

# HOUSE JOURNAL

SEVENTY-SIXTH LEGISLATURE, REGULAR SESSION

## PROCEEDINGS

FIFTY-SEVENTH DAY (CONTINUED) — FRIDAY, APRIL 23, 1999

The house met at 9 a.m. and was called to order by the speaker.

The roll of the house was called and a quorum was announced present (Record 136).

Present — Mr. Speaker; Alexander; Allen; Alvarado; Averitt; Bailey; Berman; Bonnen; Bosse; Brimer; Brown, B.; Brown, F.; Burnam; Capelo; Carter; Chavez; Chisum; Christian; Clark; Coleman; Cook; Corte; Counts; Crabb; Craddick; Cuellar; Culberson; Danburg; Davis, J.; Davis, Y.; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Ellis; Farabee; Farrar; Flores; Gallego; Garcia; George; Giddings; Glaze; Goodman; Goolsby; Gray; Green; Greenberg; Grusendorf; Gutierrez; Haggerty; Hamric; Hardcastle; Hartnett; Hawley; Heflin; Hilbert; Hilderbran; Hill; Hinojosa; Hochberg; Hodge; Homer; Hope; Howard; Hunter; Hupp; Isett; Janek; Jones, C.; Jones, D.; Jones, J.; Junell; Keel; Keffer; King, P.; King, T.; Krusee; Kuempel; Lengefeld; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Maxey; McCall; McClendon; McReynolds; Merritt; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Najera; Nixon; Noriega; Oliveira; Olivo; Palmer; Pickett; Pitts; Puente; Ramsay; Rangel; Reyna, A.; Reyna, E.; Ritter; Sadler; Seaman; Shields; Siebert; Smith; Solis, J.; Solis, J. F.; Solomons; Staples; Swinford; Talton; Telford; Thompson; Tillery; Truitt; Turner, B.; Turner, S.; Uher; Uresti; Van de Putte; Walker; West; Williams; Wilson; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbranek.

Absent, Excused — Crownover; Salinas; Smithee.

The invocation was offered by Dr. Marty Akins, First Baptist Church, Snyder, as follows:

Our Father who is in heaven, we come to you in humble submission, thanking you for every good and perfect gift that you have given to us individually, to our families, and to our great State of Texas. We acknowledge you as the author of life and the giver of abundant and eternal life through our personal faith in the Lord Jesus Christ, God's eternal son and the savior of all who believe.

I praise you for your loving kindness and tender mercy which you show through your gracious patience with us. I praise you for being a forgiving God who is waiting to heal us of our hurts if we will only ask. I praise you for being a guiding God who is willing to show us the way of peace, love, joy, and hope. So I now humbly ask you to reveal yourself and your will to us as Texans and in particular to these public servants who unselfishly give of their time and talents to help make Texas the great state she is. I ask your guidance in all deliberations, both public and private, and pray that these men and women will seek to be led of your holy spirit in every area of their lives. May you bless them as they serve and make a difference for

the good in the lives of the millions of people who call Texas home. We thank you in advance for your gracious answer to our prayer.

In Jesus' holy and powerful name I pray. Amen.

### **LEAVE OF ABSENCE GRANTED**

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

Smithee on motion of Swinford.

### **MESSAGE FROM THE SENATE**

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

### **BILLS AND RESOLUTIONS SIGNED BY THE SPEAKER**

Notice was given at this time that the speaker had signed bills and resolutions in the presence of the house (see the addendum to the daily journal, Signed by the Speaker, House List No. 34).

### **CAPITOL PHYSICIAN**

The speaker recognized Representative Uher who presented Dr. Dane D. Simons of Bay City as the "Doctor for the Day."

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

### **HR 647 - ADOPTED (by Bosse)**

Representative Bosse moved to suspend all necessary rules to take up and consider at this time **HR 647**.

The motion prevailed without objection.

The following resolution was laid before the house:

**HR 647**, Welcoming the TX 963 Air Force Junior Reserve Officer Training Corps unit from C. E. King High School to the State Capitol on April 23, 1999.

**HR 647** was adopted without objection.

On motion of Representative Yarbrough, the names of all the members of the house were added to **HR 647** as signers thereof.

### **LEAVE OF ABSENCE GRANTED**

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

Tillery on motion of Hodge.

(Speaker pro tempore in the chair)

**CONGRATULATORY AND MEMORIAL CALENDAR**

The following memorial resolutions were laid before the house:

**HCR 182** (by Van de Putte), In memory of Wilbur L. Matthews.

**HR 309** (by Gutierrez), In memory of Joel "Joey" Jesus Martinez of La Joya.

**HR 317** (by Gallego), In memory of Lynn Carter.

**HR 375** (by Madden), In memory of Brooke Baird.

**HR 386** (by Madden), In memory of Bill Wade.

**HR 393** (by West), In memory of Helen Rasco.

**HR 394** (by West), In memory of Herbert A. Fick.

**HR 433** (by Deshotel and Ritter), In memory of Edith Huber-Logsdon.

**HR 434** (by Hodge), In memory of Jerome Vernon Valentine.

**HR 438** (by Uher), In memory of the Honorable Reese Turner.

**HR 439** (by Uher), In memory of the Honorable Tip Hall, Jr.

**HR 441** (by Uher and Eiland), In memory of the Honorable Ed J. Harris.

**HR 463** (by G. Lewis), In memory of Izean Franklin Davidson.

**HR 471** (by Telford), In memory of the Honorable Robert W. Bass.

**HR 476** (by Gallego), In memory of Dalton D. Hogg.

**HR 478** (by Gallego), In memory of Sid Harkins.

**HR 479** (by Gallego), In memory of Abel Hinojos.

**HR 498** (by Uresti), In memory of Roy P. Benavidez.

**HR 537** (by Gallego), In memory of Ray Bryan LaBeff.

**HR 539** (by Gallego), In memory of Richard "Dick" Ivy Love, Sr.

**HR 541** (by Gallego), In memory of Elvie Fulcher Williams.

**HR 543** (by Gallego), In memory of Clarence Allen Chandler, Jr.

**HR 544** (by Gallego), In memory of Dorothy Cotten Daugherty.

**HR 546** (by Gallego), In memory of H. E. "Dude" Sproul.

**HR 547** (by Gallego), In memory of Isabelle Burns McMichael Duncan of Fort Davis.

**HR 548** (by Gallego), In memory of Isidoro S. "Lolo" Dominguez.

**HR 550** (by Gallego), In memory Brenda Ann Roberts Trudeau.

**HR 571** (by Ellis), In memory of Alvin Leroy Davis.

The resolutions were unanimously adopted by a rising vote.

The following congratulatory resolutions were laid before the house:

**HCR 176** (by Smithee), Honoring astronaut Rick Douglas Husband.

**HCR 177** (by Smithee), Honoring Justice Charles L. Reynolds.

**HCR 178** (by Ramsay), Commemorating the 150th anniversary of the First Baptist Church of Mount Vernon.

**HCR 183** (G. Lewis), Congratulating Carolyn Wills on being named an Outstanding Teacher.

**HCR 184** (G. Lewis), Congratulating Gillian Hall on being named an Outstanding Teacher.

**HCR 185** (by G. Lewis), Congratulating Donna Hood on being named an Outstanding Teacher.

**HCR 186** (G. Lewis), Congratulating Carleta Scott on being named an Outstanding Teacher.

**HCR 187** (G. Lewis), Congratulating Pamela Lowe on being named an Outstanding Teacher.

**HCR 188** (by G. Lewis), Congratulating Shirley Hucaby on being named an Outstanding Teacher.

**HCR 189** (G. Lewis), Congratulating Doris Hill on being named an Outstanding Teacher.

**HCR 190** (by G. Lewis), Honoring the participants of the crime and violence summit, "Facing the Challenges."

**HCR 193** (by G. Lewis), Congratulating Susan Earl on being named an Outstanding Teacher.

**HCR 194** (by G. Lewis), Honoring Coach Lee Williams and the 1998 UIL Class 5A state track champions of O. D. Wyatt High School.

**HCR 195** (by G. Lewis), Congratulating Glenda Gibson on being named an Outstanding Teacher.

**HCR 196** (by G. Lewis), Congratulating Willie Green on being named an Outstanding Teacher.

**HCR 197** (G. Lewis), Congratulating Gerald Judd on being named an Outstanding Teacher.

**HCR 198** (by G. Lewis), Congratulating Gloria Nelson on being named an Outstanding Teacher.

**HCR 199** (by G. Lewis), Congratulating Shirley Johnson on being named an Outstanding Teacher.

**HCR 200** (by G. Lewis), Congratulating Kathy Cash on being named an Outstanding Teacher.

**HCR 201** (by G. Lewis), Congratulating Ernestine Rose on being named an Outstanding Teacher

**HCR 202** (by G. Lewis), Congratulating Willie B. Jones on being named an Outstanding Teacher.

**HR 289** (by Delisi), Recognizing the Texas Public Health Association for its 76 years of service to the State of Texas.

**HR 291** (by Lengefeld), Recognizing Cody Ohl of Erath County.

**HR 292** (by Lengefeld), Honoring Ty Murray for his achievements in rodeo.

**HR 304** (by Uresti), Honoring the veterans of VFW Post 4815 in San Antonio.

**HR 305** (by Uresti), Commending the owners and staff of Don Pedro's Restaurant in San Antonio.

**HR 306** (by Uresti), Honoring Tino Duran for his civic contributions.

**HR 307** (by Uresti), Commending the members of Veterans of Foreign Wars Post 9186 for service to their country.

**HR 308** (by Gutierrez), Honoring Chester Ralston for his 55 continuous years as a real estate broker in McAllen.

**HR 312** (by Hinojosa), Honoring Freddy Gonzalez Elementary students for their award-winning projects at the Texas Computer Education Association State Multimedia Contest.

**HR 314** (by Chavez), Congratulating the staff of the El Paso Zoo on their acquisition of Mexican wolves.

**HR 316** (by Tillery), Honoring HomeBank of Seagoville.

**HR 333** (by George), Honoring Lake Highlands Exchange Club's February Youth of the Month: Trey Wakefield and Claire Grant.

**HR 336** (by Telford), Honoring the 90th birthday of Thelma Gay Farris.

**HR 354** was previously adopted.

**HR 359** (by Craddick), Honoring the 50th wedding anniversary of Mr. and Mrs. Roy Chamberlain.

**HR 360** (by Craddick), Honoring the 50th wedding anniversary of Jack and Bettie Schuler.

**HR 361** (by Craddick), Honoring the 64th wedding anniversary of Merejildo and Felipa Heredia.

**HR 363** (by Counts), Honoring the retirement of Larry David Carroll from the Texas Department of Human Services.

**HR 382** (by Williams), Honoring William Patrick Connelly of The Woodlands.

**HR 392** (by Counts), Honoring the retirement of Tommy May from the Travis County sheriff's office.

**HR 411** (by Hawley), Congratulating Ruth Lindsay on her selection as Bee County 1999 Citizen of the Year.

**HR 413** (by Christian), Congratulating the Tenaha High School Tigers football team on winning the 1998 UIL Class 1A state football championship.

**HR 419** (by Goolsby), Congratulating Holly Mills on being named Miss Texas U.S.A.

**HR 444** (by Alexander), Honoring William M. Key for his services to the Athens community.

**HR 454** (by Clark and P. King), Honoring Cooke County on its sesquicentennial and the 150th anniversary of the establishment of the California Trail through the county.

**HR 455** (by Uresti), Honoring the Alamo Silver Wings Airborne Association.

**HR 468** (by Truitt), Commending the members of Leadership Southlake.

**HR 473** (by Uresti), Honoring the 55th birthday of Judge Edmundo M. Zaragoza of San Antonio.

**HR 474** (by Uresti), Honoring Jose and Hermelida Amesquita for their civic contributions.

**HR 475** (by Uresti), Honoring Ruben and Glenda Suarez for their civic contributions.

**HR 483** (by Wise), Honoring Homer Gallegos.

**HR 490** (by Truitt), Congratulating the citizens of Southlake on the grand opening of the Southlake Town Square.

**HR 497** (by McReynolds), Honoring the 85th birthday of Jessie Helen Tucker Crawford.

**HR 503** (by Dutton), Congratulating Gerald Smith on being named the recipient of an Outstanding Texan Award by the Texas Legislative Black Caucus.

**HR 504** (by Dutton), Congratulating Charles H. Johnson on his receipt of an Outstanding Texan Award from the Texas Legislative Black Caucus.

**HR 508** (by Wilson), Honoring Joe Huggins for his successful circumnavigation of the world and his contributions to his fellow Texans.

**HR 510** (by Gutierrez), Honoring The University of Texas—Pan American Folkloric Dance Company and Mariachi program.

**HR 515** (by Dutton), Honoring the Kashmere Senior High School Band and its director, William Portis, for receiving an Outstanding Texan Award from the Texas Legislative Black Caucus.

**HR 516** (by Dutton), Honoring Deandra L. McCullough for her achievements, including her recent receipt of an Outstanding Texan Award from the Texas Legislative Black Caucus.

**HR 517** (by Dutton), Congratulating Mae Belle Anderson on receiving an Outstanding Texan Award from the Texas Legislative Black Caucus.

**HR 518** (by Dutton), Congratulating Larry Easley on his receipt of an Outstanding Texan Award from the Texas Legislative Black Caucus.

**HR 519** (by Dutton), Congratulating William L. Russo on being named an Outstanding Texan by the Texas Legislative Black Caucus.

**HR 523** (by Counts), Honoring Jack McGlaun for his contributions to Texas youth.

**HR 532** (by Dutton), Honoring the 65th birthday of Bertha M. Dorian.

**HR 534** (by Y. Davis), Honoring senior activist Henry M. Pardee of Oak Cliff.

**HR 536** (by Gallego), Honoring the Sanderson Times.

**HR 538** (by Gallego), Honoring James J. Bayne of Del Rio.

**HR 549** (by Gallego), Congratulating Monie Brewer of Iraan, Texas, on her 100th birthday.

**HR 551** (by Clark), Honoring Kyle Jordan on the occasion of his graduation from Whitewright Middle School.

**HR 553** (by Goolsby), Honoring Lieutenant Bert Siegel and the 3rd Combat Cargo Squadron, 1st Combat Cargo Group.

**HR 554** (by Goolsby), Honoring Laurel Ruff for receiving a 1998 Wal-Mart Teacher of the Year Award.

**HR 572** (by Ellis), Recognizing the 94th birthday of Luther C. "Sandy" Moore.

The resolutions were adopted without objection.

### **LOCAL, CONSENT, AND RESOLUTIONS CALENDAR SECOND READING**

The following bills were laid before the house, read second time, and passed to third reading, and the following resolutions were laid before the house on committee report and adopted (members registering votes are shown following the caption):

**SB 43** (Hodge - House Sponsor), A bill to be entitled An Act relating to reports of overdoses of certain controlled substances to the Texas Department of Health; creating an offense.

**SB 70** (Keel - House Sponsor), A bill to be entitled An Act relating to the statute of limitations for the purpose of prosecuting certain offenses under the Tax Code.

**SB 118** (Goodman - House Sponsor), A bill to be entitled An Act relating to the payment or transfer of certain restitution or other money to a local registry or the Title IV-D agency.

**SB 124** (Chisum - House Sponsor), A bill to be entitled An Act relating to the election of the members of the board of directors of the Booker Hospital District.

**Amendment No. 1**

On behalf of Representative Y. Davis, Representative Chisum offered the following amendment to **SB 124**:

Amend the House Committee Report for **SB 124** as follows:

(1) On page 1, line 21, strike the phrase "on May 6, 2000" and insert "on the first May uniform election date";

(2) On page 2, line 6, strike the phrase "on May 6, 2000" and insert "on the first May uniform election date";

(3) On page 2, line 9, strike the phrase "on May 6, 2000" and insert "on the first May uniform election date";

(4) On page 2, line 12, strike the phrase "on May 6, 2000" and insert "on the first May uniform election date";

(5) On page 2, line 13, strike the phrase "on May 6, 2000" and insert "on the first May uniform election date"

Amendment No. 1 was adopted without objection.

**SB 136** (Thompson - House Sponsor), A bill to be entitled An Act relating to donations of juror reimbursements.

**SB 158** (Puente - House Sponsor), A bill to be entitled An Act relating to the creation and organization of certain courts in Bexar County.

**SB 160** (Goodman - House Sponsor), A bill to be entitled An Act relating to the modification of certain child support orders.

**SB 163** (Allen - House Sponsor), A bill to be entitled An Act relating to the fee paid by a defendant for the execution or processing of an arrest warrant or capias.

**SB 181** (McCall - House Sponsor), A bill to be entitled An Act relating to the creation of a county court at law in Collin County.

**CSSB 221** (Farrar - House Sponsor), A bill to be entitled An Act relating to the assessment of costs or fees by a county or municipality related to the seizure, acceptance, impoundment, or destruction of a dangerous dog.

