.793, Education Code, as added by SECTION 1 of the bill (House committee printing page 1, lines 21-22), strike "institution of higher education" and substitute "educational institution".

(3) In Section 61.794(a), Education Code, as added by SECTION 1 of the bill (House committee printing page 2, line 5), strike "institution of higher education" and substitute "educational institution".

(4) In Section 61.794(c), Education Code, as added by SECTION 1 of the bill (House committee printing page 2, line 19), strike "institution of higher education's" and substitute "educational institution's".

(5) In Section 61.794(e), Education Code, as added by SECTION 1 of the

bill (House committee printing page 3, line 1), strike "institution of higher education" and substitute "educational institution".

(6) In Section 61.794(f), Education Code, as added by SECTION 1 of the bill (House committee printing page 3, line 6), strike "institution of higher education" and substitute "educational institution".

(7) In Section 61.795(a), Education Code, as added by SECTION 1 of the bill (House committee printing page 3, lines 15-16), strike "institution of higher education" and substitute "educational institution".

(8) In Section 61.796(a), Education Code, as added by SECTION 1 of the bill (House committee printing page 3, lines 24-25), strike "institution of higher education" and substitute "educational institution".

(9) In Section 61.796(b), Education Code, as added by SECTION 1 of the bill (House committee printing page 4, lines 11 and 16), strike "institution of higher education" and substitute "educational institution".

(10) In Section 61.796(c), Education Code, as added by SECTION 1 of the bill (House committee printing page 4, line 24), strike "institution of higher education" and substitute "educational institution".

(11) In Section 61.796(e), Education Code, as added by SECTION 1 of the bill (House committee printing page 5, lines 12 and 13), strike "institution of higher education" and substitute "educational institution".

Amendment No. 1 was adopted without objection.

SB 1228, as amended, was passed to third reading.

HB 2486 - LAID ON THE TABLE SUBJECT TO CALL

Representative Gutierrez moved to lay **HB 2486** on the table subject to call.

The motion prevailed without objection.

(Speaker in the chair)

HB 3193 ON SECOND READING

The speaker laid before the house, on its second reading and passage to engrossment, the complete committee substitute for **HB 3193**.

CSHB 3193, A bill to be entitled An Act relating to the creation, administration, powers, duties, operation, and financing of the Southwest Travis County Water District.

CSHB 3193 was read second time.

Representative Maxey raised a point of order against further consideration of **CSHB 3193** on the grounds that **CSHB 3193** violates Article 16, Section 59(d), and Article 16, Section 59(e), of the Texas Constitution.

The speaker overruled the point of order, speaking as follows:

Representative Maxey raises a point of order against further consideration under Section 59(d), Article 16, Texas Constitution, in that the Texas Natural Resource Conservation Commission has not received notice of the bill or made its recommendations, as required by that provision.

The referenced section of the constitution requires that a copy of a bill

creating a conservation and reclamation district be delivered to the governor, and that the governor submit the bill to the agency now known as the conservation commission, the successor to the former Texas Water Commission. Within 30 days, the commission is to give its recommendations on the bill to the governor, the lieutenant governor, and the speaker.

The chair has reviewed the records relating to this bill in the chief clerk's office. Those records indicate that the bill was transmitted to the governor on April 3, the same day the bill was filed, and that the conservation commission filed its recommendations with the chief clerk on May 5.

Because house records show the point of order to be completely without merit, the point of order is overruled.

Representative Maxey raises a point of order against further consideration under Section 59(e), Article 16, Texas Constitution, in that a copy of the proposed bill was not delivered to the affected counties and cities as required by that provision.

The referenced section of the constitution requires that, at the time local notice of the bill is published, a copy of a bill creating a conservation and reclamation district be delivered to the governing body of each county and incorporated city in which part of the district is located. In contrast to the requirement that notice of the bill be published in local newspapers, neither the rules of the house nor the statutes provide for a means of proof that copies of a bill have been delivered to the affected local governments.

For published notice, Section 313.004, Government Code, requires a publisher's affidavit. Rule 8, Section 10, requires that affidavit to be attached to the bill at the time of filing. These requirements provide the chair with official records that form the basis of the chair's rulings. The absence of the required affidavit provides unequivocal support for the chair sustaining a point of order that against further consideration of a bill for which the publisher's affidavit is not on file.

In the absence of rules and statutes that provide for proof of compliance through official records, the chair has no basis on which to resolve the fact question of whether or not copies of the bill were distributed as required. The proponent of the point of order would, the chair assumes, have the chair conduct an evidentiary hearing with testimony to prove which cities and counties were affected and whether each received or did not receive the required notice. The chair would weight the credibility of witnesses who alleged that a copy of the bill was not received against the credibility of witnesses who alleged that a copy was delivered to a clerk who failed to forward it appropriately.

The chair firmly believes that the proponents of a bill creating a special purpose district should comply with the constitutional notice requirements. However, the chair also believes that it is inappropriate for the chair to conduct an evidentiary hearing to resolve disputed questions of fact about whether or not the required notice was provided. In the absence of statutory procedures or rules of procedure that generate official records on which such a determination may be made, the chair has no basis on which to sustain the point of order.

Accordingly, the point of order is respectfully overruled.

Representative Greenberg raised a point of order against further consideration of **CSHB 3193** on the grounds that **CSHB 3193** violates Rule 4, Section 34(4)(c), of the House Rules.

The point of order was withdrawn.

Amendment No. 1

Representative Saunders offered the following amendment to **CSHB 3193**:

Amend **CSHB 3193** as follows:

(1) On page 10, line 19, strike "(c) Venue for a suit under this section is in Hays County." and renumber the subsequent subsection appropriately.

(2) On page 50, line 18, strike "Hays County or".

Amendment No. 1 was adopted without objection.

Amendment No. 2

Representative Saunders offered the following amendment to **CSHB 3193**:

Amend **CSHB 3193** as follows:

(1) On page 12, between lines 17 and 18, add new subsection (c) as follows:

"(c) The plans must comply with all requirements of the National Flood Insurance Program, as prescribed by Subchapter I, Chapter 16, Water Code."

(2) On page 13, lines 23 through 26, strike "If a county regulation regarding the subdivision of land conflicts with a district regulation, the district regulation supersedes the county regulation."

(2) On page 14, line 1, strike "and the county".

(3) On page 14, line 2, strike "uniform, nondiscriminatory".

(4) On page 14, line 4, strike "and the county".

(5) On page 14, line 5, strike "30th" and substitute "60th".

(6) On page 14, line 7, strike "31st" and substitute "61st".

(7) On page 14, line 13, strike "and a county".

(7) On page 15, line 20, after "section", and ", other than the authority of a county to enforce, amend, or terminate an agreement pertaining to landscape maintenance or a license agreement in the public rights-of-way".

(8) On page 18, line 13, insert the following after the period: "The use is subject to the authority of a county to require the relocation of facilities, at the expense of the district, to permit the widening or straightening of a road. The county must give the district 30 day's notice that relocation is required and specify the new location for the facilities along the right-of-way of the road."

(9) On page 18, between lines 17 and 18, add new subsection (c) as follows: "The district may not change, alter, or damage a portion of the state highway system or any county road without first obtaining the written consent of the Texas Department of Transportation or the county, as applicable. The placement of a district facility in state or county highway right-of-way is subject to regulation by the Texas Department of Transportation or a county, as applicable."

Amendment No. 2 was adopted without objection.

Amendment No. 3

Representative R. Lewis offered the following amendment to **CSHB 3193**:

Amend **CSHB 3193** as follows:

(1) On page 50, line 24, between "may" and "be", insert "only".

Amendment No. 3 was adopted without objection.

Amendment No. 4

Representative Kuempel offered the following amendment to **CSHB 3193**:

Amend **CSHB 3193** as follows:

(1) On page 12, line 14, strike "conservation and reclamation district" and substitute "river authority".

(2) On page 17, lines 25-26, strike "conservation and reclamation district" and substitute "river authority".

(3) On page 18, line 15, strike "conservation and reclamation district" and substitute "river authority".

(4) On page 52, lines 10-11, change the Section heading to read as follows: "EXISTING COUNTIES, RIVER AUTHORITIES, AND UNDERGROUND WATER CONSERVATION DISTRICTS."

(5) On page 52, line 11, before "Notwithstanding", insert "(a)".

(6) On page 52, line 13-14, strike "conservation and reclamation district" and substitute "river authority".

(7) On page 52, line 17, strike "conservation and reclamation district" and substitute "river authority".

(8) On page 52, between lines 19 and 20, insert new subsection (b) to read as follows:

"(b) Notwithstanding any provision of this Act, this Act does not impair, limit, supersede, or alter the powers, rights, privileges, duties, functions, or jurisdiction of an underground water conservation district created under or governed by Chapter 52, Water Code, or a county in existence on the effective date of this Act the territory of which includes all or part of the district, except that such an underground water conservation district or county may not impose or apply without agreement of the district any regulatory ordinance, rule, or regulation within the district that:

(1) is inconsistent with the requirements of Sections 3.01(c)(4) and 3.07(a) of this Act; or

(2) has not been adopted and approved the board of directors of the underground water conservation district or commissioners court of the county, as applicable."

Amendment No. 4 was adopted without objection.

Amendment No. 5

Representative Walker offered the following amendment to **CSHB 3193**:

Amend **CSHB 3193** in SECTION 3.01, page 8, lines 13 through 15, by striking proposed section (d) and substituting the following:

(d) Subject only to the authority of the Commission and of a groundwater conservation district in existence on the effective date of this Act

that is composed in whole or in part of the territory of the district, the district has exclusive authority, superseding the authority of any local government, except a groundwater conservation district in existence on the effective date of this Act, to:

Amendment No. 5 was adopted without objection.

Amendment No. 6

Representative Walker offered the following amendment to **CSHB 3193**:

Amend **CSHB 3193** in SECTION 7.02, page 52, between lines 19 and 20 insert the following new section 7.021:

Notwithstanding any other provision of this act, this act shall not limit, impair, supersede or alter the powers, duties, rights, privileges, functions or jurisdiction of a groundwater conservation district created under Article XVI, Sec. 59 of the Texas Constitution in existence on the effective date of this Act that is composed in whole or in part of the territory of the district.

Amendment No. 6 was adopted without objection.

Amendment No. 7

Representative Walker offered the following amendment to **CSHB 3193**:

Amend **CSHB 3193** in SECTION 3.01, page 7, lines 24 through 26, by striking proposed section (c) and substituting the following:

(c) Subject only to the authority of the Commission and of a groundwater conservation district in existence on the effective date of this Act that is composed in whole or in part of the territory of the district, the district has exclusive authority in the district, superseding the authority of any local government, except a groundwater conservation district in existence on the effective date of this Act, to:

Amendment No. 7 was adopted without objection.

CSHB 3193, as amended, was passed to engrossment. (Greenberg, Maxey, and Rhodes recorded voting no)

HB 3193 - STATEMENT BY REPRESENTATIVE MAXEY

HB 3193 POINT OF ORDER NO. 1

Mr. Speaker:

I raise a Point of Order to the further consideration of House Bill 3193 on the grounds that it violates Article 16, Section 59 of the Texas Constitution.

ARGUMENT

House Bill 3193 attempts to create the North Hays County Water District and provide for its administration, powers, duties, operation and financing.

While the Texas Constitution, Article 16, Sec. 59, gives the Legislature the power to create Water Districts and to make other laws appropriate thereto, Sections 59(d) and (e) of Art. 16, establish requirements which the Legislature must meet prior to considering or enacting such a law.

Specifically, Art. 16, Sec. 59(d) provides as follows:

(d) No law creating a conservation and reclamation district

shall be passed unless notice of the intention to introduce such a bill setting forth the general substance of the contemplated law shall have been published at least thirty (30) days and not more than ninety (90) days prior to the introduction thereof in a newspaper or newspapers having general circulation in the county or counties in which said district or any part thereof is or will be located and by delivering a copy of such notice and such bill to the Governor who shall submit such notice and bill to the Texas Water Commission, or its successor, which shall file its recommendation as to such bill with the Governor, Lieutenant Governor and Speaker of the House of Representatives within thirty (30) days from date notice was received by the Texas Water Commission.

Without question, it is the clear requirement of this constitutional provision that the Governor, Lieutenant Governor and Speaker have the benefit of the considered opinion of the Texas Natural Resource Conservation Commission (the "TNRCC"), as successor to the Texas Water Commission, regarding the impact of the proposed bill on the conservation and development of the natural resources of Texas. Further, this provision specifically allows the TNRCC up to 30 days to prepare its recommendations. Not only has the TNRCC not provided its recommendations to the Governor, Lieutenant Governor or Speaker, the TNRCC did not receive its constitutionally required notice.

According to the Interpretive Commentary to Art. 16, Sec. 59, by the last half of the 19th century the people of Texas had come to the "realization that the resources of the state were not unlimited, and that something had to be done about the cycle of droughts and floods," and by 1904, the people considered water conservation and utilization of water resources as one of the most important issues facing Texas. The commentary goes on to say:

Inspired by the terrific floods in Texas during 1913 and 1914, the citizens began to demand a constructive conservation program and agitated for an amendment to the constitution which would recognize the state's duty to prevent floods, or at least take steps necessary for the conservation of the state's natural resources.

The people of Texas, in adopting Art. 16, Sec. 59, clearly understood the importance of the conservation and development of the state's natural resources, and the need to give the Legislature the power to make laws for this purpose; however, in giving up their rights to the Legislature, the people reserved unto themselves the right to receive notice of the Legislature's intentions, and required that the state's leadership receive the recommendations of the agency charged with the duty of protecting the state's natural resources. The sponsors of this bill have failed to provide the required constitutional notices and the Governor, Lieutenant Governor and Speaker have not had the benefit of the recommendations of the TNRCC.

Until such time as its constitutional disability is removed, further consideration of HB 3193 is prohibited by the Texas Constitution.

HB 3193 POINT OF ORDER NO. 2

Mr. Speaker:

I raise a Point of Order against further consideration of House Bill 3193 on the grounds that it violates Article 16, Section 59(e) of the Texas Constitution.

ARGUMENT

House Bill 3193 attempts to create the North Hays County Water Authority and provide for its administration, powers, duties, operation and financing.

While the Texas Constitution, in Art. 16, Sec. 59, gives the Legislature the power to create Water Districts and to make other laws appropriate thereto, Sections 59(d) and (e) of Art. 16, establish requirements which the Legislature must meet prior to considering or enacting such a law.

Specifically, Art. 16, Sec. 59(e) provides as follows:

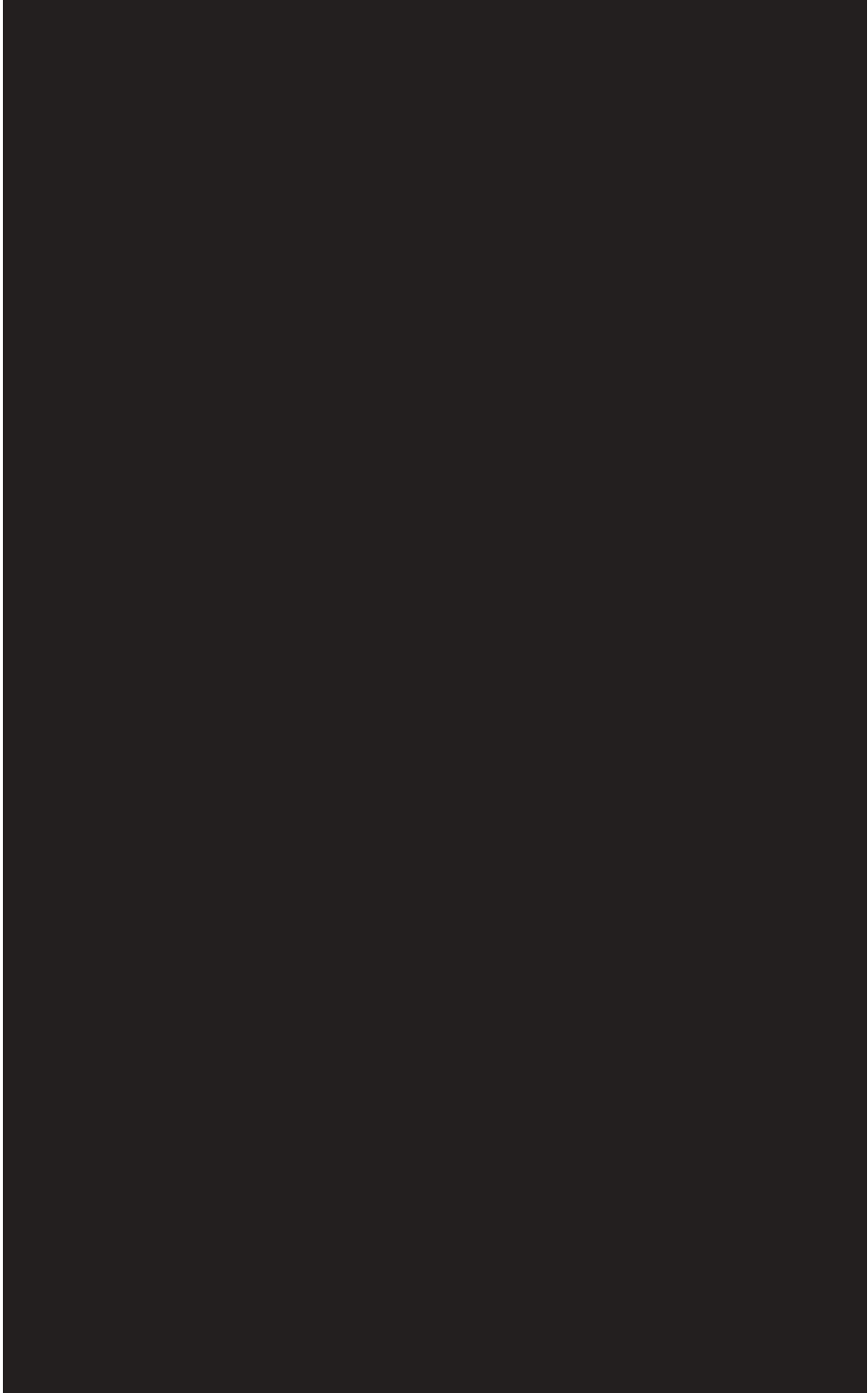
(e) No law creating a conservation and reclamation district shall be passed unless, at the time notice of the intention to introduce a bill is published as provided in Subsection (d) of this section, a copy of the proposed bill is delivered to the commissioners court of each county in which said district or any part thereof is or will be located and to the governing body of each incorporated city or town in whose jurisdiction said district or any part thereof is or will be located. Each such commissioners court and governing body may file its written consent or opposition to the creation of the proposed district with the governor, lieutenant governor, and speaker of the house of representatives. Each special law creating a conservation and reclamation district shall comply with the provisions of the general laws then in effect relating to consent by political subdivisions to the creation of conservation and reclamation districts and to the inclusion of land within the district.

