

HOUSE JOURNAL

SEVENTY-EIGHTH LEGISLATURE, REGULAR SESSION

PROCEEDINGS

SEVENTY-THIRD DAY — WEDNESDAY, MAY 21, 2003

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

The roll of the house was called and a quorum was announced present (Record 638).

Present — Mr. Speaker; Allen; Alonzo; Bailey; Baxter; Berman; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Campbell; Canales; Capelo; Casteel; Castro; Chavez; Chisum; Christian; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Davis, Y.; Dawson; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; Ellis; Escobar; Farabee; Farrar; Flores; Flynn; Gallego; Garza; Gattis; Geren; Giddings; Goodman; Goolsby; Griggs; Grusendorf; Guillen; Gutierrez; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Heflin; Hegar; Hilderbran; Hill; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hughes; Hunter; Hupp; Isett; Jones, D.; Jones, E.; Jones, J.; Keel; Keffer, B.; Keffer, J.; King; Kolkhorst; Krusee; Kuempel; Laney; Laubenberg; Lewis; Luna; Mabry; Madden; Marchant; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Mercer; Merritt; Miller; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Nixon; Noriega; Oliveira; Olivo; Paxton; Peña; Phillips; Pickett; Pitts; Puente; Quintanilla; Raymond; Reyna; Riddle; Ritter; Rodriguez; Rose; Seaman; Smith, T.; Smith, W.; Smithee; Solis; Solomons; Stick; Swinford; Talton; Taylor; Telford; Thompson; Truitt; Turner; Uresti; Van Arsdale; Villarreal; West; Wilson; Wise; Wohlgemuth; Wong; Woolley; Zedler.

Absent — Wolens.

The invocation was offered by Sean McEntee, parochial vicar, St. Patrick's Catholic Church, Houston.

CAPITOL PHYSICIAN

The chair recognized Representative Gattis who presented Dr. Daniel Voss of Georgetown as the "Doctor for the Day."

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

HR 1208 - ADOPTED
(by Hunter)

Representative Hunter moved to suspend all necessary rules to take up and consider at this time **HR 1208**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 1208, Honoring James F. Armstrong for his professional and personal contributions to the Abilene community.

HR 1208 was adopted without objection.

INTRODUCTION OF GUEST

The chair recognized Representative Hunter who introduced James F. Armstrong.

HR 1352 - ADOPTED
(by Luna)

Representative Luna moved to suspend all necessary rules to take up and consider at this time **HR 1352**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 1352, Honoring Gary Turberville on his retirement from W. B. Ray High School.

HR 1352 was adopted without objection.

HR 1229 - ADOPTED
(by Pickett)

Representative Pickett moved to suspend all necessary rules to take up and consider at this time **HR 1229**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 1229, Honoring Chris's The Brisket BBQ of El Paso for its selection as one of the Lone Star State's top 50 barbecue joints by Texas Monthly magazine.

HR 1229 was adopted without objection.

HR 1230 - ADOPTED
(by Pickett)

Representative Pickett moved to suspend all necessary rules to take up and consider at this time **HR 1230**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 1230, Honoring Leon Blevins of El Paso for his contributions as an educator and a citizen.

HR 1230 was adopted without objection.

LEAVE OF ABSENCE GRANTED

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

Chavez on motion of Mowery.

HR 1270 - ADOPTED

(by Dukes, Naishtat, Keel, Rodriguez, and Craddick)

Representative Dukes moved to suspend all necessary rules to take up and consider at this time **HR 1270**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 1270, In memory of Dr. George Kozmetsky of Austin.

HR 1270 was unanimously adopted by a rising vote.

On motion of Representative Naishtat, the names of all the members of the house were added to **HR 1270** as signers thereof.

INTRODUCTION OF GUESTS

The chair recognized Representative Dukes who introduced the family and friends of Dr. George Kozmetsky.

(Krusee in the chair)

(Wolens now present)

HR 1296 - ADOPTED

(by Swinford)

Representative Swinford moved to suspend all necessary rules to take up and consider at this time **HR 1296**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 1296, Commending Garrett Anthony Schultz of Amarillo for his 40 years of outstanding service to his nation.

HR 1296 was adopted without objection.

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).

HR 763 - ADOPTED
(by Eiland)

Representative Eiland moved to suspend all necessary rules to take up and consider at this time **HR 763**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 763, Honoring the Galveston Police Department for participating in the search for and recovery of debris from the space shuttle Columbia.

HR 763 was adopted without objection.

On motion of Representative Hodge, the names of all the members of the house were added to **HR 763** as signers thereof.

INTRODUCTION OF GUESTS

The chair recognized Representative Eiland who introduced members of the Galveston Police Department.

HR 764 - ADOPTED
(by Eiland)

Representative Eiland moved to suspend all necessary rules to take up and consider at this time **HR 764**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 764, Honoring the Galveston County Sheriff's Office Marine Unit for participating in the search for and recovery of debris from the space shuttle Columbia.

HR 764 was adopted without objection.

On motion of Representative Hodge, the names of all the members of the house were added to **HR 764** as signers thereof.

HR 1200 - ADOPTED
(by Castro)

Representative Castro moved to suspend all necessary rules to take up and consider at this time **HR 1200**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 1200, Welcoming Jacqueline Ann Willis, the Hong Kong commissioner to the United States, to the State Capitol on May 20, 2003.

HR 1200 was adopted without objection.

HR 1287 - ADOPTED
(by T. Smith)

Representative T. Smith moved to suspend all necessary rules to take up and consider at this time **HR 1287**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 1287, In memory of Jason Eric Bentley of Hurst.

HR 1287 was unanimously adopted by a rising vote.

INTRODUCTION OF GUESTS

The chair recognized Representative T. Smith who introduced the family of Jason Eric Bentley.

HR 1297 - ADOPTED
(by Mabry)

Representative Mabry moved to suspend all necessary rules to take up and consider at this time **HR 1297**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 1297, Honoring Betty Murphy of Provident Heights Elementary for being named principal of the year.

HR 1297 was adopted without objection.

HR 1257 - ADOPTED
(by Dunnam)

Representative Dunnam moved to suspend all necessary rules to take up and consider at this time **HR 1257**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 1257, In memory of Martha George Beard of Waco.

HR 1257 was unanimously adopted by a rising vote.

HR 1258 - ADOPTED
(by Dunnam)

Representative Dunnam moved to suspend all necessary rules to take up and consider at this time **HR 1258**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 1258, Honoring Diedre Loretta Douglas on her graduation from Baylor University.

HR 1258 was adopted without objection.

HR 1261 - ADOPTED
(by Dunnam)

Representative Dunnam moved to suspend all necessary rules to take up and consider at this time **HR 1261**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 1261, Congratulating M. Nicholas Broll on his graduation from St. Edwards University and extending to him warmest best wishes for success and happiness in the future.

HR 1261 was adopted without objection.

(Olivo in the chair)

INTRODUCTION OF GUEST

The chair recognized Representative Rose who introduced Leroy Swyhart.

SB 287 - REQUEST OF SENATE GRANTED
CONFERENCE COMMITTEE APPOINTED

On motion of Representative Chisum, the house granted the request of the senate for the appointment of a conference committee on **SB 287**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 287**: Chisum, chair; Marchant; Solomons; Villarreal; and B. Cook.

HB 2922 - PRINTING RULE SUSPENDED

Representative Wilson moved to suspend House Rule 12, Section 1(a)(2) to permit the senate amendment to **HB 2922** to be printed without the house engrossment text.

The motion prevailed without objection.

REGULAR ORDER OF BUSINESS SUSPENDED

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

(Speaker pro tempore in the chair)

REGULAR ORDER OF BUSINESS SUSPENDED

On motion of Representative Allen and by unanimous consent, **CSSB 591** was taken up before its eligible time on today's supplemental calendar.

POSTPONED BUSINESS

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

CSSB 591 ON SECOND READING
(Allen - House Sponsor)

CSSB 591, A bill to be entitled An Act relating to the structure and functions of the Texas Council on Offenders with Mental Impairments and to reassigning the duties of the council to the Advisory Committee to the Texas Board of Criminal Justice on Offenders with Medical or Mental Impairments and the Texas Correctional Office on Offenders with Medical or Mental Impairments.

CSSB 591 was read second time on May 19, postponed until May 20, and was again postponed until 1:00 p.m. today.

Amendment No. 1

Representative Allen offered the following amendment to **CSSB 591**:

Amend **CSSB 591** by striking all below the enacting clause and substituting the following:

SECTION 1. The heading to Chapter 614, Health and Safety Code, is amended to read as follows:

CHAPTER 614. TEXAS CORRECTIONAL OFFICE [~~TEXAS COUNCIL~~] ON
OFFENDERS WITH MEDICAL OR MENTAL IMPAIRMENTS

SECTION 2. Section 614.001, Health and Safety Code, is amended to read as follows:

Sec. 614.001. DEFINITIONS. In this chapter:

(1) "Board" means the Texas Board of Criminal Justice. [~~"Adaptive behavior" means the effectiveness with which a person meets the standards of personal independence and social responsibility reasonably expected of the person's age and cultural group.~~]

(2) "Case management" means a process by which a person or team responsible for establishing and continuously maintaining contact with a person with mental illness, a developmental disability, or mental retardation provides that person with access to services required by the person and ensures the coordinated delivery of those services to the person.

(3) "Committee" [~~"Council"~~] means the Advisory Committee to the Texas Board of Criminal Justice [~~Texas Council~~] on Offenders with Medical or Mental Impairments.

(4) "Developmental disability" means a severe, chronic disability that:
(A) is attributable to a mental or physical impairment or a combination of physical and mental impairments;

(B) is manifested before the person reaches 22 years of age;

(C) is likely to continue indefinitely;

(D) results in substantial functional limitations in three or more of the following areas of major life activity:

(i) self-care;

(ii) self-direction;

(iii) learning;

(iv) receptive and expressive language;

(v) mobility;

- (vi) capacity for independent living; or
- (vii) economic self-sufficiency; and

(E) reflects the person's need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services of extended or lifelong duration that are individually planned and coordinated.

(5) "Mental illness" has the meaning assigned by Section 571.003.

(6) "Mental impairment" means a mental illness, mental retardation, or a developmental disability.

~~(7) [(6)]~~ "Mental retardation" has the meaning assigned by Section 591.003.

~~(8) [(7)]~~ "Offender with a medical or mental impairment" means a juvenile or adult ~~[with mental illness, mental retardation, or a developmental disability]~~ who is arrested or charged with a criminal offense and who:

(A) has a mental impairment; or

(B) is elderly, physically disabled, terminally ill, or significantly ill.

(9) "Office" means the Texas Correctional Office on Offenders with Medical or Mental Impairments.

~~(10) [(9)]~~ "Person with mental retardation" means a juvenile or adult with mental retardation that is not a mental disorder who, because of the mental deficit, requires special training, education, supervision, treatment, care, or control in the person's home or community or in a private or state school for persons with mental retardation.

SECTION 3. Section 614.002, Health and Safety Code, is amended to read as follows:

Sec. 614.002. COMPOSITION OF COMMITTEE; DUTIES [COUNCIL].

(a) The Advisory Committee to the Texas Board of Criminal Justice [Texas Council] on Offenders with Medical or Mental Impairments is composed of 31 [30] members.

(b) The governor shall appoint, with the advice and consent of the senate:

(1) four at-large members who have expertise in mental health, mental retardation, or developmental disabilities, three [one] of whom must be forensic psychiatrists or forensic psychologists [a psychiatrist];

(2) one at-large member who is the judge of a district court with criminal jurisdiction;

(3) one at-large member who is a prosecuting attorney;

(4) one at-large member who is a criminal defense attorney;

(5) two [one at large member from an established pretrial services agency; and

~~[(6) one]~~ at-large members [member] who have [has] expertise in the juvenile justice or criminal justice system; and

(6) one at-large member whose expertise can further the mission of the committee.

(c)(1) The following entities, by September 1 of each even-numbered year, shall submit to the governor for consideration a list of five candidates from their respective fields for at-large membership on the committee:

(A) the Texas District and County Attorney's Association;

- (B) the Texas Criminal Defense Lawyers Association;
- (C) the Texas Association of Counties;
- (D) the Texas Medical Association;
- (E) the Texas Society of Psychiatric Physicians;
- (F) the Texas Psychological Association;
- (G) the Texas Sheriff's Association;
- (H) the court of criminal appeals;
- (I) the County Judges and Commissioners Association of Texas;

and

- (J) the Texas Conference of Urban Counties.

(2) The Texas Medical Association, the Texas Society of Psychiatric Physicians, and the Texas Psychological Association may submit a candidate for membership only if the candidate has documented expertise and educational training in, as appropriate, medical forensics, forensic psychology, or forensic psychiatry. [A person may not be an at large member of the council if the person or the person's spouse:

[(1) is employed by or participates in the management of a business entity or other organization regulated by or receiving money from the council;

[(2) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization regulated by or receiving money from the council; or

[(3) uses or receives a substantial amount of tangible goods, services, or money from the council other than compensation or reimbursement authorized by law for council membership, attendance, or expenses.]

(d) A person may not be a member of the committee [council or act as the general counsel to the council] 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 committee [council].

(e) The executive head of each of the following agencies, divisions of agencies, or associations, or that person's designated representative, shall serve as a member of the committee [council]:

- (1) the institutional division of the Texas Department of Criminal Justice;
- (2) the Texas Department of Mental Health and Mental Retardation;
- (3) the pardons and paroles division of the Texas Department of Criminal Justice;
- (4) the community justice assistance division of the Texas Department of Criminal Justice;
- (5) the state jail division of the Texas Department of Criminal Justice;
- (6) the Texas Juvenile Probation Commission;
- (7) the Texas Youth Commission;
- (8) the Texas Rehabilitation Commission;
- (9) the Texas Education Agency;
- (10) the Criminal Justice Policy Council;
- (11) the Mental Health Association in Texas;

- (12) the Texas Commission on Alcohol and Drug Abuse;
- (13) the Commission on Law Enforcement Officer Standards and Education;
- (14) the Texas Council of Community Mental Health and Mental Retardation Centers;
- (15) the Commission on Jail Standards;
- (16) the Texas Council for Developmental Disabilities;
- (17) the Texas Association for Retarded Citizens;
- (18) the Texas Alliance for the Mentally Ill;
- (19) the Parent Association for the Retarded of Texas, Inc.;
- (20) the Texas Department of Human Services; and
- (21) the Texas Department on Aging.

(f) In making the appointments under Subsection (b), the governor shall attempt to reflect the geographic and economic diversity of the state. Appointments to the committee [~~council~~] shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointees.

(g) It is a ground for removal from the committee [~~council~~] that an at-large member:

- (1) does not have at the time of taking office the qualifications required by Subsection [~~Subsections~~] (b) [~~-, (c), and (d)~~];
- (2) does not maintain during service on the council the qualifications required by Subsection [~~Subsections~~] (b) [~~-, (c), and (d)~~];
- (3) is ineligible for membership under Subsection [~~(c) or~~] (d);
- (4) cannot, because of illness or disability, discharge the member's duties for a substantial part of the member's term;
- (5) is absent from more than half of the regularly scheduled committee [~~council~~] meetings that the member is eligible to attend during a calendar year without an excuse approved by a majority vote of the committee [~~council~~]; or
- (6) is absent from more than two consecutive regularly scheduled committee [~~council~~] meetings that the member is eligible to attend.

(h) The validity of an action of the committee [~~council~~] is not affected by the fact that it is taken when a ground for removal of a committee [~~council~~] member exists.

(i) If the director of the committee [~~council~~] has knowledge that a potential ground for removal exists, the director shall notify the presiding officer of the committee [~~council~~] of the potential ground. The presiding officer shall then notify the governor and the attorney general that a potential ground for removal exists. If the potential ground for removal involves the presiding officer, the director shall notify the next highest ranking officer of the committee [~~council~~], who shall then notify the governor and the attorney general that a potential ground for removal exists.