**SB 283** (Goodman - House Sponsor), A bill to be entitled An Act relating to the requirement that a juvenile board adopt guidelines for the informal disposition of a child.

**SB 284** (Luna - House Sponsor), A bill to be entitled An Act relating to the fee collected by a prosecutor for collecting and processing a dishonored or forged check or similar sight order.

**SB 397** (T. King and Naishtat - House Sponsors), A bill to be entitled An Act relating to information included in the Texas Information and Referral Network.

**SB 454** (Puente - House Sponsor), A bill to be entitled An Act relating to a retirement health care plan for firefighters and police officers in certain municipalities.

**SB 455** (Puente - House Sponsor), A bill to be entitled An Act relating



to the retirement system for firefighters and police officers in certain municipalities.

**SB 533** (Denny - House Sponsor), A bill to be entitled An Act relating to annual and special meetings and elections for water supply and sewer service corporations.

**SB 612** (Krusee - House Sponsor), A bill to be entitled An Act relating to the creation of a county court at law in Williamson County.

**SB 660** (B. Brown - House Sponsor), A bill to be entitled An Act relating to conditions of community supervision, parole, and mandatory supervision for certain violent offenders.

**SB 780** (Van de Putte - House Sponsor), A bill to be entitled An Act relating to the establishment of pharmacy peer review committees.

**Amendment No. 1 (Committee Amendment No. 1)**

On behalf of Representative McClendon, Representative Van de Putte offered the following committee amendment to **SB 780**:

Amend **SB 780** as follows:

(1) On page 2, line 9, amend SECTION 2, Section 42(a)(1)(A) by inserting the words "and suggest improvements in pharmacy systems to enhance patient care" after the word "pharmacists" and before the ";"

(2) On page 2, line 13, amend SECTION 2, Section 42(a)(1)(B) by inserting the words "and suggest improvements in pharmacy systems to enhance patient care" after the word "pharmacists" and before the "."

Renumber all appropriate sections accordingly.

Amendment No. 1 was adopted without objection.

**Amendment No. 2 (Committee Amendment No. 2)**

On behalf of Representative McClendon, Representative Van de Putte offered the following committee amendment to **SB 780**:

Amend **SB 780** as follows:

On page 2, strike lines 20 through 26, In SECTION 2, Section 42(2)(b), and replace with the following new subsection (b):

(b) A pharmacy peer review committee may establish to evaluate the quality of pharmacy services or the competence of pharmacists and suggest improvements in pharmacy systems to enhance patient care. The committee may review documentation of quality-related activities in a pharmacy, assess system failures and personnel deficiencies, determine facts, and make recommendations or issue decisions in a written report that can be used for contiguous quality improvement purposes. A pharmacy peer review committee includes the members, employees, and agents of the committee, including assistants, investigators, attorneys, and any other agents that serve the committee in any capacity.

Renumber all sections accordingly.

Amendment No. 2 was adopted without objection.

**SB 952** (Puente - House Sponsor), A bill to be entitled An Act relating to the referral of cases to certain magistrates.

**SB 968** (Farrar - House Sponsor), A bill to be entitled An Act relating to access to criminal history record information for certain hospitals and hospital districts.

**SB 1368** (Wolens - House Sponsor), A bill to be entitled An Act Relating to nonsubstantive additions to and corrections in enacted codes, including the nonsubstantive codification of various laws omitted from enacted codes, and to conforming codifications enacted by the 75th Legislature to other Acts of that legislature.

**SB 1467** (Wolens - House Sponsor), A bill to be entitled An Act relating to a nonsubstantive revision of statutes relating to the Texas Department of Insurance, the business of insurance, and certain related businesses, including conforming amendments, repeals, and penalties.

**Amendment No. 1 (Committee Amendment No. 1)**

Representative Wolens offered the following committee amendment to **SB 1467**:

Amend **SB 1467** as follows:

(1) In Section 32.001, Insurance Code, as added by SECTION 1 of the bill, strike Subsection (a) (page 12, lines 5-10, senate engrossment), and substitute the following:

(a) On request and on payment of the required fee, the department shall:

(1) certify a copy of a paper or a record in a department office and give the certified copy to any person when the commissioner determines that providing the copy is not prejudicial to the public interest; and

(2) give a certificate as provided by other law.

(2) In Section 85.051(a), Insurance Code, as added by SECTION 1 of the bill (page 85, lines 13-14, senate engrossment), strike "in performing any act subject to regulation by the department" and substitute "while engaged in the business of insurance".

(3) In Section 101.102(a), Insurance Code, as added by SECTION 1 of the bill (page 96, line 5, senate engrossment), strike "Subchapter B" and substitute "this chapter".

Amendment No. 1 was adopted without objection.

**SCR 15** (Thompson - House Sponsor), directing the Texas Judicial Council to examine the costs of increasing reimbursement of jurors' expenses to \$40 after the first day of trial and to examine the feasibility of allowing counties to offer incentives to jurors for service.

**CSHB 79** (by Gallego, Keffer, and Staples), A bill to be entitled An Act relating to the eligibility of a person to serve on an appraisal review board.

**HB 152** (by Pickett, Dukes, and Swinford), A bill to be entitled An Act relating to the punishment for the offense of graffiti.

**HB 247** (by Puente), A bill to be entitled An Act relating to the use of neighborhood associations in the enforcement of certain municipal health and safety ordinances.

**Amendment No. 1**

Representative Puente offered the following amendment to **HB 247**:

Amend **HB 247**, Section 54.020 (b), Local Government Code, in Section 1 of the bill (page 1, line 17) after "occurs" and before "." insert: "and may not include any health or safety ordinance which relates to the National Electric Safety Code (NESC) or to the operations of a utility."

Amendment No. 1 was adopted without objection.

**HB 302** (by Wise), A bill to be entitled An Act relating to mandatory restitution in offenses involving the abduction of or interference with the custody of children.

**HB 340** (by Walker), A bill to be entitled An Act relating to the exemption from permitting requirements for certain wells in a groundwater conservation district.

**HB 469** (by Wise, J. Solis, Sadler, Hunter, and Dunnam), A bill to be entitled An Act relating to certain proceedings under the Texas Code of Military Justice.

**CSHB 571** (by Hupp, et al.), A bill to be entitled An Act relating to information collected and used in connection with a driver's license.

**HB 579** (by Krusee and Seaman), A bill to be entitled An Act relating to the collection of taxes on sales of boats and boat motors.

**CSHB 718** (by Maxey and Naishtat), A bill to be entitled An Act relating to assistance for certain persons in obtaining benefits under certain federal social security programs.

**LEAVE OF ABSENCE GRANTED**

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

Bailey on motion of Luna.

**LOCAL, CONSENT, AND RESOLUTIONS CALENDAR  
(consideration continued)**

**HB 719** (by Christian, Driver, et al.), A bill to be entitled An Act relating to the efficient use of police service animals.

**HB 722** (by Staples, et al.), A bill to be entitled An Act relating to the number of certified peace officers employed by the Texas Forest Service.

**HB 829** (by Telford), A bill to be entitled An Act relating to the location where the court of appeals for the Sixth Court of Appeals District transacts business.

**HB 889** (by G. Lewis, Williams, Coleman, Rangel, Cuellar, et al.), A bill to be entitled An Act relating to establishing an institute for the preservation of history and culture at Prairie View A&M University.

**HB 912** (by Thompson), A bill to be entitled An Act relating to access to criminal history record information by a domestic relations office.

**Amendment No. 1 (Committee Amendment No. 1)**

Representative Goodman offered the following committee amendment to **HB 912**:

Amend **HB 912** as follows:

(1) In SECTION 1, page 1, line 6, strike "Section 411.1285" and substitute "Sections 411.1285 and 411.1286"

(2) In SECTION 1 of the bill, following Section 411.1285, Government Code, page 1, between lines 23 and 24, add the following:

"Sec. 411.1286 ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: COUNTY COMMISSIONERS COURTS; COUNTY CHILD WELFARE BOARD MEMBERS. The commissioners court of a county is entitled to obtain from the department criminal history record information maintained by the department that relates to a member of a county child welfare board appointed by the commissioners court under Section 264.005, Family Code."

(3) Amend the caption appropriately

Amendment No. 1 was adopted without objection.

**CSHB 953** (by Uher), A bill to be entitled An Act relating to the conducting of a driver education course by the student's grandparent or stepparent.

**HB 958** (by Hope), A bill to be entitled An Act relating to the additional tax imposed if the use of land appraised for ad valorem tax purposes as timberland changes.

**CSHB 1001** (by Hartnett and Talton), A bill to be entitled An Act relating to the creation of the criminal offense of unlawful installation of a tracking device on a motor vehicle.

**HB 1041** (by Rangel), A bill to be entitled An Act relating to the registration period for a truck-tractor or commercial motor vehicle transporting seasonal agricultural products; providing a penalty.

**CSHB 1043** (by Talton), A bill to be entitled An Act relating to the prosecution of the offense of harboring a runaway child.

**CSHB 1053** (by Yarbrough), A bill to be entitled An Act relating to requiring a voting system to be accessible by persons with physical disabilities.

**HB 1137** (by Thompson), A bill to be entitled An Act relating to the penalty imposed on certain persons who fail to timely pay or deliver abandoned property.

**HB 1147** (by Seaman), A bill to be entitled An Act relating to lighting and red flag requirements for certain vehicles with extended loads.

**CSHB 1159** (by Ellis and Seaman), A bill to be entitled An Act relating to county regulation of public nuisances.

**CSHB 1237** (by Naishtat), A bill to be entitled An Act relating to suits for retaliation against volunteers and employees of nursing homes. (Berman, Chisum, Swinford, and Talton recorded voting no)

### **LEAVE OF ABSENCE GRANTED**

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

Counts on motion of Cook.

### **LOCAL, CONSENT, AND RESOLUTIONS CALENDAR (consideration continued)**

**CSHB 1354** (by Hartnett), A bill to be entitled An Act relating to requiring notice of certain appeal rights to a person insured or applying for medical liability insurance provided through a joint underwriting association.

**HB 1359** (by Krusee), A bill to be entitled An Act relating to the use of golf carts on public roadways.

**HB 1431** (by Averitt), A bill to be entitled An Act relating to payment of an administering insurer or third party administrator by the Texas Health Insurance Risk Pool.

**CSHB 1513** (by Maxey), A bill to be entitled An Act relating to powers and duties of the Texas Health Care Information Council; providing a criminal penalty. (Berman, Chisum, and Hartnett recorded voting no)

**CSHB 1581** (by Isett), A bill to be entitled An Act relating to park passes for volunteer youth groups.

**HB 1642** (by Hochberg and Berman), A bill to be entitled An Act relating to the treatment of property in certain reinvestment zones for purposes of school finance.

**CSHB 1681** (by Uher), A bill to be entitled An Act relating to the construction and rehabilitation of bridges.

**CSHB 1715** (by Denny), A bill to be entitled An Act relating to the phone number or address of a person making a report of abuse or neglect or a report of other conduct or conditions in a convalescent or nursing home.

**CSHB 1767** (by G. Lewis), A bill to be entitled An Act relating to the legal representation of county officials and employees by district and county attorneys.

**CSHB 1838** (by Smith), A bill to be entitled An Act relating to the regulation of the practice of professional sanitarians; providing a penalty.

**HB 1865** (by Edwards), A bill to be entitled An Act relating to the operations of the Texas Emancipation Juneteenth Cultural and Historical Commission.

**HB 1895** (by Maxey and Merritt), A bill to be entitled An Act relating to the management of software and software licenses by state agencies.

**HB 1978** (by Kuempel), A bill to be entitled An Act relating to exempting property owned by organizations that provide support to elderly persons from ad valorem taxation.

**HB 1982** (by Hill, Cuellar, Olivo, Oliveira, and Ehrhardt), A bill to be entitled An Act relating to the effect of a municipal annexation on a colonia's continued eligibility for certain assistance.

**HB 2068** (by Marchant), A bill to be entitled An Act relating to conversion of savings and loan associations to savings banks and the powers, duties, and name of the Savings and Loan Department.

**HB 2104** (by Craddick), A bill to be entitled An Act relating to a tax exemption for hydrocarbon production from certain inactive oil and gas leases returned to production.

**HB 2136** (by Hilderbran), A bill to be entitled An Act relating to the creation of the County Court at Law of Kendall County.

**HB 2147** (by Flores), A bill to be entitled An Act relating to the identification of real property owned by the state that is suitable for the development of affordable housing.

**CSHB 2170** (by Naishtat, et al.), A bill to be entitled An Act relating to investigations and protective services for elderly and disabled persons.

**CSHB 2171** (by Luna, Seaman, Capelo, et al.), A bill to be entitled An Act relating to the establishment and operation of a medical committee or medical peer review committee by certain public and private entities.

**HB 2196** (by Hope), A bill to be entitled An Act relating to the duties of the district attorney for the 9th Judicial District.

**HB 2219** (by Hilbert), A bill to be entitled An Act relating to an exemption from investment training for officers and employees of emergency services and rural fire prevention districts.

**Amendment No. 1 (Committee Amendment No. 1)**

On behalf of Representative Swinford, Representative Hilbert offered the following committee amendment to **HB 2219**:

Amend **HB 2219** as follows:

On page 1, line 8, after the period and before "Section", insert "(a)".

On page 1, line 10, after the period, add "(b) a district may invest funds only in the authorized investments set forth under Government Code Sections 2256.009 (obligations of, or guaranteed by governmental entities), 2256.010 (certificates of deposit and share certificates), 2256.016 (investment pools), unless the treasurer, chief financial officer (if not the treasurer) and the investment officer of the district attend and successfully complete the training requirements under Section 2256.008, Government Code."

On page 1, line 13, after the period and before "Section", insert "(a)".

On page 1, line 15, after the period, add "(b) a district may invest funds only in the authorized investments set forth under Government Code Sections 2256.009 (obligations of, or guaranteed by governmental entities), 2256.010 (certificates of deposit and share certificates), 2256.016 (investment pools), unless the treasurer, chief financial officer (if not the treasurer) and the investment officer of the district attend and successfully complete the training requirements under Section 2256.008, Government Code."

Amendment No. 1 was adopted without objection.

**HB 2223** (by Solomons), A bill to be entitled An Act relating to reporting requirements of a license holder under The Sale of Checks Act.

**HB 2238** (by Cook), A bill to be entitled An Act relating to exempting certain persons from requirements related to the sale, exchange, or lease-purchase of a manufactured home.

**CSHB 2249** was withdrawn.

**HB 2266** was withdrawn.

**HB 2268** (by Hamric), A bill to be entitled An Act relating to the award of state highway improvement contracts.

Representative Hamric moved to postpone consideration of **HB 2268** until Tuesday, April 27 at 10 a.m.

The motion prevailed without objection.

**HB 2299** (by Greenberg), A bill to be entitled An Act relating to naming the former life skills building at the Texas School for the Blind and Visually Impaired in honor of Ann Silverrain.

**CSHB 2304** (by Coleman and Ehrhardt), A bill to be entitled An Act relating to certain providers of family counseling services under the medical assistance program.

**CSHB 2310** (by Puente), A bill to be entitled An Act relating to certain notice provisions for violations of certain municipal ordinances.

**HB 2313** (by McReynolds), A bill to be entitled An Act relating to the appointment of bailiffs in Angelina County.

**CSHB 2315** (by Maxey), A bill to be entitled An Act relating to the investigation and prosecution of fraud in certain benefit programs operated by the state; providing administrative penalties. (Chisum, Solomons, and B. Turner recorded voting no)

**HB 2397** (by Carter), A bill to be entitled An Act relating to Crime Stoppers Advisory Council.

**Amendment No. 1 (Committee Amendment No. 1)**

On behalf of Representative Carter, Representative Gutierrez offered the following committee amendment to **HB 2397**:

Amend **HB 2397** by Carter as follows:

(1) On page 1, line 8, remove board and insert council, between "advisory" and "shall".

Amendment No. 1 was adopted without objection.

**HB 2455** (by Edwards), A bill to be entitled An Act relating to access for certain persons to the medical records of a child.

**CSHB 2461** (by Alexander), A bill to be entitled An Act relating to the issuance of certain specially designed license plates by the Texas Department of Transportation.

**HB 2490** (by Coleman), A bill to be entitled An Act relating to the Houston Downtown Management District.

**CSHB 2532** (by Cuellar), A bill to be entitled An Act relating to the City of Laredo Port of Entry Authority; granting the power of eminent domain.

**CSHB 2539** (by Y. Davis), A bill to be entitled An Act relating to the issuance of temporary license plates for vehicle converters.

**HB 2541** (by Hupp), A bill to be entitled An Act relating to traffic offenses occurring in a construction or maintenance work zone.

**HB 2559** (by B. Turner), A bill to be entitled An Act relating to increasing the policy limit on stipulated insurance company policies.

**HB 2568** (by Cuellar), A bill to be entitled An Act relating to the Texas Guaranteed Student Loan Corporation and its programs.