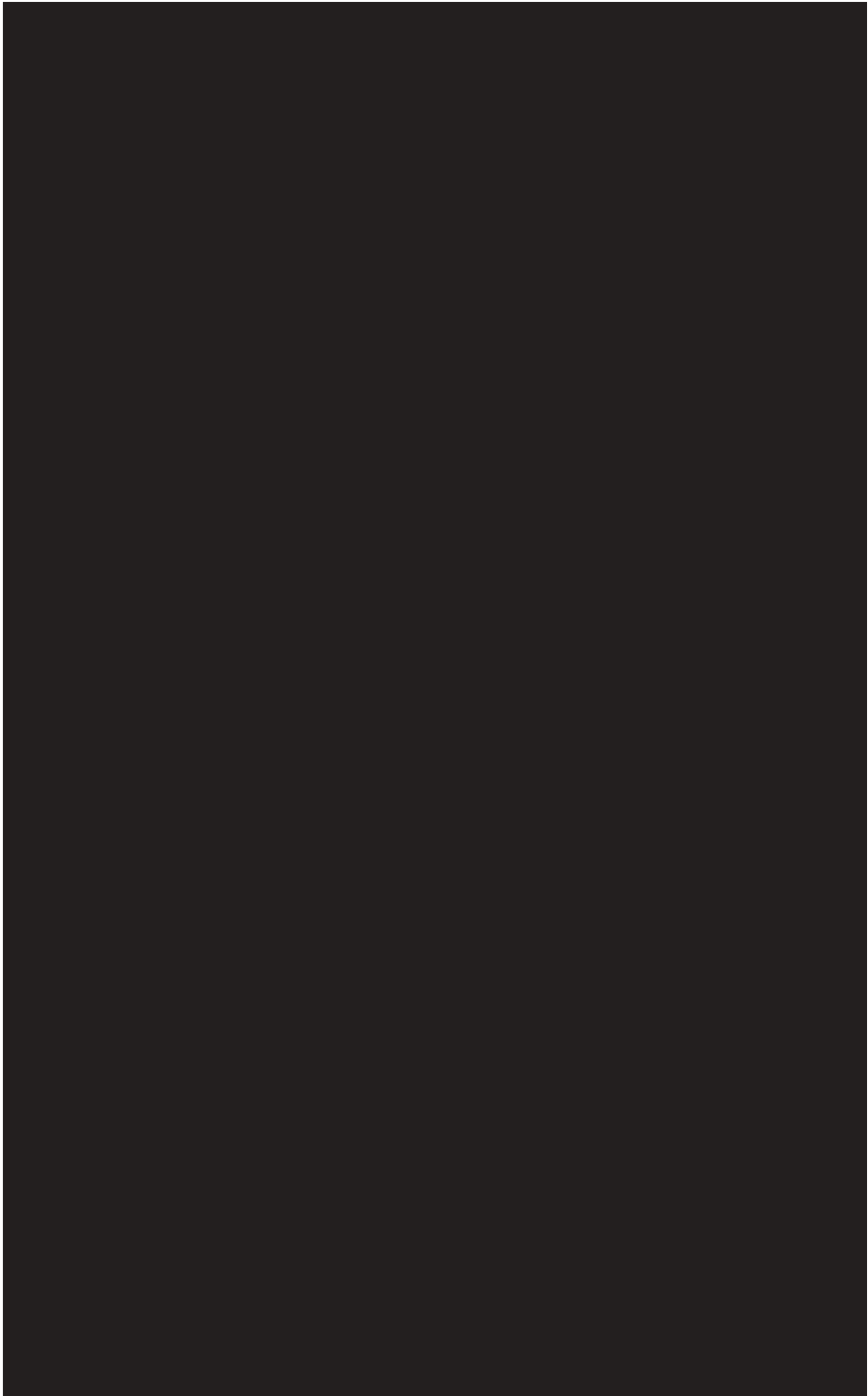
This constitutional provision clearly requires that the affected local government units receive—at the time of publication of the Art. 16, Sec. 59(d) notice—a copy of the proposed bill, and that they have ample opportunity to file their written consent or opposition to the creation of the proposed district with the governor, lieutenant governor and speaker.

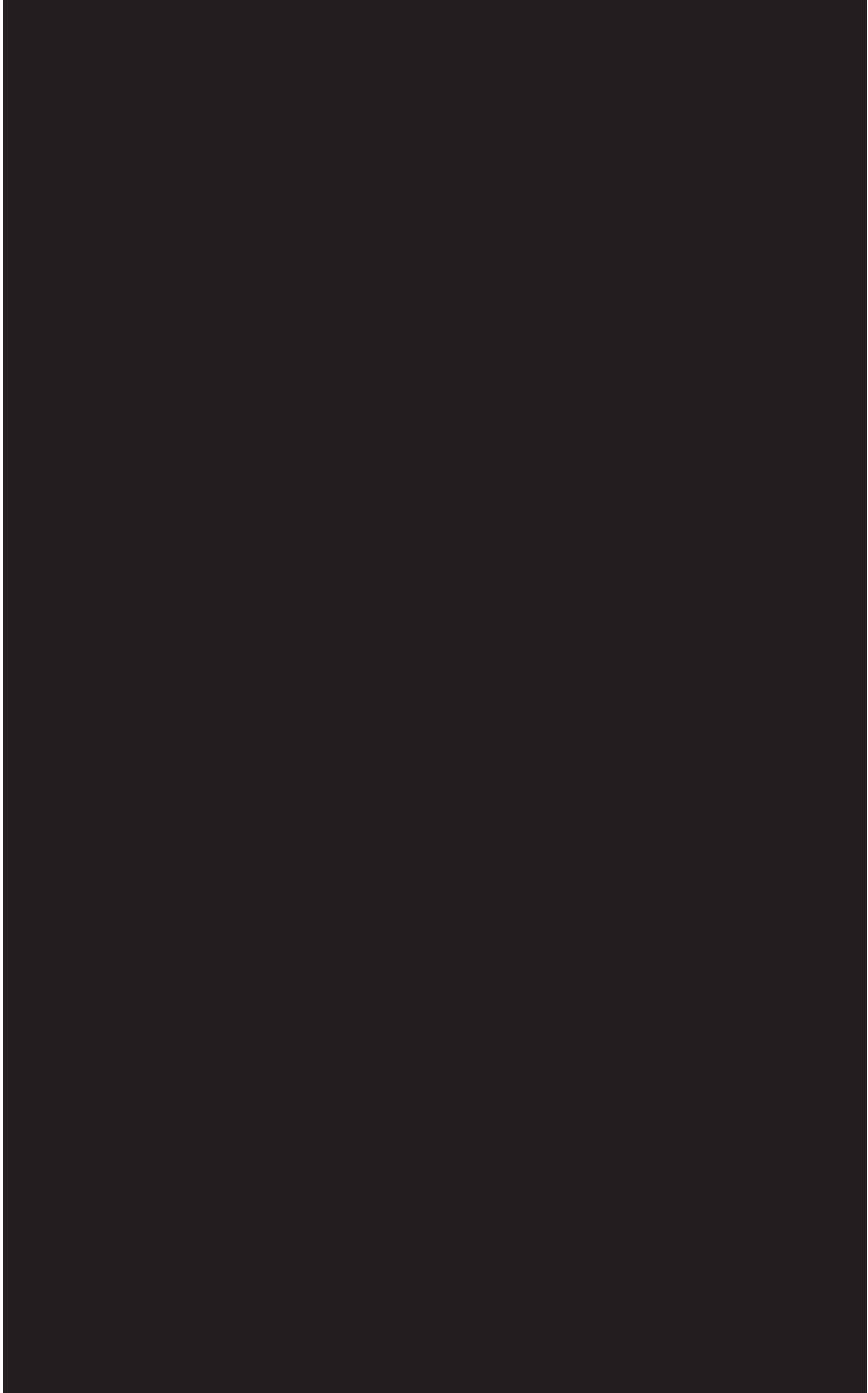
In adopting Art. 16, Sec. 59, the people of Texas clearly understood the importance of the conservation and development of the state's natural resources, and that the creation of conservation and reclamation districts by the legislature would eliminate the authority of local elected officials (county commissioners, city councils and others) over the area comprising the districts. As a result, in giving the legislature the authority to create such districts, the people constitutionally reserved unto themselves, through their local government units, to be notified of and provided with a copy of the proposed bill to create such a district at least thirty days prior to its filing in the legislature. And further, that such local government units have the opportunity to make known to the governor, lieutenant governor and speaker their position regarding the creation of such a district.

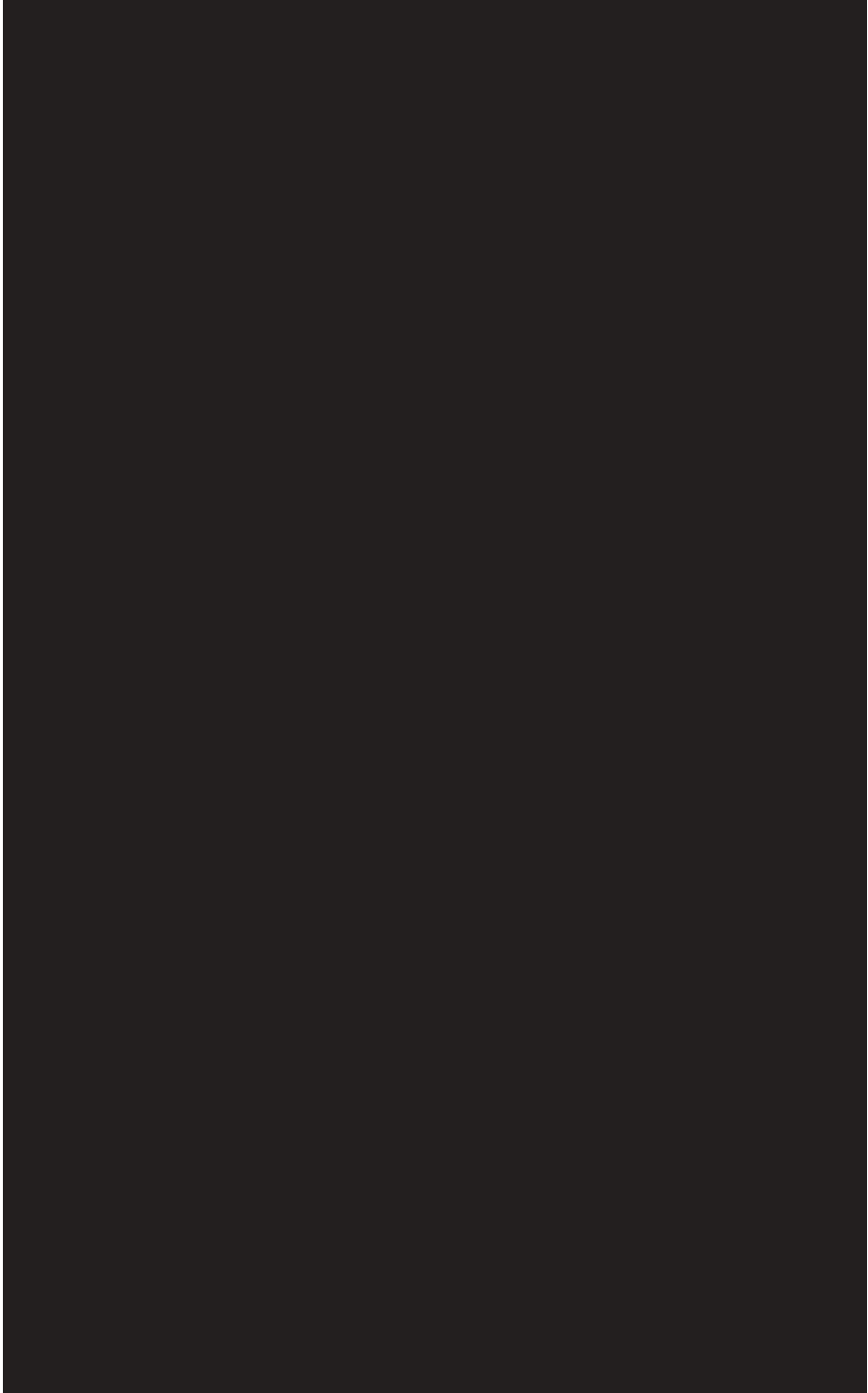
Further, because Art. 16, Sec. 59(e) requires that a copy of the proposed bill be furnished to the affected local government units "at the time notice of the intention to introduce a bill is published as provided in Subsection (d) of this section," the constitutional disability of HB 3193 cannot be remedied. To be eligible for consideration by the legislature the provisions of Section 59(e) must have been complied with at the time of compliance with the Section 59(d) notice publication.

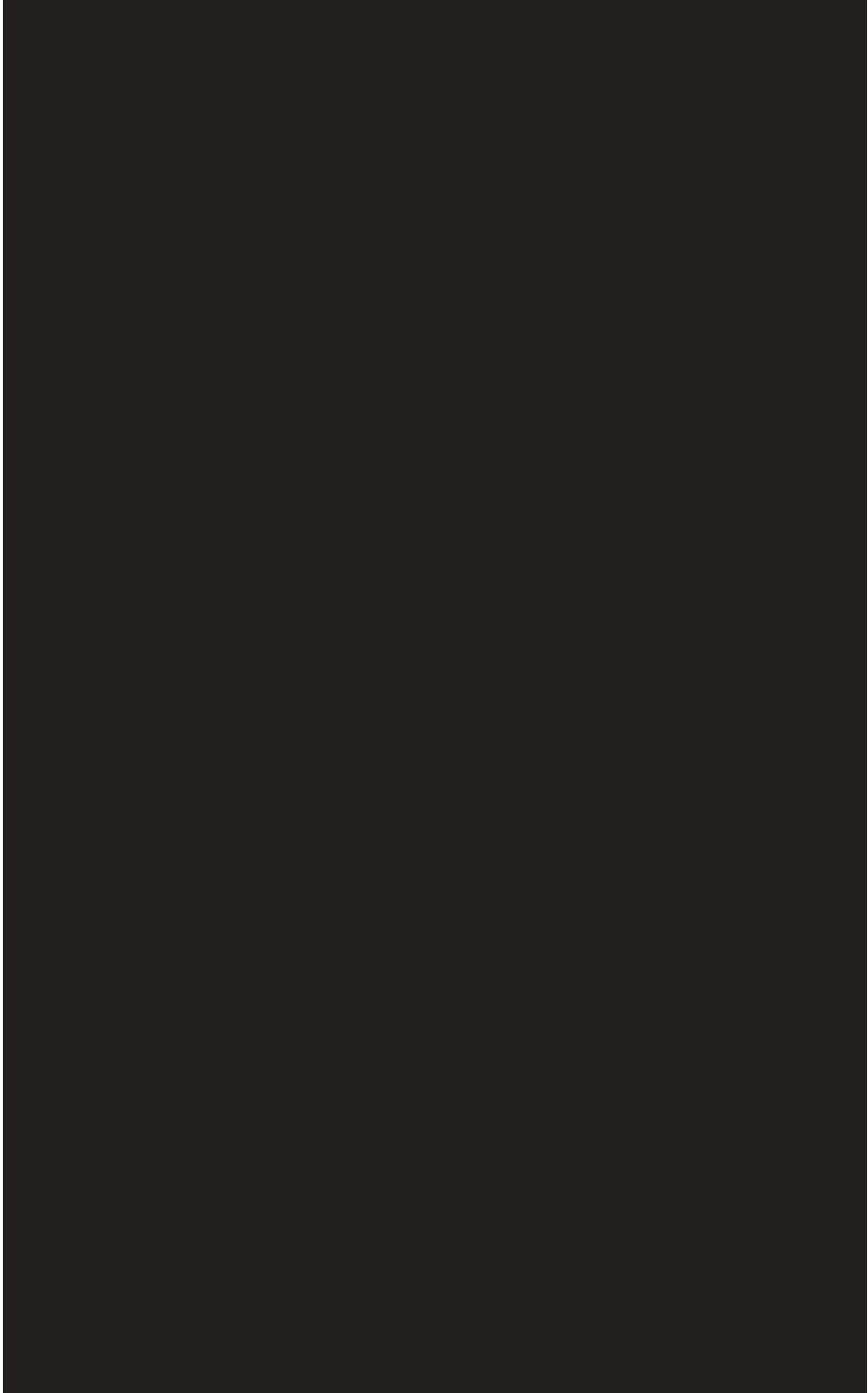
The proponents of this bill have failed to provide the affected government units with a copy of the proposed bill to create the district contemplated by HB 3193. Therefore, further consideration of HB 3193 will be in direct violation of the clear requirements of the Texas Constitution.