(j) A representative designated by the executive head of a state agency must be an officer or employee of the agency when designated and while serving on the committee [~~council~~], except the representative designated by the director of the Criminal Justice Policy Council must be an employee of that council.

(k) The committee shall advise the board and the director of the Texas Correctional Office on Offenders with Medical or Mental Impairments on matters related to offenders with medical or mental impairments and perform other duties imposed by the board. ~~[Members who are not associated with a state agency or division must have expertise in the rehabilitation of persons with mental illness, mental retardation, or a developmental disability when appointed or designated and while serving on the council.]~~

SECTION 4. Section 614.003, Health and Safety Code, is amended to read as follows:

Sec. 614.003. TEXAS CORRECTIONAL OFFICE ON OFFENDERS WITH MEDICAL OR MENTAL IMPAIRMENTS; DIRECTOR ~~[INFORMATION: REQUIREMENTS FOR OFFICE OR EMPLOYMENT]~~. The Texas Correctional Office on Offenders with Medical or Mental Impairments shall perform duties imposed on or assigned to the office by this chapter, other law, the board, and the executive director of the Texas Department of Criminal Justice. The executive director of the Texas Department of Criminal Justice shall hire a director of the office. The director serves at the pleasure of the executive director. The director shall hire the employees for the office ~~[or the executive director's designee shall provide to members of the council and to agency employees, as often as necessary, information regarding the requirements for office or employment under this chapter, including information regarding a person's responsibilities under applicable laws relating to standards of conduct for state officers or employees].~~

SECTION 5. Section 614.0031, Health and Safety Code, is amended to read as follows:

Sec. 614.0031. TRAINING PROGRAM. (a) A person who is appointed to and qualifies for office as a member of the committee ~~[council]~~ may not vote, deliberate, or be counted as a member in attendance at a meeting of the committee ~~[council]~~ until the person completes a training program that complies with this section.

(b) The training program must provide the person with information regarding:

- (1) the legislation that created the committee and the office ~~[council]~~;
- (2) the programs operated by the committee and the office ~~[council]~~;
- (3) the role and functions of the committee and the office ~~[council]~~;
- (4) the rules of the committee and the office ~~[council]~~;
- (5) the current budget for the committee and the office ~~[council]~~;
- (6) the results of the most recent formal audit of the committee and the office ~~[council]~~;
- (7) the requirements of:
 - (A) the open meetings law, Chapter 551, Government Code;
 - (B) the public information law, Chapter 552, Government Code;
 - (C) the administrative procedure law, Chapter 2001, Government Code; and
 - (D) other laws relating to public officials, including conflict of interest laws; and

(8) any applicable ethics policies adopted by the committee [~~council~~] or the Texas Ethics Commission.

(c) A person appointed to the committee [~~council~~] is entitled to reimbursement, as provided by the General Appropriations Act, for the travel expenses incurred in attending the training program regardless of whether the attendance at the program occurs before or after the person qualifies for office.

SECTION 6. Chapter 614, Health and Safety Code, is amended by adding Section 614.0032 to read as follows:

Sec. 614.0032. SPECIAL DUTIES RELATED TO MEDICALLY RECOMMENDED SUPERVISION; COMPETENCY DETERMINATION. (a) The office shall perform duties imposed on the office by Section 508.146, Government Code.

(b) The office, with the special assistance of committee members appointed under Section 614.002(b)(1), shall review examinations to determine the competency of defendants in criminal cases to stand trial and periodically shall report findings made as a result of the review to the legislature and the court of criminal appeals.

SECTION 7. Section 614.004, Health and Safety Code, is amended to read as follows:

Sec. 614.004. TERMS. The at-large members of the committee [~~council~~] serve for staggered six-year terms.

SECTION 8. Section 614.005, Health and Safety Code, is amended to read as follows:

Sec. 614.005. OFFICERS; MEETINGS. (a) The governor shall designate a member of the committee [~~council~~] as the presiding officer of the committee [~~council~~] to serve in that capacity at the pleasure of the governor.

(b) The committee [~~council~~] shall meet at least four times each year and may meet at other times at the call of the presiding officer or as provided by committee [~~council~~] rule.

SECTION 9. Section 614.006, Health and Safety Code, is amended to read as follows:

Sec. 614.006. APPLICABILITY OF CERTAIN GOVERNMENT CODE PROVISIONS. (a) The provisions of Chapter 2110, Government Code, other than Section 2110.002(a), apply to the committee.

(b) [REIMBURSEMENT FOR EXPENSES.] A member of the committee [~~council~~] is not entitled to compensation for performing duties on the committee [~~council~~] but is entitled to receive reimbursement [~~from the council~~] for travel and other necessary expenses incurred in performing official duties at the rate provided for state employees in the General Appropriations Act.

SECTION 10. Section 614.007, Health and Safety Code, is amended to read as follows:

Sec. 614.007. POWERS AND DUTIES. ~~(a)~~ The office [~~council~~] shall:

(1) determine the status of offenders with medical or mental impairments in the state criminal justice system;

(2) identify needed services for offenders with medical or mental impairments;

(3) develop a plan for meeting the treatment, rehabilitative, and educational needs of offenders with medical or mental impairments that includes a case management system and the development of community-based alternatives to incarceration;

(4) cooperate in coordinating procedures of represented agencies for the orderly provision of services for offenders with medical or mental impairments;

(5) evaluate programs in this state and outside this state for offenders with medical or mental impairments and recommend to the directors of state programs methods of improving the programs;

(6) collect and disseminate information about available programs to judicial officers, law enforcement officers, probation and parole officers, providers of social services or treatment, and the public;

(7) provide technical assistance to represented agencies and organizations in the development of appropriate training programs;

(8) apply for and receive money made available by the federal or state government or by any other public or private source to be used by the office [~~council~~] to perform its duties;

(9) distribute to political subdivisions, private organizations, or other persons money appropriated by the legislature to be used for the development, operation, or evaluation of programs for offenders with medical or mental impairments;

(10) develop and implement pilot projects to demonstrate a cooperative program to identify, evaluate, and manage outside of incarceration offenders with medical or mental impairments; and

(11) assess the need for demonstration projects and provide management for approved projects.

~~[(b) The council shall develop and implement policies that clearly separate the policymaking responsibilities of the council and the management responsibilities of the staff of the council.]~~

SECTION 11. Section 614.008, Health and Safety Code, is amended to read as follows:

Sec. 614.008. COMMUNITY-BASED DIVERSION [PILOT] PROGRAM FOR OFFENDERS WITH MEDICAL OR MENTAL IMPAIRMENTS. (a) The office may maintain at least one [~~council shall establish a pilot~~] program in a county selected by the office to employ [~~council to implement~~] a cooperative community-based alternative system to divert from the state criminal justice system offenders with mental impairments or offenders who are identified as being elderly, physically disabled, terminally ill, or significantly ill [~~who do not have an instant offense that is an offense described in Section 3g, Article 42.12, Code of Criminal Procedure,~~] and to rehabilitate those offenders.

(b) [~~The program must conform to the report and recommendations made by the Texas Department of Mental Health and Mental Retardation and the Texas Department of Corrections to the 70th Legislature as directed by S.C.R. No. 128, 69th Legislature, Regular Session, 1985.~~]

~~(e)~~ The office ~~[council]~~ may contract for or employ and train a case management team to carry out the purposes of the program and to coordinate the joint efforts of agencies represented on the committee ~~[council]~~.

(c) ~~(d)~~ The agencies represented on the committee ~~[council]~~ shall perform duties and offer services as required by the office ~~[council]~~ to further the purposes of the ~~[pilot]~~ program and the office ~~[council]~~.

SECTION 12. Section 614.009, Health and Safety Code, is amended to read as follows:

Sec. 614.009. BIENNIAL REPORT. Not later than February 1 of each odd-numbered year, the office ~~[council]~~ shall present to the board and file with the governor, lieutenant governor, and speaker of the house of representatives a report giving the details of the office's ~~[council's]~~ activities during the preceding biennium. The report must include:

(1) an evaluation of any demonstration project undertaken by the office ~~[council]~~;

(2) an evaluation of the ~~[council's]~~ progress made by the office toward developing a plan for meeting the treatment, rehabilitative, and educational needs of offenders with special needs;

(3) recommendations of the office ~~[council]~~ made in accordance with Section 614.007(5);

(4) an evaluation of the development and implementation of the continuity of care and service programs established under Sections 614.013, 614.014, 614.015, and 614.016, changes in rules, policies, or procedures relating to the programs, future plans for the programs, and any recommendations for legislation; and

(5) any other recommendations that the office ~~[council]~~ considers appropriate.

SECTION 13. Section 614.0101, Health and Safety Code, is amended to read as follows:

Sec. 614.0101. PUBLIC ACCESS. The committee ~~[council]~~ shall develop and implement policies that provide the public with a reasonable opportunity to appear before the committee ~~[council]~~ and to speak on any issue under the jurisdiction of the committee or office ~~[council]~~.

SECTION 14. Section 614.0102, Health and Safety Code, is amended to read as follows:

Sec. 614.0102. COMPLAINTS. (a) The office ~~[council]~~ shall maintain a file on each written complaint filed with the office ~~[council]~~. The file must include:

(1) the name of the person who filed the complaint;

(2) the date the complaint is received by the office ~~[council]~~;

(3) the subject matter of the complaint;

(4) the name of each person contacted in relation to the complaint;

(5) a summary of the results of the review or investigation of the complaint; and

(6) an explanation of the reason the file was closed, if the office [council] closed the file without taking action other than to investigate the complaint.

(b) The office [council] shall provide to the person filing the complaint and to each person who is a subject of the complaint a copy of the office's [council's] policies and procedures relating to complaint investigation and resolution.

(c) The office [council], at least quarterly until final disposition of the complaint, shall notify the person filing the complaint and each person who is a subject of the complaint of the status of the investigation unless the notice would jeopardize an undercover investigation.

SECTION 15. Sections 614.013(a), (b), and (e), Health and Safety Code, are amended to read as follows:

(a) The Texas Department of Criminal Justice, the Texas Department of Mental Health and Mental Retardation, representatives of local mental health or mental retardation authorities appointed by the commissioner of the Texas Department of Mental Health and Mental Retardation, and the directors of community supervision and corrections departments shall adopt a memorandum of understanding that establishes their respective responsibilities to institute a continuity of care and service program for offenders with mental impairments in the criminal justice system. The office [council] shall coordinate and monitor the development and implementation of the memorandum of understanding.

(b) The memorandum of understanding must establish methods for:

(1) identifying offenders with mental impairments in the criminal justice system and collecting and reporting prevalence rate data to the office [council];

(2) developing interagency rules, policies, procedures, and standards for the coordination of care of and the exchange of information on offenders with mental impairments by local and state criminal justice agencies, the Texas Department of Mental Health and Mental Retardation, local mental health or mental retardation authorities, the Commission on Jail Standards, and local jails;

(3) identifying the services needed by offenders with mental impairments to reenter the community successfully; and

(4) establishing a process to report implementation activities to the office [council].

(e) The office [council], in coordination with each state agency identified in Subsection (b)(2), shall develop a standardized process for collecting and reporting the memorandum of understanding implementation outcomes by local and state criminal justice agencies and local and state mental health or mental retardation authorities. The findings of these reports shall be submitted to the office [council] by September 1 of each even-numbered year and shall be included in recommendations to the board [legislature] in the office's biennial [council's biennium] report under Section 614.009.

SECTION 16. Section 614.014(a), Health and Safety Code, is amended to read as follows:

(a) The Texas Department of Criminal Justice, the Texas Department of Human Services, and the Texas Department on Aging by rule shall adopt a memorandum of understanding that establishes their respective responsibilities to institute a continuity of care and service program for elderly offenders in the criminal justice system. The office [~~council~~] shall coordinate and monitor the development and implementation of the memorandum of understanding.

SECTION 17. Section 614.016, Health and Safety Code, is amended to read as follows:

Sec. 614.016. CONTINUITY OF CARE FOR CERTAIN OFFENDERS BY LAW ENFORCEMENT AND JAILS. (a) The office [~~council~~], the Commission on Law Enforcement Officer Standards and Education, and the Commission on Jail Standards by rule shall adopt a memorandum of understanding that establishes their respective responsibilities to institute a continuity of care and service program for offenders in the criminal justice system who are mentally impaired, elderly, physically disabled, terminally ill, or significantly ill.

(b) The memorandum of understanding must establish methods for:

(1) identifying offenders in the criminal justice system who are mentally impaired, elderly, physically disabled, terminally ill, or significantly ill;

(2) developing procedures for the exchange of information relating to offenders who are mentally impaired, elderly, physically disabled, terminally ill, or significantly ill by the office [~~council~~], the Commission on Law Enforcement Officer Standards and Education, and the Commission on Jail Standards for use in the continuity of care and services program; and

(3) adopting rules and standards that assist in the development of a continuity of care and services program for offenders who are mentally impaired, elderly, physically disabled, terminally ill, or significantly ill.

SECTION 18. Section 614.017(c)(2), Health and Safety Code, is amended to read as follows:

(2) "Special needs offender" includes [~~means~~] an individual for whom criminal charges are pending or who after conviction or adjudication is in custody or under any form of criminal justice supervision.

SECTION 19. Section 614.019, Health and Safety Code, as added by Chapter 328, Acts of the 77th Legislature, Regular Session, 2001, is amended to read as follows:

Sec. 614.019. [~~PILOT~~] PROGRAMS FOR JUVENILES. The office [~~council~~], in cooperation with the Texas Commission on Alcohol and Drug Abuse, the Texas Department of Mental Health and Mental Retardation, the Department of Protective and Regulatory Services, the Texas Juvenile Probation Commission, the Texas Youth Commission, and the Texas Education Agency, may establish and maintain [~~pilot~~] programs, building on existing successful efforts in communities, to address prevention, intervention, and continuity of care for juveniles with mental health and substance abuse disorders.

SECTION 20. Section 614.019, Health and Safety Code, as added by Chapter 1499, Acts of the 77th Legislature, Regular Session, 2001, is renumbered as Section 614.020, Health and Safety Code, and amended to read as follows:

Sec. 614.020 [~~614.019~~]. YOUTH ASSERTIVE COMMUNITY TREATMENT [~~PILOT~~] PROGRAM. (a) The office [~~council~~] may establish and maintain in Tarrant County an assertive community treatment [~~pilot~~] program to provide treatment, rehabilitation, and support services to individuals in that county who:

- (1) are under 18 years of age;
- (2) have severe and persistent mental illness;
- (3) have a history of:
 - (A) multiple hospitalizations;
 - (B) poor performance in school;
 - (C) placement in emergency shelters or residential treatment facilities; or
 - (D) chemical dependency or abuse; and
- (4) have been placed on probation by a juvenile court.

(b) The [~~pilot~~] program must be modeled after other assertive community treatment programs established by the Texas Department of Mental Health and Mental Retardation. The program is limited to serving not more than 30 program participants at any time.

(c) If the office [~~council~~] creates and maintains a [~~pilot~~] program under this section, the office [~~council~~] shall provide for the program a team of licensed or degreed professionals in the clinical treatment or rehabilitation field to administer the [~~pilot~~] program. A team provided [~~created~~] under this subsection must include:

- (1) a registered nurse to provide full-time direct services to the program participants; and
- (2) a psychiatrist available to the program for 10 or more hours each week.

(d) In administering the [~~pilot~~] program, the program's professional team shall:

- (1) provide psychiatric, substance abuse, and employment services to program participants;
- (2) maintain a ratio of one or more team members for each 10 program participants to the extent practicable;
- (3) be available to program participants during evening and weekend hours;
- (4) meet the needs of special populations;
- (5) maintain at all times availability for addressing and managing a psychiatric crisis of any program participant; and
- (6) cover the geographic areas served by the program.