### **Amendment No. 1**

On behalf of Representative Y. Davis, Representative Cuellar offered the following amendment to **HB 2568**:

Amend **HB 2568** by striking SECTION 6 of the bill (page 4, line 8, through page 5, line 6) and substituting the following:

SECTION 6. Section 57.41(c), Education Code, is amended to read as follows:

(c) The corporation shall~~[, to the extent funds are available,]~~ make loans to eligible students, as a lender of last resort, under the following conditions:

(1) the borrower certifies and provides evidence to the corporation that the borrower ~~[he/she]~~ has made an application to at least two qualified lenders and was unable to obtain a guaranteed student loan from a commercial lender and is not aware of any eligible lender in this state that is willing to make a guaranteed student loan;

(2) the borrower also certifies to the corporation that the borrower ~~[he/she]~~ was unable to obtain a guaranteed student loan from the Texas Higher Education Coordinating Board;

(3) the corporation certifies that it is not aware of any eligible lender in this state that is willing to make a guaranteed student loan; and

(4) the corporation must, to the extent a market is available, sell loans made as last resort loans within a reasonable period of time of the date of loan origination. This provision will not apply to any loans that cannot be sold at par. The corporation shall maintain a separate file showing the name and address of the student receiving such a loan and the name and address of the involved educational institution.

Amendment No. 1 was adopted without objection.

**HB 2572** (by Junell), A bill to be entitled An Act relating to the reservation of riparian rights associated with land sold by certain municipalities.

**HB 2580** (by Hartnett), A bill to be entitled An Act relating to the transfer of certain proceedings to a statutory probate court.



**HB 2603** (by Solomons), A bill to be entitled An Act relating to appropriations to historical foundations by certain counties.

**CSHB 2662** (by Ramsay), A bill to be entitled An Act relating to the functions of certain county purchasing agents.

**HB 2769** (by Pickett and Solomons), A bill to be entitled An Act relating to the disposition of the personal property and security deposit of a deceased residential tenant.

**HB 2794** (by Gutierrez), A bill to be entitled An Act relating to the automation of the compulsory motor vehicle inspection system. (Chisum, Hartnett, Solomons, and Swinford recorded voting no)

### MESSAGE FROM THE SENATE

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

### LOCAL, CONSENT, AND RESOLUTIONS CALENDAR (consideration continued)

**HB 2802** (by Ritter), A bill to be entitled An Act relating to the denial of the renewal of the driver's license of a person who fails to appear to pay a fine involving an offense within justice or municipal court jurisdiction.

**HB 2809** (by Swinford), A bill to be entitled An Act relating to requiring a grain transportation study.

**HB 2827** (by Isett, Maxey, Clark, et al.), A bill to be entitled An Act relating to the validity of an authorization to disclose health care information.

**CSHB 2853** (by Bosse), A bill to be entitled An Act relating to the provision of insurance for mutual indemnity obligations in certain mineral agreements.

**CSHB 2894** (by Coleman), A bill to be entitled An Act relating to the creation of the Midtown Management District; providing authority to impose a tax and issue bonds.

**HB 2925** (by Bonnen), A bill to be entitled An Act relating to access to criminal history record information by a municipality for certain background checks.

**CSHB 2980** (by Hamric), A bill to be entitled An Act relating to rural fire prevention districts.

**CSHB 2990** (by J. Davis), A bill to be entitled An Act relating to the enforcement of an order for possession of or access to a child.

**HB 3033** (by Oliveira), A bill to be entitled An Act relating to the ad valorem taxation of an inventory consisting of motor vehicles held for sale.

**HB 3155** (by Wolens), A bill to be entitled An Act relating to the adoption of a nonsubstantive revision of statutes relating to the licensing and regulation of certain professions and business practices, including conforming amendments, repeals, and penalties.

**Amendment No. 1 (Committee Amendment No. 1)**

Representative Wolens offered the following committee amendment to **HB 3155**:

Amend **HB 3155** as follows:

- (1) On page 982, on line 13 (introduced version), strike "employed as".
- (2) On page 982, on line 14 (introduced version), between "associate" and "who", insert "employed as described by Section 501.004(a)(1)".

Amendment No. 1 was adopted without objection.

**Amendment No. 2 (Committee Amendment No. 2)**

Representative Wolens offered the following committee amendment to **HB 3155**:

Amend **HB 3155** as follows:

(1) On page 1601, strike line 15 and substitute the following:  
CHAPTER 901. ACCOUNTANTS SUBCHAPTER A. GENERAL PROVISIONS

Sec. 901.001. SHORT TITLE

Sec. 901.002. GENERAL DEFINITIONS

Sec. 901.003. PRACTICE OF PUBLIC ACCOUNTANCY

Sec. 901.004. CONSTRUCTION; LIMITATIONS

Sec. 901.005. PUBLIC POLICY; PURPOSE

Sec. 901.006. APPLICATION OF SUNSET ACT

[Sections 901.007-901.050 reserved for expansion]

SUBCHAPTER B. TEXAS STATE BOARD OF PUBLIC ACCOUNTANCY

Sec. 901.051. BOARD MEMBERSHIP

Sec. 901.052. ELIGIBILITY OF PUBLIC MEMBERS

Sec. 901.053. MEMBERSHIP AND EMPLOYEE RESTRICTIONS

Sec. 901.054. TERMS

Sec. 901.055. OFFICERS; EXECUTIVE COMMITTEE

Sec. 901.056. GROUNDS FOR REMOVAL

Sec. 901.057. PER DIEM; REIMBURSEMENT

Sec. 901.058. MEMBER EQUALITY

[Sections 901.059-901.100 reserved for expansion]

SUBCHAPTER C. EXECUTIVE DIRECTOR AND OTHER BOARD PERSONNEL

Sec. 901.101. EXECUTIVE DIRECTOR AND PERSONNEL

Sec. 901.102. DIVISION OF RESPONSIBILITIES

Sec. 901.103. QUALIFICATIONS AND STANDARDS OF CONDUCT INFORMATION

Sec. 901.104. CAREER LADDER PROGRAM; PERFORMANCE EVALUATIONS

Sec. 901.105. EQUAL EMPLOYMENT OPPORTUNITY POLICY; REPORT  
[Sections 901.106-901.150 reserved for expansion]

SUBCHAPTER D. BOARD POWERS AND DUTIES

Sec. 901.151. GENERAL POWERS AND DUTIES OF BOARD

Sec. 901.152. ADVISORY COMMITTEES

- Sec. 901.153. ENFORCEMENT COMMITTEES
- Sec. 901.154. FEES
- Sec. 901.155. SCHOLARSHIP FUND ACCOUNT FOR FIFTH-YEAR ACCOUNTING STUDENTS
- Sec. 901.156. RULES OF PROFESSIONAL CONDUCT
- Sec. 901.157. RULES FOR SPECIALIZATION
- Sec. 901.158. RULES RESTRICTING ADVERTISING OR COMPETITIVE BIDDING
- Sec. 901.159. QUALITY REVIEW
- Sec. 901.160. AVAILABILITY AND CONFIDENTIALITY OF CERTAIN BOARD FILES
- Sec. 901.161. PRIVILEGE FOR CERTAIN INFORMATION
- Sec. 901.162. IMMUNITY FROM LIABILITY
- Sec. 901.163. STATISTICAL ANALYSIS OF COMPLAINTS
- Sec. 901.164. ANNUAL FISCAL REPORT
- [Sections 901.165-901.200 reserved for expansion]
- SUBCHAPTER E. PUBLIC INTEREST INFORMATION AND COMPLAINT PROCEDURES
- Sec. 901.201. PUBLIC INTEREST INFORMATION
- Sec. 901.202. COMPLAINTS
- Sec. 901.203. COMPLAINT INFORMATION
- Sec. 901.204. PUBLIC PARTICIPATION
- [Sections 901.205-901.250 reserved for expansion]
- SUBCHAPTER F. CERTIFICATE REQUIREMENTS
- Sec. 901.251. CERTIFICATE REQUIRED
- Sec. 901.252. ELIGIBILITY REQUIREMENTS
- Sec. 901.253. CHARACTER INVESTIGATION
- Sec. 901.254. EDUCATION REQUIREMENTS
- Sec. 901.255. SPECIAL EDUCATION REQUIREMENTS FOR PART-TIME STUDENT
- Sec. 901.256. WORK EXPERIENCE REQUIREMENTS
- Sec. 901.257. OATH AND CERTIFICATE FEE
- Sec. 901.258. TRANSFER OF COMPLETE EXAMINATION CREDIT BETWEEN STATES
- Sec. 901.259. CERTIFICATION BASED ON RECIPROCITY
- [Sections 901.260-901.300 reserved for expansion]
- SUBCHAPTER G. UNIFORM CPA EXAMINATION
- Sec. 901.301. ADMINISTRATION; BOARD RULES
- Sec. 901.302. APPLICATION OF INTENT
- Sec. 901.303. FILING FEE
- Sec. 901.304. EXAMINATION FEE
- Sec. 901.305. FREQUENCY OF EXAMINATION
- Sec. 901.306. CONTENT AND SECURITY OF EXAMINATION
- Sec. 901.307. MINIMUM PASSING GRADE
- Sec. 901.308. EXAMINATION RESULTS
- Sec. 901.309. REEXAMINATION
- Sec. 901.310. CONDITIONAL EXAMINATION CREDIT
- Sec. 901.311. RESTRUCTURE OF EXAMINATION

- Sec. 901.312. TRANSFER OF PARTIAL EXAMINATION CREDIT  
BETWEEN STATES  
[Sections 901.313-901.350 reserved for expansion]  
SUBCHAPTER H. REGISTRATION REQUIREMENTS
- Sec. 901.351. REGISTRATION REQUIRED
- Sec. 901.352. APPLICATION FOR REGISTRATION
- Sec. 901.353. RESIDENT MANAGER
- Sec. 901.354. REGISTRATION INFORMATION AND ELIGIBILITY
- Sec. 901.355. REGISTRATION FOR CERTAIN OUT-OF-STATE OR  
FOREIGN APPLICANTS
- Sec. 901.356. TEMPORARY PRACTICE PERMIT FOR CERTAIN  
OUT-OF-STATE OR FOREIGN APPLICANTS  
[Sections 901.357-901.400 reserved for expansion]  
SUBCHAPTER I. LICENSE REQUIREMENTS,  
ISSUANCE, AND RENEWAL
- Sec. 901.401. LICENSE REQUIRED
- Sec. 901.402. ELIGIBILITY REQUIREMENTS; GENERAL  
PROHIBITION
- Sec. 901.403. RENEWAL REQUIRED
- Sec. 901.404. NOTICE OF LICENSE EXPIRATION
- Sec. 901.405. PROCEDURE FOR RENEWAL
- Sec. 901.406. FEE INCREASE
- Sec. 901.407. ADDITIONAL FEE
- Sec. 901.408. CONSEQUENCE OF FAILURE TO PAY CERTAIN FEES
- Sec. 901.409. FEE REDUCTION FOR RETIRED OR DISABLED PERSONS
- Sec. 901.410. FEE EXEMPTION FOR CERTAIN LICENSE HOLDERS
- Sec. 901.411. CONTINUING PROFESSIONAL EDUCATION  
[Sections 901.412-901.450 reserved for expansion]  
SUBCHAPTER J. PRACTICE BY LICENSE HOLDER
- Sec. 901.451. USE OF TITLE OR ABBREVIATION FOR "CERTIFIED  
PUBLIC ACCOUNTANT"
- Sec. 901.452. USE OF TITLE OR ABBREVIATION FOR "PUBLIC  
ACCOUNTANT"
- Sec. 901.453. USE OF OTHER TITLES OR ABBREVIATIONS
- Sec. 901.454. TITLE USED BY CERTAIN OUT-OF-STATE OR FOREIGN  
ACCOUNTANTS
- Sec. 901.455. NAME REQUIREMENTS AND RESTRICTIONS
- Sec. 901.456. USE OF NAME OR SIGNATURE ON CERTAIN  
DOCUMENTS
- Sec. 901.457. ACCOUNTANT-CLIENT PRIVILEGE
- Sec. 901.458. LOSS OF INDEPENDENCE
- Sec. 901.459. APPLICABILITY OF PARTNERSHIP REQUIREMENTS TO  
PARTNER  
[Sections 901.460-901.500 reserved for expansion]  
SUBCHAPTER K. PROHIBITED PRACTICES AND  
DISCIPLINARY PROCEDURES
- Sec. 901.501. DISCIPLINARY POWERS OF BOARD
- Sec. 901.502. GROUNDS FOR DISCIPLINARY ACTION

- Sec. 901.503. BOARD ACTION INVOLVING APPLICANT
- Sec. 901.504. LICENSE REVOCATION BASED ON VIOLATION OF CHAPTER
- Sec. 901.505. PROCEDURE PENDING FINAL CONVICTION OF CERTAIN OFFENSES
- Sec. 901.506. VOLUNTARY SURRENDER OF CERTIFICATE OR REGISTRATION
- Sec. 901.507. REINSTATEMENT
- Sec. 901.508. RIGHT TO HEARING
- Sec. 901.509. NOTICE OF HEARING
- Sec. 901.510. LEGAL REPRESENTATION AT HEARING  
[Sections 901.511-901.550 reserved for expansion]
- SUBCHAPTER L. ADMINISTRATIVE PENALTY
- Sec. 901.551. IMPOSITION OF ADMINISTRATIVE PENALTY
- Sec. 901.552. AMOUNT OF PENALTY
- Sec. 901.553. REPORT AND NOTICE OF VIOLATION AND PENALTY
- Sec. 901.554. PENALTY TO BE PAID OR HEARING REQUESTED
- Sec. 901.555. HEARING
- Sec. 901.556. OPTIONS FOLLOWING DECISION: PAY OR APPEAL
- Sec. 901.557. COLLECTION OF PENALTY
- Sec. 901.558. REMITTANCE OF PENALTY AND INTEREST  
[Sections 901.559-901.600 reserved for expansion]
- SUBCHAPTER M. OTHER PENALTIES AND ENFORCEMENT PROVISIONS

- Sec. 901.601. INJUNCTION
- Sec. 901.602. CRIMINAL PENALTY

CHAPTER 901. ACCOUNTANTS  
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 901.001. SHORT TITLE. (a) This chapter may be cited as the Public Accountancy Act.

(b) A reference in law to the Public Accountancy Act of 1979 or the Public Accountancy Act of 1991 means this chapter. (V.A.C.S. Art. 41a-1, Secs. 1A, 29(b).)

Sec. 901.002. GENERAL DEFINITIONS. (a) In this chapter:

(1) "Board" means the Texas State Board of Public Accountancy.

(2) "Certificate" means a certificate issued to a certified public accountant.

(3) "Certified public accountant" means a person who holds a certificate issued under this chapter.

(4) "Corporation" means a corporation authorized by a statute applicable to this state or by an equivalent law of another state or a foreign country, including a professional public accounting corporation organized under The Texas Professional Corporation Act (Article 1528e, Vernon's Texas Civil Statutes).

(5) "Firm" means a sole proprietorship, partnership, corporation, or other business entity engaged in the practice of public accountancy.

(6) "Practice unit" means an office of a firm that is required to be registered with the board to practice public accountancy.

(7) "Public accountant" means a person authorized to practice public accountancy under the Public Accountancy Act of 1945 (Article 41a, Vernon's Texas Civil Statutes).

(8) "Sole proprietorship" means an unincorporated firm that is owned and controlled by one person engaged in the practice of public accountancy.

(b) The board by rule may define "financial statement" to comply with the standards adopted by generally recognized bodies responsible for setting accounting standards. (V.A.C.S. Art. 41a-1, Secs. 2(a)(1), (3), (5), (7), (8), (b); 10(a) (part); New.)

Sec. 901.003. PRACTICE OF PUBLIC ACCOUNTANCY. (a) In this chapter, "practice of public accountancy" means:

(1) the performance for a client by a person who is certified or registered under this chapter of a service that involves the use of accounting, attesting, or auditing skills;

(2) the performance or offer of performance for a client or potential client by a person who represents to the public that the person is certified or registered under this chapter of a service that involves the use of accounting, attesting, or auditing skills;

(3) the performance of activities of a person or practice unit licensed under this chapter in:

(A) preparing or reporting on a financial statement or report that is to be used by an investor, unless the report is prepared for internal use by the management of an organization, a third party, or a financial institution; or

(B) preparing a tax return that is filed with a taxing authority; or

(4) the supervision of an activity described by Subdivision (3).

(b) For purposes of this section, a service that involves the use of accounting, attesting, or auditing skills includes:

(1) issuing a report on or preparing a financial statement;

(2) providing management or financial advisory or consulting services; and

(3) preparing a tax return or advising or consulting on a tax matter.