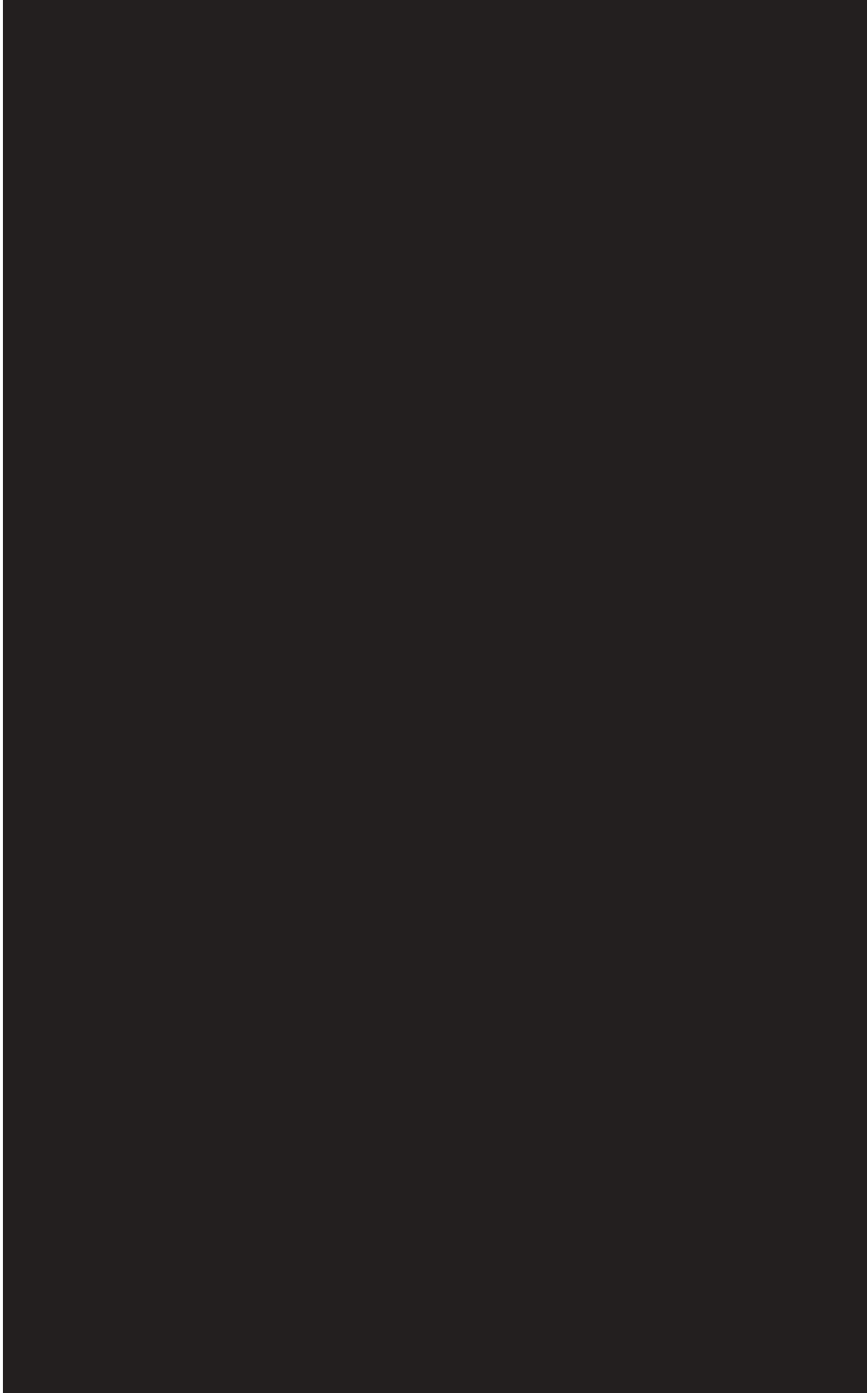












HB 1330 ON SECOND READING

The speaker laid before the house, on its second reading and passage to engrossment,

HB 1330, A bill to be entitled An Act relating to filing statements and reports electronically with the Texas Ethics Commission.

The bill was read second time and was passed to engrossment.

HB 2257 ON SECOND READING

The speaker laid before the house, on its second reading and passage to engrossment, the complete committee substitute for **HB 2257**.

CSHB 2257, A bill to be entitled An Act relating to certain inquiries made by the Texas Department of Insurance and information from those inquiries.

CSHB 2257 was read second time and was passed to engrossment.

HB 2253 ON SECOND READING

The speaker laid before the house, on its second reading and passage to engrossment,

HB 2253, A bill to be entitled An Act relating to the operation of tanning facilities; providing a criminal penalty.

The bill was read second time.

Amendment No. 1

Representative Davila offered the following amendment to the bill:

Amend **HB 2253** (House Committee Report) as follows:

On page 1, between lines 12 and 13, insert the following subsection and renumber subsequent subsections of the bill accordingly:

"(2) offers, as its primary business, a service or the sale, rental or exhibition of a device or other item that is intended to provide sexual stimulation or sexual gratification to a customer; or"

Amendment No. 1 was adopted without objection.

Amendment No. 2

Representative Davila offered the following amendment to the bill:

Amend **HB 2253** (House Committee Report) on page 2 by striking lines 1-2 and substituting:

"Government Code, may not use the words "tan," "tanning," "tans" or derivatives of those words in a sign or any other form of advertising."

Amendment No. 2 was adopted without objection.

HB 2253, as amended, was passed to engrossment.

HB 2424 ON SECOND READING

The speaker laid before the house, on its second reading and passage to engrossment,

HB 2424, A bill to be entitled An Act relating to requiring as a condition of community supervision that a defendant make a payment to the crime victims' compensation fund.

The bill was read second time.

Representative Talton moved to lay **HB 2424** on the table subject to call.

The motion prevailed without objection.

HB 692 ON SECOND READING

The speaker laid before the house, on its second reading and passage to engrossment,

HB 692, A bill to be entitled An Act relating to the ability to recover damages for injuries to a convicted criminal arising from the commission of the offense.

The bill was read second time and was passed to engrossment.

HB 2793 ON SECOND READING

The speaker laid before the house, on its second reading and passage to engrossment, the complete committee substitute for **HB 2793**.

CSHB 2793, A bill to be entitled An Act relating to the regulation of insurance holding companies.

CSHB 2793 was read second time.

Amendment No. 1

Representative Shields offered the following amendment to **CSHB 2793**:

Amend **CSHB 2793** (House Committee Report) as follows:

(1) On page 1, between lines 3 and 4, insert a new SECTION 1 to read as follows:

SECTION 1. Section 2(b), Article 21.49-1, Insurance Code, is amended to read as follows:

(b) Commercially Domiciled Insurer. The term "commercially domiciled insurer" means a foreign or alien insurer authorized to do business in this state that during its three preceding fiscal years taken together, or any lesser period if it has been licensed to transact business in this state only for that lesser period, has written an average of more gross premiums in this state than it has written in its state of domicile during the same period, with those gross premiums constituting 30 [20] percent or more of its total gross premiums everywhere in the United States for that three-year or lesser period, as reported in its three most recent annual statements.

(2) On page 6, between lines 2 and 3, insert the following section, appropriately numbered:

SECTION _____. Section 18, Article 21.49-1, Insurance Code, is amended to read as follows:

Sec. 18. APPLICABILITY TO FOREIGN AND ALIEN INSURERS. (a)

Each Texas-licensed foreign insurer domiciled in a jurisdiction which has not, by statute or regulation, adopted controls considered by the Commissioner of Insurance of the State of Texas to be substantially similar to those contained in this Article shall be subject to all provisions of Article 21.49-1 of the Insurance Code the same as Texas domestic insurers and is, in the event of non-compliance therewith, subject to all of the remedies, penalties, and sanctions authorized by the Insurance Code, including, but not limited to, after notice and hearing, suspension or revocation of certificate of authority to do business in Texas. If, after the effective date of this Act, any domiciliary jurisdictions adopt controls considered by the Commissioner of Insurance of the State of Texas to be substantially similar to those contained in this Article, the commissioner may thereafter exempt insurers domiciled in said jurisdictions from the provisions of this Section 18 of Article 21.49-1.

(b) A foreign or alien insurer is not subject to the requirements of this Article if the commissioner has approved a withdrawal plan for the insurer under Article 21.49-2C of this code.

(3) Renumber sections of the bill appropriately.

Amendment No. 1 was adopted without objection.

CSHB 2793, as amended, was passed to engrossment.

SB 1009 ON SECOND READING
(Shields - House Sponsor)

The speaker laid before the house, in lieu of **HB 2794**, on its second reading and passage to third reading,

SB 1009, A bill to be entitled An Act relating to the sanctions for acting as a life insurance counselor without a license or violating certain laws applicable to life insurance counselors; providing a criminal penalty.

The bill was read second time and was passed to third reading.

HB 2794 - LAID ON THE TABLE SUBJECT TO CALL

Representative Shields moved to lay **HB 2794** on the table subject to call.

The motion prevailed without objection.

HB 1956 ON SECOND READING

The speaker laid before the house, on its second reading and passage to engrossment,

HB 1956, A bill to be entitled An Act relating to eliminating certain mandated reports prepared by the Texas Parks and Wildlife Commission or the Texas Parks and Wildlife Department.

The bill was read second time and was passed to engrossment.

HB 2180 ON SECOND READING

The speaker laid before the house, on its second reading and passage to engrossment,

HB 2180, A bill to be entitled An Act relating to financial assistance for aviation facilities development.

The bill was read second time and was passed to engrossment.

HB 2550 ON SECOND READING

The speaker laid before the house, on its second reading and passage to engrossment, the complete committee substitute for **HB 2550**.

CSHB 2550, A bill to be entitled An Act relating to the regulation of food wholesalers and manufacturers and distributors of devices under the Texas Food, Drug, and Cosmetic Act.

CSHB 2550 was read second time and was passed to engrossment.

HB 1650 ON SECOND READING

The speaker laid before the house, on its second reading and passage to engrossment,

HB 1650, A bill to be entitled An Act relating to the qualifications of sheriffs.

The bill was read second time.

Amendment No. 1 (Committee Amendment No. 1)

On behalf of Representative Chisum, Representative Stiles offered the following committee amendment to the bill:

Amend **HB 1650** on page 1, line 12 by adding the following after "(3)": "In a county with a population of more than 10,000.".

Representative Stiles moved to table Amendment No. 1.

The motion to table prevailed.

Amendment No. 2

Representative Counts offered the following amendment to the bill:

Amend **HB 1650** as follows:

(1) On page 1, line 6 (committee printing), between "QUALIFICATIONS." and "A person" insert "(a)".

(2) On page 1, between lines 13 and 14 (committee printing), insert the following:

(b) Subsection (a)(3) does not apply to the eligibility requirements to serve as the sheriff of a county with a population of less than 30,000.

Amendment No. 2 was adopted without objection.

HB 1650, as amended, was passed to engrossment. (Horn recorded voting no)

HB 2563 ON SECOND READING

The speaker laid before the house, on its second reading and passage to engrossment,

HB 2563, A bill to be entitled An Act relating to initiatives for small businesses and rights and remedies under The Securities Act.

The bill was read second time and was passed to engrossment.

HB 2263 ON SECOND READING

The speaker laid before the house, on its second reading and passage to engrossment, the complete committee substitute for **HB 2263**.

CSHB 2263, A bill to be entitled An Act relating to having standing as a party to a contested case before a state agency and to the judicial review of a state agency's final decision in a contested case.

CSHB 2263 was read second time.

Amendment No. 1

Representative Bosse offered the following amendment to **CSHB 2263**:

Amend **CSHB 2263** by adding in SECTION 2, a new Subsection 2001.171 (d) as follows:

(d) This section does not limit the rights of a state agency which is otherwise authorized by state law to initiate or participate in a judicial review.

Amendment No. 1 was adopted without objection.

CSHB 2263, as amended, was passed to engrossment. (Danburg recorded voting no)

HB 2262 ON SECOND READING

The speaker laid before the house, on its second reading and passage to engrossment, the complete committee substitute for **HB 2262**.

CSHB 2262, A bill to be entitled An Act relating to prohibiting the consideration of race or ethnicity as a factor in adoption or foster care placements.

CSHB 2262 was read second time.

Representative Conley moved to lay **CSHB 2262** on the table subject to call.

The motion prevailed without objection.

HB 938 ON SECOND READING

The speaker laid before the house, on its second reading and passage to engrossment,

HB 938, A bill to be entitled An Act relating to tuition fees at public upper-level institutions of higher education for students residing in bordering states.

The bill was read second time and was passed to engrossment.

COMMITTEE GRANTED PERMISSION TO MEET

Representative Stiles moved to suspend all necessary rules to allow the Committee on Calendars to meet at this time.

The motion prevailed without objection.

COMMITTEE MEETING ANNOUNCEMENT

The following committee meeting was announced:

Calendars, at this time, speakers committee room.

HB 2572 ON SECOND READING

The speaker laid before the house, on its second reading and passage to engrossment, the complete committee substitute for **HB 2572**.

CSHB 2572, A bill to be entitled An Act relating to the foster care and placement of certain children.

CSHB 2572 was read second time.

Representative Brady moved to lay **CSHB 2572** on the table subject to call.

The motion prevailed without objection.

SB 840 ON SECOND READING

(De La Garza - House Sponsor)

The speaker laid before the house, in lieu of **HB 439**, on its second reading and passage to third reading, the complete committee substitute for **SB 840**.

CSSB 840, A bill to be entitled An Act relating to the creation of an offense for the possession of certain weapons in a school zone and to places where weapons are prohibited.

The bill was read second time.

Representative De La Garza moved to postpone consideration of **CSSB 840** until 10 a.m. Monday, May 15.

The motion prevailed without objection.

HB 439 - LAID ON THE TABLE SUBJECT TO CALL

Representative De La Garza moved to lay **HB 439** on the table subject to call.

The motion prevailed without objection.

SB 1637 ON SECOND READING

(Duncan - House Sponsor)

The speaker laid before the house, in lieu of **HB 2915**, on its second reading and passage to third reading,

SB 1637, A bill to be entitled An Act relating to the approval and use of certain life, health, and accident insurance policy forms.

The bill was read second time and was passed to third reading.

HB 2915 - LAID ON THE TABLE SUBJECT TO CALL

Representative Duncan moved to lay **HB 2915** on the table subject to call.

The motion prevailed without objection.

HB 2887 ON SECOND READING

The speaker laid before the house, on its second reading and passage to engrossment, the complete committee substitute for **HB 2887**.

CSHB 2887, A bill to be entitled An Act relating to the powers and duties of certain industrial development corporations created by cities.

CSHB 2887 was read second time.

Amendment No. 1

Representative De La Garza offered the following amendment to **CSHB 2887**:

Amend **CSHB 2887** (committee printing) in SECTION 1 of the bill as follows:

(1) On page 1, line 8, strike "CONVERSION OF" and substitute "ADDITIONAL PROJECT IN".

(2) On page 1, line 11, strike "convert the corporation to" and substitute "undertake one project permitted for".

(3) On page 1, line 20, strike "conversion" and substitute "proposition".

(4) On page 1, line 21, strike "conversion" and substitute "proposition".

(5) On page 2, strike line 1 and substitute "approval of the proposition".

(6) On page 2, line 3, strike "conversion" and substitute "proposition".

(7) On page 2, strike lines 5-17 and substitute the following:

(f) The ballot proposition at the election must specify the project under Section 4B of this Act that the corporation intends to undertake if the proposition is approved.

(g) If a majority of votes cast on the proposition at the election is in favor of the proposition, the corporation may undertake the project specified on the ballot, notwithstanding that the corporation is governed by Section 4A of this Act. If a majority of votes cast on the proposition at the election is against the proposition, the corporation may not undertake the project.

Amendment No. 1 was adopted without objection.

CSHB 2887, as amended, was passed to engrossment.

HB 467 ON SECOND READING

The speaker laid before the house, on its second reading and passage to engrossment,

HB 467, A bill to be entitled An Act relating to taxation of fuel used in the repair of rolling stock.

The bill was read second time and was passed to engrossment.

HB 632 ON SECOND READING

The speaker laid before the house, on its second reading and passage to engrossment, the complete committee substitute for **HB 632**.