(e) The office [~~council~~] and the [~~pilot~~] program shall cooperate with or contract with local agencies to avoid duplication of services and to maximize federal Medicaid funding.

SECTION 21. Section 508.146, Government Code, is amended to read as follows:

Sec. 508.146. MEDICALLY RECOMMENDED INTENSIVE SUPERVISION. (a) An inmate serving a sentence for which parole eligibility is otherwise determined under Section 508.145(f) may become eligible for release on medically recommended intensive supervision on a date designated by a parole panel that is earlier than the date computed under that section if:

(1) the Texas Correctional Office [~~Texas Council~~] on Offenders with Medical or Mental Impairments, in cooperation with the Correctional Managed Health Care Committee, identifies the inmate as being elderly, physically disabled [~~handicapped~~], mentally ill, terminally ill, or mentally retarded[~~ed~~] or having a condition requiring long-term care;

(2) the parole panel determines that, based on the inmate's condition and a medical evaluation, the inmate does not constitute a threat to public safety; and

(3) the Texas Correctional Office [~~Texas Council~~] on Offenders with Medical or Mental Impairments, in cooperation with the pardons and paroles division, has prepared for the inmate a medically recommended intensive supervision plan that requires the inmate to submit to electronic monitoring, places the inmate on super-intensive supervision, or otherwise ensures appropriate supervision of the inmate.

(b) An inmate may be released on medically recommended intensive supervision only if the inmate's medically recommended intensive supervision plan under Subsection (a)(3) is approved by the Texas Correctional Office [~~Texas Council~~] on Offenders with Medical or Mental Impairments.

(c) A parole panel shall require as a condition of release under this section that the releasee remain under the care of a physician and in a medically suitable placement. At least once each calendar quarter, the Texas Correctional Office [~~Texas Council~~] on Offenders with Medical or Mental Impairments shall report to the board on the releasee's medical and placement status. On the basis of the report, a parole panel may modify conditions of release and impose any condition on the releasee that the panel could impose on a releasee released under Section 508.145, including a condition that the releasee reside in a halfway house or community residential facility.

(d) The Texas Correctional Office [~~Texas Council~~] on Offenders with Medical or Mental Impairments and the Texas Department of Human Services shall jointly request proposals from public or private vendors to provide under contract services for inmates released on medically recommended intensive supervision. A request for proposals under this subsection may require that the services be provided in a medical care facility located in an urban area. For the purposes of this subsection, "urban area" means the area in this state within a metropolitan statistical area, according to the standards of the United States Bureau of the Census.

SECTION 22. The following sections of the Health and Safety Code are repealed:

- (1) Section 614.010;
- (2) Section 614.011; and
- (3) Section 614.012.

SECTION 23. (a) The changes in law made by this Act in renaming the Texas Council on Offenders with Mental Impairments as the Advisory Committee to the Texas Board of Criminal Justice on Offenders with Medical or Mental Impairments and in amending the qualifications of, and the prohibitions applying to, members of the committee do not affect the entitlement of a person serving as a member of the council immediately before September 1, 2003, to continue as a member of the committee for the remainder of the person's term. The changes in law apply only to a person appointed on or after September 1, 2003. This Act does not prohibit a person who is a member of the Texas Council on Offenders with Mental Impairments immediately before September 1, 2003, from being reappointed as a member of the Advisory Committee to the Texas Board of Criminal Justice on Offenders with Medical or Mental Impairments if the person has the qualifications required for the position under Section 614.002, Health and Safety Code, as amended by this Act. The entities required by Section 614.002(c), Health and Safety Code, as amended by this Act, to submit a list of candidates for membership on the Advisory Committee to the Texas Board of Criminal Justice on Offenders with Medical or Mental Impairments shall make that submission no later than September 1, 2003.

(b) The Texas Correctional Office on Offenders with Medical or Mental Impairments shall present to the Texas Board of Criminal Justice the first biennial report required by Section 614.009, Health and Safety Code, as amended by this Act, not later than February 1, 2005.

SECTION 24. This Act takes effect September 1, 2003.

Amendment No. 2

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

Amend the floor substitute to **CSSB 591**, in Section 3, in amended Section 614.002(g)(2), Health and Safety Code, (house committee printing, page 6, line 18), by striking "council" and substituting "committee [~~council~~]".

Amendment No. 2 was adopted without objection.

Amendment No. 1, as amended, was adopted without objection.

CSSB 591, as amended, was passed to third reading.

(Speaker in the chair)

MAJOR STATE CALENDAR SENATE BILLS THIRD READING

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

SB 280 ON THIRD READING (Solomons and J. Keffer - House Sponsors)

SB 280, A bill to be entitled An Act relating to the continuation and functions of the Texas Workforce Commission.

A record vote was requested.

SB 280 was passed by (Record 639): 144 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Alonzo; Bailey; Baxter; Berman; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Callegari; Campbell; Canales; Capelo; Casteel; Castro; Chisum; Christian; Cook, B.; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Davis, Y.; Dawson; Delisi; Denny; Deshotel; Driver; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; Ellis; Escobar; Farabee; Farrar; Flores; Flynn; Gallego; Garza; Gattis; Geren; Giddings; Goodman; Goolsby; Grusendorf; Guillen; Gutierrez; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Heflin; Hegar; Hilderbran; Hill; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hughes; Hunter; Hupp; Isett; Jones, D.; Jones, E.; Jones, J.; Keel; Keffer, B.; Keffer, J.; King; Kolkhorst; Krusee; Kuempel; Laney; Laubenberg; Lewis; Luna; Mabry; Madden; Marchant; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Mercer; Merritt; Miller; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Nixon; Noriega; Oliveira; Olivo; Paxton; Peña; Phillips; Pickett; Pitts; Puente; Quintanilla; Raymond; Reyna; Riddle; Ritter; Rodriguez; Rose; Seaman; Smith, T.; Smith, W.; Smithee; Solis; Solomons; Stick; Swinford; Talton; Taylor; Telford; Thompson; Truitt; Turner; Uresti; Van Arsdale; Villarreal; West; Wilson; Wise; Wohlgeomuth; Wolens; Wong; Woolley; Zedler.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Chavez.

Absent — Burnam; Coleman; Dukes; Griggs.

STATEMENT OF VOTE

When Record No. 639 was taken, I was in the house but away from my desk. I would have voted yes.

Griggs

INTRODUCTION OF GUEST

The speaker recognized Representative West who introduced Dally Willis. The house welcomed Mr. Willis and congratulated him on the occasion of his 83rd birthday.

MAJOR STATE CALENDAR SENATE BILLS SECOND READING

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

CSSB 127 ON SECOND READING (Seaman - House Sponsor)

CSSB 127, A bill to be entitled An Act relating to the handling, settling, and use of certain claims in the insurance business; providing penalties.

Amendment No. 1

Representative Seaman offered the following amendment to **CSSB 127**:

Amend **CSSB 127** (House Committee Printing) as follows:

(1) In SECTION 3.02 of the bill, in added Subdivision (1), Section 1, Article 21.07-5, Insurance Code (page 7, line 4), strike "an individual" and substitute "a person".

(2) In SECTION 3.02 of the bill, in added Subparagraph (i), Paragraph (A), Subdivision (3), Section 1, Article 21.07-5, Insurance Code (page 7, line 10), strike "an individual who, for compensation" and substitute "a person who, for direct, indirect, or any other compensation".

(3) In SECTION 3.02 of the bill, in added Subparagraph (ii), Paragraph (A), Subdivision (3), Section 1, Article 21.07-5, Insurance Code (page 7, line 19), strike "an individual" and substitute "a person".

(4) In SECTION 3.02 of the bill, in added Subparagraph (vi), Paragraph (B), Subdivision (3), Section 1, Article 21.07-5, Insurance Code (page 8, line 17), strike "or".

(5) In SECTION 3.02 of the bill, in added Subparagraph (vii), Paragraph (B), Subdivision (3), Section 1, Article 21.07-5, Insurance Code (page 8, line 20), strike the period and substitute "; or".

(6) In SECTION 3.02 of the bill, in added Paragraph (B), Subdivision (3), Section 1, Article 21.07-5, Insurance Code, following Subparagraph (vii) (page 8, between lines 20 and 21), insert the following:

(viii) a full-time salaried employee of a property owner or a property management company retained by a property owner who:

(a) does not hold the employee out as a public insurance adjuster or a building, roofing, or other restoration contractor;

(b) has not been hired for the purpose of handling a specific claim resulting from a fire or casualty loss; and

(c) acts at the sole discretion of the property owner or management company regarding a claim related to the owner's property.

(7) In SECTION 3.02 of the bill, in added Article 21.07-5, Insurance Code, following added Section 5 (page 11, between lines 22 and 23), insert the following:

Sec. 5A. ISSUANCE OF LICENSE TO BUSINESS ENTITY. (a) The department shall adopt rules necessary to issue a public insurance adjuster license to a business entity organized under the laws of this state.

(b) Rules adopted by the department under Subsection (a) must:

(1) be analogous to rules adopted by the department under Section 2, Article 21.07 of this code; and

(2) contain qualifications for the issuance of a public insurance adjuster license analogous to the qualifications described by Section 5 of this article.

(c) The department may not issue a public insurance adjuster license to a business entity described by Subsection (a) unless at least one officer, active partner, or other managing individual of the business entity and each individual performing acts of a public insurance adjuster on behalf of the business entity in this state are individually licensed by the department separately from the business entity by the department under Section 5 of this article.

(8) In SECTION 3.02 of the bill, in added Section 7, Article 21.07-5, Insurance Code (page 13, line 10), strike "5 or 15" and substitute "5, 5A, 15, or 15A".

(9) In SECTION 3.02 of the bill, in added Subsection (e), Section 8, Article 21.07-5, Insurance Code (page 15, line 5), strike "5 or 15" and substitute "5, 5A, 15, or 15A".

(10) In SECTION 3.02 of the bill, in added Subsection (a), Section 9, Article 21.07-5, Insurance Code (page 15, lines 6 and 7), strike "the applicant" in the first place the phrase appears in the subsection and substitute "an examinee".

(11) In SECTION 3.02 of the bill, in added Subsection (a), Section 9, Article 21.07-5, Insurance Code (page 15, line 8), strike "applicant" in the second place the word appears in the subsection and substitute "examinee".

(12) In SECTION 3.02 of the bill, in added Subsection (b), Section 9, Article 21.07-5, Insurance Code (page 15, line 12), strike "applicants" and substitute "examinees".

(13) In SECTION 3.02 of the bill, in added Subsection (c), Section 9, Article 21.07-5, Insurance Code (page 15, line 14), strike "applicant" and substitute "examinee".

(14) In SECTION 3.02 of the bill, in added Section 10, Article 21.07-5, Insurance Code (page 15, line 20), strike "5 or 15" and substitute "5, 5A, 15, or 15A".

(15) In SECTION 3.02 of the bill, in added Subdivision (3), Section 10, Article 21.07-5, Insurance Code (page 15, line 26), strike "the name of the firm, if any," and substitute "if applicable, the name of the firm".

(16) In SECTION 3.02 of the bill, in added Subsection (a), Section 13, Article 21.07-5, Insurance Code, between "state" and "shall" (page 17, line 9), insert "or a business entity organized under the laws of this state".

(17) In SECTION 3.02 of the bill, in added Article 21.07-5, Insurance Code, following added Section 15 (page 22, between lines 4 and 5), insert the following:

Sec. 15A. LICENSE FOR NONRESIDENT BUSINESS ENTITY. (a) The department shall adopt rules necessary to issue a public insurance adjuster license to a business entity organized under the laws of another state or the United States.

(b) Rules adopted by the department under Subsection (a) must:

(1) be analogous to rules adopted by the department under Section 2, Article 21.07 of this code; and

(2) contain:

(A) qualifications for the issuance of a public insurance adjuster license analogous to the qualifications described by Section 15 of this article; and

(B) requirements for the performance of the duties and powers of a public insurance adjuster analogous to the requirements described by Section 15 of this article.

(c) The department may not issue a public insurance adjuster license to a business entity described by Subsection (a) unless at least one officer, active partner, or other managing individual of the business entity and each individual

performing acts of a public insurance adjuster on behalf of the business entity in this state are individually licensed by the department separately from the business entity under Section 15 of this article.

(18) In SECTION 3.02 of the bill, in added Subsection (b), Section 20, Article 21.07-5, Insurance Code (page 24, line 12), strike "The" and substitute "On the filing of a completed renewal application, renewal fee, and, if applicable, evidence of compliance with the continuing education requirements, the".

(19) In SECTION 3.02 of the bill, in added Subsection (a), Section 25, Article 21.07-5, Insurance Code (page 31, lines 2 through 5), strike the final sentence of the subsection, and substitute "A licensee may not divert or appropriate fiduciary funds received or held."

(20) In SECTION 3.02 of the bill, in added Subdivision (3), Subsection (a), Section 30, Article 21.07-5, Insurance Code (page 32, line 25), strike "wilful".

(21) In SECTION 3.02 of the bill, in added Subsection (a), Section 32, Article 21.07-5, Insurance Code (page 35, lines 7 and 8), strike "Except as provided by Section 25(a) of this article, an" and substitute "An".

(22) In SECTION 3.02 of the bill, in added Section 32, Article 21.07-5, Insurance Code, following added Subsection (a) (page 35, between lines 9 and 10), insert the following new subsection and renumber subsequent subsections accordingly:

(b) If conduct that constitutes an offense under Subsection (a) also constitutes an offense under any other law, the person committing the offense may be prosecuted under this section or the other law.

Amendment No. 1 was adopted without objection.

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).

CSSB 127 - (consideration continued)

Amendment No. 2

On behalf of Representative Taylor, Representative Seaman offered the following amendment to **CSSB 127**:

Amend **CSSB 127** as follows:

In Section 3, page 2 line 23 after "commissioner." add subsection (c) An insurer may not make an underwriting decision regarding a residential property insurance policy based on previous mold or water damage, including appliances, if:

(1) the applicant for insurance has made a previous claim under any residential property policy for damage caused by mold or water damage if the claim does not arise out of the negligence of the insured.

(2) mold remediation has been performed on the property that is the subject of the claim; and

(3) the property was:

(A) remediated, as evidenced by a certificate of mold remediation issued to the property owner under Section 1958.153, Occupations Code, that establishes that the underlying cause of the mold at the property has been remediated; or

(B) inspected by an independent assessor or adjustor who determined, based on the inspection, that the property does not contain evidence of mold damage.

(Geren in the chair)

Amendment No. 3

On behalf of Representative Taylor, Representative Seaman offered the following amendment to Amendment No. 2:

Amend Amendment No. 2 by Taylor to **CSSB 127**, in added Subsection (c)(1) (page 1, lines 8-9), by striking "if the claim does not arise out of the negligence of the insured." and substituting "₂".

Amendment No. 3 was adopted without objection.

Amendment No. 2, as amended, was adopted without objection.

(Woolley in the chair)

Amendment No. 4

Representative Geren offered the following amendment to **CSSB 127**:

Amend **CSSB 127** (House Committee Printing) as follows:

(1) In SECTION 1.01 of the bill, in the heading to added Article 5.35-4, Insurance Code (page 1, line 9), strike "; PERMISSIBLE SURCHARGES".

(2) In SECTION 1.01 of the bill, following added Section 3(b), Article 5.35-4, Insurance Code (page 2, between lines 23 and 24), add the following new subsections:

(c) An insurer may not use a prior water damage claim filed by a person as a basis for determining the rate to be paid by the person for insurance coverage or for determining whether to issue, renew, or cancel an insurance policy to or for the person if the person:

(1) properly remediated the prior water damage; and

(2) had the remediation inspected and certified by a person or entity knowledgeable and experienced in the remediation of water damage.