(c) For purposes of this section, a person represents to the public that the person is certified or registered under this chapter if the person makes an oral or written representation that the person is certified or registered. A written representation includes a representation communicated by office sign, business card, letterhead, or advertisement. A representation does not include:

(1) the display of an original certificate or registration unless a license is also displayed;

(2) a representation made by a faculty member of an educational institution solely in connection with the duties of the person as a faculty member; or

(3) a representation in a book, article, or other publication, or a representation made in connection with the promotion of the publication, unless the representation includes an offer to perform a service or to sell a product other than the publication. (V.A.C.S. Art. 41a-1, Secs. 2(a)(6), (c).)

Sec. 901.004. CONSTRUCTION; LIMITATIONS. (a) This chapter does not:

(1) restrict an official act of a person acting in the person's capacity as:

(A) an officer of the state or of a county, municipality, or other political subdivision, including a county auditor;

(B) an officer of a federal department or agency; or

(C) an assistant, deputy, or employee of a person described by Paragraph (A) or (B);

(2) prohibit a person who is not a certified public accountant or public accountant from serving as an employee of:

(A) a certified public accountant or public accountant licensed by the board; or

(B) a firm composed of certified public accountants or public accountants licensed by the board; or

(3) prohibit a person licensed by the federal government as an enrolled agent from performing an act or using a designation authorized by federal law.

(b) A person who serves as an employee as described by Subsection (a)(2) may not issue an accounting or financial statement over the employee's name. (V.A.C.S. Art. 41a-1, Secs. 3, 8(e) (part).)

Sec. 901.005. PUBLIC POLICY; PURPOSE. (a) The practice of public accountancy is a learned profession that requires specialized education and experience. The terms "accountant" and "auditor," and derivations of those terms, have an implication of competence in the profession of public accountancy on which the public relies in personal, business, and public activities and enterprises.

(b) The policy of this state and the purpose of this chapter are to provide that:

(1) the admission of persons to the practice of public accountancy require education and experience commensurate with the requirements of the profession;

(2) a person who represents that the person practices public accountancy be qualified to do so;

(3) a person engaged in the practice of public accountancy maintain high standards of professional competence, integrity, and learning;

(4) areas of specialized practice require special training; and

(5) the activities and competitive practices of persons practicing public accountancy be regulated to be free of commercial exploitation to provide the public with a high level of professional competence at reasonable fees by independent, qualified persons. (V.A.C.S. Art. 41a-1, Sec. 1.)

Sec. 901.006. APPLICATION OF SUNSET ACT. The Texas State Board of Public Accountancy is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the board is abolished and this chapter expires September 1, 2003. (V.A.C.S. Art. 41a-1, Sec. 28.)

[Sections 901.007-901.050 reserved for expansion]

#### SUBCHAPTER B. TEXAS STATE BOARD OF PUBLIC ACCOUNTANCY

Sec. 901.051. BOARD MEMBERSHIP. (a) The Texas State Board of Public Accountancy consists of 15 members appointed by the governor with the advice and consent of the senate as follows:

(1) 10 certified public accountant members, at least eight of whom are, on the date of appointment:

(A) a sole practitioner; or

(B) an owner or employee of a firm engaged in public practice; and

(2) five public members who are not:

(A) licensed under this chapter; or

(B) financially involved in an organization subject to board regulation.

(b) Each member of the board must be a United States citizen.

(c) Appointments to the board shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointee. (V.A.C.S. Art. 41a-1, Secs. 4(a) (part), (f).)

Sec. 901.052. ELIGIBILITY OF PUBLIC MEMBERS. A person is not eligible for appointment as a public member of the board if the person or the person's spouse:

(1) is registered, certified, or licensed by an occupational regulatory agency in the field of public accountancy;

(2) is employed by or participates in the management of a business entity or other organization regulated by the board or receiving funds from the board;

(3) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization regulated by the board or receiving funds from the board; or

(4) uses or receives a substantial amount of tangible goods, services, or funds from the board, other than compensation or reimbursement authorized by law for board membership, attendance, or expenses. (V.A.C.S. Art. 41a-1, Sec. 4(a-1).)

Sec. 901.053. MEMBERSHIP AND EMPLOYEE RESTRICTIONS. (a) In this section, "Texas trade association" means a nonprofit, cooperative, and voluntarily joined association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest.

(b) An officer, employee, or paid consultant of a Texas trade association in the field of public accountancy may not be a member of the board and may not be an employee of the board who is exempt from the state's position classification plan or is compensated at or above the amount prescribed by the General Appropriations Act for step 1, salary group A17, of the position classification salary schedule.

(c) A person who is the spouse of an officer, manager, or paid consultant of a Texas trade association in the field of public accountancy may not be an employee of the board who is exempt from the state's position classification plan or is compensated at or above the amount prescribed by the General Appropriations Act for step 1, salary group A17, of the position classification salary schedule.

(d) A person may not serve as a member of the board or act as the general counsel to the board if the person is required to register as a lobbyist



under Chapter 305, Government Code, because of the person's activities for compensation on behalf of a profession related to the operation of the board.

(e) A member or employee of the board may not be related within the second degree by consanguinity or affinity, as determined under Chapter 573, Government Code, to a person who is an officer, employee, or paid consultant of a trade association of persons governed by this chapter. (V.A.C.S. Art. 41a-1, Secs. 4(b); (c), as amended Acts 72nd Leg., R.S., Chs. 533, 561; (c-1); (h).)

Sec. 901.054. TERMS. (a) Board members serve staggered six-year terms.

(b) A board member who has served all or part of six consecutive years is not eligible for reappointment until the second anniversary of the expiration date of the member's most recent term. (V.A.C.S. Art. 41a-1, Secs. 4(a) (part), (d).)

Sec. 901.055. OFFICERS; EXECUTIVE COMMITTEE. (a) The governor shall designate a member of the board as presiding officer. The presiding officer serves in that capacity at the will of the governor.

(b) The board shall annually elect from its members an assistant presiding officer, secretary, treasurer, and other officers the board considers necessary to serve with the presiding officer on the executive committee. (V.A.C.S. Art. 41a-1, Secs. 4(i), 5(a) (part).)

Sec. 901.056. GROUNDS FOR REMOVAL. (a) It is a ground for removal from the board that a member:

(1) does not have at the time of the appointment the qualifications required by Section 901.051;

(2) does not maintain during service on the board the qualifications required by Section 901.051 or 901.052;

(3) violates a prohibition established by Section 901.053;

(4) cannot, because of illness or disability, discharge the member's duties for a substantial part of the member's term; or

(5) is absent from more than half of the regularly scheduled meetings of the board and a committee of the board that the member is eligible to attend during a calendar year unless the absence is excused by a majority vote of the board.

(b) The validity of an action of the board is not affected by the fact that it is taken when a ground for removal of a board member exists.

(c) If the executive director has knowledge that a potential ground for removal of a board member exists, the executive director shall notify the executive committee of the board of the ground. The presiding officer shall notify the governor that a potential ground for removal exists. (V.A.C.S. Art. 41a-1, Secs. 4(g), (g-1).)

Sec. 901.057. PER DIEM; REIMBURSEMENT. (a) A board member is entitled to receive:

(1) \$100 for each day that the member conducts board business; and

(2) reimbursement for actual and necessary expenses incurred in performing board functions.

(b) The board by rule may determine the activities that constitute board business. (V.A.C.S. Art. 41a-1, Sec. 4(e).)

Sec. 901.058. MEMBER EQUALITY. A board member who is not a

certified public accountant has the same authority, responsibility, and duties as any other board member. (V.A.C.S. Art. 41a-1, Sec. 5(c).)

[Sections 901.059-901.100 reserved for expansion]

**SUBCHAPTER C. EXECUTIVE DIRECTOR AND OTHER  
BOARD PERSONNEL**

**Sec. 901.101. EXECUTIVE DIRECTOR AND PERSONNEL.** The board shall employ an executive director, independent contractors, and personnel selected by the executive director as necessary to assist the board in performing its duties. (V.A.C.S. Art. 41a-1, Sec. 5(a) (part).)

**Sec. 901.102. DIVISION OF RESPONSIBILITIES.** The board shall develop and implement policies that clearly define the respective responsibilities of the board and the staff of the board. (V.A.C.S. Art. 41a-1, Sec. 5(h).)

**Sec. 901.103. QUALIFICATIONS AND STANDARDS OF CONDUCT INFORMATION.** The board shall provide, as often as necessary, to its members and employees information regarding their:

- (1) qualifications for office or employment under this chapter; and
- (2) responsibilities under applicable laws relating to standards of conduct for state officers or employees. (V.A.C.S. Art. 41a-1, Sec. 5(f).)

**Sec. 901.104. CAREER LADDER PROGRAM; PERFORMANCE EVALUATIONS.** (a) The executive director or the executive director's designee shall develop an intra-agency career ladder program. The program must require intra-agency postings of all nonentry level positions concurrently with any public posting.

(b) The executive director or the executive director's designee shall develop a system of annual performance evaluations. All merit pay for board employees must be based on the system established under this subsection. (V.A.C.S. Art. 41a-1, Secs. 5A(a), (b).)

**Sec. 901.105. EQUAL EMPLOYMENT OPPORTUNITY POLICY; REPORT.** (a) The executive director or the executive director's designee shall prepare and maintain a written policy statement to ensure implementation of an equal employment opportunity program under which all personnel transactions are made without regard to race, color, disability, sex, religion, age, or national origin. The policy statement must include:

- (1) personnel policies, including policies relating to recruitment, evaluation, selection, appointment, training, and promotion of personnel;
- (2) a comprehensive analysis of the board workforce that meets federal and state guidelines;
- (3) procedures by which a determination can be made of significant underuse in the board workforce of all persons for whom federal or state guidelines encourage a more equitable balance; and
- (4) reasonable methods to appropriately address those areas of underuse.

(b) A policy statement prepared under Subsection (a) must:

- (1) cover an annual period;
- (2) be updated at least annually; and
- (3) be filed with the governor.

(c) The governor shall deliver a biennial report to the legislature based

on the information received under Subsection (b). The report may be made separately or as a part of other biennial reports made to the legislature. (V.A.C.S. Art. 41a-1, Secs. 5A(c), (d), (e).)

[Sections 901.106-901.150 reserved for expansion]

#### SUBCHAPTER D. BOARD POWERS AND DUTIES

Sec. 901.151. GENERAL POWERS AND DUTIES OF BOARD. (a) The board shall:

- (1) administer this chapter;
- (2) adopt rules the board determines are necessary or advisable to administer this chapter;
- (3) keep a record of each proceeding conducted before or action taken by the board; and
- (4) keep an official seal.

(b) On its own motion or on the complaint of any person, the board may initiate:

- (1) proceedings to determine the eligibility of a person for examination, certification, registration, or licensing under this chapter; or
- (2) disciplinary proceedings under Subchapter K.

(c) The board may solicit, contract for, and accept money and other assistance from any source to administer this chapter. (V.A.C.S. Art. 41a-1, Secs. 5(a) (part), 6(a) (part), 7(c), 22(a), (b) (part).)

Sec. 901.152. ADVISORY COMMITTEES. (a) The board may appoint advisory committees to perform the advisory functions assigned to the committees by the board.

(b) A member of an advisory committee who is not a member of the board may not receive compensation for service on the committee. The member may receive reimbursement for actual and necessary expenses incurred in performing committee functions as provided by Section 2110.004, Government Code.

(c) A member of an advisory committee serves at the will of the board. (V.A.C.S. Art. 41a-1, Sec. 24.)

Sec. 901.153. ENFORCEMENT COMMITTEES. (a) The board may appoint enforcement committees from its membership. The membership of each enforcement committee must include at least one public member of the board.

(b) An enforcement committee shall consider and make recommendations to the board on matters relating to the enforcement of this chapter and board rules.

(c) The board may adopt rules necessary for the performance of each enforcement committee's duties. (V.A.C.S. Art. 41a-1, Sec. 22A(a).)

Sec. 901.154. FEES. (a) The board shall set the fee for the issuance of a certificate under this chapter and the fee for the issuance or renewal of a license under this chapter in an amount not to exceed \$250.

(b) The board may increase the fee for the issuance or renewal of a license as necessary to cover the costs of enforcing this chapter.

(c) The board may not waive the collection of any fee or penalty provided by this chapter. (V.A.C.S. Art. 41a-1, Secs. 9(b) (part), (c) (part), (g) (part); 9A(b) (part); 13(c).)

Sec. 901.155. SCHOLARSHIP FUND ACCOUNT FOR FIFTH-YEAR ACCOUNTING STUDENTS. (a) The fee for the issuance or renewal of a license under this chapter is the amount of the fee set by the board under Section 901.154 together with the fee increase imposed under Section 901.406 and an additional \$20 fee to be deposited to the credit of the scholarship fund account for fifth-year accounting students in the general revenue fund.

(b) The scholarship fund account for fifth-year accounting students may be used only to:

(1) provide scholarships under Subchapter N, Chapter 61, Education Code, to accounting students in the fifth year of a program designed to qualify each student to apply for certification as a certified public accountant; and

(2) pay administrative costs under Subsection (c).

(c) The administrative costs incurred to collect the fee imposed under Subsection (a) and to disburse the money may not exceed 15 percent of the total money collected, with 10 percent of the money allocated to the Texas Higher Education Coordinating Board and five percent of the money allocated to the board.

(d) Notwithstanding Section 404.071, Government Code, interest earned on amounts in the scholarship fund account for fifth-year accounting students shall be credited to that account. (V.A.C.S. Art. 41a-1, Secs. 32(b), (c), (d), (e).)

Sec. 901.156. RULES OF PROFESSIONAL CONDUCT. The board shall adopt rules of professional conduct to:

(1) establish and maintain high standards of competence and integrity in the practice of public accountancy; and

(2) ensure that the conduct and competitive practices of license holders serve the purposes of this chapter and the best interest of the public. (V.A.C.S. Art. 41a-1, Sec. 6(a) (part).)

Sec. 901.157. RULES FOR SPECIALIZATION. The board by rule may recognize an area of specialization in the practice of public accountancy if the area of specialization is generally recognized by other bodies that regulate or issue authoritative pronouncements in the field of public accountancy. (V.A.C.S. Art. 41a-1, Sec. 6(b).)

Sec. 901.158. RULES RESTRICTING ADVERTISING OR COMPETITIVE BIDDING. The board in its rules of professional conduct may not restrict advertising or competitive bidding by a license holder except as necessary to ensure that:

(1) the license holder's communications, including advertising and price information, are informative, free of deception, and consistent with the professionalism expected and deserved by the public from a person engaged in the practice of public accountancy;

(2) the license holder's conduct is free from fraud, undue influence, deception, intimidation, overreaching, and harassment;

(3) the license holder does not engage in an uninvited solicitation, by use of a means other than mass media advertisement, to perform professional accounting services;

(4) a contract between a license holder and a state agency, publicly owned utility, or political subdivision, including a county, municipality, district, or authority, for the performance of professional accounting services is not solicited or awarded on the basis of competitive bids submitted in violation of law;

(5) a contract for the preparation of a financial statement or an opinion on a financial statement includes information necessary to protect the public if:

(A) the financial statement or opinion can be used by or given to a person other than a party to the contract to induce reliance on the statement or opinion; and

(B) the contract is entered into on the basis of competitive bids; or

(6) a license holder does not engage in a competitive practice that:

(A) impairs the independence or quality of a service provided by a license holder;

(B) impairs or restricts the public's opportunity to obtain professional accounting services of high quality at a reasonable price; or

(C) unreasonably restricts competition among license holders. (V.A.C.S. Art. 41a-1, Sec. 6(a) (part).)

Sec. 901.159. **QUALITY REVIEW.** (a) The board by rule shall provide for a quality review program to review the work product of a license holder or of the practice unit, in lieu of a license holder, to the extent necessary to comply with any applicable standards adopted by generally recognized bodies responsible for setting accounting standards.

(b) The board by rule shall establish a fee in an amount not to exceed \$200 to be paid by a practice unit, or by a license holder who is not a member of a practice unit, for each quality review required by the board under this section. (V.A.C.S. Art. 41a-1, Secs. 15B(a), (b) (part), (d).)

Sec. 901.160. **AVAILABILITY AND CONFIDENTIALITY OF CERTAIN BOARD FILES.** (a) The board shall make available at the board's offices in Austin any file maintained or information gathered or received by the board from a third party regarding a license applicant or current or former license holder for inspection by the applicant or license holder during normal business hours.

(b) A license applicant or current or former license holder may authorize the board in writing to make available for inspection by a designated person or by the public any information gathered or received by the board from a third party regarding the applicant or license holder.

(c) Except on written authorization as provided by Subsection (b), the following information gathered or received by the board is confidential and not subject to disclosure under Chapter 552, Government Code:

(1) information regarding the qualifications of an applicant or license holder to be certified or registered as a certified public accountant; and

(2) information regarding a disciplinary action under Subchapter K against a license holder or an applicant to take the uniform CPA examination, before a public hearing on the matter.