CSHB 632, A bill to be entitled An Act relating to safety standards for public and private playgrounds and limits on the civil liability of a person who provides and maintains a safe playground.

CSHB 632 was read second time.

Amendment No. 1

Representative Oakley offered the following amendment to **CSHB 632**:
Amend **CSHB 632** on page 2 line 10 by removing the word "equipment."
Amendment No. 1 was adopted without objection.

Amendment No. 2

Representative Hochberg offered the following amendment to **CSHB 632**:
Amend **CSHB 632** (House Committee Report) as follows:
(1) On page 2, between lines 20 and 21, insert the following:
SECTION 2. Chapter 756, Health and Safety Code, is amended by adding
Subchapter E to read as follows:

SUBCHAPTER E. PUBLICLY FUNDED PLAYGROUNDS

Sec. 756.061. COMPLIANCE WITH SAFETY STANDARDS. (a) On or after September 1, 1997, public funds may not be used:

(1) to purchase playground equipment that does not substantially comply with each applicable provision of the most recent edition, at the time of the purchase, of the Handbook for Public Playground Safety published by the United States Consumer Product Safety Commission;

(2) to purchase surfacing for the area under and around playground equipment if the surfacing will not substantially comply, on completion of installation of the surfacing, with each applicable provision of the most recent edition, at the time of the purchase, of the handbook described by Subdivision (1); or

(3) to pay for installation of playground equipment or surfacing if the installation will not substantially comply, on completion of the installation, with each applicable provision of the most recent edition, at the time of the installation, of the handbook described by Subdivision (1).

(b) This section:

(1) does not create, increase, decrease, or otherwise affect a person's liability for damages for injury, death, or other harm caused by playground equipment, surfacing, or the installation of the equipment or surfacing; and

(2) is not a waiver of sovereign immunity of any governmental entity.

(2) Renumber subsequent sections of the bill accordingly.

Amendment No. 2 was adopted without objection.

CSHB 632, as amended, was passed to engrossment.

HB 866 ON SECOND READING

The speaker laid before the house, on its second reading and passage to engrossment,

HB 866, A bill to be entitled An Act relating to public school health clinics.

The bill was read second time.

Representative Maxey moved to postpone consideration of **HB 866** until 11:30 p.m. today.

The motion prevailed without objection.

HB 1201 ON SECOND READING

The speaker laid before the house, on its second reading and passage to engrossment, the complete committee substitute for **HB 1201**.

CSHB 1201, A bill to be entitled An Act relating to allowing the prepayment of the franchise tax in quarterly installments.

CSHB 1201 was read second time and was passed to engrossment.

HB 1652 ON SECOND READING

The speaker laid before the house, on its second reading and passage to engrossment, the complete committee substitute for **HB 1652**.

CSHB 1652, A bill to be entitled An Act relating to personnel records maintained by certain sheriff's departments.

CSHB 1652 was read second time and was passed to engrossment.

HB 1687 ON SECOND READING

The speaker laid before the house, on its second reading and passage to engrossment,

HB 1687, A bill to be entitled An Act relating to the notification of school personnel of the arrest or detention of a student.

The bill was read second time and was passed to engrossment.

HB 1832 ON SECOND READING

The speaker laid before the house, on its second reading and passage to engrossment,

HB 1832, A bill to be entitled An Act relating to the creation of emergency services districts without taxing authority and the conversion of such districts to emergency services districts with taxing authority.

The bill was read second time and was passed to engrossment.

HB 2012 ON SECOND READING

The speaker laid before the house, on its second reading and passage to engrossment, the complete committee substitute for **HB 2012**.

CSHB 2012, A bill to be entitled An Act relating to the disclosure of certain information collected by the Parks and Wildlife Department.

CSHB 2012 was read second time and was passed to engrossment.

HB 2072 ON SECOND READING

The speaker laid before the house, on its second reading and passage to engrossment, the complete committee substitute for **HB 2072**.

CSHB 2072, A bill to be entitled An Act relating to the licensing and regulation of public adjusters; providing criminal penalties.

CSHB 2072 was read second time.

Amendment No. 1

Representative De La Garza offered the following amendment to **CSHB 2072**:

Amend **CSHB 2072** (House Committee Report printing) as follows:

(1) On page 1, line 16, between "personal property" and the period, insert ", other than an automobile"

(2) On page 4, line 21, strike "adopt" and substitute "prescribe".

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

(4) On page 7, between lines 14 and 15, insert a new Section 8 to Article 21.07-5, Insurance Code, as added by the bill, to read as follows:

Sec. 8. LICENSE BY RECIPROCITY. The commissioner by rule may adopt a reciprocal license program for public adjusters and may enter into reciprocal agreements with the appropriate officials of other states.

(5) On page 7, line 15, strike "Sec. 8" and substitute "Sec. 9".

(6) On page 8, line 9, strike "Sec. 9" and substitute "Sec. 10".

(7) On page 8, line 20, strike "Sec. 10" and substitute "Sec. 11".

(8) On page 8, line 24, strike "Sec. 11" and substitute "Sec. 12".

(9) On page 9, line 4, strike "Sec. 12" and substitute "Sec. 13".

(10) On page 9, line 21, strike "Sec. 13" and substitute "Sec. 14".

(11) On page 10, line 13, strike "Sec. 14" and substitute "Sec. 15".

(12) On page 10, strike lines 18-27 and substitute the following:

(b) A public adjuster may not receive a contingent fee on a claim for which an insurance company, not later than 72 hours after the date on which the loss is reported to the insurance company, or, in the event of a declared catastrophe or disaster, not later than 72 hours after the first inspection conducted by the adjuster for the insurance company, either pays or commits in writing to pay to the insured the policy limit of the insurance policy in accordance with Article 6.13 of this code. The public adjuster is entitled to reasonable compensation from the insured for services provided by that adjuster on behalf of the insured, based on the time spent on a claim that is subject to this subsection and expenses incurred by the adjuster, until the claim is paid or the insured receives a written commitment to pay from the insurance company.

(13) On page 11, strike line 1.

(14) On page 11, line 2, strike "Sec. 15" and substitute "Sec. 16".

(15) On page 11, line 21, strike "Sec. 16" and substitute "Sec. 17".

(16) On page 13, line 9, strike "Sec. 17" and substitute "Sec. 18".

(17) On page 13, line 14, strike "Sec. 18" and substitute "Sec. 19".

(18) On page 14, line 13, strike "18" and substitute "19".

Amendment No. 1 was adopted without objection.

CSHB 2072, as amended, was passed to engrossment.

Representative De La Garza moved to reconsider the vote by which **CSHB 2072** was passed to engrossment.

The motion to reconsider prevailed.

CSHB 2072 ON SECOND READING

The speaker laid before the house, on its second reading and passage to engrossment, the complete committee substitute for **HB 2072**.

CSHB 2072, A bill to be entitled An Act relating to the licensing and regulation of public adjusters; providing criminal penalties.

Amendment No. 2

Representative Counts offered the following amendment to **CSHB 2072**:

Amend **CSHB 2072**, house committee report, as follows:

(1) On page 1, line 10, between "in" and "insurance", insert "commercial property, fire and allied lines, homeowners, or farm and ranch owners".

(2) On page 2, line 22, strike "\$25,000" and substitute "\$500,000".

(3) On page 3, line 8, strike "\$50,000" and substitute "\$500,000".

(4) On page 3, line 11, strike "\$50,000" and substitute "\$500,000".

(5) On page 3, line 17, strike "\$250,000" and substitute "\$1 million".

(6) On page 3, line 21, strike "if the license holder is determined to be guilty of fraud or unfair practices" and substitute "as a result of the license holder's action".

(7) On page 4, line 16, strike "a final judgment has been recovered against the" and substitute "damages sustained as a result of the license holder's action in connection with the license holder's business as a public adjuster remain unpaid. Those damages may be paid from the deposit only to the extent of the deficiency in payment of the damages sustained.".

(8) On page 4, strike lines 17-19.

(9) On page 4, line 26, strike "shall" and substitute "may".

(10) On page 4, strike line 27 and substitute the following:
committee. If the commissioner elects to appoint the advisory committee, the advisory committee shall be composed of nine members as follows:

(1) three members who represent the general public;

(2) the chairman of the unauthorized practice of law committee of the State Bar of Texas;

(3) two members with knowledge and experience in the profession of insurance adjusting;

(4) one member who represents the domestic insurance companies authorized to do business in this state;

(5) one member who represents the foreign insurance companies authorized to do business in this state; and

(6) one member who is a public adjuster.

(11) On page 5, strike lines 1-3.

(12) On page 5, line 4, strike "insurance industry who is not a public adjuster.".

(13) On page 5, between lines 11 and 12, insert the following:

(d) This article does not prevent the department from using a testing contractor to administer the examination required by this section.

(14) On page 6, strike lines 8-9.

(15) On page 6, line 10, strike "(8)" and substitute "(7)".

(16) On page 6, line 13, strike "(9)" and substitute "(8)".

(17) On page 6, line 18, strike "(10)" and substitute "(9)".

(18) On page 6, line 21, strike "(11)" and substitute "(10)".

(19) On page 7, line 1, between "state" and the semicolon, insert "or, if the nonresident applicant's state of residence does not license public adjusters, the applicant successfully passes the license examination adopted under Section 5 of the article".

(20) On page 7, line 10, strike "\$350" and substitute "\$250".

(21) On page 7, between lines 14-15, insert the following:

(e) The commissioner may issue a nonresident license to an applicant under this section only if the applicant's state of residence has a similar reciprocity program for residents of this state who are licensed under this article.

(22) On page 7, line 17, strike "temporary" and substitute "trainee".

(23) On page 7, line 18, strike "temporary" and substitute "trainee".

(24) On page 7, line 21, strike "temporary" and substitute "trainee".

(25) On page 7, line 23, strike "temporary" and substitute "trainee".

(26) On page 8, line 2, strike "temporary" and substitute "trainee".

(27) On page 8, line 5, strike "temporary" and substitute "trainee".

(28) On page 8, line 6, strike "temporary" and substitute "trainee".

(29) On page 8, between lines 8 and 9, insert the following:

(f) An applicant for a trainee certificate must satisfy the requirements for a public adjuster imposed under Section 6 of this article, other than the requirements imposed under Subdivisions (9) and (10) of that section.

(30) On page 8, line 10, strike "who is a resident of this state".

(31) On page 8, strike lines 12-13 and substitute the following:

general public. The department shall maintain in its records the address of the place of business. Each license holder shall promptly

(32) On page 8, line 16, between "The" and "name", insert "department shall maintain in its records the".

(33) On page 8, strike lines 17-19 and substitute "agent".

(34) On page 9, strike lines 11-12 and substitute the following:

(b) The conduct of business by a licensed public adjuster as authorized by this article does not constitute a violation of:

(35) On page 9, between lines 20 and 21, insert the following:

(c) A public adjuster may not settle a claim without the prior written consent of the insured.

(36) On page 9, line 22, strike "first" and substitute "second".

(37) On page 9, line 24, between "application" and "with", insert "accompanied by the renewal fee".

(38) On page 10, line 4, strike "annually complete at least 15" and substitute "complete, for each two-year license period, at least 30".

(39) On page 10, lines 9-10, strike "30th day after the anniversary" and substitute "90th day after the expiration".

(40) On page 10, line 16, strike "15" and substitute "10".

(41) On page 10, line 19, strike ", not later than 72 hours after" and substitute "not later than the applicable date provided by Article 21.55 of this code.".

(42) On page 10, strike line 20.

(43) On page 10, line 23, between "code." and "The public adjuster", insert

"The public adjuster is not entitled to compensation for any portion of the amount initially offered to the insured by the insurance company. The public adjuster may only receive a contingent fee or compensation based on the increase computed by subtracting the amount initially offered by the insurance company to the insured from the amount finally paid by the insurance company to the insured on the claim."

(44) On page 11, between lines 1 and 2, insert the following:

(c) An insured who uses the services of a public adjuster shall sign a disclosure form prescribed by the department that acknowledges that:

(1) the fee paid to the public adjuster will be paid from the proceeds received by the insured on the claim;

(2) the public adjuster represents the insured rather than the insurance company; and

(3) the insured, rather than the insurance company, is responsible for payment of the fee owed to the public adjuster.

(45) On page 11, between lines 20 and 21, insert the following:

(g) A public adjuster may not, directly or indirectly, receive or pay any valuable consideration, special favor, or advantage from or to any person with an interest in the claim, including an attorney, contractor, or supplier.

(46) On page 13, line 11, between "to whom notice" and "is", insert "of intent to initiate disciplinary action".

(47) On page 13, strike lines 26-27.

(48) On page 14, strike lines 1-2.

(49) On page 4, line 3, strike "(b)".

Amendment No. 2 was adopted without objection.

CSHB 2072, as amended, was passed to engrossment. (Finnell, T. Hunter, and Solomons recorded voting no)

HB 2133 ON SECOND READING

The speaker laid before the house, on its second reading and passage to engrossment, the complete committee substitute for **HB 2133**.

CSHB 2133, A bill to be entitled An Act relating to the authority of certain Parks and Wildlife Department employees to enter on private property and to the use of information obtained.

CSHB 2133 was read second time and was passed to engrossment.

HB 2122 ON SECOND READING

The speaker laid before the house, on its second reading and passage to engrossment, the complete committee substitute for **HB 2122**.

CSHB 2122, A bill to be entitled An Act relating to deductibles for workers' compensation insurance.

CSHB 2122 was read second time.

Amendment No. 1

Representative Brimer offered the following amendment to **CSHB 2122**:

Amend **CSHB 2122** as follows:

On page 1, between lines 15 and 16, add a new SECTION 3 as follows and renumber current SECTION 3 as SECTION 4:

"SECTION 3. Not later than January 1, 1996, the department shall amend the information page of the workers' compensation policy promulgated under Article 5.57, Insurance Code, to contain notice to the policyholder that a deductible option is available under Article 5.55C, Insurance Code, and to notify the policyholder that the policyholder must specifically request the deductible option."

Amendment No. 1 was adopted without objection.

CSHB 2122, as amended, was passed to engrossment.

HB 2509 ON SECOND READING

The speaker laid before the house, on its second reading and passage to engrossment,

HB 2509, A bill to be entitled An Act relating to allowing municipalities and counties to enter into contracts for the collection of certain court costs and fines.

The bill was read second time and was passed to engrossment.

HB 3143 ON SECOND READING

The speaker laid before the house, on its second reading and passage to engrossment,

HB 3143, A bill to be entitled An Act relating to the unauthorized use by a motor vehicle of toll roads in certain counties; providing criminal and administrative penalties.

The bill was read second time.

Amendment No. 1 (Committee Amendment No. 1)

On behalf of Representative Bosse, Representative Hamric offered the following committee amendment to the bill:

Amend **HB 3143** by striking Subsection 8f(g)(1) on lines 14-15, page 3, and renumbering the subsequent subsections accordingly.

Amendment No. 1 was adopted without objection.

(Coleman now present)

HB 3143, as amended, was passed to engrossment.

HB 852 ON SECOND READING

The speaker laid before the house, on its second reading and passage to engrossment,

HB 852, A bill to be entitled An Act relating to investigations of judges by the State Commission on Judicial Conduct.

The bill was read second time and was passed to engrossment.

HB 1342 ON SECOND READING

The speaker laid before the house, on its second reading and passage to engrossment, the complete committee substitute for **HB 1342**.

CSHB 1342, A bill to be entitled An Act relating to regulation of a person that exhibits nudity and that allows the possession or consumption of alcoholic beverages on the premises; providing criminal penalties.

CSHB 1342 was read second time.

Representative Dutton raised a point of order against further consideration of **CSHB 1342** on the grounds that **CSHB 1342** violates Rule 4, Section 34(b)(1), of the House Rules.

The point of order was withdrawn.

Amendment No. 1

Representative Nixon offered the following amendment to **CSHB 1342**:

Amend **CSHB 1342** as follows:

(1) Add the following appropriately numbered section:

SECTION _____. Section 243.003, Local Government Code, is amended by adding Subsection (e) to read as follows:

(e) A regulation adopted under this chapter by a municipality or a county shall prohibit any act of commercial exploitation of human sexuality, including nudity, in a commercial establishment where alcoholic beverages are served, offered for sale, or consumed on the premises.

(2) Add the following appropriately numbered section:

SECTION _____. Section 109.57, Alcoholic Beverage Code, is amended by adding Subsection (e) to read as follows:

(e) This section does not apply to a regulation adopted under this chapter or Chapter 243, Local Government Code, by a municipality or a county that prohibits any act of commercial exploitation of human sexuality, including nudity, in a commercial establishment where alcoholic beverages are served, offered for sale, or consumed on the premises.

(3) Renumber the remaining sections of the bill appropriately.

Amendment No. 1 was adopted without objection.

Amendment No. 2

Representative Wilson offered the following amendment to **CSHB 1342**:

Amend **CSHB 1342** by adding appropriately numbered SECTIONS to read as follows:

SECTION _____. Chapter 106, Alcoholic Beverage Code, is amended by adding Section 106.15 to read as follows:

Sec. 106.15. EMPLOYMENT HARMFUL TO PERSONS YOUNGER THAN 21. (a) The commission or administrator shall cancel a license or permit issued under this code if the license or permit holder employs, authorizes, or induces a person younger than 21 years of age to work on the holder's premises:

(1) in a sexually oriented commercial activity; or

(2) in a place of business permitting, requesting, or requiring a person to work nude.