(d) An insurer may not use a prior water damage claim filed regarding specific property as a basis for determining the rate to be paid by a person for insurance coverage for that property or for determining whether to issue, renew, or cancel an insurance policy to or for a person seeking insurance coverage for that property if the prior water damage was properly remediated and was inspected and certified by a person knowledgeable and experienced in remediation of water damage.

(e) An insurer may require the inspection and certification of a remediation described by Subsection (c) or (d) of this section to be conducted by a person or entity approved by the insurer to inspect and certify the remediation of water damage. An insurer requiring the inspection and certification of a remediation

described by Subsection (c) or (d) of this section to be conducted by a person or entity approved by the insurer must ensure that sufficient approved persons or entities are available to conduct necessary inspections and certifications in this state. A person or entity approved by an insurer may charge the applicant for coverage or policyholder a fee, not to exceed \$75, for the required inspection and certification of the remediation. The insurer shall pay any additional amount charged by the approved person or entity in connection with the inspection and certification.

(3) In SECTION 1.01 of the bill, strike added Section 4, Article 5.35-4, Insurance Code (page 2, line 24, through page 4, line 3).

(4) In SECTION 1.01 of the bill, in added Section 5, Article 5.35-4, Insurance Code (page 4, line 4), strike "Sec. 5" and substitute "Sec. 4".

Amendment No. 4 was adopted without objection.

Amendment No. 5

Representative Solomons offered the following amendment to **CSSB 127**:

Amend Proposed **CSSB 127** (House Committee Report) as follows:

(1) On Page 1, Line 15, insert a new Subdivision (1) to read as follows and renumber subsequent subdivisions accordingly:

(1) "Appliance" means a household device operated by gas or electric current, including hoses directly attached to the appliance. The term includes but is not limited to air conditioning units, heating units, refrigerators, dishwashers, icemakers, clothes washers, clothes dryers, stoves, ovens, water heaters, food warmers, trash compactors, and disposers.

(2) On Page 2, Line 20, after the period, add the following to read:

"An insurer may not use appliance related claims that have been repaired by generally prudent and acceptable repair methods as underwriting guidelines unless more than three appliance related claims were filed in the preceding three years."

(3) On Page 2, Line 26, between "claims" and "at" add "that are not repaired appliance related claims".

(4) On Page 3, Line 10, between "claims" and "made" add "that are not repaired appliance related claims".

(5) On Page 4, Line 6, between "claim" and the period, add "and repaired appliance related claims".

Amendment No. 5 was withdrawn.

Amendment No. 6

Representative Bonnen offered the following amendment to **CSSB 127**:

Amend **CSSB 127** on page 4, after line 6, by adding a new Section 6 to added Article 5.35-4, Insurance Code, to read as follows:

Sec. 6. OPTIONAL PREMIUM DISCOUNT. (a) An insurer that issues a residential property insurance policy in this state may provide a discount in the premiums that would otherwise be charged for the policy if the policyholder has installed a water leak detection system that meets the building and performance standards for mold reduction in Section 430.002, Property Code.

(b) The commissioner shall establish by rule the amount of a premium discount applicable under this section based on sound actuarial principles.

Amendment No. 6 was adopted without objection.

CSSB 127, as amended, was passed to third reading.

CSSB 14 ON SECOND READING

(Smithee, Seaman, Eiland, Bonnen, Gallego, et al.- House Sponsors)

CSSB 14, A bill to be entitled An Act relating to the regulation of residential property and commercial and personal automobile insurance; providing a criminal penalty.

Representative Smithee moved to postpone consideration of **CSSB 14** until 2 p.m. today.

The motion prevailed without objection.

CSSB 282 ON SECOND READING

(Bailey and Dunnam - House Sponsors)

CSSB 282, A bill to be entitled An Act relating to the continuation and functions of the Texas State Board of Plumbing Examiners; providing penalties.

Representative Gallego moved to postpone consideration of **CSSB 282** until 2:30 p.m. today.

The motion prevailed without objection.

CONSTITUTIONAL AMENDMENTS CALENDAR

SENATE JOINT RESOLUTIONS

SECOND READING

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

SJR 30 ON SECOND READING

(Callegari - House Sponsor)

SJR 30, A joint resolution proposing a constitutional amendment relating to the provision of parks and recreational facilities by certain conservation and reclamation districts.

Amendment No. 1

Representative Callegari offered the following amendment to **SJR 30**:

Amend **SJR 30** (House Committee Printing) by striking all below the resolving clause and substituting the following:

SECTION 1. Section 59, Article XVI, Texas Constitution, is amended by amending Subsection (a) and adding Subsection (c-1) to read as follows:

(a) The conservation and development of all of the natural resources of this State, and development of parks and recreational facilities, including the control, storing, preservation and distribution of its storm and flood waters, the waters of its rivers and streams, for irrigation, power and all other useful purposes, the reclamation and irrigation of its arid, semi-arid and other lands needing irrigation, the reclamation and drainage of its overflowed lands, and other lands needing drainage, the conservation and development of its forests, water and hydro-electric power, the navigation of its inland and coastal waters, and the preservation and conservation of all such natural resources of the State are each and all hereby declared public rights and duties; and the Legislature shall pass all such laws as may be appropriate thereto.

(c-1) In addition and only as provided by this subsection, the Legislature may authorize conservation and reclamation districts to develop and finance with taxes those types and categories of parks and recreational facilities that were not authorized by this section to be developed and financed with taxes before November 4, 2003. For development of such parks and recreational facilities, the Legislature may authorize indebtedness payable from taxes as may be necessary to provide for improvements and maintenance only for a conservation and reclamation district all or part of which is located in Bexar County, Bastrop County, Waller County, Travis County, Williamson County, Harris County, Galveston County, Brazoria County, Fort Bend County, or Montgomery County, or for the Tarrant Regional Water District, a Water Control and Improvement District located in whole or in part in Tarrant County. All the indebtedness may be evidenced by bonds of the conservation and reclamation district, to be issued under regulations as may be prescribed by law. The Legislature may also authorize the levy and collection within such district of all taxes, equitably distributed, as may be necessary for the payment of the interest and the creation of a sinking fund for the payment of the bonds and for maintenance of and improvements to such parks and recreational facilities. The indebtedness shall be a lien on the property assessed for the payment of the bonds. The Legislature may not authorize the issuance of bonds or provide for indebtedness under this subsection against a conservation and reclamation district unless a proposition is first submitted to the qualified voters of the district and the proposition is adopted. This subsection expands the authority of the Legislature with respect to certain conservation and reclamation districts and is not a limitation on the authority of the Legislature with respect to conservation and reclamation districts and parks and recreational facilities pursuant to this section as that authority existed before November 4, 2003.

SECTION 2. The legislature intends by the amendment proposed by Section 1 of this resolution to expand the authority of the legislature with regard to certain conservation and reclamation districts. The proposed amendment should not be construed as a limitation on the powers of the legislature or of a district with respect to parks and recreational facilities as those powers exist immediately before the amendment takes effect.

SECTION 3. This proposed constitutional amendment shall be submitted to the voters at an election to be held November 4, 2003. The ballot shall be printed to permit voting for or against the proposition: "The constitutional amendment relating to the provision of parks and recreational facilities by certain conservation and reclamation districts."

Amendment No. 1 was adopted without objection.

Amendment No. 2

Representative Denny offered the following amendment to **SJR 30**:

Amend the proposed house floor substitute to **SJR 30** in SECTION 3 of the joint resolution (page 2, line 31) by striking "November 4" and substituting "September 13".

A record vote was requested.

Amendment No. 2 was adopted by (Record 640): 85 Yeas, 59 Nays, 2 Present, not voting.

Yeas — Allen; Baxter; Berman; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Callegari; Campbell; Casteel; Chisum; Christian; Cook, B.; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Dawson; Delisi; Denny; Driver; Eissler; Elkins; Flynn; Gattis; Geren; Goolsby; Griggs; Grusendorf; Haggerty; Hamilton; Hamric; Harper-Brown; Hartnett; Heflin; Hegar; Hilderbran; Hill; Hope; Howard; Hunter; Hupp; Isett; Jones, E.; Keel; Keffer, B.; Keffer, J.; King; Kolkhorst; Krusee; Kuempel; Laubenberg; Luna; Madden; Marchant; McCall; Merritt; Miller; Morrison; Mowery; Nixon; Paxton; Phillips; Pickett; Pitts; Reyna; Riddle; Ritter; Seaman; Smith, W.; Smithee; Solomons; Stick; Swinford; Talton; Taylor; Truitt; Van Arsdale; West; Wohlgenuth; Wong; Woolley(C); Zedler.

Nays — Alonzo; Bailey; Burnam; Canales; Capelo; Castro; Coleman; Davis, Y.; Deshotel; Dukes; Dunnam; Dutton; Edwards; Eiland; Ellis; Escobar; Farabee; Farrar; Flores; Gallego; Garza; Giddings; Goodman; Guillen; Gutierrez; Hardcastle; Hochberg; Hodge; Homer; Hopson; Jones, D.; Jones, J.; Laney; Lewis; Mabry; Martinez Fischer; McClendon; McReynolds; Menendez; Mercer; Moreno, J.; Moreno, P.; Naishtat; Noriega; Olivo; Peña; Puente; Quintanilla; Raymond; Rodriguez; Rose; Smith, T.; Solis; Telford; Thompson; Turner; Villarreal; Wilson; Wise.

Present, not voting — Mr. Speaker; Hughes.

Absent, Excused — Chavez.

Absent — Oliveira; Uresti; Wolens.

Amendment No. 3

Representative Puente offered the following amendment to **SJR 30**:

Amend **SJR 30**, in SECTION 1 of the joint resolution, in proposed Section 59(c-1), Article XVI, Texas Constitution (House Committee Printing, page 2, line 19), between "in" and "Travis" by inserting "Bexar County".

Amendment No. 3 was adopted without objection.

A record vote was requested.

SJR 30, as amended, was passed to third reading by (Record 641): 86 Yeas, 52 Nays, 4 Present, not voting.

Yeas — Baxter; Berman; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Callegari; Campbell; Capelo; Casteel; Christian; Cook, B.; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Dawson; Delisi; Denny; Driver; Eissler; Elkins; Ellis; Farabee; Flynn; Goolsby; Griggs; Grusendorf; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Heflin; Hilderbran; Hill; Homer; Howard; Hunter; Hupp; Isett; Jones, D.; Jones, E.; Jones, J.; Keel; Keffer, J.; King; Kolkhorst; Kuempel; Lewis; Luna; Madden; Marchant; McCall; McReynolds; Mercer; Merritt; Miller; Morrison; Mowery; Nixon; Phillips; Pickett; Riddle; Ritter; Seaman; Smith, T.; Smith, W.; Smithee; Solomons; Stick; Swinford; Talton; Taylor; Thompson; Truitt; Van Arsdale; West; Wohlgemuth; Wolens; Wong; Woolley(C); Zedler.

Nays — Allen; Alonzo; Burnam; Canales; Castro; Chisum; Coleman; Davis, Y.; Deshotel; Dukes; Dunnam; Dutton; Edwards; Eiland; Escobar; Flores; Gallego; Geren; Giddings; Goodman; Guillen; Hochberg; Hodge; Hope; Hopson; Hughes; Keffer, B.; Laney; Laubenberg; Mabry; Martinez Fischer; McClendon; Menendez; Moreno, J.; Moreno, P.; Naishtat; Oliveira; Olivo; Paxton; Peña; Puente; Quintanilla; Raymond; Rodriguez; Rose; Solis; Telford; Turner; Uresti; Villarreal; Wilson; Wise.

Present, not voting — Mr. Speaker; Farrar; Garza; Gutierrez.

Absent, Excused — Chavez.

Absent — Bailey; Gattis; Hegar; Krusee; Noriega; Pitts; Reyna.

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. 3).

FIVE DAY POSTING RULE SUSPENDED

Representative Ritter moved to suspend the five day posting rule to allow the Committee on Pensions and Investments to consider **SB 977**, **SB 1318**, and **SB 1442**.

The motion prevailed without objection.

COMMITTEE MEETING ANNOUNCEMENTS

The following committee meetings were announced:

Pensions and Investments, upon lunch recess today, Desk 14, for a formal meeting, to consider **SB 977**, **SB 1318**, and **SB 1442**.

State Cultural and Recreational Resources, upon lunch recess today, Desk 69, for a formal meeting, to consider **HCR 208**, **HCR 256**, **SB 470**, **SB 1154**, **SB 1582**, and **SCR 51**.

Defense Affairs and State-Federal Relations, upon lunch recess today, Desk 76, for a formal meeting, to consider pending legislation.

Criminal Jurisprudence, upon lunch recess today, Desk 59, for a formal meeting, to consider **SB 782**.

Judicial Affairs, upon lunch recess today, Desk 70, for a formal meeting.

Rules and Resolutions, upon lunch recess today, Desk 133, for a formal meeting, to consider the calendar.

Financial Institutions, upon lunch recess today, speakers committee room, for a formal meeting, to consider **SB 902** and **SB 1778**.

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. 42 and Senate List Nos. 32 and 33).

COMMITTEE MEETING ANNOUNCEMENTS

The following committee meetings were announced:

Local Government Ways and Means, upon lunch recess today, Desk 73, for a formal meeting, to consider **SB 1705**.

Urban Affairs, upon lunch recess today, Desk 48, for a formal meeting, to consider **SB 1536**, **SB 1811**, and **SB 1912**.

RECESS

Representative Hochberg moved that the house recess until 1:45 p.m. today.

The motion prevailed without objection.

The house accordingly, at 12:25 p.m., recessed until 1:45 p.m. today.

AFTERNOON SESSION

(Krusee in the chair)

The house met at 1:45 p.m. and was called to order by the chair.

HR 1049 - ADOPTED (by Kuempel, et al.)

Representative Kuempel moved to suspend all necessary rules to take up and consider at this time **HR 1049**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 1049, Honoring Rita Horwitz on her retirement as executive director of the State Pension Review Board.

HR 1049 was read and was adopted without objection.

INTRODUCTION OF GUEST

The chair recognized Representatives Kuempel and Telford who introduced Rita Horwitz.

MESSAGES FROM THE SENATE

Messages from the senate were received at this time (see the addendum to the daily journal, Messages from the Senate, Message Nos. 4, 5, and 6).

POSTPONED BUSINESS

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

CSSB 14 ON SECOND READING

(Smithee, Seaman, Eiland, Bonnen, Gallego, et al. - House Sponsors)

CSSB 14, A bill to be entitled An Act relating to the regulation of residential property and commercial and personal automobile insurance; providing a criminal penalty.

CSSB 14 was read second time earlier today and was postponed until 2 p.m. today.

(Speaker in the chair)

Amendment No. 1

Representative Smithee offered the following amendment to **CSSB 14**:

Amend **CSSB 14** as follows:

(1) In SECTION 1.01 of the bill, in the recital (page 1, line 8, house committee printing), strike "Subchapter Q" and substitute "Subchapters Q and S".

(2) In SECTION 1.01 of the bill, in the heading to added Article 5.142, Insurance Code (page 1, lines 10-11, house committee printing), strike "PERSONAL AUTOMOBILE INSURANCE COVERAGE AND".

(3) In SECTION 1.01 of the bill, in Section 1(a) of added Article 5.142, Insurance Code (page 1, line 13, house committee printing), strike "personal automobile insurance and".

(4) In SECTION 1.01 of the bill, in Section 1(b)(1) of added Article 5.142, Insurance Code (page 1, lines 16-17, house committee printing), strike "personal automobile insurance rates and".

(5) In SECTION 1.01 of the bill, in Section 1(b)(2) of added Article 5.142, Insurance Code (page 1, lines 20-21, house committee printing), strike "personal automobile and".