(d) A final order of the board relating to a disciplinary action against a license holder, including a reprimand, that results from an informal

proceeding or a formal public hearing is subject to disclosure to the public and is available on request. (V.A.C.S. Art. 41a-1, Sec. 25.)

Sec. 901.161. PRIVILEGE FOR CERTAIN INFORMATION. (a) Any statement or record prepared or an opinion formed in connection with a positive enforcement, quality review, or peer review is privileged and is not:

(1) subject to discovery, subpoena, or other means of legal compulsion for release to a person other than the board; or

(2) admissible as evidence in a judicial or administrative proceeding other than a board hearing.

(b) The privilege provided by Subsection (a) does not apply to information involved in a dispute between a reviewer and the person, including an entity, who is the subject of the review. (V.A.C.S. Art. 41a-1, Sec. 15B(c).)

Sec. 901.162. IMMUNITY FROM LIABILITY. (a) Each board member and each officer, director, or employee of a state agency, board, or commission is immune from liability arising out of a disclosure made to the board in connection with a complaint filed with the board.

(b) The board and each board member is immune from liability to a person for damages incident to:

(1) the board's investigation of the person; or

(2) any complaint, charge, or proceeding that results from the investigation. (V.A.C.S. Art. 41a-1, Secs. 21C, 22(f)(3) (part).)

Sec. 901.163. STATISTICAL ANALYSIS OF COMPLAINTS. (a) The board shall develop and maintain a system for tracking a complaint filed with the board against a person registered under this chapter.

(b) At the time the board files an annual report under Section 901.164, the board shall also report a statistical analysis of the disciplinary actions taken by the board during the preceding year. The report must contain a statistical analysis of:

(1) the number of complaints received;

(2) the number of complaints resolved and the manner in which they were resolved;

(3) a categorization of complaints received and the number of complaints in each category;

(4) the average length of time required to resolve a complaint for each category of complaints; and

(5) other information the board determines necessary.

(c) If the board does not receive any complaint in a category during a reporting period, the board shall report that a complaint was not received in that category. (V.A.C.S. Art. 41a-1, Secs. 22B(a), (b).)

Sec. 901.164. ANNUAL FISCAL REPORT. (a) The board shall file annually with the governor and the presiding officer of each house of the legislature a complete and detailed report accounting for all funds received and disbursed by the board during the preceding calendar year.

(b) The report must be in the form and reported in the time provided by the General Appropriations Act. (V.A.C.S. Art. 41a-1, Sec. 7(b), as amended Acts 72nd Leg., R.S., Ch. 533; Sec. 7(b) (part), as amended Acts 72nd Leg., R.S., Ch. 599.)

[Sections 901.165-901.200 reserved for expansion]

SUBCHAPTER E. PUBLIC INTEREST INFORMATION AND  
COMPLAINT PROCEDURES

Sec. 901.201. PUBLIC INTEREST INFORMATION. (a) The board shall prepare information of public interest describing the functions of the board and the procedures by which complaints are filed with and resolved by the board.

(b) The board shall make the information available to the public and appropriate state agencies. (V.A.C.S. Art. 41a-1, Sec. 5(d).)

Sec. 901.202. COMPLAINTS. The board by rule shall establish methods by which consumers and service recipients are notified of the name, mailing address, and telephone number of the board for the purpose of directing a complaint to the board. The board may require that notice:

(1) on each registration form, application, or written contract for services of a person regulated under this chapter; or

(2) in a bill for service provided by a person regulated under this chapter. (V.A.C.S. Art. 41a-1, Sec. 5(e).)

Sec. 901.203. COMPLAINT INFORMATION. (a) The board shall maintain an information file about each complaint filed with the board for a period not to exceed the 10th anniversary of the date of the complaint's final disposition.

(b) If a written complaint is filed with the board relating to a person regulated under this chapter, the board shall notify the parties to the complaint of each change in the status of the complaint, including the final disposition, unless the notice would jeopardize an undercover investigation. (V.A.C.S. Art. 41a-1, Sec. 22B(c).)

Sec. 901.204. PUBLIC PARTICIPATION. (a) The board shall develop and implement policies that provide the public with a reasonable opportunity to appear before the board and to speak on any issue under the board's jurisdiction.

(b) The board shall prepare and maintain a written plan that describes how a person who does not speak English or who has a physical, mental, or developmental disability may be provided reasonable access to the board's programs. (V.A.C.S. Art. 41a-1, Secs. 5(g), (i).)

[Sections 901.205-901.250 reserved for expansion]

SUBCHAPTER F. CERTIFICATE REQUIREMENTS

Sec. 901.251. CERTIFICATE REQUIRED. (a) A person who is an individual may not engage in the practice of public accountancy unless the person holds a certificate issued under this chapter.

(b) The board shall issue a certificate to a person who meets the applicable requirements of this chapter. (V.A.C.S. Art. 41a-1, Secs. 8(a) (part), 12(a) (part).)

Sec. 901.252. ELIGIBILITY REQUIREMENTS. To be eligible to receive a certificate, a person must:

(1) be of good moral character as determined under Section 901.253;

(2) meet the education requirements established under Section 901.254 or 901.255;

(3) pass the uniform CPA examination;

(4) meet the work experience requirements established under Section 901.256; and

(5) pass an examination on the rules of professional conduct as determined by board rule. (V.A.C.S. Art. 41a-1, Secs. 12(a) (part), (c).)

Sec. 901.253. CHARACTER INVESTIGATION. (a) The board shall ensure that an applicant to take the uniform CPA examination or to receive a certificate is of good moral character as demonstrated by a lack of history of dishonest or felonious acts.

(b) The board by rule may adopt a system to investigate an applicant's background.

(c) The board may obtain criminal history record information maintained by a law enforcement agency, including the Department of Public Safety and the Federal Bureau of Investigation identification division, to investigate the qualifications of an individual who applies to take the uniform CPA examination or to be certified or registered under this chapter.

(d) The board may require the applicant to submit a complete set of fingerprints. If an applicant does not provide a complete set of fingerprints on request of the board, the board may:

(1) deny the applicant's application to take the uniform CPA examination; or

(2) refuse to issue a certificate to the applicant. (V.A.C.S. 41a-1, Secs. 12(d), 21B.)

Sec. 901.254. EDUCATION REQUIREMENTS. (a) To be eligible to take the uniform CPA examination, an applicant must:

(1) hold a baccalaureate or graduate degree, or its equivalent as determined by board rule, conferred by a board-recognized institution of higher education; and

(2) complete at least:

(A) 150 semester hours or quarter-hour equivalents in board-recognized courses;

(B) 30 semester hours or quarter-hour equivalents in board-recognized accounting courses, as defined by board rule, including at least 20 semester hours or quarter-hour equivalents in core accounting courses, as defined by board rule; and

(C) 20 semester hours or quarter-hour equivalents in board-recognized college or university accounting-related courses in other areas of business administration.

(b) An applicant who holds a baccalaureate degree may take the uniform CPA examination even though the applicant has not completed the other requirements established by this chapter. The applicant may not receive a certificate until those other requirements are complete. This subsection expires January 1, 2000. (V.A.C.S. Art. 41a-1, Secs. 12(e) (part), (g).)

Sec. 901.255. SPECIAL EDUCATION REQUIREMENTS FOR PART-TIME STUDENT. (a) This section applies only to an applicant to take the uniform CPA examination who:

(1) was enrolled in an accounting program on September 1, 1994;

(2) notified the board not later than September 1, 1997, of the applicant's intent to take the examination;



(3) is enrolled in fewer than 12 semester hours in each semester that the applicant attends a college or university; and

(4) completes the accounting program not later than September 1, 2002.

(b) To be eligible to take the uniform CPA examination, an applicant subject to this section must:

(1) hold a baccalaureate or graduate degree, or its equivalent as determined by board rule, conferred by a board-recognized institution of higher education; and

(2) complete at least:

(A) 30 semester hours or quarter-hour equivalents in board-recognized accounting courses, as defined by board rule; and

(B) 20 semester hours or quarter-hour equivalents in board-recognized accounting-related courses in other areas of business administration. (V.A.C.S. Art. 41a-1, Secs. 12(e) (part), (f).)

Sec. 901.256. **WORK EXPERIENCE REQUIREMENTS.** (a) To be eligible to receive a certificate, a person must complete:

(1) at least two years of work experience under the supervision of a certified public accountant; or

(2) at least one year of work experience under the supervision of a certified public accountant, if the person:

(A) has completed at least 150 semester hours of college credits; or

(B) holds a graduate degree.

(b) The board by rule shall define the work experience that is acceptable for purposes of this section.

(c) The board is the final authority regarding work experience. The board may not consider a petition from another entity in resolving a dispute under this section. (V.A.C.S. Art. 41a-1, Sec. 12(h).)

Sec. 901.257. **OATH AND CERTIFICATE FEE.** Before the board issues a certificate to a person, the person must:

(1) take an oath, administered by a board member or by another person authorized to administer oaths, to support:

(A) the constitution and laws of this state and the United States; and

(B) the board's rules; and

(2) pay a fee for the certificate in an amount set by board rule not to exceed \$50. (V.A.C.S. Art. 41a-1, Sec. 12(a) (part).)

Sec. 901.258. **TRANSFER OF COMPLETE EXAMINATION CREDIT BETWEEN STATES.** (a) The board may accept the completion of the uniform CPA examination given by the licensing authority of another state if:

(1) the examination was prepared and graded by the American Institute of Certified Public Accountants or, if doing so would result in a greater degree of reciprocity with the examination results of other states, the National Association of State Boards of Accountancy; and

(2) the applicant met the requirements in effect in this state at the time the credit was earned.

(b) The board may transfer to the licensing authority of another state active credits earned as a result of completing the uniform CPA examination in this state.

(c) The board by rule shall establish:

(1) a fee in an amount not to exceed \$100 to receive credits from another licensing authority; and

(2) a fee in an amount not to exceed \$50 to transfer credits to another licensing authority. (V.A.C.S. Art. 41a-1, Sec. 12(b).)

Sec. 901.259. CERTIFICATION BASED ON RECIPROCITY. (a) The board shall issue a certificate to a person who holds a certificate issued by another state if the person:

(1) has passed the uniform CPA examination with grades that were passing grades in this state on the date the person took the examination;

(2) satisfies at least one of the following:

(A) meets the requirements for issuance of a certificate in this state other than the requirement providing the grades necessary to pass the uniform CPA examination;

(B) met the requirements in effect for issuance of a certificate in this state on the date the person was issued a certificate by the other state; or

(C) has completed at least four years of experience practicing public accountancy, if the experience:

(i) occurred after the person passed the uniform CPA examination and within the 10 years preceding the date of application; and

(ii) satisfies requirements established by board rule;

and

(3) has met the continuing professional education requirements that apply to a license holder under this chapter for the three-year period preceding the date of application.

(b) The board shall issue a certificate by reciprocity to the extent required by a United States treaty. (V.A.C.S. Art. 41a-1, Secs. 13(a), (b).)

[Sections 901.260-901.300 reserved for expansion]

#### SUBCHAPTER G. UNIFORM CPA EXAMINATION

Sec. 901.301. ADMINISTRATION; BOARD RULES. (a) The board shall conduct each uniform CPA examination administered under this chapter.

(b) The board by rule may establish the:

(1) manner in which a person may apply for the examination;

(2) time, date, and place for the examination;

(3) manner in which the examination is conducted;

(4) method used to grade the examination;

(5) criteria used to determine a passing score on the examination;

and

(6) manner in which a person's examination score is reported to the person. (V.A.C.S. Art. 41a-1, Secs. 15(a) (part), (c).)

Sec. 901.302. APPLICATION OF INTENT. (a) The board may establish an application of intent for a person pursuing a certificate.

(b) The board shall maintain an application of intent filed under this

section as an active application until the second anniversary of the date the application is filed. (V.A.C.S. Art. 41a-1, Sec. 15(b).)

Sec. 901.303. FILING FEE. The board by rule may set a filing fee in an amount not to exceed \$100 to be paid by an applicant at the time the applicant files an initial application to take the uniform CPA examination. (V.A.C.S. Art. 41a-1, Sec. 15(k) (part).)

Sec. 901.304. EXAMINATION FEE. (a) For each examination or reexamination, the board by rule shall apportion an amount of the total examination fee among the parts of the examination that an applicant is eligible to take on a particular examination date. The total examination fee may not exceed \$250.

(b) An applicant must pay the examination fee at the time the applicant files an application for examination or reexamination.

(c) The board by rule may provide for a refund of the examination fee paid by an applicant who:

(1) fails to attend the examination; and

(2) presents the board with a satisfactory reason for that failure.

(V.A.C.S. Art. 41a-1, Sec. 15(k) (part).)

Sec. 901.305. FREQUENCY OF EXAMINATION. The board shall administer a uniform CPA examination as often as necessary but at least once each year. (V.A.C.S. Art. 41a-1, Sec. 15(a) (part).)

Sec. 901.306. CONTENT AND SECURITY OF EXAMINATION. (a) The board may use all or part of the uniform CPA examination and any related service available from:

(1) the American Institute of Certified Public Accountants; or

(2) the National Association of State Boards of Accountancy, if doing so would result in a greater degree of reciprocity with the examination results of other states.

(b) The examination must test the person's knowledge of accounting, auditing, and any other subject the board determines is appropriate.

(c) If the examination is secured by the preparer, the board may not release a copy of any question or answer to any person.

(d) The board by rule may adopt a system to maintain the security and integrity of the examination process. (V.A.C.S. Art. 41a-1, Secs. 12(a) (part), 15(a) (part).)

Sec. 901.307. MINIMUM PASSING GRADE. A person must attain a grade of at least 75 percent on each subject of the examination to pass the examination. (V.A.C.S. Art. 41a-1, Sec. 15(d).)

Sec. 901.308. EXAMINATION RESULTS. (a) The board shall send to each examinee the examinee's results not later than the 30th day after the date the board receives the results.

(b) The board may withhold delivery of the examination results if:

(1) board action is pending; and

(2) the examinee is precluded from receiving the results until the action is resolved.

(c) If the notice of the examination results graded or reviewed by a national testing service will be delayed for more than 120 days after the examination date, the board shall notify the examinee of the reason for the delay before the 120th day.

(d) A person who fails an examination is entitled to inspect the examination questions and the person's answers not later than the 91st day after the date the board receives the results. An inspection must be by appointment at the board's offices during regular office hours. The person's grade must be clearly shown on the examination. A copy of the examination questions or answers may not be made.

(e) If requested in writing by a person who fails an examination, the board shall provide to the person an analysis of the person's performance on the examination. (V.A.C.S. Art. 41a-1, Secs. 15(e), (l), (m), (n).)

Sec. 901.309. REEXAMINATION. A person who fails all or part of an examination may apply for a subsequent examination, subject to the board's satisfaction that the person meets the requirements of this chapter relating to the person's moral character and education. (V.A.C.S. Art. 41a-1, Sec. 15(f).)

Sec. 901.310. CONDITIONAL EXAMINATION CREDIT. (a) The board by rule shall award conditional credit to a person who:

- (1) passes two or more subjects in a single examination;
- (2) takes each part of the examination the person is eligible to take;

and

(3) attains a minimum grade of 50 percent on each part of the examination the person does not pass.

(b) The board shall award credit to a person who attains a passing score on a subsequent examination if the person:

- (1) takes each part of the examination the person is eligible to take;

and

(2) attains a minimum grade of 50 percent on each part of the examination that the person does not pass.

(c) The board shall consider a person to have passed an examination if the person receives credit for each subject by receiving conditional credit after September 1, 1989, and passing the remaining subjects within the six consecutive examinations following the examination for which the person receives conditional credit. (V.A.C.S. Art. 41a-1, Sec. 15(g) (part).)

Sec. 901.311. RESTRUCTURE OF EXAMINATION. If the uniform CPA examination is restructured, the board by rule shall determine the manner in which credit for a subject is integrated into the new structure. (V.A.C.S. Art. 41a-1, Sec. 15(h).)

Sec. 901.312. TRANSFER OF PARTIAL EXAMINATION CREDIT BETWEEN STATES. (a) The board may accept the partial completion of the uniform CPA examination given by the licensing authority of another state if:

(1) the examination was prepared and graded by the American Institute of Certified Public Accountants or, if doing so would result in a greater degree of reciprocity with the examination results of other states, the National Association of State Boards of Accountancy;

- (2) the credit is active in the other state; and

(3) at the time the credit was earned, the applicant met the requirements in effect in the other state and the other state's standards are equal to or higher than the standards prescribed by this chapter.

(b) The board may transfer to the licensing authority of another state

active credits earned as a result of partially completing the uniform CPA examination in this state.

(c) The board by rule shall establish:

(1) a fee in an amount not to exceed \$100 to receive credits from another licensing authority; and

(2) a fee in an amount not to exceed \$50 to transfer credits to another licensing authority. (V.A.C.S. Art. 41a-1, Secs. 15(i), (j).)