(b) In this section:

(1) "Nude" means a person who is:

(A) entirely unclothed; or

(B) clothed in a manner that leaves uncovered or visible through less than fully opaque clothing any portion of the breasts below the top of the areola of the breasts, if the person is female, or any portion of the genitals or buttocks.

(2) "Sexually oriented commercial activity" has the meaning assigned by Section 43.251, Penal Code.

Amendment No. 2 was adopted without objection.

CSHB 1342, as amended, was passed to engrossment.

HB 1051 ON SECOND READING

The speaker laid before the house, on its second reading and passage to engrossment, the complete committee substitute for **HB 1051**.

CSHB 1051, A bill to be entitled An Act relating to the regulation of the location of a sexually oriented business selling alcoholic beverages.

CSHB 1051 was read second time and was passed to engrossment.

HB 272 ON SECOND READING

The speaker laid before the house, on its second reading and passage to engrossment,

HB 272, A bill to be entitled An Act relating to the authority of a municipality or county to regulate a sexually oriented business.

The bill was read second time.

Amendment No. 1

Representative Nixon offered the following amendment to the bill:

Amend **HB 272** as follows:

(1) Add the following appropriately numbered section:

SECTION ____. Section 243.003, Local Government Code, is amended by adding Subsection (e) to read as follows:

(e) A regulation adopted under this chapter by a municipality or a county shall prohibit any act of commercial exploitation of human sexuality, including nudity, in a commercial establishment where alcoholic beverages are served, offered for sale, or consumed on the premises.

(2) Renumber the remaining sections of the bill appropriately.

Amendment No. 1 was adopted without objection.

Amendment No. 2

Representative Nixon offered the following amendment to the bill:

Amend **HB 272** on page 1, by striking lines 7-15 and substituting the following:

Sec. 243.002. DEFINITIONS [~~definition~~]. In this chapter: [;]

(1) "Nude" means:

(A) entirely unclothed; or

(B) clothed in a manner that leaves uncovered or visible through less than fully opaque clothing any portion of the breasts below the top of the areola of the breasts, if the person is female, or any portion of the genitals or buttocks.

(2) "Sexually [~~sexually~~] oriented business" means:

(A) a sex parlor, nude studio, modeling studio, love parlor, adult bookstore, adult movie theater, adult video arcade, adult movie arcade, adult video store, adult motel, adult tanning salon, lingerie modeling studio, or other commercial enterprise the primary business of which is the offering of a service or the selling, renting, or exhibiting of devices or any other items intended to provide sexual stimulation or sexual gratification to the customer; or

(B) any place of business permitting, requesting, or requiring a person to work nude.

Amendment No. 2 was adopted without objection.

Amendment No. 3

Representative Kamel offered the following amendment to the bill:

Amend **HB 272** on page 1, line 11, between "studio," and "or other", insert "adult or totally nude car wash,".

Amendment No. 3 was adopted without objection.

HB 272, as amended, was passed to engrossment.

HB 1538 ON SECOND READING

The speaker laid before the house, on its second reading and passage to engrossment,

HB 1538, A bill to be entitled An Act relating to the availability to law enforcement agencies of certain information relating to inmates in the institutional division of the Texas Department of Criminal Justice.

The bill was read second time and was passed to engrossment.

HB 2083 ON SECOND READING

The speaker laid before the house, on its second reading and passage to engrossment,

HB 2083, A bill to be entitled An Act relating to the issuance of special license plates and parking placards for vehicles owned by or transporting disabled persons and the enforcement of the law relating to parking by or for disabled persons.

The bill was read second time.

Amendment No. 1 (Committee Amendment No. 1)

On behalf of Representative Ehrhardt, Representative Coleman offered the following committee amendment to the bill:

Amend **HB 2083** as follows:

On Page 5, Line 7, add Subsections (j) to read as follows:

(j) An offense under this section is punishable by a sentence of community service not to exceed 100 hours.

Amendment No. 1 was adopted without objection.

Amendment No. 2 (Committee Amendment No. 2)

On behalf of Representative Ehrhardt, Representative Coleman offered the following committee amendment to the bill:

Amend **HB 2083** as follows:

On page 3, line 19 between "person" and "to", insert the phrase "or a non-disabled person".

Amendment No. 2 was adopted without objection.

Amendment No. 3 (Committee Amendment No. 3)

On behalf of Representative Ehrhardt, Representative Coleman offered the following committee amendment to the bill:

Amend **HB 2083** as follows:

Add an appropriately numbered SECTION to read as follows and renumber the existing SECTIONS accordingly:

SECTION _____. Section 6(b), Chapter 338, Acts of the 64th Legislature, Regular Session, 1975 (Article 6675a-5e.1, Vernon's Texas Civil Statutes), is amended to read as follows:

(b) The owner of a vehicle on which the special license plates are displayed or in which a removable windshield identification card is placed on the rearview mirror of the front windshield is exempt from the payment of fees or penalties imposed by a governmental authority for parking at a meter, in a parking garage or lot, or in a space with a limitation on the length of time for parking, unless the vehicle was not parked at the time by or for transportation of a disable person. This exemption does not apply to fees or penalties imposed by a branch of the United States government. This section does not permit parking a vehicle at a place or time that parking is prohibited.

Amendment No. 3 was adopted without objection.

Amendment No. 4 (Committee Amendment No. 4)

On behalf of Representative Ehrhardt, Representative Coleman offered the following committee amendment to the bill:

Amend **HB 2083** as follows:

On page 4, line 17, strike "\$1" and substitute "\$100".

Amendment No. 4 was adopted without objection.

HB 2083, as amended, was passed to engrossment.

HB 2266 ON SECOND READING

The speaker laid before the house, on its second reading and passage to engrossment,

HB 2266, A bill to be entitled An Act relating to operation under a license issued by a state agency on reversal and remand of a contested case relating to the license.

The bill was read second time.

Amendment No. 1

Representative Alonzo offered the following amendment to the bill:

Amend **HB 2266** SECTION 1 by deleting the words "procedural or" from lines 10 and 13 on page 1 and line 4 page 2.

Amendment No. 1 was adopted without objection.

HB 2266, as amended, was passed to engrossment. (Danburg recorded voting no)

HB 2345 ON SECOND READING

The speaker laid before the house, on its second reading and passage to engrossment, the complete committee substitute for **HB 2345**.

CSHB 2345, A bill to be entitled An Act relating to the regulation of slaughterers by a county; providing a penalty.

CSHB 2345 was read second time and was passed to engrossment. (Black recorded voting no)

HB 2377 ON SECOND READING

The speaker laid before the house, on its second reading and passage to engrossment, the complete committee substitute for **HB 2377**.

CSHB 2377, A bill to be entitled An Act relating to the provision and administration of mental health and mental retardation services.

CSHB 2377 was read second time.

Amendment No. 1

Representative Delisi offered the following amendment to **CSHB 2377**:

Amend the **CSHB 2377** by adding a new Section 11 to the bill, and renumbering the subsequent sections accordingly, to read as follows:

SECTION 11. Section 534.022, Health and Safety Code, is amended by adding a new subsection (e) to read as follows:

(e) A country or municipality acting alone or two or more counties or municipalities acting jointly pursuant to interlocal contract, may create a public facility corporation to act on behalf of one or more community centers pursuant to the Public Facility Corporation Act, art. 717s, Tex. Rev. Civ. Stat. Ann. Such counties or municipalities may exercise the powers of a sponsor under that act, and any such corporation may exercise the powers of a corporation under that act (including but not limited to the power to issue bonds). The corporation may exercise its powers on behalf of community centers in such manner as may be prescribed by the articles and bylaws of the corporation, provided that in no event shall one community center ever be liable to pay the debts or obligation or be liable for the acts, actions or undertaking of the another community center.

Amendment No. 1 was adopted without objection.

Amendment No. 2

On behalf of Representative Kubiak, Representative Delisi offered the following amendment to **CSHB 2377**:

Amend **CSHB 2377** as follows:

In Section 8, subsection (c), on page 5, line 22-23, strike after "cost-benefit," and substitute the following:

"providers' staff qualifications, experience and training, and client care issues including quality of care and client outcomes to insure consumer choice and the best use of public money in."

Amendment No. 2 was withdrawn.

CSHB 2377, as amended, was passed to engrossment.

HB 2891 ON SECOND READING

The speaker laid before the house, on its second reading and passage to engrossment,

HB 2891, A bill to be entitled An Act relating to reports to the legislature by state health and human services agencies and to the long-term care state plan for the elderly.

The bill was read second time.

Amendment No. 1 (Committee Amendment No. 1)

On behalf of Representative Naishtat, Representative Hilderbran offered the following committee amendment to the bill:

1. On page 7, line 1, strike the ":" at the end of the line; on line 2, strike the subsection number "(1)"; on line 4, strike "; and"; and on lines 5-6, strike all of subsection (2).

2. On page 9, lines 24-25, strike "Texas Department of Human Services" and substitute "Department of Protective and Regulatory Services"

3. On page 11, line 4, strike "Sections 21.011 and 141.024" and substitute "Article 4413(503), Revised Statutes, and Section 141.024, Human Resources Code"

Amendment No. 1 was adopted without objection.

Amendment No. 2

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

Amend **HB 2891** as follows:

(1) In SECTION 20 of the bill, subsection 22 add a new subdivision (2) to read as follows and renumber subsequent subdivisions accordingly:

(2) oversee the establishment of at least two regional access to long-term care planning pilots using regional planning commissions, established pursuant to Chapter 391, Local Government Code, to facilitate the process and incorporate local involvement.

Amendment No. 2 was adopted without objection.

HB 2891, as amended, was passed to engrossment.

HB 422 ON SECOND READING

The speaker laid before the house, on its second reading and passage to engrossment,

HB 422, A bill to be entitled An Act relating to the adoption of the Uniform Transfer On Death Security Registration Act.

The bill was read second time and was passed to engrossment.

HB 411 ON SECOND READING

The speaker laid before the house, on its second reading and passage to engrossment, the complete committee substitute for **HB 411**.

CSHB 411, A bill to be entitled An Act relating to eligibility for service retirement from the Judicial Retirement System of Texas Plan One or the Judicial Retirement System of Texas Plan Two.

CSHB 411 was read second time.

Representative Heflin raised a point of order against further consideration of **CSHB 411** on the grounds that **CSHB 411** violates Rule 4, Section 32(c)(3) and Section 32(c)(5), of the House Rules.

The speaker sustained the point of order.

HB 647 ON SECOND READING

The speaker laid before the house, on its second reading and passage to engrossment, the complete committee substitute for **HB 647**.

CSHB 647, A bill to be entitled An Act relating to the modification of an order providing for a managing conservator's or possessory conservator's possession of and access to a child on a conviction for child abuse; providing a penalty.

CSHB 647 was read second time and was passed to engrossment.

HB 1632 ON SECOND READING

The speaker laid before the house, on its second reading and passage to engrossment, the complete committee substitute for **HB 1632**.

CSHB 1632, A bill to be entitled An Act relating to protective orders for family violence; providing penalties.

CSHB 1632 was read second time.

Amendment No. 1

Representative Thompson offered the following amendment to **CSHB 1632**:

Amend **CSHB 1632** by striking all below the enacting clause and substituting the following:

SECTION 1. Subchapter C, Chapter 3, Family Code, is amended by adding Section 3.522 to read as follows:

Sec. 3.522. PROTECTIVE ORDERS. (a) The petition in a suit for divorce or annulment must state whether a protective order under Chapter 71 or Section 3.581 is in effect or if an application for a protective order is pending with regard to the parties to the suit.

(b) The petitioner in a suit for divorce or annulment shall attach to the petition a copy of each protective order issued under Chapter 71 or Section 3.581 in which one of the parties to the suit was the applicant and the other party was the respondent without regard to the date on which the order was entered. If a copy of the protective order is not available at the time of filing, the petition must state that a copy of the order will be filed with the court before any hearing.

SECTION 2. Section 3.581, Family Code, is amended to read as follows:

Sec. 3.581. PROTECTIVE ORDERS. ~~[(a)]~~ On the motion of any party to a suit for divorce or annulment or to declare a marriage void, the court may issue a protective order as provided by Section 71.06 ~~[Sections 71.10(a); 71.10(b), 71.10(c)(1) and (3), 71.11(b) and (c), 71.111, 71.14, and 71.16 of this code].~~

~~[(b) An order may be made under this section only after notice to the party alleged to have committed family violence and a hearing.~~

~~[(c) An order made under this section is valid for one year or the earliest of:~~

~~[(1) the end of a period of less than one year specified in the order by the court;~~

~~[(2) the date the order is vacated by the court; or~~

~~[(3) the date the suit is dismissed.~~

~~[(d) A spouse who has applied for a protective order under this section is entitled to a temporary ex parte order directed against the other spouse for the relief provided by and under the conditions established in Section 71.15 of this code.~~

~~[(e) The date of expiration of an order made under this section must appear on the order.~~

~~[(f) An order made under this section must be a separate document entitled "PROTECTIVE ORDER."]~~

SECTION 3. Sections 71.01(b)(2), (4), (5), and (6), Family Code, are amended to read as follows:

(2) "Family violence" means:

(A) an act by a member of a family or household against another member of the family or household that is intended to result in physical harm, bodily injury, ~~[(or)]~~ assault, or sexual assault or that is a threat that reasonably places the member in fear of imminent physical harm, bodily injury, ~~[(or)]~~ assault, or sexual assault ~~[excluding the reasonable discipline of a child by a person having that duty]; or~~

(B) abuse, as that term is defined by Sections 34.012(1)(C), (E), and (G) of this code, by a member of a family or household toward a child of the family or household.

(4) ~~["Former member of a household" means a person who previously lived in a household.~~

~~[(5)]~~ "Household" means a unit composed of persons living together in the same dwelling, whether or not they are related to each other.

(5) [(6)] "Member of a household" includes a person who previously lived in ~~[former member of]~~ a household.

SECTION 4. Section 71.03, Family Code, is amended to read as follows:

Sec. 71.03. VENUE. (a) Except as provided by Subsection (b), an [A] application may be filed:

(1) in the county where the applicant resides; or

(2) in the county where an individual alleged to have committed family violence resides.

(b) If a suit to dissolve the marriage of an applicant and the individual alleged to have committed family violence is pending in this state at the time of the application and the applicant resides 100 miles or less from the county in which the suit is pending, an application must be filed in the county in which the suit to dissolve the marriage is pending.

SECTION 5. Section 71.04(b), Family Code, is amended to read as follows:

(b) An application may be filed by:

(1) an adult member of a family or household for the protection of the applicant or for any other member of the family or household;

(2) any adult for the protection of a child member of a family or household; ~~[or]~~

(3) any prosecuting attorney who represents the state in a district or statutory county court in the county in which venue of the application is proper for the protection of any person alleged to be a victim of family violence; ~~or~~

(4) the Department of Protective and Regulatory Services for the protection of a member of a family or household.

SECTION 6. Chapter 71, Family Code, is amended by adding Section 71.041 to read as follows:

Sec. 71.041. FEES AND COSTS. (a) An applicant for a protective order may not be assessed any fee, cost, charge, or expense by a clerk of the court or another public official in connection with the filing, serving, or entering of the protective order. A fee may not be charged to an applicant to dismiss, modify, or withdraw a protective order.

(b) Except on a showing of indigency by the respondent, a court shall require in a protective order that the respondent against whom an order is rendered pay the protective order fee of \$16, the standard fees charged by the clerk of the court as in a general civil proceeding for the cost of service of the order, the costs of court, and all other fees, charges, or expenses incurred in connection with the protective order.

(c) A respondent who is ordered to pay costs who does not pay the costs before the 60th day after the date the order was rendered may be punished for contempt of court as provided by Section 21.002, Government Code.

(d) The court may assess a reasonable attorney's fee as compensation for the services of a private or prosecuting attorney or an attorney employed by the Department of Protective and Regulatory Services representing an applicant against the party who is found to have committed family violence. In setting the amount of the fee, the court shall consider the income and ability to pay of the person against whom the fee is assessed. The amount of fees collected under this subsection as compensation for the fees of a prosecuting attorney

shall be paid to the credit of the county fund from which the salaries of employees of the prosecuting attorney are paid or supplemented. All other fees collected under this subsection shall be deposited in the general revenue fund to the credit of the Department of Protective and Regulatory Services.