(6) In SECTION 1.01 of the bill, strike Section 2(a)(5) of added Article 5.142, Insurance Code (page 3, line 13 through page 4, line 4, house committee printing), and substitute the following:

(5) "Insurer" means an insurance company, reciprocal or interinsurance exchange, mutual insurance company, capital stock company, county mutual insurance company, Lloyd's plan, or other legal entity authorized to write residential property insurance in this state. The term includes an affiliate, as described by this code, if that affiliate is authorized to write residential property insurance. The term does not include:

(A) the Texas Windstorm Insurance Association under Article 21.49 of this code;

(B) the FAIR Plan Association under Article 21.49A of this code;

or

(C) an insurer that is not engaged in the business of residential property insurance in this state before the effective date of S.B. 14, Acts of the 78th Legislature, Regular Session, 2003.

(7) In SECTION 1.01 of the bill, strike Section 2(a)(7) of added Article 5.142, Insurance Code (page 4, lines 7-16, house committee printing).

(8) In SECTION 1.01 of the bill, in Section 2(a)(9) of added Article 5.142, Insurance Code (page 4, line 27, house committee printing), strike "personal automobile insurance or".

(9) In SECTION 1.01 of the bill, in Section 2(a) of added Article 5.142, renumber subdivisions appropriately.

(10) In SECTION 1.01 of the bill (page 20, line 11, through page 23, line 7, house committee printing), strike Sections 3-7 of added Article 5.143, Insurance Code, and substitute the following:

Sec. 3. REDUCED FILING. For an insurer with a market share of less than five percent, the commissioner shall consider insurer and market-specific attributes, as applicable, and shall promulgate filing requirements for those insurers accordingly to accommodate premium volume and loss experience, targeted markets, limitations on coverage, and any potential barriers to market entry or growth in the market.

(11) Renumber the Sections of added Article 5.143, Insurance Code, appropriately.

(12) In SECTION 1.01 of the bill, following added Subchapter Q, Chapter 5, Insurance Code (page 24, between lines 4 and 5, house committee printing), insert:

SUBCHAPTER S. REFUND

Art. 5.146. REFUND OF EXCESSIVE OR DISCRIMINATORY PREMIUM; DISCOUNT. (a) In this article:

(1) "Insurer" means an insurance company, reciprocal or interinsurance exchange, mutual insurance company, capital stock company, county mutual insurance company, Lloyd's plan, or other legal entity authorized to write residential property insurance in this state. The term includes an affiliate, as described by this code, if that affiliate is authorized to write residential property insurance. The term does not include:

(A) the Texas Windstorm Insurance Association under Article 21.49 of this code; or

(B) the FAIR Plan Association under Article 21.49A of this code.

(2) "Personal automobile insurance" means motor vehicle insurance coverage for the ownership, maintenance, or use of a private passenger, utility, or miscellaneous type motor vehicle, including a motor home, trailer, or recreational vehicle, that is:

(A) owned or leased by an individual or individuals; and

(B) not primarily used for the delivery of goods, materials, or services, other than for use in farm or ranch operations.

(3) "Residential property insurance" means insurance coverage against loss to real or tangible personal property at a fixed location that is provided through a homeowners policy, including a tenants policy, a condominium owners policy, or a residential fire and allied lines policy.

(b) Except as provided by Subsection (d) of this article, if the commissioner determines that an insurer has charged a rate for personal automobile insurance or residential property insurance that is excessive or discriminatory, as described by Article 5.13-2, 5.101, or 5.142 of this code, the commissioner may order the insurer to:

(1) issue a refund of the excessive or discriminatory portion of the premium directly to each affected policyholder if the amount of that portion of the premium is at least 7.5 percent of the total premium charged for the coverage; or

(2) provide each affected policyholder a future premium discount in the amount of the excessive or discriminatory portion of the premium if the amount of that portion of the premium is less than 7.5 percent.

(c) On or before the 20th day after the date an order is issued under this article, an insurer may request a rate hearing to be conducted by the State Office of Administrative Hearings to determine whether the rate that is subject to the order is excessive and discriminatory. The office of public insurance counsel may participate in a hearing conducted under this subsection and present evidence at the hearings.

(d) After completion of the rate hearing under Subsection (c) of this section, the administrative law judge shall prepare a proposal for decision under Section 40.058 of this code and remand the case to the commissioner recommending:

(1) that the commissioner affirm the commissioner's order; or

(2) additional review of the order by the commissioner to be completed not later than the 10th day after the date the commissioner receives the administrative law judge's proposal, that the parties enter into negotiations, or that the commissioner take other appropriate action with respect to the order within a time period specified by the administrative law judge.

(e) An action or failure to act of the commissioner under Subsection (d) of this section is subject to appeal under Subchapter D, Chapter 36, of this code.

(f) This article does not apply to rates for personal automobile insurance or residential property insurance for which an insurer has obtained prior approval of those rates under Section 5, Article 5.142, or Section 5A, Article 5.13-2, of this code.

(g) This article does not apply to a rate subject to Section 12, Article 5.13-2, of this code. This subsection expires September 1, 2003.

(13) In ARTICLE 1 of the bill, strike PART B of the bill (page 24, lines 5-11, house committee printing) and substitute the following:

PART B. RATES FOR CERTAIN PERSONAL AUTOMOBILE INSURANCE

SECTION 1.02. The heading to Article 5.101, Insurance Code, is amended to read as follows:

Art. 5.101. FLEXIBLE RATING PROGRAM FOR PERSONAL AUTOMOBILE ~~[CERTAIN]~~ INSURANCE ~~[LINES]~~

SECTION 1.03. Section 1, Article 5.101, Insurance Code, is amended to read as follows:

Sec. 1. ~~[PURPOSE;]~~ APPLICABILITY. (a) ~~[The program on flexible rating is designed to help stabilize the rates charged for insurance in lines of property and casualty insurance covered by Subchapters A and C of this chapter.]~~

~~(b)~~ This article applies only to personal automobile insurance ~~[does not apply to:~~

~~(1) ocean marine insurance;~~

~~(2) inland marine insurance;~~

~~(3) fidelity, surety and guaranty bond insurance;~~

~~(4) errors and omissions insurance;~~

~~(5) directors' and officers' liability insurance;~~

~~(6) general liability insurance;~~

~~(7) commercial property insurance;~~

~~(8) workers' compensation insurance;~~

~~(9) professional liability insurance for physicians and health care providers as defined in Article 5.15-1 of this code; or~~

~~(10) attorney's professional liability insurance].~~

~~(b)~~ ~~(e)~~ Notwithstanding Subsection (a) of this section, this article does not apply to premium rates for motor vehicle insurance computed using a mile-based rating plan under Article 5.01-4 of this code.

SECTION 1.04. Section 3, Article 5.101, Insurance Code, is amended by amending Subsection (e) and adding Subsection (r) to read as follows:

(e) An insurer may use any rate by classification within the flexibility band without prior approval by the commissioner. The rate may not include expenses disallowed under Subsection (o) of this section. Within 30 days of the effective date of the benchmark rate for a particular line, each insurer which proposes to write that line of insurance in this state during the effective period of the benchmark rate shall file with the commissioner its proposed rate by line, and by classification and territory under the rating manual promulgated by the commissioner, unless the insurer has obtained approval from the commissioner under Subsection (l) of this section to use its own rating manual. The insurer shall include in the filing any statistics to support the rates to be used by the insurer as required by rule of the commissioner, including information necessary to evidence that the calculation of the rate does not include disallowed expenses. ~~[Rates proposed in filings made under this subsection must be just, reasonable, adequate and not excessive for the risks to which they apply.]~~ The rate takes effect on the date specified by the insurer, but not later than the 60th day after the date of filing of the rate with the commissioner. For the purpose of this section, the date the rate is received by the commissioner is the date of filing. From and after the effective date of the benchmark rate and prior to the insurer's specified effective date of a new rate, the insurer's previously filed rate shall remain in effect. Subject to the limitations contained in Subsection (p) of this section and

Section 3B of this article, an insurer may continue to use its previously filed rates or may make additional rate filings based on the previous benchmark rate for new policies or policies renewing prior to the specified effective date of its new rate.

(r) An insurer who writes insurance in a line subject to this article is subject to the rating standards described by Section 3A of this article.

SECTION 1.05. Article 5.101, Insurance Code, is amended by adding Sections 3A, 3B, 3C, and 7 to read as follows:

Sec. 3A. RATING STANDARDS. (a) Rates used by insurers subject to this article may not be excessive, inadequate, unreasonable, or unfairly discriminatory for the risks to which they apply.

(b) For purposes of this section, a rate is:

(1) excessive if the rate is likely to produce a long-term profit that is unreasonably high in relation to the insurance coverage provided;

(2) inadequate if the rate is insufficient to sustain projected losses and expenses to which the rate applies, and continued use of the rate:

(A) endangers the solvency of an insurer using the rate; or

(B) has the effect of substantially lessening competition or creating a monopoly within any market; or

(3) unfairly discriminatory if the rate:

(A) cannot be actuarially justified;

(B) does not bear a reasonable relationship to the expected loss and expense experience among risks; or

(C) is based wholly or partly on the race, creed, color, ethnicity, or national origin of the policyholder or an insured.

Sec. 3B. CHANGE OF RATE WITHIN FLEXIBILITY BAND; REQUIRED FILING. Notwithstanding Section 3(e) of this article, an insurer who changes a rate used by the insurer that is established within the flexibility band shall file the changed rate with the department in the manner prescribed by rule by the commissioner.

Sec. 3C. REFUND. If the commissioner determines that rates of an insurer do not comply with the rating standards established under this article and are excessive or discriminatory, the commissioner may order the insurer to make a refund in the manner prescribed by Article 5.146 of this code.

Sec. 7. EXPIRATION. This article expires effective September 1, 2004.

(14) In ARTICLE 2 of the bill (page 38, line 22, through page 39, line 1, house committee printing), strike SECTION 2.04 and substitute the following:

SECTION 2.04. Articles 21.49-2U and 21.49-2V, Insurance Code, as added by this article, apply only to an insurance policy delivered, issued for delivery, or renewed on or after January 1, 2004. A policy delivered, issued for delivery, or renewed before that date is governed by the law as it existed immediately before January 1, 2004, and that law is continued in effect for that purpose.

(15) In SECTION 3.07 of the bill, in added Section 12(e), Article 5.13-2, Insurance Code (page 44, line 5, house committee printing), between "by rule" and the period, insert "required as provided by Subsection (b) of this section in connection with the rating criteria".

(16) In SECTION 3.07 of the bill, in added Section 12(i), Article 5.13-2, Insurance Code (page 45, line 2, house committee printing), between "disapproval" and "of the rate", insert "or reduction".

(17) In SECTION 3.07 of the bill, in added Section 12(i), Article 5.13-2, Insurance Code (page 45, line 3, house committee printing), between "disapproval" and "order", insert "or reduction".

(18) In SECTION 3.07 of the bill, in added Section 12(n), Article 5.13-2, Insurance Code (page 46, line 26, house committee printing), strike "the policyholder" and substitute "a person who is a policyholder at the time the refund is ordered".

(19) In SECTION 3.07 of the bill, in added Section 12(n), Article 5.13-2, Insurance Code (page 47, line 1, house committee printing), between "overcharge" and "plus", insert "that would have otherwise been required to be refunded".

(20) In SECTION 3.07 of the bill, in added Section 12(n), Article 5.13-2, Insurance Code (page 47, line 2, house committee printing), between "percent" and the period, insert ", as a credit to the next renewal policy premium".

(21) In SECTION 4.01 of the bill, in amended Article 5.13, Insurance Code (page 50, line 26 through page 51, line 2, house committee printing), strike the underlined language and substitute the following:

code, except that Article 5.13-2 of this code shall apply to a county mutual insurance company with respect to personal automobile and commercial automobile insurance, residential and commercial property insurance, and inland marine insurance

(22) In SECTION 4.01 of the bill, in amended Article 5.13, Insurance Code (page 51, line 25, house committee printing), strike "noncommercial".

(23) In SECTION 4.02 of the bill, in the amended heading to Article 5.13-2, Insurance Code (page 52, line 17, house committee printing), strike "COMMERCIAL INLAND MARINE" and substitute "INLAND MARINE".

(24) In SECTION 4.03 of the bill, in amended Section 1, Article 5.13-2, Insurance Code (page 52, lines 22-23, house committee printing), strike "commercial inland marine" and substitute "inland marine".

(25) In SECTION 4.03 of the bill, in amended Section 2, Article 5.13-2, Insurance Code (page 53, lines 16-17, house committee printing), strike "commercial inland marine" and substitute "inland marine".

(26) In ARTICLE 4 of the bill, strike SECTION 4.04 of the bill (page 53, line 22 through page 54, line 6, house committee printing) and substitute the following:

SECTION 4.04. Section 3, Article 5.13-2, Insurance Code, is amended to read as follows:

Sec. 3. DEFINITIONS. (a) In this article:

(1) "Disallowed expenses" includes:

(A) administrative expenses, not including acquisition, loss control, and safety engineering expenses, that exceed 110 percent of the industry median for those expenses;

(B) lobbying expenses;

- (C) advertising expenses, other than for advertising:
- (i) directly related to the services or products provided by the insurer; or
 - (ii) designed and directed at loss prevention;
- (D) amounts paid by an insurer:
- (i) as damages in an action brought against the insurer for bad faith, fraud, or any matters other than payment under the insurance contract; or
 - (ii) as fees, fines, penalties, or exemplary damages for a civil or criminal violation of law;
- (E) contributions to:
- (i) social, religious, political, or fraternal organizations; or
 - (ii) organizations engaged in legislative advocacy;
- (F) except as authorized by rule by the commissioner, fees and assessments paid to advisory organizations; and
- (G) any unreasonably incurred expenses, as determined by the commissioner after notice and hearing.

(2) "Filer" means an insurer that files rates, prospective loss costs, or supplementary rating information under this article.

(3) [(2)] "Insurer" means an insurer to which Article 5.13 of this code applies, but does not include the Texas Windstorm Insurance Association, the FAIR Plan Association, or the Texas Automobile Insurance Plan Association. All provisions of this article shall apply to Lloyd's plans, reciprocals and interinsurance exchanges, and county mutual insurance companies with respect to the lines of insurance described in Section 1 of this article, except that [However,] the provisions of Sections 4, 5, 6, and 7 of this article shall not apply to Lloyd's or reciprocals with respect to commercial property insurance.

(4) [(3)] "Prospective loss costs" means that portion of a rate that does not include provisions for profit or expenses, other than loss adjustment expenses, that is based on historical aggregate losses and loss adjustment expenses projected by development to their ultimate value and through trending to a future point in time.

(5) [(4)] "Rate" means the cost of insurance per exposure unit, whether expressed as a single number or as a prospective loss cost, with an adjustment to account for the treatment of expenses, profit, and individual insurer variation in loss experience, before any application of individual risk variations based on loss or expense considerations.

(6) "Rating manual" means a publication or schedule that lists rules, classifications, territory codes and descriptions, rates, premiums, and other similar information used by an insurer to determine the applicable premium charged an insured.

(7) "Residential property insurance" means insurance coverage against loss to real or tangible personal property at a fixed location that is provided through a homeowners policy, including a tenants policy, a condominium owners policy, or a residential fire and allied lines policy. [The term does not include a minimum premium.]

(8) ~~(6)~~ "Supplementary rating information" means any manual, rating schedule, plan of rules, rating rules, classification systems, territory codes and descriptions, rating plans, and other similar information used by the insurer to determine the applicable premium for an insured. The term includes factors and relativities, including ~~such as~~ increased limits factors, classification relativities, deductible relativities, premium discount, and other similar factors and rating plans such as experience, schedule, and retrospective rating.

(9) ~~(6)~~ "Supporting information" means:

(A) the experience and judgment of the filer and the experience or information of other insurers or advisory organizations relied on by the filer;

(B) the interpretation of any other information relied on by the filer;

(C) descriptions of methods used in making the rates; and

(D) any other information required by the department to be filed.