[Sections 901.313-901.350 reserved for expansion]

#### SUBCHAPTER H. REGISTRATION REQUIREMENTS

Sec. 901.351. REGISTRATION REQUIRED. A certified public accountant, a public accountant, a firm of certified public accountants or public accountants, and each office of that firm in this state, including a practice unit, and a person described by Section 901.355 and each office of that person in this state may not engage in the practice of public accountancy unless the person is registered with the board. (V.A.C.S. Art. 41a-1, Secs. 10(a) (part); 11(a) (part), (c) (part); 15B(b) (part); 17(a) (part), (h) (part); 19(a) (part), (h) (part); 20 (part).)

Sec. 901.352. APPLICATION FOR REGISTRATION. (a) An applicant for registration must provide the board with satisfactory evidence of eligibility for registration.

(b) The board may examine an application and may refuse to register an applicant who does not meet the standards imposed under this chapter. (V.A.C.S. Art. 41a-1, Sec. 10(b).)

Sec. 901.353. RESIDENT MANAGER. (a) An office established or maintained in this state for the practice of public accountancy in this state by a firm of certified public accountants, a firm of public accountants, or a person described by Section 901.355 must be under the direct supervision of a resident manager who:

(1) is an owner, partner, shareholder, or employee of the firm or person that occupies the office; and

(2) is licensed under this chapter.

(b) A resident manager may serve in that capacity in only one office at a time except as authorized by board rule. The board by rule shall establish a registration procedure under which a person may serve as resident manager of more than one office at a time. (V.A.C.S. Art. 41a-1, Sec. 10(a) (part).)

Sec. 901.354. REGISTRATION INFORMATION AND ELIGIBILITY. (a) An application for registration under this chapter must be made on an affidavit of the owner, an officer, or the general partner of the firm, as applicable, stating:

(1) the name of the firm;

(2) the firm's post office address in this state;

(3) the address of the firm's principal office;

(4) if the firm is a partnership or corporation, the address of each office of the firm in this state;

(5) the name of the resident manager of each office of the firm in this state; and

(6) if the firm is a partnership, the name, residence, and post office address of:

(A) each partner; and

(B) each shareholder of a partner that is a corporation.

(b) A sole proprietorship is eligible for registration if the sole proprietor and each resident manager of an office of the sole proprietorship in this state are certified public accountants in good standing.

(c) A partnership is eligible for registration as a partnership that includes a certified public accountant if:

(1) at least one general partner is a certified public accountant or corporation of certified public accountants licensed in this state in good standing;

(2) each partner engaged in the practice of public accountancy in this state is a certified public accountant or corporation of certified public accountants licensed in this state in good standing;

(3) each partner not engaged in the practice of public accountancy in this state is a certified public accountant or corporation of certified public accountants licensed in another state in good standing; and

(4) each resident manager of an office of the partnership in this state is a certified public accountant licensed in this state in good standing.

(d) A partnership is eligible for registration as a partnership that includes a public accountant if:

(1) at least one general partner is a certified public accountant, public accountant, or corporation of certified public accountants or public accountants licensed in this state in good standing;

(2) each partner engaged in the practice of public accountancy in this state is a certified public accountant, public accountant, or corporation of certified public accountants or public accountants licensed in this state in good standing;

(3) each partner not engaged in the practice of public accountancy in this state is a certified public accountant, public accountant, or corporation of certified public accountants or public accountants licensed in another state in good standing; and

(4) each resident manager of an office of the partnership in this state is a certified public accountant or public accountant licensed in this state in good standing.

(e) A corporation is eligible for registration as a corporation engaged in the practice of public accountancy if the corporation meets the requirements applicable to partnerships under this chapter.

(f) The board shall determine whether an applicant is eligible for registration under this section. The board by rule shall define "good standing" for purposes of this section.

(g) A sole proprietorship shall notify the board not later than the 31st day after the date on which information in the affidavit is changed, including information regarding the admission or withdrawal of a resident manager. A partnership shall notify the board within one month after the date on which information in the affidavit is changed, including information regarding the admission or withdrawal of a partner. (V.A.C.S. Art. 41a-1, Secs. 11(a) (part), (b), (d), (f), (g), 17(a) (part), (b), (c), (e), (f), 19(a) (part), (b), (c), (e), (f), 20 (part).)

Sec. 901.355. REGISTRATION FOR CERTAIN OUT-OF-STATE OR FOREIGN APPLICANTS. (a) A certified public accountant of another state or the holder of a certificate, license, or degree authorizing the person to practice public accountancy in a foreign country may register with the board as a certified public accountant of the other state or as the holder of a certificate, license, or degree issued by the foreign country, if the board determines that the standards under which the applicant was certified or otherwise authorized to practice public accountancy were at least as high as the standards of this state at the time that authority was granted.

(b) To register with the board under this section, the person must pay:

- (1) the fee for issuance of a license as provided by Section 901.154; and
- (2) a processing fee in an amount set by the board not to exceed \$250.

(c) A person registered under this section may renew the registration in the manner provided for renewal of a license under Subchapter I.

(d) A person's registration under this section is automatically revoked and may not be renewed if the person does not maintain the authority to practice public accountancy in the other state or country. The board shall adopt rules to ensure that the person maintains that authority. (V.A.C.S. Art. 41a-1, Secs. 14(a) (part), (b), (c), (d).)

Sec. 901.356. TEMPORARY PRACTICE PERMIT FOR CERTAIN OUT-OF-STATE OR FOREIGN APPLICANTS. A certified public accountant of another state, a partnership or professional corporation composed entirely of certified public accountants of another state, or the holder of a certificate, license, or degree authorizing the person to practice public accountancy in a foreign country may temporarily practice in this state on professional business incident to the person's regular practice outside this state if the person:

- (1) submits an application for a permit accompanied by a fee in an amount not to exceed \$100, as provided by board rule; and
- (2) conducts the temporary practice according to the laws of this state and the board's rules of professional conduct. (V.A.C.S. Art. 41a-1, Sec. 10(c).)

[Sections 901.357-901.400 reserved for expansion]

#### SUBCHAPTER I. LICENSE REQUIREMENTS, ISSUANCE, AND RENEWAL

Sec. 901.401. LICENSE REQUIRED. (a) A person may not practice public accountancy unless the person holds a license issued under this chapter.

(b) Each office of a firm of certified public accountants or public accountants must hold a license issued under this chapter to engage in the practice of public accountancy. (V.A.C.S. Art. 41a-1, Secs. 8(a) (part), (b) (part), (c) (part), (d) (part); 11(c) (part); 17(h) (part); 19(h) (part); 20 (part).)

Sec. 901.402. ELIGIBILITY REQUIREMENTS; GENERAL PROHIBITION.

(a) On payment of the required fees, the board shall issue a license to an applicant who:

- (1) holds a certificate issued under this chapter; or

(2) is registered with the board under this chapter.

(b) The board may not issue a license to or renew the license of a person who does not meet the licensing requirements of:

(1) this chapter; or

(2) the rules adopted under this chapter. (V.A.C.S. Art. 41a-1, Secs. 9(a), (f) (part).)

Sec. 901.403. RENEWAL REQUIRED. (a) The board shall provide for the renewal of a license. A person licensed under this chapter must pay to the board a biennial license fee. On payment of the required fee, the board shall renew the person's license for a period of two years.

(b) A license expires on December 31 of the applicable year or on another date as set by the board under Subsection (c). The board shall provide that half of the licenses issued by the board expire in each even-numbered year and that the other half expire in each odd-numbered year. The board shall prorate the license fee for a person whose license term is for less than two years as a result of the board's providing for half of the licenses to expire in consecutive years.

(c) The board by rule may adopt a system under which licenses expire on a date other than December 31. For the biennium in which the license expiration date is changed, license fees shall be prorated on a monthly basis so that each license holder pays only that portion of the fee that is allocable to the number of months during which the license is valid. On renewal of the license on the new expiration date, the total license renewal fee is payable. (V.A.C.S. Art. 41a-1, Secs. 9(b) (part), (d).)

Sec. 901.404. NOTICE OF LICENSE EXPIRATION. (a) Not later than the 31st day before the expiration date of a person's license, the board shall send written notice of the impending license expiration to the person at the person's last known address according to the board's records.

(b) The board shall determine the amount of the renewal fee and shall mail notice of that amount to the person within the time provided by Subsection (a). (V.A.C.S. Art. 41a-1, Secs. 9(b) (part), (c) (part).)

Sec. 901.405. PROCEDURE FOR RENEWAL. (a) A person may renew an unexpired license by paying the required renewal fee to the board before the expiration date of the license.

(b) A person whose license has been expired for 90 days or less may renew the license by paying to the board the required renewal fee and a late fee that is equal to half of the amount of the initial examination fee for the license.

(c) If a person's license has been expired for more than 90 days but less than one year, the person may renew the license by paying to the board all unpaid renewal fees and a late fee that is equal to the amount of the initial examination fee for the license. (V.A.C.S. Art. 41a-1, Sec. 9(c) (part).)

Sec. 901.406. FEE INCREASE. (a) The fee for the issuance of a certificate under this chapter and the fee for the issuance or renewal of a license under this chapter is the amount of the fee set by the board under Section 901.154 and a fee increase of \$200.

(b) For each fee increase collected under this section, \$50 shall be deposited to the credit of the foundation school fund and \$150 shall be



deposited in the general revenue fund. (V.A.C.S. Art. 41a-1, Secs. 9A(a), (c) (part).)

Sec. 901.407. **ADDITIONAL FEE.** (a) Each license holder shall pay to the board a biennial fee of \$200 in each year that the license holder is not required to pay a fee for the issuance or renewal of a license. The fee provided for by this section is due not later than the first anniversary of the date the license holder was last required to pay a fee for the issuance or renewal of the license.

(b) Not later than the 31st day before the date the additional fee is due, the board shall send written notice that the fee is due to the license holder at the license holder's last known address according to the board's records.

(c) The board shall impose a late fee in an amount not less than \$50 on a license holder who does not pay the additional fee on or before the date the fee is due. The board by rule may impose additional late fees.

(d) Each additional fee collected under this section shall be deposited as provided by Section 901.406(b). (V.A.C.S. Art. 41a-1, Sec. 9A(b) (part).)

Sec. 901.408. **CONSEQUENCE OF FAILURE TO PAY CERTAIN FEES.**

(a) A person who fails to pay the license renewal fee or the additional fee imposed under Section 901.407, as applicable, and any late fee before the first anniversary of the due date of the renewal fee or additional fee may renew the person's license only by submitting to the board an application for renewal accompanied by payment of:

(1) all accrued fees, including late fees; and

(2) the direct administrative costs incurred by the board in renewing the person's license.

(b) The board by rule shall prescribe the information to be included in an application for renewal under this section. (V.A.C.S. Art. 41a-1, Secs. 9(c) (part), 9A(b) (part).)

Sec. 901.409. **FEE REDUCTION FOR RETIRED OR DISABLED PERSONS.** The board by rule may establish a reduced fee to issue or renew the license of a person who does not engage in the practice of public accountancy because of retirement or permanent disability. (V.A.C.S. Art. 41a-1, Sec. 9(e).)

Sec. 901.410. **FEE EXEMPTION FOR CERTAIN LICENSE HOLDERS.** The fee increase imposed under Section 901.406 and the additional fee imposed under Section 901.407 do not apply to a license holder who is:

(1) an employee of the federal government restricted by virtue of that employment from engaging in the practice of public accountancy outside the scope of employment; or

(2) an employee of a state agency that has authorized the payment of the fee increase and additional fee for the license holder. (V.A.C.S. Art. 41a-1, Secs. 9A(d), (e).)

Sec. 901.411. **CONTINUING PROFESSIONAL EDUCATION.** (a) A license holder who is an individual shall complete at least 120 hours of continuing professional education in each three-year period, 20 hours of which must be completed in each one-year period.

(b) The board may recognize a continuing professional education course only if the course directly contributes to the license holder's professional competence.

(c) The board by rule shall provide for the biennial reporting of continuing professional education by a license holder to coincide with the person's license renewal date.

(d) The board by rule may exempt certain license holders, including license holders who are disabled, retired, or not associated with accounting, as defined by board rule, from all or part of the requirements of this section. (V.A.C.S. Art. 41a-1, Sec. 15A.)

[Sections 901.412-901.450 reserved for expansion]

#### SUBCHAPTER J. PRACTICE BY LICENSE HOLDER

Sec. 901.451. USE OF TITLE OR ABBREVIATION FOR "CERTIFIED PUBLIC ACCOUNTANT." (a) A person may not assume or use the title or designation "certified public accountant," the abbreviation "CPA," or any other title, designation, word, letter, abbreviation, sign, card, or device tending to indicate that the person is a certified public accountant, or a firm composed of certified public accountants, unless:

(1) the person is certified or registered, as appropriate, and licensed under this chapter; and

(2) each of the person's offices in this state for the practice of public accounting is maintained and registered as required under Subchapter H.

(b) The title or designation "certified public accountant" and the abbreviation "CPA" may not be used in connection with an office that is required to be under the supervision of a resident manager under Section 901.353 unless the resident manager holds a certificate and a license issued under this chapter. (V.A.C.S. Art. 41a-1, Secs. 8(a) (part), (b) (part); 10(a) (part); 11(e); 16; 17(d).)

Sec. 901.452. USE OF TITLE OR ABBREVIATION FOR "PUBLIC ACCOUNTANT." A person may not assume or use the title or designation "public accountant" or any other title, designation, word, letter, abbreviation, sign, card, or device tending to indicate that the person is a public accountant, or a firm composed of public accountants, unless:

(1) the person is certified or registered, as appropriate, and licensed under this chapter; and

(2) each of the person's offices in this state for the practice of public accounting is maintained and registered as required under Subchapter H. (V.A.C.S. Art. 41a-1, Secs. 8(c) (part), (d) (part); 18; 19(d).)

Sec. 901.453. USE OF OTHER TITLES OR ABBREVIATIONS. (a) Except as provided by Subsection (b), a person may not assume or use:

(1) a title or designation likely to be confused with "certified public accountant" or "public accountant," including "certified accountant," "chartered accountant," "enrolled accountant," or "licensed accountant"; or

(2) an abbreviation likely to be confused with "CPA," including "CA," "PA," "EA," "RA," or "LA."

(b) A person may hold the person out to the public as an "accountant," "auditor," or any combination of those terms if:

(1) the person holds a license issued under this chapter; and

(2) each of the person's offices in this state for the practice of public accounting is maintained and registered as required under Subchapter H. (V.A.C.S. Art. 41a-1, Sec. 8(e) (part).)

Sec. 901.454. TITLE USED BY CERTAIN OUT-OF-STATE OR FOREIGN ACCOUNTANTS. (a) A person who is an accountant of another state or foreign country may use the title under which the accountant is generally known in the state or country from which the accountant received a certificate, license, or degree, followed by the name of that state or country, if:

(1) the person is registered and holds a license issued under this chapter; and

(2) each of the person's offices in this state for the practice of public accountancy is maintained and registered as required under Subchapter H.

(b) A person registered under Section 901.355 shall represent to the public that the person is a certified public accountant of the state that issued the certificate or use the title held in the country from which the person received a certificate, license, or degree, and shall indicate the name of the state or country. (V.A.C.S. Art. 41a-1, Secs. 8(a) (part), (e) (part); 14(a) (part).)

Sec. 901.455. NAME REQUIREMENTS AND RESTRICTIONS. (a) The name or designation assumed or used by a license holder must include:

(1) the individual's name, if the license holder is an individual;

(2) the name of at least one current or former partner, if the license holder is a partnership; or

(3) the name of at least one current or former shareholder, if the license holder is a corporation.

(b) A license holder may not assume or use a name that is misleading as to the legal form of the license holder's firm or as to the persons who are partners, officers, or shareholders of the firm. A firm licensed under this chapter may assume or use the designation "and company" or "and associates," or any abbreviation of those terms, only if at least two persons licensed under this chapter are involved in the practice of the firm.

(c) A corporation registered and licensed under this chapter may practice public accountancy under a corporate name indicating that it is engaged in that practice.

(d) A license holder may not use a trade name or descriptive words indicating the character or grade of service offered, except as authorized by board rule. (V.A.C.S. Art. 41a-1, Secs. 8(g), (h); 20 (part).)

Sec. 901.456. USE OF NAME OR SIGNATURE ON CERTAIN DOCUMENTS. (a) Unless a person is in compliance with this chapter, the person may not sign on or affix to an accounting or financial statement, or an opinion on, report on, or certificate to an accounting or financial statement, the person's name or a trade or assumed name used by the person in the person's profession or business with any wording indicating that the person:

(1) is an accountant or auditor; or

(2) has expert knowledge in accounting or auditing.

(b) This section does not prohibit:

(1) a partner, officer, employee, or principal of an organization from signing a statement or report regarding the financial affairs of the organization with wording that designates the position, office, or title held by the person in the organization; or

(2) any act of a public official or public employee in the performance of the person's duties as a public official or public employee. (V.A.C.S. Art. 41a-1, Sec. 8(f).)