SECTION 7. Sections 71.05(b)-(g), Family Code, are amended to read as follows:

~~(b) [If an application requests a protective order for a spouse and alleges that the other spouse has committed family violence, the application must state that no suit for the dissolution of the marriage of the spouses is pending.~~

~~(c) [If an applicant is a former spouse of an individual alleged to have committed family violence:~~

~~(1) a copy of the decree dissolving the marriage must be attached to the application; or~~

~~(2) the application must state that the decree is unavailable to the applicant and that a copy of the decree will be filed with the court before the hearing on the application.~~

~~(c) [(d)] If an application requests a protective order for a child who is subject to the continuing jurisdiction of a court under Subtitle A, Title 2, of this code or alleges that a child who is subject to the continuing jurisdiction of a court under Subtitle A, Title 2, of this code has committed family violence:~~

~~(1) a copy of the court orders affecting the conservatorship, possession, and support of or the access to the child must be filed with the application; or~~

~~(2) the application must state that the orders affecting the child are unavailable to the applicant and that a copy of the orders will be filed with the court before the hearing on the application.~~

~~(d) [(e)] If the application requests the issuance of a temporary ex parte order under Section 71.15 of this code, the application must:~~

~~(1) contain a detailed description of the facts and circumstances concerning the alleged family violence and the need for immediate protective orders; and~~

~~(2) be signed by each applicant under an oath that the facts and circumstances contained in the application are true to the best knowledge and belief of each applicant.~~

~~(e) [(f)] If an application requests a protective order and alleges that the respondent has violated a former protective order protecting the applicant by committing an act prohibited by the former order under Section 71.11(b) of this code and that the former protective order has expired since the alleged violation occurred, the application for the protective order must include:~~

~~(1) a copy of the former protective order attached to the application or a statement that the order is unavailable to the applicant and that a copy of the order will be filed with the court before the hearing on the application;~~

~~(2) a description of the violation of the former protective order; and~~

~~(3) a statement that the violation of the former order described in the application has not been grounds for any other order protecting the applicant that has been issued or requested under this section.~~

~~(f) [(g)] The procedural requirements relating to a protective order under this chapter, including the application under Section 71.04 of this code and service under Section 71.07 of this code, apply to a protective order under Subsection (e) [(f)] of this section.~~

SECTION 8. Section 71.06, Family Code, is amended to read as follows:

Sec. 71.06. APPLICATION FILED DURING SUIT FOR DISSOLUTION OF MARRIAGE. (a) A person who is a party to a pending suit for the dissolution of a marriage and who wishes to apply for a protective order involving the relationship between the spouses or their respective rights, duties, or powers may [must] file an application for the order under this chapter as a motion in the suit or as a separate application under Sections 71.04 and 71.05 ~~[Section 3.581 of this code]~~.

(b) An applicant denied a protective order filed as a motion in a suit for dissolution of a marriage may not apply for a protective order in another court based on the identical facts as the previous application.

(c) The requirements of service of notice under Section 71.07 do not apply if the application is filed as a motion in a suit for the dissolution of a marriage. Notice is given in the same manner as in any other motion in a suit for the dissolution of a marriage.

(d) A protective order entered as an order in a suit for dissolution of a marriage must be in a document separate from other orders or temporary orders and shall be entitled "PROTECTIVE ORDER."

~~[(b) A court shall dismiss an application filed under this chapter by a party to a pending suit for dissolution of marriage and shall advise the applicant that the applicant may file an application under Section 3.581 of this code.]~~

SECTION 9. Section 71.08, Family Code, is amended to read as follows:

Sec. 71.08. ANSWER. A respondent [An individual] served with notice of an application for a protective order may but is not required to file a written answer to the application. The answer may be filed at any time before the hearing.

SECTION 10. Sections 71.09(b), (c), and (e), Family Code, are amended to read as follows:

(b) If a respondent [person] entitled to service of a notice of application for a protective order receives the service within 48 hours before the time set for the hearing, the court, on a request from the respondent [person], shall reschedule the hearing for a date not later than 14 days after the date set for the hearing. The respondent [person] is not entitled to additional service for the rescheduled hearing.

(c) If a hearing set under Subsection (a) of this section is not held because of the failure of a respondent [party] to receive service of a notice of application for a protective order, the applicant may request the court to reschedule the hearing. Except as provided by Subsection (d) of this section, the date for a rescheduled hearing under this subsection must be not later than 14 days after the date on which the request is made.

(e) A court may issue an order relating to an application for a protective order that is binding on a respondent [party] who does not attend a hearing under this section if the absent respondent [party] received notice of the application. This subsection applies to a respondent [party] who receives notice within 48 hours before the time set for a hearing if the respondent [party] does not request that the hearing be rescheduled.

SECTION 11. Section 71.10, Family Code, is amended to read as follows:

Sec. 71.10. FINDINGS AND ORDERS. (a) At the close of a hearing on

an application, the court shall find whether or not family violence has occurred and whether or not family violence is likely to occur again in the [~~foreseeable~~] future.

(b) If the court finds that family violence has occurred and that family violence is likely to occur again in the [~~foreseeable~~] future, the court shall issue a [may make any] protective order under Section 71.11(b) applying only to the respondent and may enter a protective order authorized under Section 71.11(a) applying to both the respondent and the applicant [by this chapter] that is in the best interest of the applicant, the family or household, or a member of the family or household.

(c) If the court finds that a respondent [person] violated a former protective order made under this chapter by committing an act prohibited by the former order under Section 71.11(b) of this code while the former order was in effect and that the former order is not currently in effect, the court, without finding whether family violence has occurred or whether family violence is likely to occur again in the [~~foreseeable~~] future, shall issue a protective order under Section 71.11(b) applying only to the respondent and may enter a protective order authorized under Section 71.11(a) applying to both the respondent and the applicant that is in the best interest of the applicant, the family or household, or a member of the family or household.

(d) If the court approves an agreement between the parties as authorized under Section 71.12, the court shall issue a protective order under this section that is in the best interest of the applicant, the family or household, or a member of the family or household. [~~A protective order may apply only to a party to the proceeding who:~~

~~(1) the court finds has committed family violence and is likely to commit family violence in the foreseeable future;~~

~~(2) the court finds has violated a former protective order;~~

~~(3) has agreed to the order under Section 71.12(a) of this code; or~~

~~(4) is a respondent and has agreed to the order under Section 71.12(b) of this code.]~~

SECTION 12. Sections 71.11(a), (b), and (f)-(j), Family Code, are amended to read as follows:

(a) In a protective order the court may:

(1) prohibit a party from:

(A) removing a child member of the family or household from the possession of a person named in the court order or from the jurisdiction of the court; or

(B) transferring, encumbering, or otherwise disposing of property mutually owned or leased by the parties, except when in the ordinary course of business;

(2) grant exclusive possession of a residence to a party and, if appropriate, direct one or more other parties to vacate the residence if:

(A) the residence is jointly owned or leased by the party receiving exclusive possession and by some other party denied possession;

(B) the residence is owned or leased by the party retaining possession; or

(C) the residence is owned or leased by the party denied

possession but only if that party has an obligation to support the party granted possession of the residence or a child of the party granted possession;

(3) provide for possession of and access to a child of a party if the person receiving possession of or access to the child is a parent, as that term is defined by Section 11.01 of this code, of the child;

(4) require the payment of support for a party or for a child of a party if the person required to make the payment has an obligation to support the other party or the child;

(5) require the respondent [~~one or more parties~~] to counsel with a social worker, family service agency, physician, psychologist, licensed marriage and family therapist, or licensed professional counselor, or to complete a batterer's treatment program;

(6) award to a party use and possession of specified property that is community property or jointly owned or leased; or

(7) prohibit the respondent [~~a party~~] from doing specified acts or require the respondent [~~a party~~] to do specified acts necessary or appropriate to prevent or reduce the likelihood of family violence.

(b) In a protective order the court may prohibit the respondent [~~a party~~] from:

(1) committing family violence;

(2) communicating:

(A) directly with a member of the family or household in a threatening or harassing manner;

(B) a threat through any person to a member of the family or household; and

(C) on a finding of good cause, in any manner with a member of the family or household except through the party's attorney or a person appointed by the court;

(3) going to or near the residence or place of employment or business of a member of the family or household; ~~and~~

(4) going to or near the residence, child care facility, or school where a child protected under the order normally resides or attends; ~~and~~

(5) engaging in conduct directed specifically toward a person who is a member of the family or household, including following the person, that is reasonably likely to harass, annoy, alarm, abuse, torment, or embarrass that person.

(f) [~~Except on a showing of indigency by a person against whom a protective order is directed, the order shall require that the person:~~

[~~(1) pay the cost of service of the order, the actual costs of court, the costs incurred by the clerk not paid by the applicant pursuant to Section 71.07, Family Code, and any other fees, charges, or expenses incurred in connection with the protective order; and~~

[~~(2) reimburse the applicant for any fees paid by the applicant under this chapter by paying that amount to the clerk of the court.~~

[~~(g) The clerk of a court who receives money according to a protective order from a person against whom the order is directed shall reimburse the applicant for any fees paid by the applicant under this chapter.~~

[~~(h) A person who is ordered to pay costs or reimburse an applicant under~~

~~Subsection (f) of this section who does not pay the costs or reimburse the applicant before the 60th day after the date the order was rendered may be punished for contempt of court by a fine in an amount not to exceed \$500, or by confinement in jail for a term not to exceed six months, or both.~~

~~[(†)] A respondent [party] for whom counseling or a batterer's treatment program is ordered under Subsection (a)(5) of this section and who does not provide to the court before the 60th day after the date the order was rendered an affidavit that the respondent [party] has started the counseling or the program or that the counseling or the program is not available within a reasonable distance of the respondent's [party's] residence may be punished for contempt of court as provided by Section 21.002, Government Code [by a fine in an amount not to exceed \$500, or by confinement in jail for a term not to exceed six months, or both]. The order shall specifically advise the respondent [party] of this requirement and the possible punishment for failure to comply.~~

~~[(j) Any interested person may contest an affidavit of indigency filed under Subsection (f) of this section.]~~

SECTION 13. Sections 71.12(c) and (d), Family Code, are amended to read as follows:

(c) If all or part of an agreement under Subsection (a) or (b) of this section is approved by the court, the part of the agreement approved shall be attached to the protective order and become a part of the order of the court.

~~(d) [If all or part of an agreement by the respondent under Subsection (b) of this section is approved by the court, the part of the agreement approved shall be attached to the protective order and become a part of the order of the court. The court may approve an agreement or part of an agreement under this subsection only if the agreement requires the respondent to do or refrain from doing an act under Section 71.11(b) of this code.] The court may not approve an agreement or part of an agreement [under this subsection] that requires the applicant to do or refrain from doing an act under Section 71.11(b) of this code even if the applicant consents in the agreement to do or refrain from doing the act.~~

SECTION 14. Section 71.121, Family Code, is amended to read as follows:

Sec. 71.121. REQUEST BY RESPONDENT FOR PROTECTIVE ORDER.

~~(a) [A court may not enter a single protective order that applies to both the respondent and the applicant unless the order embodies an agreement of the parties under Section 71.12(a) of this code.~~

~~[(b)] To apply for a protective order against an applicant, a respondent must file a separate application under this chapter.~~

~~(b) [(c)] A court may not delay a hearing on an applicant's application for a protective order beyond the time provided by Section 71.09 of this code in order to consolidate it with a hearing on a subsequently filed [respondent's] application for a protective order [against the applicant].~~

~~(c) A court may not enter a protective order that requires both the respondent and the applicant to do or refrain from doing an act under Section 71.11(b).~~

~~(d) A protective order that requires the first applicant to do or refrain from doing an act under Section 71.11(b) shall include a finding that the first~~

applicant has committed family violence and is likely to commit family violence in the future.

(e) A court that enters separate protective orders under this section that apply to both parties and require both parties to do or refrain from doing an act under Section 71.11(b) shall issue two distinct and independent protective orders that reflect the appropriate conditions for each of the parties.

(f) A court that enters protective orders under this section that apply to both the respondent and the applicant and that require the respondent to do or refrain from doing an act under Section 71.11(b) shall issue the protective orders in two separate documents. The court shall provide one of the documents to the applicant and the other to the respondent.

SECTION 15. Section 71.14, Family Code, is amended by adding Subsection (c) to read as follows:

(c) Notice of a motion to modify under this section is sufficient if delivery of the motion is attempted on the respondent at the respondent's last known address by registered or certified mail as provided by Rule 21a, Texas Rules of Civil Procedure.

SECTION 16. Sections 71.15(h), (i), and (j), Family Code, are amended to read as follows:

(h) In order for an ex parte order excluding a person from the person's residence to be granted, the court must find from the required affidavit and testimony that:

(1) the applicant requesting the exclusion order either resides on the premises or has resided there within 30 days before the filing of the application;

(2) the person to be excluded has within the 30-day period preceding the filing of the application committed family violence against a member of the household; and

(3) there is a clear and present danger that the person to be excluded is likely to commit family violence against a member of the household ~~in the foreseeable future~~.

~~(i) [On the request of a person obtaining an order that excludes another person from the other person's residence, the court that granted the order may order the sheriff or chief of police to provide a law enforcement officer from the department of the sheriff or the chief of police:~~

~~[(1) to accompany the person obtaining the order to the residence covered by the order;~~

~~[(2) to protect the person obtaining the order while the person takes possession of the residence; and~~

~~[(3) if the person obtaining the order is unable to take possession of the residence because the person being excluded occupies the residence, to inform the person being excluded that the court has ordered the person excluded from the residence.~~

~~[(j)] The court may stop the hearing to contact the respondent by telephone and provide the respondent an opportunity to be present when the court resumes the hearing. Without regard to whether the respondent is able to be present at the hearing, the court shall resume the hearing before the end of the working day.~~

SECTION 17. Section 71.16(b), Family Code, is amended to read as follows:

(b) Each protective order issued under this chapter, except a temporary ex parte order, shall have the following statement printed in bold-faced type or in capital letters:

"A VIOLATION OF THIS ORDER BY COMMISSION OF AN ACT PROHIBITED BY THE ORDER MAY BE ~~[A FELONY]~~ PUNISHABLE BY A FINE OF AS MUCH AS \$4,000 ~~[\$10,000]~~ OR BY CONFINEMENT IN JAIL ~~[PRISON]~~ FOR AS LONG AS ONE YEAR ~~[10 YEARS]~~, OR BOTH. ~~[FURTHER VIOLATIONS OF THIS ORDER MAY BE PUNISHABLE BY CONFINEMENT IN PRISON FOR AS LONG AS 99 YEARS.]~~ AN ACT THAT RESULTS IN FAMILY VIOLENCE MAY BE PROSECUTED AS A SEPARATE MISDEMEANOR OR FELONY OFFENSE. IF THE ACT IS PROSECUTED AS A SEPARATE FELONY OFFENSE, IT IS PUNISHABLE BY CONFINEMENT IN PRISON FOR AT LEAST TWO YEARS."

SECTION 18. Section 71.17, Family Code, is amended to read as follows:

Sec. 71.17. COPIES OF ORDERS. (a) A protective order made under this chapter shall be delivered to the respondent ~~[person to whom the order applies in open court at the close of the hearing, or served by registered or certified mail]~~ in accordance with Rule 21a, Texas Rules of Civil Procedure, ~~[or]~~ served in the same manner as a writ of injunction, or served in open court at the close of the hearing as provided by Subsections (b)-(d).

(b) If the order is served in open court, the order shall be served as provided by this subsection. If the respondent is present at the hearing and the order has been reduced to writing, the judge or master shall sign the order and give a copy of the order to the respondent. A certified copy of the signed order shall be given to the applicant at the time the order is given to the respondent. If the applicant is not in court at the conclusion of the hearing, the clerk of the court shall mail a certified copy of the order to the applicant not later than the third business day after the date the hearing is concluded.

(c) If the respondent is present at the hearing but the order has not been reduced to writing, the judge or master shall give notice orally to the respondent of the part of the order that contains prohibitions under Section 71.11(b) or any other part of the order that contains provisions necessary to prevent further family violence. The clerk of the court shall mail a copy of the order to the respondent and a certified copy of the order to the applicant not later than the third business day after the date the hearing is concluded.

(d) If the respondent is not present at the hearing and the order has been reduced to writing at the conclusion of the hearing, the clerk of the court shall immediately provide a certified copy of the order to the applicant and mail a copy of the order to the respondent not later than the third business day after the date the hearing is concluded.

(e) [(b)] The clerk of the court issuing an original or modified protective order under this chapter shall send a copy of the order to the chief of police of the city where the member of the family or household protected by the order resides, if the person resides in a city, or to the sheriff of the county where the person resides, if the person does not reside in a city.

(f) [(c)] If a protective order made under this chapter prohibits a respondent ~~[person]~~ from going to or near a child care facility or school under Section 71.11(b) of this code, the clerk of the court ~~[party requesting the order]~~ shall send a copy of the order to the child care facility or school.

(g) ~~[(d)]~~ The clerk of a court vacating an original or modified protective order under this chapter shall notify the chief of police or sheriff who received a copy of the original or modified order that the order is vacated.

SECTION 19. Section 71.18, Family Code, is amended by adding Subsections (c) and (d) to read as follows:

(c) On the request of an applicant obtaining a temporary order that excludes the respondent from the respondent's residence, the court that granted the temporary order shall provide a written order to the sheriff or chief of police to provide a law enforcement officer from the department of the sheriff or chief of police:

(1) to accompany the applicant to the residence covered by the order;

(2) to inform the respondent that the court has ordered that the respondent be excluded from the residence;

(3) to protect the applicant while the applicant takes possession of the residence; and

(4) if the respondent refuses to vacate the residence, to protect the applicant while the applicant takes possession of the applicant's necessary personal property.

(d) On the request of an applicant obtaining a final order that excludes the respondent from the respondent's residence, the court that granted the final order shall provide a written order to the sheriff or chief of police to provide a law enforcement officer from the department of the sheriff or chief of police:

(1) to accompany the applicant to the residence covered by the order;

(2) to inform the respondent that the court has ordered that the respondent be excluded from the residence;

(3) to protect the applicant while the applicant takes possession of the residence and the respondent takes possession of the respondent's necessary personal property; and

(4) if the respondent refuses to vacate the residence:

(A) to remove the respondent from the residence; and

(B) to arrest the respondent for violating the court order.