(b) For purposes of this article, a rate is:

(1) excessive if the rate is likely to produce a long-term profit that is unreasonably high in relation to the insurance coverage provided;

(2) inadequate if the rate is insufficient to sustain projected losses and expenses to which the rate applies, and continued use of the rate:

(A) endangers the solvency of an insurer using the rate; or

(B) has the effect of substantially lessening competition or creating a monopoly within any market; or

(3) unfairly discriminatory if the rate:

(A) cannot be actuarially justified;

(B) does not bear a reasonable relationship to the expected loss and expense experience among risks; or

(C) is based wholly or partly on the race, creed, color, ethnicity, or national origin of the policyholder or an insured.

(27) In ARTICLE 4 of the bill, strike SECTIONS 4.05 and 4.06 (page 54, lines 7-18, house committee printing) and substitute the following:

SECTION 4.05. Section 4, Article 5.13-2, Insurance Code, is amended by amending Subsections (b) and (d) and adding Subsection (f) to read as follows:

(b) In setting rates, an insurer shall consider:

(1) past and prospective loss experience inside this state, and outside this state if the state data are not credible;

(2) the peculiar hazards and experiences of individual risks, past and prospective, inside and outside this state;

(3) the insurer's actuarially credible historical premium, exposure, loss, and expense experience;

(4) ~~any applicable~~ catastrophe hazards within this state;

(5) operating ~~(3) operation~~ expenses, excluding disallowed expenses;

(6) ~~(4)~~ investment income;

(7) ~~(5)~~ a reasonable margin for profit ~~[and contingencies];~~ and

(8) ~~(6)~~ any other ~~[relevant]~~ factors inside and outside this state determined to be relevant by the insurer and not disallowed by the commissioner.

(d) Rates established under this article may not be excessive, inadequate, unreasonable, or unfairly discriminatory for the risks to which they apply ~~and may not be unreasonable~~.

(f) In determining a rating territory, an insurer shall use methods based on actuarially sound principles.

SECTION 4.06. Section 5, Article 5.13-2, Insurance Code, is amended by amending Subsection (a) and adding Subsections (a-1) and (a-2) to read as follows:

(a) Except as provided by Section 5A of this article, each ~~Each~~ insurer shall file with the commissioner all rates, applicable rating manuals, supplementary rating information, and ~~additional [reasonable and pertinent supporting]~~ information as required by the commissioner for risks written in this state.

(a-1) The commissioner by rule shall determine the information required to be provided in the filing, including:

(1) the categories of supporting information;

(2) the categories of supplementary rating information;

(3) any statistics or other information to support the rates to be used by the insurer, including information necessary to evidence that the computation of the rate does not include disallowed expenses; and

(4) information concerning policy fees, service fees, and other fees that are charged or collected by the insurer under Article 21.35A or 21.35B of this code.

(a-2) For an insurer with less than five percent of the market, the commissioner shall consider insurer and market-specific attributes, as applicable, and shall promulgate filing requirements accordingly to accommodate premium volume and loss experience, targeted markets, limitations on coverage, and any potential barriers to market entry or growth.

SECTION 4.07. Article 5.13-2, Insurance Code, is amended by adding Sections 5A and 8A to read as follows:

Sec. 5A. PRIOR APPROVAL REQUIRED FOR CERTAIN INSURERS.

(a) The commissioner by order may require an insurer to file with the commissioner all rates, supplementary rate information, and any supporting information as prescribed by this section if the commissioner determines that:

(1) an insurer's rates require supervision because of the insurer's financial condition;

(2) an insurer's rates require supervision because of the insurer's rating practices; or

(3) a statewide insurance emergency exists.

(b) Except as provided by Subsection (k) of this section, an insurer may not use a rate until the rate has been filed with the department and approved by the commissioner as provided by this section. For purposes of this section, a rate is filed with the department on the date the rate filing is received by the department.

(c) Not later than the 30th day after the date the rate is filed with the department, the commissioner shall:

(1) approve the rate if the commissioner determines that the rate complies with the requirements of this article; or

(2) disapprove the rate if the commissioner determines that the rate does not comply with the requirements of this article.

(d) Except as provided by Subsection (f) of this section, if the rate has not been approved or disapproved by the commissioner before the expiration of the 30-day period described by Subsection (c) of this section, the rate is considered approved and the insurer may use the rate unless the rate proposed in the filing represents an increase of 12.5 percent or more from the insurer's prior filed rate.

(e) The commissioner and the insurer may not by agreement extend the 30-day period described by Subsection (c) of this section.

(f) For good cause, the commissioner may extend the period for approval or disapproval of a rate for one additional 30-day period on the expiration of the 30-day period described by Subsection (c) of this section.

(g) If the department determines that the information filed by the insurer under this article is incomplete or otherwise deficient, the department, not later than the 10th day after the date the insurer files the rate with the department, may request additional information from the insurer. If the department requests additional information from the insurer during the first 30-day review period provided under Subsection (c) of this section or under the second 30-day review period provided under Subsection (f) of this section, the period of time between the date of the department's submission of the request for additional information to the insurer and the date of the receipt of the additional information by the department from the insurer is not counted to determine what constitutes the first 30-day review period or the second 30-day review period. For purposes of this subsection, the date of the department's submission of the request for additional information is the date of the electronic mailing or telephone call or the postmarked date on the department's letter relating to the request for additional information.

(h) The commissioner shall approve the rate filing if the proposed rate is adequate, not excessive, and not unfairly discriminatory.

(i) If the commissioner approves a rate filing, the commissioner shall provide written or electronic notification of the approval to the insurer. On receipt of the notice of the commissioner's approval of a rate, the insurer may use the rate.

(j) From the date of the filing of the rate with the department to the effective date of the new rate, the insurer's previously filed rate that is in effect on the date of the filing remains in effect.

(k) After approval of a rate filing under this section, an insurer may use any rate subsequently filed by the insurer, without prior approval of the commissioner, if the subsequently filed rate does not exceed the lesser of 107.5 percent of the rate approved by the commissioner or 110 percent of any rate used by the insurer within the previous 12-month period. Filed rates under this subsection take effect on the date specified by the insurer.

(l) If the commissioner disapproves a rate filing under Subsection (c)(2) of this section, the commissioner shall issue an order in the manner prescribed by Section 7(b) of this article. The insurer is entitled to a hearing in accordance with Section 7(b) of this article.

(m) The commissioner may require an insurer to file the insurer's rates under this section until the commissioner determines that the conditions described by Subsection (a) of this section no longer exist.

Sec. 8A. INLAND MARINE FORMS AND RATES. The commissioner shall adopt rules governing the manner in which forms and rates for classifications of risks for inland marine insurance, as determined by the commissioner, are regulated.

(28) Renumber current SECTIONS 3.09, 3.10, and 3.11 of the bill, adding Sections 13, 14, and 15, Article 5.13-2, Insurance Code (page 47, line 15 through page 50, line 13, house committee printing), as SECTIONS 4.08, 4.09, and 4.10 of the bill, and renumber the SECTIONS of ARTICLE 3 of the bill appropriately.

(29) In renumbered SECTION 4.08 of the bill, in added Section 13(c), Article 5.13-2, Insurance Code (page 48, line 12, house committee printing), after "in this state.", insert "After the effective date of S.B. 14, Acts of the 78th Legislature, Regular Session, 2003, and before the first annual adjustment by the commissioner, the commissioner may adjust the computation of the rate index under this section as the commissioner determines necessary."

(30) In renumbered SECTION 4.08 of the bill, in added Section 13(f), Article 5.13-2, Insurance Code (page 48, line 22, house committee printing), between "insurance" and "at nonstandard rates", strike "polices" and insert "policies only".

(31) In renumbered SECTION 4.08 of the bill, in added Section 13(f), Article 5.13-2, Insurance Code (page 48, line 25, house committee printing), following the period, insert: "In setting rates, an insurance company subject to this subsection must comply with the rating standards established by this article. Not later than the first day on which any change in the rates becomes effective, the company shall for informational purposes file the rates and any additional information required by the department. The commissioner by rule shall determine the information required to be provided in the filing under this subsection. The commissioner may inspect the books and records of the company at any time to ensure compliance with the rating standards. An insurance company described by this subsection is subject to Article 5.146 of this code. A county mutual insurance company not described by this section is subject to Article 21.81 of this code and is required to comply with the filing requirements of this article and Article 5.142 of this code and any other provision of this code applicable to a county mutual insurance company."

(32) In renumbered SECTION 4.08 of the bill, in the first sentence of added Section 13(h), Article 5.13-2, Insurance Code (page 49, lines 5-6, house committee printing), strike "have served or are serving" and substitute "have served exclusively or are serving exclusively".

(33) In renumbered SECTION 4.08 of the bill, in the first sentence of added Section 13(h), Article 5.13-2, Insurance Code (page 49, line 6, house committee printing), between "market" and the period, insert "and meet capitalization and solvency requirements set by the commissioner".

(34) In renumbered SECTION 4.08 of the bill, in the second sentence of added Section 13(h), Article 5.13-2, Insurance Code (page 49, lines 7-8, house committee printing), strike "as having served or serving the nonstandard market" and substitute "under this subsection".

(35) In renumbered SECTION 4.08 of the bill, in added Section 13, Article 5.13-2, Insurance Code (page 49, between lines 8 and 9, house committee printing), insert new Subsections (i) and (j) to read as follows:

(i) Notwithstanding Article 17.02 or Section 912.004 or 912.102 of this code, the commissioner may issue a new charter to a county mutual insurance company to write insurance coverage exclusively in a nonstandard market as necessary to provide:

(1) adequate capacity in that market; and

(2) reasonably affordable insurance in that market.

(j) The commissioner may adopt rules as necessary to implement this section.

(36) In renumbered SECTION 4.10 of the bill, in added Section 15, Article 5.13-2, Insurance Code (page 49, line 17, house committee printing), strike "PREMIUM CHARGES" and substitute "RATE INCREASE".

(37) In ARTICLE 4 of the bill (page 54, between lines 17 and 18) insert new SECTIONS 4.11, 4.12, and 4.13 to read as follows:

SECTION 4.11. Article 5.13-2, Insurance Code, is amended by adding Sections 16 and 17 to read as follows:

Sec. 16. RIGHTS OF PUBLIC INSURANCE COUNSEL. (a) On request to the commissioner, the public insurance counsel may review all rate filings and additional information provided by an insurer under this article. Confidential information reviewed under this subsection remains confidential.

(b) The public insurance counsel, not later than the 30th day after the date of a rate filing under this article, may object to an insurer's rate filing or the criteria relied on by the insurer to determine the rate by filing a written objection with the commissioner. The written objection must contain the reasons for the objection.

Sec. 17. ADVISORY ORGANIZATIONS. (a) An advisory organization may file with the commissioner for use by insurers loss and loss adjustment expense information. An insurer that subscribes to the advisory organization may use information filed under this subsection after the information is approved by the commissioner.

(b) An advisory organization may not publish rates for insurance subject to this article.

SECTION 4.12. A county mutual insurance company required to make informational rate filings under Section 13(f), Article 5.13-2, Insurance Code, as added by this Act, shall make an initial informational rate filing, as required by the commissioner, not later than the 30th day after the effective date of this article.

SECTION 4.13. This article takes effect September 1, 2004, except that Sections 13, 14, and 15, Article 5.13-2, Insurance Code, as added by this article, take effect on the effective date of this Act.

(38) In SECTION 7.01, in added Section 6(b)(1), Article 21.21-6, Insurance Code, strike "and the same risk" (page 60, line 22, house committee printing), and substitute ", other than for the classifications applicable alike to persons of every race, color, religion, ethnicity, or national origin".

(39) In SECTION 7.01, in added Section 6(b)(2), Article 21.21-6, Insurance Code, strike "and the same risk" (page 60, line 26, house committee printing), and substitute ", other than a rate reflecting the classifications applicable alike to persons of every race, color, religion, ethnicity, or national origin".

(40) In SECTION 8.05 of the bill, in added Section 15, Article 21.49A, Insurance Code (page 68, line 22), between "association" and "may not be distributed", insert "shall be used to mitigate losses, including the purchase of reinsurance and the offset of future assessments, and".

(41) In SECTION 9.01 of the bill, strike amended Article 5.01(f), Insurance Code (page 69, lines 5-14, house committee printing), and substitute the following:

(f) Notwithstanding Subsections (a) through (d) of this article, on and after the effective date of S.B. 14, Acts of the 78th Legislature, Regular Session, 2003 [~~March 1, 1992~~], rates for personal automobile insurance in this state are determined as provided by Article 5.101 of this code, and rates for commercial motor vehicle insurance in this state are determined as provided by Article 5.13-2 [the flexible rating program adopted under Subchapter M] of this code [chapter]. On and after September 1, 2004, rates for personal automobile insurance and commercial automobile insurance in this state are determined as provided by Article 5.13-2 of this code.

(42) In SECTION 9.03 of the bill, strike amended Article 5.01-2(b), Insurance Code (page 69, line 24 through page 70, line 3, house committee printing), and substitute the following:

(b) On and after the effective date of S.B. 14, Acts of the 78th Legislature, Regular Session, 2003 [~~March 1, 1992~~], rates for personal automobile [motor vehicle] insurance written by a Lloyd's plan insurer or a reciprocal or interinsurance exchange are determined as provided by the flexible rating program adopted under Subchapter M of this chapter. This subsection expires September 1, 2004.

(43) In SECTION 9.04 of the bill, in amended Section 4(a), Article 5.01-4, Insurance Code (page 70, line 8, house committee printing), strike "Subchapter Q [M] of this chapter" and substitute "Subchapter M of this chapter".

(44) In SECTION 9.04 of the bill, in amended Section 4(b), Article 5.01-4, Insurance Code (page 70, line 15, house committee printing), strike "Subchapter Q ~~[M]~~ of this chapter" and substitute "Subchapter M of this chapter".

(45) In SECTION 9.05 of the bill, strike amended Article 5.03(g), Insurance Code (page 70, line 19 through page 71, line 1, house committee printing), and substitute the following:

(g) Notwithstanding Sections (a) through (e) of this article, on and after the effective date of S.B. 14, Acts of the 78th Legislature, Regular Session, 2003 ~~[March 1, 1992]~~, rates for personal automobile insurance in this state are determined as provided by Article 5.101 of this code, and rates for commercial motor vehicle insurance in this state ~~[vehicles]~~ are determined as provided by Article 5.13-2 ~~[Subchapter M]~~ of this code ~~[chapter]~~. On and after September 1, 2004, rates for personal automobile insurance and commercial automobile insurance in this state are determined as provided by Article 5.13-2 of this code.

(46) In SECTION 9.06 of the bill, strike amended Article 5.04(c), Insurance Code (page 71, lines 4-13, house committee printing), and substitute the following:

(c) Notwithstanding Subsections (a) and (b) of this article, on and after the effective date of S.B. 14, Acts of the 78th Legislature, Regular Session, 2003 ~~[March 1, 1992]~~, rates for personal automobile insurance in this state are determined as provided by Article 5.101 of this code, and rates for commercial motor vehicle insurance in this state ~~[vehicles]~~ are determined as provided by Article 5.13-2 ~~[Subchapter M]~~ of this code ~~[chapter]~~. On and after September 1, 2004, rates for personal automobile insurance and commercial automobile insurance in this state are determined as provided by Article 5.13-2 of this code.

(47) In SECTION 9.07 of the bill, in added Subsection (12)(a), Article 5.06, Insurance Code (page 71, line 17, house committee printing), strike "personal".