Sec. 901.457. ACCOUNTANT-CLIENT PRIVILEGE. (a) A license holder or a partner, officer, shareholder, or employee of a license holder may not voluntarily disclose information communicated to the license holder by a client in connection with services provided to the client in the practice of public accountancy, except with the permission of the client or the client's representative.

(b) This section does not prohibit a license holder from disclosing information that is required to be disclosed:

(1) by the professional standards for reporting on the examination of a financial statement;

(2) in a court proceeding;

(3) in an investigation or proceeding conducted by the board;

(4) in an ethical investigation conducted by a professional organization of certified public accountants; or

(5) in the course of a quality review under Section 901.159. (V.A.C.S. Art. 41a-1, Sec. 26.)

Sec. 901.458. LOSS OF INDEPENDENCE. (a) In this section, "direct labor cost" means:

(1) the total compensation paid to a person who performs services; and

(2) the employer payroll expenses related to that compensation, including workers' compensation insurance premiums, social security contributions, and unemployment taxes.

(b) A person creates a presumption of loss of independence if the person:

(1) holds a certificate issued under this chapter or is registered under this chapter; and

(2) performs or offers to perform a service involving auditing skills for compensation that is less than the direct labor cost reasonably expected to be incurred in performing the service.

(c) This section does not apply to the donation of services to a charitable organization as defined by board rule. (V.A.C.S. Art. 41a-1, Sec. 20A.)

Sec. 901.459. APPLICABILITY OF PARTNERSHIP REQUIREMENTS TO PARTNER. Each partner in a partnership governed by this chapter is subject to the statutory requirements and rules that apply to the partnership. (V.A.C.S. Art. 41a-1, Secs. 17(g), 19(g).)

[Sections 901.460-901.500 reserved for expansion]

#### SUBCHAPTER K. PROHIBITED PRACTICES AND DISCIPLINARY PROCEDURES

Sec. 901.501. DISCIPLINARY POWERS OF BOARD. (a) On a determination that a ground for discipline exists under Section 901.502, after notice and hearing as provided by Section 901.509, the board may:

(1) revoke a certificate or registration issued under this chapter;

(2) suspend under any terms a certificate, registration, or license issued under this chapter for a period not to exceed five years;

(3) refuse to renew a license;

(4) place a license holder on probation;

(5) reprimand a license holder;

(6) limit the scope of a license holder's practice;  
(7) impose on a license holder the direct administrative costs incurred by the board in taking action under Subdivisions (1) through (6); or

(8) impose an administrative penalty under Subchapter L.

(b) If an individual's license suspension is probated, the board may require the individual to:

(1) report regularly to the board on matters that are the basis of the probation;

(2) limit practice to the areas prescribed by the board; or

(3) continue or renew professional education until the license holder attains a degree of skill satisfactory to the board in those areas that are the basis of the probation. (V.A.C.S. Art. 41a-1, Secs. 21(b), (f), (h).)

Sec. 901.502. GROUNDS FOR DISCIPLINARY ACTION. The board may discipline a person under Section 901.501 for:

(1) fraud or deceit in obtaining a certificate, registration, or license under this chapter;

(2) fraud, dishonesty, or gross negligence in the practice of public accountancy, including knowingly participating in the preparation of a false or misleading financial statement or tax return;

(3) the failure of a person who is certified or registered under this chapter to obtain a license not later than the third anniversary of the date on which the person was certified or registered;

(4) the failure of a person who is licensed under this chapter to renew the license not later than the third anniversary of the date on which the person most recently obtained or renewed the license;

(5) a violation of Subchapter J, other than Section 901.457 or 901.459;

(6) a violation of a rule of professional conduct adopted by the board;

(7) a revocation or suspension of the certificate or registration or a revocation, suspension, or refusal to renew the license of the person's partner or shareholder;

(8) a revocation, cancellation, or suspension by another state, or a refusal of renewal by another state, of the authority issued by that state to the person, or to the person's partner or shareholder, to engage in the practice of public accountancy for a reason other than the failure to pay the appropriate registration fee;

(9) a revocation or suspension of, or a voluntary consent decree concerning, the right of the person, or of the person's partner or shareholder, to practice before a state or federal agency for a reason the board determines warrants its action;

(10) a final conviction of or the imposition of deferred adjudication for an offense under the laws of any state or the United States that:

(A) is a felony; or

(B) includes fraud or dishonesty as an element of the offense; or

(11) conduct indicating lack of fitness to serve the public as a professional accountant. (V.A.C.S. Art. 41a-1, Secs. 21(c), (g).)

Sec. 901.503. BOARD ACTION INVOLVING APPLICANT. (a) On a determination that a ground for discipline exists under Subsection (b), after notice and hearing as provided by Section 901.509, the board may:

(1) deny an individual's application to take the uniform CPA examination;

(2) prohibit an individual from taking the uniform CPA examination for a period not to exceed five years; or

(3) void an individual's uniform CPA examination grades.

(b) The board may discipline an individual under Subsection (a) for:

(1) fraud or deceit on an application for the uniform CPA examination;

(2) cheating on the uniform CPA examination;

(3) a final conviction of or the imposition of deferred adjudication for an offense under the laws of any state or the United States that:

(A) is a felony; or

(B) includes fraud or dishonesty as an element of the offense; or

(4) conduct indicating lack of fitness to serve the public as a professional accountant.

(c) The board shall refund the examination fee submitted by a person whose application for examination is denied under this section. (V.A.C.S. Art. 41a-1, Sec. 21A.)

Sec. 901.504. LICENSE REVOCATION BASED ON VIOLATION OF CHAPTER. After notice and hearing as provided by Section 901.509, the board:

(1) may revoke a license that was issued or renewed in violation of this chapter or a rule adopted under this chapter; and

(2) shall revoke the registration and license of a sole proprietorship, partnership, or corporation that does not meet each qualification for registration prescribed by this chapter. (V.A.C.S. Art. 41a-1, Secs. 9(f) (part), 21(e).)

Sec. 901.505. PROCEDURE PENDING FINAL CONVICTION OF CERTAIN OFFENSES. (a) On conviction of a person of an offense under the laws of any state or the United States that is a felony or that includes fraud or dishonesty as an element of the offense, after notice and hearing as provided by Section 901.509, the board may:

(1) suspend a certificate or registration issued under this chapter; or

(2) suspend or refuse to renew a license issued under this chapter.

(b) The period of the suspension or refusal to renew begins on the date of conviction and ends on the date the conviction becomes final or is reversed, set aside, or modified as provided by Subsection (d).

(c) If the conviction becomes final, the board may, without further notice and hearing, take disciplinary action under Section 901.501.

(d) If the conviction is reversed, set aside, or modified so that the underlying offense is not a felony or an offense that includes fraud or dishonesty as an element of the offense, the board shall reinstate the certificate, registration, or license suspended under this section. A reinstatement under this subsection does not limit the board's right to take

other disciplinary action authorized by this subchapter. (V.A.C.S. Art. 41a-1, Sec. 21(d).)

Sec. 901.506. VOLUNTARY SURRENDER OF CERTIFICATE OR REGISTRATION. (a) Subject to board approval, an individual who holds a certificate or registration issued under this chapter may resign and surrender the certificate or registration to the board at any time and for any reason.

(b) An individual who resigns and surrenders a certificate or registration may not apply for reinstatement of the certificate or registration. The individual may be issued a new certificate or registration on completion of all requirements for the issuance of an original certificate or registration. The board may not issue a certificate to an individual who previously resigned a certificate unless:

(1) after the date of resignation, the individual completes the examination requirement for a new certificate; or

(2) on application, the board waives the examination requirement.

(c) An individual who applies for a new certificate or registration must, if applicable, disclose in the application the fact that the individual previously resigned and surrendered a certificate or registration during the course of a disciplinary investigation or proceeding conducted by the board. The board shall consider that fact in determining whether to issue a new certificate or registration to the individual. (V.A.C.S. Art. 41a-1, Sec. 21(a).)

Sec. 901.507. REINSTATEMENT. On receipt of a written application, and after notice and hearing, the board may:

(1) issue a new certificate to an individual whose certificate was revoked;

(2) reregister a person whose registration was revoked;

(3) reinstate a suspended license or modify the terms of the suspension;

(4) approve a previously denied application to take the uniform CPA examination; or

(5) reinstate an individual's previously voided uniform CPA examination grades. (V.A.C.S. Art. 41a-1, Sec. 22(g).)

Sec. 901.508. RIGHT TO HEARING. (a) If the board proposes to take disciplinary action against a person under this subchapter, the person is entitled to a hearing before the board or a hearings officer appointed by the board.

(b) The board shall establish procedures by which a decision to take disciplinary action under this subchapter is made by or is appealable to the board. (V.A.C.S. Art. 41a-1, Sec. 22(b) (part).)

Sec. 901.509. NOTICE OF HEARING. (a) The board shall provide written notice of a hearing under this subchapter to the person who is the subject of the proposed disciplinary action not later than the 21st day before the date of the hearing.

(b) The notice must state:

(1) the time and place of the hearing; and

(2) the nature of each charge against the person.

(c) The notice may be served in person or by registered or certified mail to the person's last known address. (V.A.C.S. Art. 41a-1, Sec. 22(b) (part).)

Sec. 901.510. **LEGAL REPRESENTATION AT HEARING.** The attorney general or an attorney employed by the board shall represent the board at each hearing under this subchapter. (V.A.C.S. Art. 41a-1, Sec. 22(d).)

[Sections 901.511-901.550 reserved for expansion]

**SUBCHAPTER L. ADMINISTRATIVE PENALTY**

Sec. 901.551. **IMPOSITION OF ADMINISTRATIVE PENALTY.** The board may impose an administrative penalty on a person regulated under this chapter who violates this chapter or a rule or order adopted under this chapter in a manner that constitutes a ground for disciplinary action. (V.A.C.S. Art. 41a-1, Sec. 21D(a).)

Sec. 901.552. **AMOUNT OF PENALTY.** (a) The amount of an administrative penalty may not exceed \$1,000 for each violation.

(b) In determining the amount of the penalty, the board shall consider:

(1) the seriousness of the violation, including:

(A) the nature, circumstances, extent, and gravity of any prohibited act; and

(B) the hazard or potential hazard to the public;

(2) the economic damage to property caused by the violation;

(3) the history of previous violations;

(4) the amount necessary to deter a future violation;

(5) efforts to correct the violation; and

(6) any other matter that justice may require. (V.A.C.S. Art. 41a-1, Sec. 21D(b).)

Sec. 901.553. **REPORT AND NOTICE OF VIOLATION AND PENALTY.**

(a) If, after examination of a possible violation and the facts relating to that violation, the board determines that a violation has occurred, the board shall issue a preliminary report stating:

(1) the facts on which the determination is based;

(2) the fact that an administrative penalty is to be imposed; and

(3) the amount of the penalty.

(b) Not later than the 10th day after the date the report is issued, the board shall send a copy of the report by certified mail to the person charged with the violation, together with a statement of the person's right to a hearing relating to the alleged violation and the amount of the penalty. (V.A.C.S. Art. 41a-1, Secs. 21D(c), (d) (part).)

Sec. 901.554. **PENALTY TO BE PAID OR HEARING REQUESTED.** (a) Not later than the 20th day after the date the person receives the report, the person may:

(1) make a written request for a hearing; or

(2) pay the administrative penalty to the board.

(b) Failure to request a hearing or pay the penalty within the time provided by this section waives the right to a hearing under this chapter.

(c) If the board determines without a hearing that the person committed a violation and a penalty is to be imposed, the board shall:

(1) provide written notice to the person of the board's findings; and

(2) enter an order requiring the person to pay the penalty. (V.A.C.S. Art. 41a-1, Sec. 21D(d) (part).)

Sec. 901.555. **HEARING.** (a) If the person requests a hearing, the board



shall conduct a hearing in the manner provided for a contested case hearing under Chapter 2001, Government Code.

(b) If the board determines after a hearing that the person committed the alleged violation, the board shall:

(1) provide written notice to the person of the findings established by the hearing and the amount of the administrative penalty imposed; and

(2) enter an order requiring the person to pay any penalty. (V.A.C.S. Art. 41a-1, Sec. 21D(d) (part).)

Sec. 901.556. OPTIONS FOLLOWING DECISION: PAY OR APPEAL.

(a) Not later than the 30th day after the date the board's order becomes final as provided by Section 2001.144, Government Code, the person shall:

(1) pay the administrative penalty; or

(2) file a petition for judicial review contesting the fact of the violation, the amount of the penalty, or both.

(b) Within the 30-day period, a person who acts under Subsection (a)(2) may stay enforcement of the penalty by:

(1) paying the penalty to the board for placement in an escrow account;

(2) giving to the board a supersedeas bond in a form approved by the board that:

(A) is for the amount of the penalty; and

(B) is effective until judicial review of the board's order is final; or

(3) filing with the board an affidavit of the person stating that the person is financially unable to pay the penalty and is financially unable to give the supersedeas bond.

(c) A person who fails to take action as provided by this section waives the right to judicial review of the board's order. (V.A.C.S. Art. 41a-1, Secs. 21D(e), (f), (g) (part).)

Sec. 901.557. COLLECTION OF PENALTY. If the person does not pay the administrative penalty and the enforcement of the penalty is not stayed, the board may refer the matter to the attorney general for collection of the penalty. (V.A.C.S. Art. 41a-1, Sec. 21D(g) (part).)

Sec. 901.558. REMITTANCE OF PENALTY AND INTEREST. (a) If after judicial review, the administrative penalty is reduced or is not upheld by the court, the board shall:

(1) remit the appropriate amount, plus accrued interest, to the person if the person paid the penalty; or

(2) execute a release of the bond if the person posted a supersedeas bond.

(b) The interest paid under Subsection (a) is paid at the rate charged on loans to depository institutions by the New York Federal Reserve Bank. The interest shall be paid for the period beginning on the date the penalty is paid and ending on the date the penalty is remitted. (V.A.C.S. Art. 41a-1, Sec. 21D(i).)

[Sections 901.559-901.600 reserved for expansion]

#### SUBCHAPTER M. OTHER PENALTIES AND ENFORCEMENT PROVISIONS

Sec. 901.601. INJUNCTION. (a) The board may bring an action to injoin a person from:

(1) using a title, designation, or abbreviation in violation of Subchapter J; or

(2) engaging in an act or practice that constitutes the practice of public accountancy, unless the person is licensed under this chapter.

(b) An action under Subsection (a)(1) must be brought in district court in:

(1) Travis County, if the person is licensed under this chapter; or

(2) the county in which the person resides, if the person is not licensed under this chapter.

(c) An action under Subsection (a)(2) must be brought in district court in a county in which the person resides or has an office. The board is not required to post a bond as a condition to the issuance of the injunction. (V.A.C.S. Art. 41a-1, Secs. 8(i), 23(a).)

Sec. 901.602. CRIMINAL PENALTY. (a) A person commits an offense if the person violates this chapter. Each violation is a separate offense.

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

(c) A complaint filed under this section must be filed in a district court in:

(1) Travis County, if the complaint is filed against a person who is registered or licensed under this chapter; or

(2) the county in which the person resides, if the complaint is filed against a person who is not registered or licensed under this chapter. (V.A.C.S. Art. 41a-1, Sec. 23(b).)

[Chapters 902-950 reserved for expansion]

(2) In SECTION 1 of the bill, amend the Table of Contents of the proposed Occupations Code by striking the expansion clause following Subtitle A, Title 5, and substituting the following:

#### CHAPTER 901. ACCOUNTANTS

[Chapters 902-950 reserved for expansion]

(3) On page 884, strike line 18 and substitute:

"(7) "Physical therapy aide" or "physical therapy technician" means a person:".

(4) On page 940, line 27, strike "an occupational".

(5) On page 941, line 1, strike "therapy facility" and substitute "a facility in which the practice of occupational therapy is conducted".

(6) On page 943, line 13, strike "and performance".

(7) On page 1140, strike lines 3-7 and substitute the following:

Sec. 505.106. EXPENSE REIMBURSEMENT. Each board member is entitled to reimbursement for expenses incurred in traveling to and from the business of the board at the rates provided in the General Appropriations Act for state employees. A member may not receive actual or necessary expenses except for travel to and from meetings. (Sec. 50.004(e), Human Resources Code.)

Amendment No. 2 was adopted without objection.

**HB 3157** (by Wolens), A bill to be entitled An Act relating to the adoption of a nonsubstantive revision of statutes relating to public securities, including conforming amendments, repeals, and penalties.

**Amendment No. 1 (Committee Amendment No. 1)**

Representative Wolens offered the following committee amendment to **HB 3157**:

Amend **HB 3157** as follows:

(1) On page 19, line 14, between "security" and the comma, insert "issue".