SECTION 20. Section 118.131, Local Government Code, is amended by adding Subsection (i) to read as follows:

(i) The commissioners court may not assess an applicant a fee in connection with filing, serving, or entering a protective order. A fee may not be charged to an applicant to dismiss, modify, or withdraw a protective order.

SECTION 21. Section 51.303, Government Code, is amended by adding Subsection (f) to read as follows:

(f) In addition to the other powers and duties of this section, a district clerk shall accept applications for protective orders under Chapter 71, Family Code.

SECTION 22. Section 51.402, Government Code, is amended by adding Subsection (d) to read as follows:

(d) In addition to the other powers and duties of this section, a county clerk that serves as the clerk for a court having jurisdiction of applications for protective orders under Chapter 71, Family Code, shall accept those applications.

SECTION 23. Subtitle E, Title 2, Human Resources Code, is amended by adding Chapter 54 to read as follows:

CHAPTER 54. PROTECTIVE ORDERS SOUGHT BY DEPARTMENT OF PROTECTIVE AND REGULATORY SERVICES

Sec. 54.001. PROTECTIVE ORDERS. The Department of Protective and Regulatory Services shall adopt rules to provide procedures for the filing of protective orders for the protection of a member of a family or household as provided by Section 71.04, Family Code.

Sec. 54.002. NOTICE TO NONABUSIVE PARENT OR HOUSEHOLD MEMBER. The Department of Protective and Regulatory Services shall provide prior notice to a nonabusive parent or adult member of a household of the department's intent to file an application for a protective order for a child or older person and shall request the assistance of the person receiving the notice in developing a safety plan for household members and the child or older person for whom the order is sought. The department shall exercise reasonable safety precautions to protect a nonabusive parent or other member of a household while providing notice and requesting assistance under this section.

SECTION 24. Section 25.07(a), Penal Code, is amended to read as follows:

(a) A person commits an offense if, in violation of an order issued under Section 3.581, Section 71.11, or Section 71.12, Family Code, the person knowingly or intentionally:

(1) commits family violence;

(2) [~~directly~~] communicates;

(A) directly with a member of the family or household in a threatening or harrasing manner;

(B) [~~communicates~~] a threat through any person to a member of the family or household;[;] and

(C) [~~if the order prohibits any communication with a member of the family or household, communicates~~] in any manner with the member of the family or household except through the person's attorney or a person appointed by the court; [~~or~~]

(3) goes to or near any of the following places as specifically described in the protective order:

(A) the residence or place of employment or business of a member of the family or household; or

(B) any child care facility, residence, or school where a child protected by the protective order normally resides or attends; or

(4) engages in conduct directed specifically toward a person who is a member of the family or household, including following the person, that is reasonably likely to harass, annoy, alarm, abuse, torment, or embarrass that person.

SECTION 25. Article 5.04(c), Code of Criminal Procedure, is amended to read as follows:

(c) A written notice required by Subsection (b) of this article is sufficient if it is in substantially the following form with the required information in English and in Spanish inserted in the notice:

"NOTICE TO ADULT VICTIMS OF FAMILY VIOLENCE

"It is a crime for any person to cause you any physical injury or harm EVEN IF THAT PERSON IS A MEMBER OR FORMER MEMBER OF YOUR FAMILY OR HOUSEHOLD.

"Please tell the investigating peace officer:

"IF you, your child, or any other household resident has been injured; or

"IF you feel you are going to be in danger when the officer leaves or later.

"You have the right to:

"ASK the local prosecutor to file a criminal complaint against the person committing family violence; and

"APPLY to a court for an order to protect you (you should consult a legal aid office, a prosecuting attorney, or a private attorney). You cannot be charged a fee by a court in connection with filing, serving, or entering a protective order. For example, the court can enter an order that:

"(1) the abuser not commit further acts of violence;

"(2) the abuser not threaten, harass, or contact you at home;

"(3) directs the abuser to leave your household; and

"(4) establishes temporary custody of the children and directs the abuser not to interfere with the children or any property.

"A VIOLATION OF CERTAIN PROVISIONS OF COURT-ORDERED PROTECTION (such as (1) and (2) above) MAY BE A FELONY.

"CALL THE FOLLOWING VIOLENCE SHELTERS OR SOCIAL ORGANIZATIONS IF YOU NEED PROTECTION:

"_____."

SECTION 26. Sections 3.582, 3.583, 71.04(d), (e), and (f), 71.07(i), and 71.13(b) and (c), Family Code, are repealed.

SECTION 27. (a) This Act takes effect September 1, 1995.

(b) The change in law made by this Act applies only to an application for a protective order made on or after the effective date of this Act. An application for a protective order made before the effective date of this Act is governed by the law in effect at the time the application was made, and the former law is continued in effect for that purpose.

(c) The change in law made by this Act applies only to an offense committed on or after the effective date of this Act. For purposes of this section, an offense is committed before the effective date of this Act if any element of the offense occurs before that date.

(d) An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose.

SECTION 28. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Amendment No. 2

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

Amend Amendment No. 1 by Thompson to **CSHB 1632** on page 2, line 26, after "assault" insert ", excluding the reasonable discipline of a child by a person having that duty".

Amendment No. 2 was withdrawn.

Amendment No. 3

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

Amend Floor Amendment No. 1 to **CSHB 1632** as follows:

(1) On page 1, line 22, between "void," and "the", insert "or on the application of a prosecuting attorney.".

(2) On page 1, line 22, strike "Section" and substitute "Chapter".

(3) On page 1, line 23, strike "781.06" and substitute "71".

(4) On page 2, line 18, between "(b)" and "(2),", insert "(1),".

(5) On page 2, between lines 19 and 20, insert the following:

(1) "Court" means the district court, court of domestic relations, juvenile court having the jurisdiction of a district court, or other court expressly given jurisdiction of a suit under this subtitle or a statutory county court.

(6) On page 2, line 26, between "assault" and the bracket, insert ", but does not include defensive measures to protect oneself".

(7) On page 3, strike lines 11 through 23.

(8) On page 5, strike line 13 and substitute "are paid or supplemented and the fees collected under this".

(9) On page 5, line 14, between "subsection" and "shall", insert "as compensation for an attorney employed by the Department of Protective and Regulatory Services".

(10) On page 5, line 15, after the period, add "The fees collected under this subsection as compensation for a private attorney shall be paid to the private attorney who may enforce the order in the attorney's own name.".

(11) On page 10, line 1, strike "the respondent" and substitute "a person found to have committed family violence".

(12) On page 10, line 3, strike "the respondent and the applicant" and substitute "parties".

(13) On page 10, line 4, strike "applicant, the".

(14) On page 11, line 5, strike "(f)-(j)" and substitute "(e)-(j)".

(15) On page 12, strike lines 7 through 11, and substitute the following:

(5) require the person found to have committed family violence to complete a batterer's treatment program if a program is available or if a program is not available [~~one or more parties~~] to counsel with a social worker, family service agency, physician, psychologist, licensed therapist, or licensed professional counselor [~~;- or to complete a batterer's treatment program~~];

(16) On page 12, line 14, strike "respondent" and substitute "person found to have committed family violence".

(17) On page 12, line 15, strike "respondent" and substitute "person found to have committed family violence".

(18) On page 12, line 19, strike "respondent" and substitute "person found to have committed family violence".

(19) On page 13, between lines 11 and 12, insert the following:

(e) [~~A protective order made under this section that conflicts with any other court order made under Subtitle A, Title 2, of this code is to the extent of the conflict, invalid and unenforceable.~~]

(20) On page 13, line 12, strike "(f) [Except" and substitute "[~~(f)~~ Except".

(21) On page 14, line 6, strike "respondent" and substitute "person found to have engaged in family violence".

(22) On page 14, line 10, strike "respondent" and substitute "person".

(23) On page 14, line 12, strike "respondent's" and substitute "person's".

(24) On page 14, line 16, strike "respondent" and substitute "person".

(25) Renumber the sections of the bill in the amendment accordingly.

Amendment No. 3 was adopted without objection.

Amendment No. 4

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

Amend Amendment No. 1 by Thompson to **CSHB 1632** as follows:

(1) Add the following appropriately numbered section:

SECTION _____. Section 71.04(c), Family Code, is amended to read as follows:

(c) The county attorney or the criminal district attorney is the prosecuting attorney responsible for filing applications under this chapter unless the [~~The~~] district attorney assumes [~~may assume;~~] the responsibility by giving notice of that assumption to the county attorney. The prosecuting attorney responsible for filing an application under this chapter shall provide notice of that responsibility to all law enforcement agencies within the jurisdiction of the prosecuting attorney. The application is to be filed as provided by Article 5.06, Code of Criminal Procedure.

(2) Add the following appropriately numbered section:

SECTION _____. Article 5.06, Code of Criminal Procedure, is amended by adding Subsection (c) to read as follows:

(c) The prosecuting attorney having responsibility under Section 71.04(c), Family Code, for filing applications for protective orders under Chapter 71, Family Code, shall provide notice of those responsibilities to all law enforcement agencies within the jurisdiction of the prosecuting attorney for the prosecuting attorney.

(3) Renumber the remaining sections of the bill appropriately.

Amendment No. 4 was adopted without objection.

Amendment No. 5

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

Amend the Thompson Amendment No. 1 to **CSHB 1632** on page 2, line 20, between "means" and the colon by inserting ", except for conduct constituting reasonable discipline of a child by a person having a duty to discipline the child".

Amendment No. 5 was adopted without objection.

Amendment No. 6

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

Amend Amendment No. 1 by Thompson to **CSHB 1632** as follows:

(1) On page 19, lines 20 and 21, between "send a copy of the order to" and "the chief of police", insert the following:

":

(1) the Department of Public Safety on the date the order is issued;
and

(2)

(2) On page 21, between lines 13 and 14, insert the following:

"(e) On receipt of a request for a criminal record check of a prospective transferee by a licensed firearms dealer under the Brady Handgun Violence Prevention Act (18 U.S.C. Section 922 et seq.), the chief law enforcement officer shall determine whether the Department of Public Safety has collected information under Section 411.042, Government Code, indicating the existence of an active protective order directed to the prospective transferee. If the department has collected information indicating the existence of an active protective order directed to the prospective transferee, the chief law enforcement officer shall immediately advise the dealer that the transfer is prohibited."

(3) Add an appropriately numbered SECTION of the bill to read as follows and renumber the existing SECTIONS of the bill accordingly:

SECTION _____. Section 411.042, Government Code, is amended by amending Subsection (b) and adding Subsection (h) to read as follows:

(b) The bureau of identification and records shall:

(1) procure and file for record photographs, pictures, descriptions, fingerprints, measurements, and other pertinent information of all persons arrested for or charged with a criminal offense or convicted of a criminal offense, regardless of whether the conviction is probated;

(2) collect information concerning the number and nature of offenses reported or known to have been committed in the state and the legal steps taken in connection with the offenses, and other information useful in the study of crime and the administration of justice, including a statistical breakdown of those offenses in which family violence was involved;

(3) make ballistic tests of bullets and firearms and chemical analyses of bloodstains, cloth, materials, and other substances for law enforcement officers of the state; ~~and~~

(4) cooperate with identification and crime records bureaus in other states and the United States Department of Justice; and

(5) collect information relating to any active protective order defined by Section 46.06, Penal Code, including:

(A) the name, sex, race, date of birth, address, and county of residence of the person to whom the order is directed;

(B) a physical description of the person to whom the order is directed;

(C) any known identifying number of the person to whom the order is directed, including the person's social security number and driver's license number;

(D) the name and county of residence of the person protected by the order;

(E) the residence address and place of employment or

business of the person protected by the order, unless that information is excluded from the order under Section 71.111, Family Code;

(F) the child care facility or school where a child protected by the order normally resides or attends, unless that information is excluded from the order under Section 71.111, Family Code;

(G) the relationship or former relationship between the person who is protected by the order and the person to whom the order is directed; and

(H) the cause or docket number assigned to any proceeding filed with the clerk of the court in connection to which the order is issued and the date the order expires.

(h) The department shall, by rule, develop reporting procedures that ensure that information relating to the issuance of an active protective order and to the dismissal of an active protective order is reported at the time of the order's issuance or dismissal.

(4) Add an appropriately numbered SECTION of the bill to read as follows and renumber the existing SECTIONS of the bill accordingly:

SECTION _____. Sections 46.06(a) and (b), Penal Code, are amended to read as follows:

(a) A person commits an offense if the person [he]:

(1) sells, rents, leases, loans, or gives a handgun to any person knowing that the person to whom the handgun is to be delivered intends to use it unlawfully or in the commission of an unlawful act;

(2) intentionally or knowingly sells, rents, leases, or gives or offers to sell, rent, lease, or give to any child younger than 18 years any firearm, club, or illegal knife;

(3) intentionally, knowingly, or recklessly sells a firearm or ammunition for a firearm to any person who is intoxicated; [or]

(4) knowingly sells a firearm or ammunition for a firearm to any person who has been convicted of a felony before the fifth anniversary of the later of the following dates:

(A) the person's release from confinement following conviction of the felony; or

(B) the person's release from supervision under community supervision, parole, or mandatory supervision following conviction of the felony; or

(5) sells, rents, leases, loans, or gives a handgun to any person knowing that an active protective order is directed to the person to whom the handgun is to be delivered.

(b) In [~~For purposes of~~] this section:

(1) "Intoxicated" [~~,"intoxicated"~~] means substantial impairment of mental or physical capacity resulting from introduction of any substance into the body.

(2) "Active protective order" means a protective order issued under Chapter 71, Family Code, that is in effect. The term does not include a temporary protective order issued before the court holds a hearing on the matter.

(5) Strike the existing SECTION 27 of the bill and substitute the following:

SECTION 27. (a) Except as provided by Subsection (b), this Act takes effect September 1, 1995.

(b) The section of this Act, amending Section 46.06, Penal Code, takes effect January 1, 1996. Section 71.18(e), Family Code, as added by this Act, takes effect January 1, 1996.

(c) The change in law made by this Act applies only to an application for a protective order made on or after September 1, 1995. An application for a protective order made before September 1, 1995, is governed by the law in effect at the time the application was made, and the former law is continued in effect for that purpose.

(d) The change in law made by this Act to Section 25.07, Penal Code, applies only to an offense committed on or after September 1, 1995. For purposes of this subsection, an offense is committed before September 1, 1995, if any element of the offense occurs before that date. An offense committed under Section 25.07, Penal Code, before September 1, 1995, is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose.

(e) The change in law made by this Act to Section 46.06, Penal Code, applies only to an offense committed on or after January 1, 1996. For purposes of this subsection, an offense is committed before January 1, 1996, if any element of the offense occurs before that date. An offense committed under Section 46.06, Penal Code, before January 1, 1996, is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose.

(f) The Department of Public Safety shall establish the rules and procedures necessary to comply with Section 411.042, Government Code, as amended by this Act, not later than January 1, 1996.

Representative Chisum raised a point of order against further consideration of Amendment No. 6 on the grounds that Amendment No. 6 violates Rule 11, Section 32, of the House Rules.

The point of order was withdrawn.

(Williamson now present)

Amendment No. 6 failed of adoption.

Amendment No. 1, as amended, was adopted without objection.

CSHB 1632, as amended, was passed to engrossment.

HB 866 ON SECOND READING

The speaker laid before the house, as postponed business, on its second reading and passage to engrossment,

HB 866, A bill to be entitled An Act relating to public school health clinics.

HB 866 was read second time earlier today and was postponed until this time.

Representative Maxey moved to postpone consideration of **HB 866** until 12:01 a.m.

The motion prevailed without objection.

(Hochberg now present)

HB 1758 ON SECOND READING

The speaker laid before the house, on its second reading and passage to engrossment,

HB 1758, A bill to be entitled An Act relating to the use of telephones by defendants confined in the institutional division of the Texas Department of Criminal Justice.

The bill was read second time and was passed to engrossment. (Patterson recorded voting no)

HB 2477 ON SECOND READING

The speaker laid before the house, on its second reading and passage to engrossment, the complete committee substitute for **HB 2477**.

CSHB 2477, A bill to be entitled An Act relating to authorizing the School Land Board to allow owners of the soil to waive agency rights and to lease oil, gas, and other minerals in, on, and under mineral classified lands.

CSHB 2477 was read second time and was passed to engrossment. (Finnell recorded voting present, not voting)

SB 622 ON SECOND READING

(Thompson and Naishtat - House Sponsors)

The speaker laid before the house, in lieu of **HB 256**, on its second reading and passage to third reading,

SB 622, A bill to be entitled An Act relating to the establishment and operation of a domestic relations office; providing a penalty.

The bill was read second time.

Amendment No. 1

Representative Thompson offered the following amendment to the bill:

Amend **SB 622** by striking all below the enacting clause and substituting the following:

SECTION 1. Chapter 203, Family Code, as added by House Bill 655, Acts of the 74th Legislature, Regular Session, 1995, is amended to read as follows:

CHAPTER 203. DOMESTIC RELATIONS OFFICES [OFFICE]

Sec. 203.001. DEFINITIONS [DEFINITION].