(48) In SECTION 9.10 of the bill, strike amended Article 5.09(c), Insurance Code (page 74, lines 1-10, house committee printing), and substitute the following:

(c) Notwithstanding Subsection (a) of this article, on and after the effective date of S.B. 14, Acts of the 78th Legislature, Regular Session, 2003 ~~[March 1, 1992]~~, rates for personal automobile insurance in this state are determined as provided by Article 5.101 of this code, and rates for commercial motor vehicle insurance in this state ~~[vehicles]~~ are determined as provided by Article 5.13-2 ~~[Subchapter M]~~ of this code ~~[chapter]~~. On and after September 1, 2004, rates for personal automobile insurance and commercial automobile insurance in this state are determined as provided by Article 5.13-2 of this code.

(49) In SECTION 9.11 of the bill, strike amended Article 5.11(c), Insurance Code (page 74, lines 13-22, house committee printing), and substitute the following:

(c) Notwithstanding Subsections (a) and (b) of this article, on and after the effective date of S.B. 14, Acts of the 78th Legislature, Regular Session, 2003 ~~[March 1, 1992]~~, rates for personal automobile insurance in this state are determined as provided by Article 5.101 of this code, and rates for commercial motor vehicle insurance in this state ~~[vehicles]~~ are determined as provided by

Article 5.13-2 [Subchapter M] of this code [chapter]. On and after September 1, 2004, rates for personal automobile insurance and commercial automobile insurance in this state are determined as provided by Article 5.13-2 of this code.

(50) In SECTION 9.28 of the bill, in amended Article 5.53(g), Insurance Code (page 84, lines 21-26, house committee printing), strike the underlined language and substitute the following:

On and after September 1, 2004, rates for inland marine insurance are determined as provided by Article 5.13-2 of this code. Notwithstanding any other provision in this article, policy forms and endorsements for inland marine insurance are regulated under Article 5.13-2 of this code. An insurer may continue to use policy forms and endorsements approved by the commissioner under this article on or before the effective date of S.B. 14, Acts of the 78th Legislature, Regular Session, 2003.

(51) In SECTION 9.29 of the bill, strike amended Article 5.96(a-1), Insurance Code (page 85, lines 4-9, house committee printing), and substitute the following:

(a-1) This [Except as provided by Section 5(d), Article 5.101, of this code, this] article does not apply to the setting of [benchmark] rates for personal automobile [motor vehicle] insurance under Article 5.101 of this code, rates for [and] fire and allied lines insurance under Subchapter Q [M] of this chapter or, on and after September 1, 2004, rates for personal automobile insurance and fire and allied lines insurance under Article 5.13-2 of this code.

(52) In SECTION 9.31(a) of the bill, strike added Section 912.002(c), Insurance Code (page 85, line 24 through page 86, line 7, house committee printing), and substitute the following:

(c) Rate regulation for a residential fire and allied lines insurance policy written by a county mutual insurance company is subject to Subchapter Q, Chapter 5. On and after September 1, 2004, rate regulation for a personal automobile insurance policy and a residential fire and allied lines insurance policy written by a county mutual insurance company is subject to Article 5.13-2. A county mutual insurance company is subject to Subchapter O, Chapter 5. The commissioner may adopt rules as necessary to implement this subsection.

(53) In SECTION 9.31(b) of the bill, strike amended Article 17.22(b), Insurance Code (page 86, lines 10-19, house committee printing), and substitute the following:

(b) Rate regulation for a residential fire and allied lines insurance policy written by a county mutual insurance company is subject to Subchapters O and Q, Chapter 5, of this code. The commissioner may adopt rules as necessary to implement this subsection. The flexible rating program created under Subchapter M, Chapter 5, of this code does not apply to county mutual insurance companies. This subsection expires June 1, 2003.

(54) In SECTION 9.33(a) of the bill, strike amended Section 941.003(b), Insurance Code (page 87, lines 12-21, house committee printing), and substitute the following:

(b) A Lloyd's plan is subject to:

(1) Section 5, Article 1.10;

- (2) Article 1.15A;
- (3) Subchapters ~~[Subchapter]~~ A, O, Q, R, and S, Chapter 5;
- (4) Articles 5.35, 5.38, 5.39, 5.40, and 5.49;
- (5) Articles 21.21 and 21.49-8; ~~and~~
- (6) Sections 822.203, 822.205, 822.210, and 822.212; and
- (7) Article 5.13-2, as provided by that article.

(55) In SECTION 9.33(b) of the bill, strike added Article 18.23(c), Insurance Code (page 87, line 24 through page 88, line 4, house committee printing), and substitute the following:

(c) Rate regulation for a personal automobile insurance policy written by a Lloyd's plan is subject to Subchapter M, Chapter 5, of this code. Rate regulation for a homeowners or residential fire and allied lines insurance policy written by a Lloyd's plan is subject to Subchapter Q, Chapter 5, of this code. The commissioner may adopt rules as necessary to implement this subsection. A Lloyd's plan is subject to Subchapter O, Chapter 5, of this code. This subsection expires June 1, 2003.

(56) In SECTION 9.34(a) of the bill, strike amended Section 942.003(b), Insurance Code (page 88, lines 7-16, house committee printing), and substitute the following:

(b) An exchange is subject to:

- (1) Section 5, Article 1.10;
- (2) Articles 1.15, 1.15A, and 1.16;
- (3) Subchapters ~~[Subchapter]~~ A, O, Q, R, and S, Chapter 5;
- (4) Articles 5.35, 5.37, 5.38, 5.39, and 5.40;
- (5) Articles 21.21 and 21.49-8; ~~and~~
- (6) Sections 822.203, 822.205, 822.210, 822.212, 861.254(a)-(f), 861.255, 862.001(b), and 862.003; and
- (7) Article 5.13-2, as provided by that article.

(57) In SECTION 9.34(b) of the bill, strike added Article 19.12(c), Insurance Code (page 88, lines 19-27, house committee printing), and substitute the following:

(c) Rate regulation for a personal automobile insurance policy written by a reciprocal or interinsurance exchange is subject to Subchapter M, Chapter 5, of this code. Rate regulation for a homeowners or residential fire and allied lines insurance policy written by a reciprocal or interinsurance exchange is subject to Subchapter Q, Chapter 5, of this code. The commissioner may adopt rules as necessary to implement this subsection. A reciprocal or interinsurance exchange is subject to Subchapter O, Chapter 5, of this code. This subsection expires June 1, 2003.

(58) Strike SECTION 9.37 of the bill (page 89, lines 11-23, house committee printing), and substitute the following:

SECTION 9.37. (a) On the effective date of this Act, the following laws are repealed:

- (1) Articles 5.03-2, 5.03-3, 5.03-4, and 5.03-5, Insurance Code;
- (2) Articles 5.26(h), 5.33A, 5.33C, 5.50, and 40.061, Insurance Code;
- (3) Section 5(b), Article 5.13-2, Insurance Code;

(4) Section 4C, Article 5.73, Insurance Code; and

(5) Article 5.33B, Insurance Code, as added by Chapter 337, Acts of the 74th Legislature, Regular Session, 1995.

(b) Effective September 1, 2004, Sections 941.003(c) and 942.003(c), Insurance Code, are repealed.

(59) In ARTICLE 9 of the bill, insert the following appropriately numbered new SECTIONS and renumber ARTICLE 9 of the bill appropriately:

SECTION 9.__. (a) Effective June 1, 2003, Section 912.201, Insurance Code, is amended to read as follows:

Sec. 912.201. SCHEDULE OF CHARGES. A county mutual insurance company shall file with the department a schedule of the amounts the company charges a policyholder or an applicant for a policy, regardless of the term the company uses to refer to those charges, including "rate," "policy fee," "inspection fee," "membership fee," or "initial charge." An insurer shall file the schedules required under this section according to rules promulgated by the commissioner.

(b) Until June 1, 2003, Section 6, Article 17.25, Insurance Code, is amended to read as follows:

Sec. 6. FILE SCHEDULE OF CHARGES. Such companies shall file with the Board a schedule of its rates, the amount of policy fee, inspection fee, membership fee, or initial charge by whatever name called, to be charged its policyholders or those applying for policies. Items required under this section shall be filed according to rules promulgated by the commissioner.

SECTION 9.__. Section 1(2), Article 21.81, Insurance Code, is amended to read as follows:

(2) "Authorized insurer" means any insurer authorized by the Texas Department of Insurance to write motor vehicle liability coverage under the provisions of Chapter 5 of this code. Except as provided by Section 13(f), Article 5.13-2, of this code, the [The] term does not include an insurer organized under Chapter 17 of this code.

(60) Insert the following new ARTICLE, appropriately numbered, and renumber the ARTICLES of the bill accordingly:

ARTICLE __. INFORMATIONAL RATE FILINGS
FOR CERTAIN COMPANIES

SECTION _____. Chapter 911, Insurance Code, as effective June 1, 2003, is amended by adding Subchapter H to read as follows:

SUBCHAPTER H. INFORMATIONAL RATE FILINGS
FOR RESIDENTIAL PROPERTY INSURANCE

Sec. 911.351. APPLICABILITY. This subchapter applies only to the regulation of rates for residential property insurance issued by a farm mutual insurance company.

Sec. 911.352. DEFINITION. In this subchapter, "residential property insurance" means insurance coverage against loss to real or tangible personal property at a fixed location that is provided through a residential fire and allied lines policy.

Sec. 911.353. INFORMATIONAL RATE FILINGS. A farm mutual insurance company shall file with the department, for informational purposes only, all rates and additional information as required by the commissioner for residential property insurance risks written in this state.

Sec. 911.354. RATING STANDARDS. (a) Rates established by a farm mutual insurance company for residential property insurance may not be excessive, inadequate, unreasonable, or unfairly discriminatory for the risks to which they apply.

(b) For purposes of this subchapter, a rate is:

(1) excessive if the rate is likely to produce a long-term profit that is unreasonably high in relation to the insurance coverage provided;

(2) inadequate if the rate is insufficient to sustain projected losses and expenses to which the rate applies, and continued use of the rate:

(A) endangers the solvency of a company using the rate; or

(B) has the effect of substantially lessening competition or creating a monopoly within any market; or

(3) unfairly discriminatory if the rate:

(A) cannot be actuarially justified;

(B) does not bear a reasonable relationship to the expected loss and expense experience among risks; or

(C) is based in whole or in part on the race, creed, color, ethnicity, or national origin of the policyholder or an insured.

SECTION _____. Chapter 912, Insurance Code, as effective June 1, 2003, is amended by adding Subchapter H to read as follows:

SUBCHAPTER H. INFORMATIONAL RATE FILINGS
FOR PERSONAL AUTOMOBILE INSURANCE

Sec. 912.351. APPLICABILITY. This subchapter applies only to the regulation of rates for personal automobile insurance issued by a county mutual insurance company.

Sec. 912.352. DEFINITION. In this subchapter, "personal automobile insurance" means motor vehicle insurance coverage for the ownership, maintenance, or use of a private passenger, utility, or miscellaneous type motor vehicle, including a motor home, trailer, or recreational vehicle, that is:

(1) owned or leased by an individual or individuals; and

(2) not primarily used for the delivery of goods, materials, or services, other than for use in farm or ranch operations.

Sec. 912.353. INFORMATIONAL RATE FILINGS. A county mutual insurance company shall file with the department, for informational purposes only, all rates and additional information as required by the commissioner for personal automobile insurance risks written in this state.

Sec. 912.354. RATING STANDARDS. (a) Rates established by a county mutual insurance company for personal automobile insurance may not be excessive, inadequate, unreasonable, or unfairly discriminatory for the risks to which they apply.

(b) For purposes of this subchapter, a rate is:

(1) excessive if the rate is likely to produce a long-term profit that is unreasonably high in relation to the insurance coverage provided;

(2) inadequate if the rate is insufficient to sustain projected losses and expenses to which the rate applies, and continued use of the rate:

(A) endangers the solvency of a company using the rate; or

(B) has the effect of substantially lessening competition or creating a monopoly within any market; or

(3) unfairly discriminatory if the rate:

(A) cannot be actuarially justified;

(B) does not bear a reasonable relationship to the expected loss and expense experience among risks; or

(C) is based in whole or in part on the race, creed, color, ethnicity, or national origin of the policyholder or an insured.

Sec. 912.355. REFUND OF EXCESSIVE OR DISCRIMINATORY PREMIUM; DISCOUNT. A county mutual insurance company required to make informational rate filings under this subchapter is, with regard to the rates required to be filed, subject to Article 5.146.

Sec. 912.356. EXPIRATION. This subchapter expires September 1, 2004.

SECTION ____. A farm mutual insurance company required to make informational rate filings under Subchapter H, Chapter 911, Insurance Code, as added by this Act, shall make an initial informational rate filing as required by the commissioner not later than the 30th day after the effective date of this Act.

SECTION ____. (a) A county mutual insurance company required to make informational rate filings under Subchapter H, Chapter 912, Insurance Code, as added by this Act, shall make an initial informational rate filing as required by the commissioner not later than the 30th day after the effective date of this Act.

(b) The expiration of Subchapter H, Chapter 912, Insurance Code, as added by this Act, does not affect an action or proceeding against a county mutual insurance company subject to that law for a failure to comply with that law before its expiration, regardless of when the action or proceeding was commenced, and that law is continued in effect for this purpose.

SECTION ____. This article takes effect June 1, 2003.

Amendment No. 2

On behalf of Representative Bonnen, Representative Eiland offered the following amendment to Amendment No. 1:

Amend Amendment No. 1 by Smithee to **CSSB 14** by inserting the following items to the amendment:

() In SECTION 1.01 of the bill, in added Section 2(a)(3)(A), Article 5.142 (page 2, line 12, house committee printing), strike "110 percent of the industry median for those expenses" and substitute "the industry median for those expenses by 10 percent or more".

() In SECTION 1.01 of the bill, in added Section 5(j), Article 5.142, Insurance Code (page 12, lines 7-8, house committee printing), strike "the lesser of 107.5 percent of the rate approved by the commissioner or 110 percent of any rate used by the insurer within the previous 12-month period", and substitute "the

lesser of 7.5 percent more than the rate approved by the commissioner or 10 percent more than any rate used by the insurer within the previous 12-month period".

() In renumbered SECTION 4.08 of the bill, in added Section 13, Article 5.13-2, Insurance Code (page 48, lines 18-20, house committee printing), strike Subsection (e) and substitute the following:

(e) For purposes of this section, "nonstandard rates" means rates that are 30 percent or more above the standard rate index as determined by the commissioner under this section.

(Stick in the chair)

Amendment No. 2 was adopted without objection.

Amendment No. 3

Representative Van Arsdale offered the following amendment to Amendment No. 1:

Amend Amendment No. 1 by Smithee to **CSSB 14** as follows:

(1) Insert the following New Items, appropriately numbered:

() Strike Sections 3.02-3.04 of the bill (page 41, line 1, through page 42, line 16) and substitute the following:

SECTION 3.02. The heading of Article 5.13-2, Insurance Code, is amended to read as follows:

Art. 5.13-2. RATES AND FORMS FOR CERTAIN [GENERAL LIABILITY AND COMMERCIAL] PROPERTY AND CASUALTY INSURANCE [COVERAGE].

SECTION 3.03. Sections 1 and 2, Article 5.13-2, Insurance Code, are amended to read as follows:

Sec. 1. PURPOSE. This article governs the regulation of insurance described by Section 2 of this article [~~general liability, commercial property, which shall include farm and ranch owners and farm and ranch policies, all commercial casualty, and medical professional liability insurance rates and forms. It does not govern automobile, fidelity, surety, or guaranty bonds~~]. The purposes of this article are to:

(1) promote the public welfare by regulating insurance rates to prohibit excessive, inadequate, or unfairly discriminatory rates;

(2) promote availability of insurance;

(3) promote price competition among insurers to provide rates and premiums that are responsive to competitive market conditions;

(4) prohibit price-fixing agreements and other anticompetitive behavior by insurers;

(5) regulate the insurance forms used for lines of insurance subject to this article to ensure that they are not unjust, unfair, inequitable, misleading, or deceptive; and

(6) provide regulatory procedures for the maintenance of appropriate information reporting systems.