(2) On page 21, line 6, between "Subsection (b)" and the semicolon, insert "or by other law".

(3) On page 46, line 22, strike "not before the sixth or later than the 10th day" and substitute "not sooner than five nor later than 10 days".

(4) On page 49, strike lines 1-3 and substitute the following:  
"this chapter that holds that:

(1) the issuer had or has the authority on the terms set out in the issuer's petition to:"

(5) On page 77, line 24, strike "the 90th day" and substitute "90 days".

(6) On page 106, line 7, strike "Additional costs" and substitute "Costs and expenses authorized by this section".

(7) On page 106, line 8, strike "determined under this section".

(8) On page 125, lines 17-18, strike "not earlier than the 16th or later than the 90th day after" and substitute "not less than 15 days nor more than 90 days from".

(9) On page 126, line 7, strike "may not occur later than the 15th day" and substitute "must be not less than 14 days".

(10) On page 129, line 27, and page 130, line 1, strike "Not later than the 31st day" and substitute "At least 30 days".

(11) On page 153, at the end of line 10, insert "The term does not include an obligation payable from ad valorem taxes except as specifically permitted by this chapter."

(12) On page 155, line 9, between "conflict" and "between", insert "or inconsistency".

(13) On page 190, strike lines 15-17 and substitute the following:

"Sec. 1401.101. EXEMPTION FROM TAXATION

[Sections 1401.102-1401.120 reserved for expansion]"

(14) On page 198, strike lines 12-15.

(15) On page 198, line 16, strike "1401.102" and substitute "1401.101".

(16) On page 198, line 21, strike "1401.103-1401.120" and substitute "1401.102-1401.120".

(17) On page 227, line 6, between "CONFLICT" and "WITH", insert "OR INCONSISTENCY".

(18) On page 231, line 24, between "CONFLICT" and "WITH", insert "OR INCONSISTENCY".

(19) On page 231, line 25, between "conflict" and "between", insert "or inconsistency".

(20) On page 241, line 27, strike "not later than the 15th day preceding" and substitute "not less than 14 days before".

(21) On page 242, line 21, strike "not later than the 15th day" and substitute "not less than 14 days".

(22) On page 243, lines 5-6, strike "Not later than the 10th day after the date on which an election is held" and substitute "Within 10 days after the election".

(23) On page 243, line 7, strike "day".

(24) On page 249, lines 16-17, strike "not later than the 15th day after" and substitute "within 15 calendar days of".

(25) On page 269, line 25, strike "Federal Farm Loan Bank system" and substitute "federal Farm Credit System".

(26) On page 306, lines 22-23, strike "not later than the 15th day before the date of" and substitute "at least 14 days before".

(27) On page 349, line 9, strike "before the 14th day" and substitute "at least 14 full days".

(28) On page 349, line 27, strike "before the 14th day before the date of" and substitute "at least 14 full days before".

(29) On page 350, lines 2-3, strike "not later than the fifth day after the date" and substitute "within five days".

(30) On page 469, line 26, strike "CONFLICT" and substitute "INCONSISTENCY".

(31) On page 475, line 5, between "conflict" and "with", insert "or inconsistency".

(32) On page 478, line 6, strike "CONFLICT" and substitute "INCONSISTENCY".

(33) On page 478, line 7, strike "a conflict" and substitute "an inconsistency".

(34) On page 485, lines 5 and 6, strike "CULTURAL OR ATHLETIC" and substitute "CERTAIN".

(35) On page 485, line 21, between "CONFLICT" and "WITH", insert "OR INCONSISTENCY".

(36) On page 489, line 3, between "CONFLICT" and "WITH", insert "OR INCONSISTENCY".

(37) On page 489, lines 5-6, strike "CULTURAL OR ATHLETIC" and substitute "CERTAIN".

(38) On page 489, line 7, strike "CULTURAL OR ATHLETIC" and substitute "CERTAIN".

(39) On page 489, line 10, strike "cultural or athletic facility, including" and substitute "facility such as".

(40) On page 494, line 11, between "CONFLICT" and "WITH", insert "OR INCONSISTENCY".

(41) On page 494, line 12, between "conflict" and "between", insert "or inconsistency".

(42) On page 511, lines 13-15, strike "establish, acquire, construct, improve, enlarge, equip, repair, operate, or maintain a cultural or parking facility" and substitute "accomplish any purpose".

(43) On page 516, line 20, between "CONFLICT" and "WITH", insert "OR INCONSISTENCY".

(44) On page 516, line 21, between "conflict" and "between", insert "or inconsistency".

(45) On page 559, line 20, between "CONFLICT" and "WITH", insert "OR INCONSISTENCY".

(46) On page 560, line 12, between "CONFLICT" and "WITH", insert "OR INCONSISTENCY".

(47) On page 570, line 22, between "CONFLICT" and "WITH", insert "OR INCONSISTENCY".

(48) On page 570, line 23, between "conflict" and "between", insert "or inconsistency".

(49) On page 576, line 12, between "CONFLICT" and "WITH", insert "OR INCONSISTENCY".

(50) On page 576, line 13, between "conflict" and "between", insert "or inconsistency".

(51) On page 591, line 2, between "CONFLICT" and "WITH", insert "OR INCONSISTENCY".

(52) On page 591, line 18, between "CONFLICT" and "WITH", insert "OR INCONSISTENCY".

(53) On page 606, line 16, between "CONFLICT" and "WITH", insert "OR INCONSISTENCY".

(54) On page 606, line 17, between "conflict" and "between", insert "or inconsistency".

(55) On page 611, line 11, between "CONFLICT" and "WITH", insert "OR INCONSISTENCY".

(56) On page 611, line 14, between "conflict" and "between", insert "or inconsistency".

(57) On page 613, line 3, between "CONFLICT" and "WITH", insert "OR INCONSISTENCY".

(58) On page 614, line 12, between "CONFLICT" and "WITH", insert "OR INCONSISTENCY".

(59) On page 622, line 25, between "CONFLICT" and "WITH", insert "OR INCONSISTENCY".

(60) On page 622, line 26, between "conflict" and "between", insert "or inconsistency".

(61) On page 632, line 10, between "CONFLICT" and "WITH", insert "OR INCONSISTENCY".

(62) On page 632, at the end of line 11, add "or inconsistency".

(63) On page 681, lines 17-18, strike "that, except to the extent of the sponsor obligations," and substitute "that".

(64) On page 681, line 19, between "sponsor," and "or," insert "except to the extent of the sponsor obligations,".

(65) On page 684, line 14, between "comptroller" and the period, insert "and the proceedings authorizing the bonds are filed with the comptroller".

(66) On page 716, line 25, strike "not later than the 15th day" and substitute "at least 14 days".

(67) On page 720, line 1, strike "not later than the 15th day" and substitute "at least 14 days".

(68) On page 741, line 10, between "CONFLICT" and "WITH", insert "OR INCONSISTENCY".

(69) On page 741, line 11, between "conflict" and "between", insert "or inconsistency".

(70) On page 757, line 22, between "CONFLICT" and "WITH", insert "OR INCONSISTENCY".

(71) On page 757, line 24, between "conflict" and "between", insert "or inconsistency".

Amendment No. 1 was adopted without objection.

**HB 3174** (by Hartnett), A bill to be entitled An Act relating to the application of the professional prosecutors law to the criminal district attorney of Dallas County.

**CSHB 3226** (by Capelo), A bill to be entitled An Act relating to the disposition of surplus and salvage property of certain institutions of higher education.

**CSHB 3277** (by Cook), A bill to be entitled An Act relating to research in agriculture production and its effect on water use and availability and wildlife habitats.

**CSHB 3288** (by Greenberg), A bill to be entitled An Act relating to the exclusion of certain sewage sludge from solid waste disposal fees.

**HB 3294** (by Goolsby), A bill to be entitled An Act relating to the sale of flags flown over the Capitol and similar items.

**HB 3299** (by Coleman), A bill to be entitled An Act relating to an amendment to Article 717q, Revised Civil Statutes, as amended.

**HB 3303** was withdrawn.

**HB 3337** (by Naishtat), A bill to be entitled An Act relating to guardianships for missing persons.

**HB 3338** (by Naishtat), A bill to be entitled An Act relating to a waiver of the bond requirement for certain guardians of children.

**HB 3366** (by Talton), A bill to be entitled An Act relating to lighting equipment on tow trucks.

**HB 3401** (by Hardcastle), A bill to be entitled An Act relating to the creation, administration, powers, duties, operation, and financing of the Wilbarger County Stormwater Control District; granting the authority to issue bonds and impose taxes; granting the power of eminent domain.

**CSHB 3448** (by Swinford), A bill to be entitled An Act relating to the Moore County Hospital District.

**CSHB 3512** (by Marchant), A bill to be entitled An Act relating to the regulation and operation of credit unions.

Representative Marchant moved to postpone consideration of **CSHB 3512** until Tuesday, April 27 at 10 a.m.

The motion prevailed without objection.

**CSHB 3521** (by Noriega), A bill to be entitled An Act relating to motor vehicle title services; providing a criminal penalty.

**HB 3561** (by Luna), A bill to be entitled An Act relating to grant-making authority of the Texas Natural Resource Conservation Commission.

**HB 3568** (by Uher), A bill to be entitled An Act relating to the establishment of the Office of District Treasurer of Brazos River Harbor Navigation District.

**HB 3619** (by Truitt), A bill to be entitled An Act relating to developer participation contracts.

**CSHB 3681** was withdrawn.

**CSHB 3684** (by Flores), A bill to be entitled An Act relating to gates on certain third-class and neighborhood roads.

**HB 3763** (by Gallego), A bill to be entitled An Act relating to the regulation of certain water wells by the Jeff Davis County Underground Water Conservation District.

**CSHB 3771** (by Gallego), A bill to be entitled An Act relating to the name, powers, duties, and operations of the Maverick County Hospital District.

**CSHB 3772** (by Gallego), A bill to be entitled An Act relating to the Big Bend Regional Hospital District.

**HB 3793** (by Averitt), A bill to be entitled An Act relating to the powers, duties and financing of the Brazos River Authority, the authority of persons and public agencies to contract with the authority with reference thereto by amending Chapter 13, Acts of the 41st Legislature, 2nd Called Session, 1929, as amended, by adding Section 11 and changing the conditions upon which Authority may sell property by amending Section 12, Chapter 368, Acts of the 44th Legislature, 1st Called Session, 1935, as amended.

**CSHB 3799** (by Coleman), A bill to be entitled An Act relating to the creation of the East Downtown Management District; providing authority to impose a tax and issue bonds.

**HCR 102** (by Hilderbran), Memorializing the U.S. Congress to act to ensure the future of the Kerrville Veterans Administration Medical Center.

**HCR 133** (by Haggerty), Showing the Legislature's support for the renewal of the McGregor Range Military Land Withdrawal (P.L. 99-606).

**HCR 134** (by Haggerty), Urging the Veterans' Land Board to establish a veterans home in El Paso County. (Chisum recorded voting no)

**CSHB 508** (by Wohlgemuth), A bill to be entitled An Act relating to interlocal contracts for the construction, improvement, or repair of streets and alleys in municipalities.

### **Amendment No. 1**

On behalf of Representative Y. Davis, Representative Wohlgemuth offered the following amendment to **CSHB 508**:

Amend **CSHB 508** as follows:

(1) On page 1, strike lines 7-14 and substitute the following:

Sec. 791.032. CONSTRUCTION, IMPROVEMENT, AND REPAIR OF STREETS IN MUNICIPALITIES. (a) This section applies only to an interlocal

contract in which one of the parties to the contract is a county in which there is only one incorporated municipality.

(b) With the approval of the governing body of a municipality, a local government may enter into an interlocal contract with the municipality to finance the construction, improvement, maintenance, or repair of streets or alleys in the municipality, including portions of the municipality's street or alleys that are not an integral part of or a connecting link to other roads or highways.

(2) On page 2, between lines 7 and 8, insert the following appropriately numbered section and renumber the remaining section of the bill accordingly:

SECTION 4. This Act does not apply to any other political subdivision other than the political subdivisions described in Section 1 or 2 of this Act.

Amendment No. 1 was adopted without objection.

**HB 1758** (by Allen), A bill to be entitled An Act relating to the creation of a sex offender compliance unit in the Texas Department of Public Safety.

Representative Allen moved to postpone consideration of **HB 1758** until Friday, April 30 at 10 a.m.

The motion prevailed without objection.

#### **RULES SUSPENDED**

Representative Walker moved to suspend the 5-day posting rule to allow the Committee on Land and Resource Management to consider **HB 2498** on Monday, April 26, 1999.

The motion prevailed without objection.

#### **INTRODUCTION OF GUEST**

The chair recognized Representative Hunter, who introduced Governor Tomas Yarrington of Tamaulipas, Mexico.

#### **ADJOURNMENT**

Representative Hilbert moved that the house adjourn until 11:15 a.m. today.

The motion prevailed without objection.

The house accordingly, at 11:07, adjourned until 11:15 a.m. today.

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#### **ADDENDUM**

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#### **SIGNED BY THE SPEAKER**

The following bills and resolutions were today signed in the presence of the house by the speaker:

#### **House List No. 34**

**HB 777, HB 1289, HCR 69, HCR 70, HCR 71, HCR 72, HCR 73, HCR 74, HCR 77, HCR 78, HCR 95, HCR 138, HCR 157**



**MESSAGES FROM THE SENATE**

The following messages from the senate were today received by the house:

**Message No. 1**

MESSAGE FROM THE SENATE  
SENATE CHAMBER  
Austin, Texas  
Friday, April 23, 1999

The Honorable Speaker of the House  
House Chamber  
Austin, Texas

Mr. Speaker:

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

THE SENATE HAS PASSED THE FOLLOWING MEASURES:

**SB 88** Carona

Relating to certain transactions subject to regulation as loans.

**SB 324** Ellis, Rodney

Relating to applications for coverage under the market assistance program operated by the Texas Department of Insurance.

**SB 957** Madla

Relating to the licensing of certain persons who provide services related to the business of insurance.

**SB 974** Shapleigh

Relating to the creation of a task force and demonstration project regarding the provision of certain state agency and local government services to the general public and to regulated entities through the Internet.

**SB 1061** Bivins

Relating to the ad valorem taxation of a certain leasehold or other possessory interest in real property constituting a certain project of an industrial development corporation.

**SB 1124** Armbrister

Relating to the use of mediation or other dispute resolution procedures in family violence cases.

**SB 1180** Harris

Relating to certain duties of county bail bond boards.

**SB 1343** Bivins

Relating to the issuance of bonds to finance or refinance certain facilities used by an open-enrollment charter school.

**SB 1351** Barrientos

Relating to health benefits plan coverage for dependent children of certain employees paid by state appropriated money.

**SB 1354** Barrientos

Relating to longevity pay for employees of the Texas School for the Blind and Visually Impaired and the Texas School for the Deaf.

**SB 1421** Lucio

Relating to the regulation of the subdivision or development of land in certain economically distressed areas, including colonias, and certain other areas; providing penalties.

**SB 1749** Jackson

Relating to participation in the Texas Employees Uniform Group Insurance Benefits Act by certain former members of the governing bodies of community/junior colleges.

**SJR 26** Ratliff

Proposing a constitutional amendment relating to compensation for state employees serving as members of local governing boards.

Respectfully,

Betty King  
Secretary of the Senate

**Message No. 2**

MESSAGE FROM THE SENATE  
SENATE CHAMBER

Austin, Texas

Friday, April 23, 1999 - 2

The Honorable Speaker of the House  
House Chamber  
Austin, Texas

Mr. Speaker:

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

THE SENATE HAS PASSED THE FOLLOWING MEASURES:

**HB 1** Junell SPONSOR: Ratliff  
General Appropriations Bill.  
(COMMITTEE SUBSTITUTE)

**HCR 144** Gallego SPONSOR: Madla  
In memory of Dr. William C. Leavitt.

**HCR 145** Gallego SPONSOR: Madla  
In memory of Gene Hendryx.

**HCR 146** Gallego SPONSOR: Madla  
In memory of Judge Ann C. Scudday.

**HCR 147** Gallego  
In memory of E.H. "Herb" Whitis of Del Rio.

**HCR 148** Gallego  
In memory of U.S. Border Patrol Agent David Pyatte.

**HCR 149** Gallego

In memory of Dr. Barton H. Warnock of Alpine.

**HCR 150** Gallego

In memory of Dr. Lonnie Green.

**HCR 151** Gallego

In memory of William James "Bill" Sohl.

**HCR 165** Gallego

In memory of J. Charles Kelley.

**HCR 166** Gallego

In memory of Tom Longman.

**HCR 167** Gallego

In memory of Toliver "Tol" Henry Dawson.

**HCR 168** Gallego

Honoring the retirement of Presidio County-District Clerk Ramona Armendariz Lara.

**HCR 169** Gallego

In memory of Hallie C. Stillwell.

Respectfully,

Betty King

Secretary of the Senate