In this chapter:

(1) "Administering entity" means a commissioners court, juvenile board, or other entity responsible for administering a domestic relations office under this chapter.

(2) "Domestic[;-"domestic] relations office" means a county [domestic relations] office that serves families, county departments, and courts to ensure effective implementation of this title. [created:

~~[(1) by tradition or under a statute before June 19, 1983; or~~

~~[(2) under this chapter.]~~

Sec. 203.002. ~~[APPLICABILITY. This chapter does not apply to a county in which a child support collection service is established by a statute.~~

[~~Sec. 203.003;~~] ESTABLISHMENT OF DOMESTIC RELATIONS OFFICE. (a) A commissioners court may establish a domestic relations office.

(b) A commissioners court in a county having a population of 1 million or more shall establish a domestic relations office.

Sec. 203.003 [~~203.004~~]. ADMINISTRATION [~~of Domestic Relations Office~~]. (a) A domestic relations office shall be [~~established under this chapter is~~] administered:

(1) [~~by the juvenile board serving the county; or~~
 [~~2~~] as provided by the commissioners court; or

(2) if the commissioners court does not otherwise provide for the administration of the office, by the juvenile board that serves the county in which the domestic relations office is located.

(b) The administering entity shall appoint and assign the duties of a director who shall be responsible for the day-to-day administration of the office. A director serves at the pleasure of the administering entity [~~A domestic relations office operating by statute or tradition on June 19, 1983, and controlled and governed by a juvenile board shall continue to be administered by a juvenile board~~].

(c) The administering entity shall determine the amount of money needed to operate the office.

(d) A commissioners court that establishes a domestic relations office under this chapter may execute a bond for the office. A bond under this subsection must be:

(1) executed with a solvent surety company authorized to do business in the state; and

(2) conditioned on the faithful performance of the duties of the office.

(e) The administering entity shall establish procedures for the acceptance and use of a grant or donation to the office.

Sec. 203.004 [~~203.005~~]. POWERS AND DUTIES [~~of Domestic Relations Office; Child Support~~]. (a) A domestic relations office may [~~shall~~]:

(1) collect and disburse [~~court-ordered~~] child support payments that are ordered [~~required~~] by a court [~~order~~] to be paid through a domestic relations registry [~~made to the office~~];

(2) maintain records of payments and disbursements made under Subdivision (1); [~~enforce child support orders, including filing notices of delinquency and writs of income withholding as provided by Chapter 158;~~]

(3) file a suit, including a suit to:

(A) establish paternity;

(B) enforce a court order for child support or for possession of and access to a child; and

(C) modify or clarify an existing child support order; [~~disburse the payments to the persons entitled to receive the payments for the benefit of a child;~~]

(4) provide an informal forum in which mediation is used to resolve disputes in an action under Subdivision (3); [~~make and keep records of payments and disbursements; and~~]

(5) prepare a court-ordered social study; [~~determine and compute any interest due and owing on child support arrearages as provided by Chapter 157~~]

(6) represent a child as guardian ad litem in a suit in which:
 (A) termination of the parent-child relationship is sought; or
 (B) conservatorship of or access to a child is contested;
 (7) serve as a friend of the court;
 (8) provide predivorce counseling ordered by a court;
 (9) provide community supervision services under Chapter 157; and
 (10) provide information to assist a party in understanding, complying with, or enforcing the party's duties and obligations under Subdivision (3).

(b) A court having jurisdiction in a proceeding under this title, Title 3, or Section 25.05, Penal Code, may order that child support payments be made through a domestic relations office.

~~[Sec. 203.006. SERVICES TO ENFORCE CERTAIN ORDERS RELATING TO CHILD. (a) A domestic relations office shall provide services to enforce an order providing for the possession of, support of, or access to a child, including direct legal, informational, referral, and counseling services.~~

~~[(b) The services are to assist the parties affected by a court order in understanding, complying with, and enforcing the duties and obligations under the order.~~

~~[(c) A person is not required to participate in counseling offered by an office unless required by a court order.~~

~~[Sec. 203.007. POWERS OF DOMESTIC RELATIONS OFFICE. A domestic relations office may, if authorized by its governing agency:~~

~~[(1) prepare a social study at the court's request;~~

~~[(2) represent a child as guardian ad litem in a suit in which termination of the parent-child relationship is requested or in which conservatorship of or access to the child is contested; and~~

~~[(3) provide predivorce counseling.~~

~~[Sec. 203.008. COURT-ORDERED PAYMENT OF CHILD SUPPORT TO DOMESTIC RELATIONS OFFICE. A court having jurisdiction of any of the following actions may order that child support payments be made to a domestic relations office:~~

~~[(1) a suit affecting the parent-child relationship;~~

~~[(2) a suit for child support under Chapter 159;~~

~~[(3) a suit to adjudicate a child as delinquent or in need of supervision under Title 3; or~~

~~[(4) a criminal prosecution under Section 25.05, Penal Code.]~~

Sec. 203.005 [203.009]. FEES AND CHARGES. (a) The administering entity [commissioners court of a county] may authorize a domestic relations office to assess and collect:

(1) an initial operations fee not to exceed \$15 to be paid to the domestic relations office on the filing of a suit; [a filing fee of not more than \$5 for each suit filed in the county for the dissolution of a marriage or affecting the parent-child relationship;]

(2) a reasonable [attorney's fees and court costs incurred by the office in enforcing an order for child support or visitation assessed against the party found to be in violation of the order;

[(3) an] application fee to be paid [payable] by an applicant [a person] requesting services from the office;

(3) a reasonable attorney's fee and court costs incurred or ordered by the court; ~~and~~

(4) a monthly child support service fee not to exceed \$3 to be paid by a ~~charge of not more than \$2 payable by each~~ managing conservator and possessory conservator for whom the domestic relations office acts as a local child support registry;

(5) community supervision fees as provided by Chapter 157 if community supervision officers are employed by the domestic relations office; and

(6) a reasonable fee for preparation of a court-ordered social study ~~[to fund any of the services provided by the office].~~

(b) The first payment of a ~~[filing] fee under Subsection (a)(4)~~ is due on the date that the person required to pay support is ordered to begin child support, alimony, or separate maintenance payments. Subsequent payments of the fee are due annually and in advance. ~~[authorized by Subsection (a)(1) shall be paid as other court costs and collected by the court clerk.]~~

(c) The director of a domestic relations office shall attempt to collect all fees in an efficient manner ~~[A statute that authorizes a filing fee of more than \$5 to operate a child support office supersedes the maximum filing fee set in Subsection (a)(1)].~~

(d) The administering entity may provide for an exemption from the payment of a fee authorized under this section if payment of the fee is not practical or in the interest of justice. Fees that may be exempted under this subsection include fees related to:

(1) spousal and child support payments made under an interstate pact;

(2) a suit brought by the Texas Department of Human Services;

(3) activities performed by the Department of Protective and Regulatory Services or another governmental agency, a private adoption agency, or a charitable organization; and

(4) services for a person who has applied for or who receives public assistance under the laws of this state.

Sec. 203.006 [203.010]. ~~[Domestic Relations Office] FUND.~~ (a) ~~As~~ determined by the administering entity, fees collected by a domestic relations office shall be deposited in:

(1) the general fund for the county in which the domestic relations office is located; or

(2) the office fund established for ~~[A fee authorized under Section 203.009 shall be sent to the county treasurer or other officer performing the duties of the county treasurer for deposit in a special fund entitled] the domestic relations office ~~[fund].~~~~

(b) The administering entity ~~[domestic relations office]~~ shall use ~~[administer]~~ the domestic relations office fund to provide money for services authorized by ~~[under]~~ this chapter.

(c) A domestic relations office fund may be supplemented as necessary from the county's general fund or from other money available from the county.

[Sec. 203.011. USE OF COUNTY GENERAL FUNDS. In addition to the domestic relations office fund, county general funds may be used by the domestic relations office to provide services under this chapter.]

Sec. 203.007 [203.012]. ACCESS TO RECORDS; Offense [~~Penalty~~]. (a) A domestic relations office may obtain the records described by Subsections (b) and (c) that relate to a person who has:

- (1) been ordered to pay child support;
- (2) been designated as a possessory conservator or managing conservator of a child;
- (3) been designated [~~adjudicated~~] to be the father of a child [~~under Chapter 160~~]; or
- (4) [~~(3)~~] executed a statement of paternity [~~under Chapter 160~~].

(b) A domestic relations office is entitled to obtain from the Department of Public Safety records that relate to:

- (1) a person's date of birth;
- (2) a person's most recent address;
- (3) a person's current driver's license status;
- (4) motor vehicle accidents involving a person; and
- (5) reported traffic-law violations of which a person has been convicted.

(c) A domestic relations office is entitled to obtain from the Texas Employment Commission records that relate to:

- (1) a person's address;
 - (2) a person's employment status and earnings;
 - (3) the name and address of a person's current or former employer;
- and
- (4) [~~a person's wage income~~; and
 - [~~(5)~~] unemployment compensation benefits received by a person.

(d) An agency required to provide records under this section [~~The Department of Public Safety or the Texas Employment Commission~~] may charge a domestic relations office a fee for providing the records in an amount that does not [to] exceed the amount [charge] paid for those records by the agency responsible for Title IV-D cases. [~~by the attorney general's office for furnishing records under this section.~~]

(e) Information [~~Any information~~] obtained by a domestic relations office under this section that is confidential under a constitution, statute, judicial decision, or rule is privileged [~~information~~] and may be used only by that [~~is for the exclusive use of the domestic relations~~] office.

(f) A person commits an offense if the person releases or discloses confidential information obtained under this section without the consent of the person to whom the information relates. An offense under this subsection is a Class C misdemeanor.

SECTION 2. (a) This Act takes effect September 1, 1995.

(b) A domestic relations office created before the effective date of this Act that is in existence on that date may continue to operate after that date but may operate only as provided by this Act.

(c) The enactment of this Act does not affect the validity or enforcement of a court order entered before the effective date of this Act that provides for a service to be performed by a domestic relations office. A domestic relations office performing services under a court order entered before the effective date of this Act shall perform the services as provided by this Act.

SECTION 3. Sections 152.0214, 152.1075, 152.2493, 152.2494, and 152.2495, Human Resources Code, are repealed.

SECTION 4. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Amendment No. 1 was adopted without objection.

Representative Chisum raised a point of order against further consideration of the calendar on the grounds that the calendar violates Rule 6, Section 12, of the House Rules.

The point of order was withdrawn.

Representative Thompson moved to postpone consideration of **SB 622** until 10 a.m. Monday, May 15.

The motion prevailed without objection.

HB 256 - LAID ON THE TABLE SUBJECT TO CALL

Representative Thompson moved to lay **HB 256** on the table subject to call.

The motion prevailed without objection.

HB 137 ON SECOND READING

The speaker laid before the house, on its second reading and passage to engrossment,

HB 137, A bill to be entitled An Act relating to the liability of certain persons for the conduct of a child.

The bill was read second time.

Amendment No. 1

Representative Puente offered the following amendment to the bill:

Amend **HB 137** as follows:

(1) On page 1, strike lines 5 through 24 and substitute the following:

SECTION 1. Section 41.001, Family Code, as added by House Bill 655, Acts of the 74th Legislature, Regular Session, 1995, is amended to read as follows:

Sec. 41.001. LIABILITY. A parent, legal guardian, or ~~other~~ person who has the legal duty of control and reasonable discipline of a child is liable for death, personal injury, or [any] property damage proximately caused by:

(1) the negligent conduct of the child if the conduct is reasonably attributable to the negligent failure of the parent, legal guardian, or person ~~[other persons]~~ to exercise that duty; or

(2) the wilful and malicious conduct of a child who is at least 12 years of age but under 18 years of age.

SECTION 2. Section 41.002, Family Code, as added by House Bill 655, Acts of the 74th Legislature, Regular Session, 1995, is amended to read as follows:

Sec. 41.002. LIMIT OF DAMAGES. (a) Recovery for property damage caused by wilful and malicious conduct is limited to actual damages, not to exceed \$25,000 [~~\$15,000~~] per occurrence, plus court costs and reasonable attorney's fees.

(b) This section does not impose a limitation on the amount that may be recovered under this chapter for damages arising from a personal injury or death.

(2) On page 2, strike line 1.

Amendment No. 1 was adopted without objection.

Amendment No. 2

Representatives H. Cuellar and Carona offered the following amendment to the bill:

Amend **HB 137** by adding the following appropriately numbered sections and renumbering the sections of the bill accordingly:

SECTION _____. Chapter 25, Penal Code, is amended by adding Section 25.09 to read as follows:

Sec. 25.09. CRIMINAL RESPONSIBILITY OF PARENT FOR CHILD'S DELINQUENT CONDUCT. (a) In this section:

(1) "Child" means a person who is younger than 17 years of age.

(2) "Conduct indicating a need for supervision" has the meaning assigned by Section 51.03(b), Family Code.

(3) "Delinquent conduct" has the meaning assigned by Section 51.03(a), Family Code.

(4) "Parent" means a natural or adoptive parent, stepparent, person in loco parentis, or legal guardian of the person of the child.

(5) "Parental duty" means the continuous duty of a parent to exercise reasonable control to prevent the parent's child from engaging in delinquent conduct or conduct indicating a need for supervision.

(b) A parent commits an offense if the parent recklessly or with criminal negligence fails to perform a parental duty to prevent the parent's child from engaging in delinquent conduct or conduct indicating a need for supervision.

(c) An offense under this section is a Class C misdemeanor.

SECTION _____. Article 42.12, Code of Criminal Procedure, is amended by adding Section 14A to read as follows:

Sec. 14A. PARENT FAILING TO PERFORM PARENTAL DUTY.

(a) In addition to other conditions of community supervision, a court granting community supervision to a defendant convicted of an offense under Section 25.09, Penal Code, may require the defendant as a condition of community supervision to attend counseling or, if the court finds the defendant is financially able, to pay restitution to a victim of delinquent conduct or conduct indicating a need for supervision committed by the defendant's child.

(b) The court shall require the defendant to pay the reasonable costs of counseling required under this section unless the court finds that the defendant is financially unable to make payment. If the court finds the defendant is unable to make payment, the court may make the counseling available to the defendant without cost.

Amendment No. 2 was adopted without objection.

HB 137, as amended, was passed to engrossment. (Alexander, Driver, T. Hunter, Solomons, and Swinford recorded voting no)

HB 138 ON SECOND READING

The speaker laid before the house, on its second reading and passage to engrossment,

HB 138, A bill to be entitled An Act relating to the detention of a child alleged to have committed an offense.

The bill was read second time and was passed to engrossment.

RECESS

Representative Maxey moved that the house recess until 10 a.m. tomorrow.

The motion prevailed without objection.

The house accordingly, at 12 midnight, recessed until 10 a.m. tomorrow.

APPENDIX

STANDING COMMITTEE REPORTS

Favorable reports have been filed by committees as follows:

Business and Industry - **SB 1212**

Civil Practices - **HB 2679, SB 1240**

Environmental Regulation - **SB 977**

Land and Resource Management - **SB 1688**

Public Safety - **SB 695, SB 1135, SB 1542**

Rules and Resolutions - **HCR 193, SCR 128, SCR 140, HR 556, HR 560, HR 562, HR 563, HR 567, HR 570, HR 574, HR 579, HR 581, HR 585, HR 711, HR 767, HR 768, HR 769, HR 773, HR 775, HR 776, HR 778, HR 781, HR 783, HR 784, HR 786, HR 788, HR 792, HR 793, HR 794, HR 809, HR 810, HR 813, HR 814, HR 815, HR 816, HR 817, HR 818, HR 819, HR 820, HR 822, HR 823, HR 833**

State Recreational Resources - **SB 248, SB 1106**

Urban Affairs - **HB 2456, SB 1335, SB 1388, SB 1509**

Ways and Means - **SB 1492, SB 1530, SB 1545, SB 1682, HCR 173**

ENGROSSED

May 10 - **HB 43, HB 127, HB 158, HB 269, HB 359, HB 387, HB 391, HB 505, HB 561, HB 603, HB 1023, HB 1056, HB 1065, HB 1074, HB 1194, HB 1243, HB 1289, HB 1358, HB 1359, HB 1384, HB 1385, HB 1418, HB 1425, HB 1457, HB 1487, HB 1547, HB 1604, HB 1620, HB 1706, HB 1728, HB 1798, HB 1823, HB 1859, HB 1964, HB 1988, HB 2022, HB 2187, HB 2226, HB 2239, HB 2241, HB 2243, HB 2247, HB 2337,**

HB 2370, HB 2382, HB 2383, HB 2401, HB 2451, HB 2496, HB 2510, HB 2523, HB 2569, HB 2588, HB 2593, HB 2603, HB 2614, HB 2658, HB 2660, HB 2758, HB 2771, HB 2812, HB 2843, HB 2890, HB 2944, HB 2945, HB 2960, HB 3101, HB 3111, HB 3189, HJR 30, HJR 69, HJR 74, HJR 75, HJR 80, HJR 106, HJR 131

ENROLLED

May 10 - **HCR 188**

SENT TO THE GOVERNOR

May 10 - **HB 356, HB 596, HB 1155, HB 1493, HB 1743, HCR 81, HCR 160**