Sec. 2. SCOPE. (a) This article applies to all lines of the following insurance written under policies or contracts of insurance issued by an insurer authorized to engage in the business of insurance in this state:

- (1) general liability insurance;
- (2) [;] commercial property insurance, including farm and ranch insurance and farm and ranch owners insurance;
- (3) personal and~~[; and]~~ commercial casualty insurance, except as provided by Subsection (b) of this section;
- (4) [~~; and~~] medical professional liability insurance;
- (5) fidelity and surety bonds;
- (6) personal umbrella insurance;
- (7) personal liability insurance;
- (8) guaranteed auto protection (GAP) insurance;
- (9) involuntary unemployment insurance;
- (10) financial guaranty insurance;
- (11) inland marine insurance;
- (12) rain insurance;
- (13) hail insurance on farm crops; and
- (14) commercial automobile insurance [~~written under policies or contracts of insurance issued by a licensed insurer, other than a fidelity, surety, or guaranty bond or an automobile insurance policy].~~

(b) Except as otherwise specifically provided by this article, this article does not apply to a line of insurance regulated under Subchapter A or C of this chapter.

(c) The commissioner shall adopt rules governing the manner in which forms and rates for the various classifications of risks insured under inland marine insurance, as determined by the commissioner, are regulated.

SECTION 3.04. Section 3(2), Article 5.13-2, Insurance Code, is amended to read as follows:

(2) "Insurer" means an insurer to which Article 5.13 of this code applies, but does not include the Texas Windstorm Insurance Association or the Texas FAIR Plan Association. However, the provisions of Sections 4, 5, 6, and 7 of this article shall not apply to Lloyd's or reciprocals with respect to commercial property insurance, and the provisions of Sections 4, 5, 6, 7, and 8 of this article shall not apply to Lloyd's or reciprocals with respect to inland marine insurance, rain insurance, or hail insurance on farm crops. The provisions of Sections 4, 5, 6, and 7 of this article shall apply to county mutual insurance companies with respect to commercial automobile insurance.

(2) Strike items (23)-(25) of the amendment (page 10, lines 2-13) and substitute the following:

() Strike SECTIONS 4.02-4.03 of the bill (page 52, line 14, through page 53, line 21) and substitute the following:

SECTION 4.02. The heading of Article 5.13-2, Insurance Code, is amended to read as follows:

Art. 5.13-2. RATES AND FORMS FOR CERTAIN [GENERAL LIABILITY AND COMMERCIAL] PROPERTY AND CASUALTY INSURANCE [COVERAGE].

SECTION 4.03. Sections 1 and 2, Article 5.13-2, Insurance Code, are amended to read as follows:

Sec. 1. PURPOSE. This article governs the regulation of insurance described by Section 2 of this article [~~general liability, commercial property, which shall include farm and ranch owners and farm and ranch policies, all commercial casualty, and medical professional liability insurance rates and forms. It does not govern automobile, fidelity, surety, or guaranty bonds~~]. The purposes of this article are to:

- (1) promote the public welfare by regulating insurance rates to prohibit excessive, inadequate, or unfairly discriminatory rates;
- (2) promote availability of insurance;
- (3) promote price competition among insurers to provide rates and premiums that are responsive to competitive market conditions;
- (4) prohibit price-fixing agreements and other anticompetitive behavior by insurers;
- (5) regulate the insurance forms used for lines of insurance subject to this article to ensure that they are not unjust, unfair, inequitable, misleading, or deceptive; and
- (6) provide regulatory procedures for the maintenance of appropriate information reporting systems.

Sec. 2. SCOPE. (a) This article applies to all lines of the following insurance written under policies or contracts of insurance issued by an insurer authorized to engage in the business of insurance in this state:

- (1) general liability insurance;
- (2) residential and~~;~~ commercial property insurance, including farm and ranch insurance and farm and ranch owners insurance;
- (3) personal and~~;~~ commercial casualty insurance, except as provided by Subsection (b) of this section;
- (4) ~~;~~ medical professional liability insurance;
- (5) fidelity and surety bonds;
- (6) personal umbrella insurance;
- (7) personal liability insurance;
- (8) guaranteed auto protection (GAP) insurance;
- (9) involuntary unemployment insurance;
- (10) financial guaranty insurance;
- (11) inland marine insurance;
- (12) rain insurance;
- (13) hail insurance on farm crops; and
- (14) personal and commercial automobile insurance [~~written under policies or contracts of insurance issued by a licensed insurer, other than a fidelity, surety, or guaranty bond or an automobile insurance policy~~].

(b) The commissioner shall adopt rules governing the manner in which forms and rates for the various classifications of risks insured under inland marine insurance, as determined by the commissioner, are regulated.

(3) In item (26) of the amendment, strike amended Section 3(a)(3), Article 5.13-2, Insurance Code (page 11, lines 19-27) and substitute the following:

(2) [(2)] "Insurer" means an insurer to which Article 5.13 of this code applies, but does not include the Texas Windstorm Insurance Association or the Texas FAIR Plan Association, or the Texas Automobile Insurance Plan Association. All provisions of this article shall apply to Lloyd's plans, reciprocals and interinsurance exchanges, and county mutual insurance companies with respect to the lines of insurance described in Section 2 of this article, except that ~~However,~~ the provisions of Sections 4, 5, 6, and 7 of this article shall not apply to Lloyd's or reciprocals with respect to commercial property insurance, and the provisions of Sections 4, 5, 6, 7, and 8 of this article shall not apply to Lloyd's or reciprocals with respect to inland marine insurance, rain insurance, or hail insurance on farm crops.

(4) Strike item (50) of the amendment (page 24, line 27 through page 25, line 7) and substitute the following:

() Strike SECTION 9.28 of the bill (page 84, line 9, through page 85, line 1) and substitute the following SECTIONS, appropriately numbered:

SECTION __. Article 5.52, Insurance Code, is amended to read as follows:

Art. 5.52. PROVISIONS GOVERNING LIGHTNING, WINDSTORM, HAIL, INVASION, RIOT, VANDALISM, STRIKES, LOCKOUTS AND OTHER INSURANCE; "EXPLOSION" DEFINED. (a) The writing of insurance against loss by lightning, tornado, windstorm, hail, smoke or smudge, cyclone, earthquake, volcanic eruption, rain, frost and freeze, weather or climatic conditions, excess or deficiency of moisture, flood, the rising of the waters of the ocean or its tributaries, bombardment, invasion, insurrection, riot, civil war or commotion, military or usurped power, any order of a civil authority made to prevent the spread of a conflagration, epidemic or catastrophe, vandalism or malicious mischief, strike or lockout, explosion, water or other fluid or substance, resulting from the breakage or leakage of sprinklers, pumps, or other apparatus erected for extinguishing fires, water pipes or other conduits or containers, or resulting from casual water entering through leaks or openings in buildings, or by seepage through building walls, including insurance against accidental injury of such sprinklers, pumps, fire apparatus, conduits or containers, and the rates to be collected therefor in this State, and all matters pertaining to such insurance except as hereinafter set out as to ~~inland~~ marine insurance as defined by Article 5.53 of this code, ~~rain insurance and insurance against loss by hail on farm crops,~~ shall be governed and controlled by the provisions of Articles 5.25 to 5.48, inclusive, and also Articles 5.50 to 5.51, inclusive, of this subchapter and Article 5.67 of Subchapter D of this Chapter, in the same manner and to the same extent as fire insurance and fire insurance rates are now affected by the provisions of said articles of this code.

(b) Notwithstanding Subsection (a) of this section, rain insurance and hail insurance on farm crops are governed by Article 5.13-2 of this code.

(c) The term "explosion" as used in this article ~~above~~ shall not include insurance against loss of or damage to any property of the insured, resulting from the explosion of or injury to (a) any boiler, heater, or other fired pressure vessel; (b) any unfired pressure vessel; (c) pipes or containers connected with any of said boilers or vessels; (d) any engine, turbine, compressor, pump, or wheel; (e) any

apparatus generating, transmitting or using electricity; (f) any other machinery or apparatus connected with or operating by any of the previously named boilers, vessels or machines; nor shall same include the making of inspections and issuance of certificates of inspections upon any such boiler, apparatus or machinery, whether insured or otherwise. Said term shall include, but shall not be limited to (1) the explosion of pressure vessels (except steam boilers of more than fifteen pounds pressure) in buildings designed and used solely for residential purposes by not more than four (4) families; (2) explosion of any kind originating outside of the insured buildings or outside of the building containing the property insured; (3) explosion of pressure vessels which do not contain steam or which are not operated with steam coils or steam jets; (4) electric disturbance causing or concomitant with an explosion in public service or public utility property.

SECTION __. Article 5.53, Insurance Code, is amended to read as follows:

Art. 5.53. APPLICATION TO ~~[INLAND]~~ MARINE INSURANCE~~[-RAIN INSURANCE, OR HAIL INSURANCE ON FARM CROPS; DEFINITIONS; RATES AND RATING PLANS FILED; POLICY FORMS; CHECKING OFFICES]~~. The provisions of this article shall apply to all insurance which is now or hereafter defined by statute, by rules of the commissioner ~~[ruling of the Board of Insurance Commissioners]~~, or by lawful custom, as ~~[inland]~~ marine insurance~~[-rain insurance, or insurance against loss by hail on farm crops]~~. None of the terms contained in ~~[this article and]~~ Article 5.52 shall be deemed to include insurance of vessels or craft, their cargoes, marine builder's risk, marine protection and indemnity, or other risk commonly insured under marine as distinguished from inland marine insurance policies.

~~The [Whenever used in this article the]~~ term "Marine Insurance" shall mean and include insurance and reinsurance against any and all kinds of loss or damage to the following subject matters of insurance interest therein:

Marine Insurance. Hulls, vessels and craft of every kind, aids to navigation, dry docks and marine railways, including marine builders' and repairers' risks, and whether complete or in process of or awaiting construction; also all marine protection and indemnity risks; also all goods, freights, cargoes, merchandise, effects, disbursements, profits, moneys, bullion, precious stones, securities, choses in action, evidences of debt, valuable papers, bottomry and respondentia interests, and all other kinds of property and interests therein, in respect to, appertaining to or in connection with any and all risks or perils of navigation, transit or transportation on or under any seas, lakes, rivers, or other waters or in the air, or on land in connection with or incident to export, import or waterborne risks, or while being assembled, packed, crated, baled, compressed or similarly prepared for such shipment or while awaiting the same, or during any delays, storage, transshipment or reshipment incident thereto, including the insurance of war risks in respect to any or all of the aforesaid subject matters of insurance.

~~[(a) As to all classes of insurance contained in this article, for which class rates or rating plans are customarily fixed by rating bureaus or associations of underwriters, rates or rating plans, together with applicable policy forms and endorsements, shall be filed by all authorized insurers writing such classes with the Board in such manner and form as it shall direct; and all rates on risks not~~

~~falling within a recognized class fixed by any such bureau or association, together with applicable policy forms and endorsements, shall be similarly filed. Due consideration shall be given to past and prospective loss experience within and outside the State, including catastrophe hazard, to a reasonable margin for profit and contingencies, and to all other relevant factors within and outside the State.~~

~~[(b) As soon as reasonably possible after the filing has been made, the Board shall in writing approve or disapprove the same; provided that any filing of class rates or rating plans, together with applicable policies and endorsements, shall be deemed approved unless disapproved within thirty (30) days; provided the Board may by official order postpone action for such further time not exceeding thirty (30) days, as it deems necessary for proper consideration; and provided further that rates on risks not falling within a recognized class fixed by a rating bureau or association of underwriters, together with applicable policies and endorsements, shall be deemed approved from the date of filing to the date of formal approval or disapproval. The Board may investigate rates not required to be filed under the provisions of this article and may require the filing of any particular rate, together with applicable policies and endorsements, not otherwise required to be filed.~~

~~[(e) Any filing by an insurer of a rate less than an approved rate relative to any of the rates mentioned in sub division (a) of this article may be used by such insurer after same shall have been approved by the Board, or after same shall have been on file with the Board without action for thirty (30) days.~~

~~[(d) If at any time the Board finds that an approved filing no longer meets the requirements of this article, it may after hearing issue an order withdrawing its approval thereof.~~

~~[(e) An insurer may satisfy its obligation to make such filings by becoming a member of, or a subscriber to, a licensed rating organization which makes such filings, and by authorizing the Board to accept such filings on its behalf. A corporation, an unincorporated association, a partnership, or an individual, whether located within or outside the State, may be licensed as a rating organization in connection with any of the sorts of insurance mentioned in this article, subject to the conditions, not inconsistent herewith, prescribed by law for such organizations in connection with other kinds of insurance, provided two or more insurers have designated it to act for them as to any such class or classes of insurance in the manner prescribed herein. An insurer may belong or subscribe to rating bureaus or associations for other types of insurance.~~

~~[(f) Insurers may, subject to the supervision of the Board, operate any checking office or offices deemed necessary or advisable.~~

~~[(g) The writing of inland marine insurance, rain insurance and insurance against loss by hail on farm crops, shall be governed by the provisions of Articles 5.25 to 5.48, inclusive, and also Articles 5.50 to 5.51, inclusive, of this subchapter and Article 5.67 of Subchapter D. of this chapter, in the same manner and to the same extent as fire insurance and fire insurance rates are now affected by the provisions of said articles, except that wherever in any of said articles reference is made to making, fixing, prescribing, determination or promulgation by the Board of rates or policy forms or endorsements, the provisions of this~~

~~article shall control. Notwithstanding any other provision of this subchapter, the flexible rating program created under Subchapter M of this chapter does not apply to this article.~~

[~~(h)~~] The provisions of Chapter 5 of this code, other than this article, shall not apply to marine insurance as defined [~~other than inland marine insurance governed~~] by this article.

SECTION __. Section 1(a), Article 5.53-A, Insurance Code, is amended to read as follows:

(a) Any company licensed to engage in the business of fire insurance and its allied lines, or inland marine insurance, or both, is authorized to write home warranty insurance or home protection insurance in this state.

(5) Insert the following new items, appropriately numbered:

() Following existing SECTION 9.29 of the bill (page 85, between lines 9 and 10), insert the following new SECTIONS, appropriately numbered:

SECTION __. Subsections (a), (b), (c), (d), (f), (g), (h), (i), (j), (k), (l), and (m), Article 5.97, Insurance Code, are amended to read as follows:

(a) The department [~~State Board of Insurance~~] may take action on filings for standard and uniform rates, rating plans, manual rules, classification plans, statistical plans, and policy and endorsement forms, or any modification of any of these for the lines of insurance regulated in Subchapter B, Chapter 5, of this code [~~and for the regulated lines of insurance in Article 5.53 and Article 5.53-A of this code~~] under the procedure specified in this article.

(b) Any interested person may initiate proceedings before the commissioner [~~board~~] with respect to any matter specified in Section (a) of this article by filing a petition with the department [~~State Board of Insurance~~] that includes the following:

(1) specific identification of the matter that is proposed to be adopted, approved, amended, or repealed;

(2) the wording of the matter proposed to be adopted, approved, amended, or repealed; and

(3) justification for the proposed action in sufficient particularity to inform the commissioner [~~board~~] and any interested person of the petitioner's reasons and arguments.

(c) A copy of each petition initiating a proceeding shall be marked with the date it was received by the department [~~State Board of Insurance~~] and shall be made available for public inspection at the office of the chief clerk of the department [~~board~~] throughout the period the petition is pending. Except for emergency matters acted on under Section (j) of this article, the commissioner [~~board~~] may not act on a petition until it has been available for public inspection for at least 15 days after the date of filing and notice has been given in accordance with this section. Not later than the 10th day before the date the commissioner [~~board~~] takes action on any rule, rating plan, classification plan, statistical plan, or policy or endorsement form under this article, the department [~~board~~] shall publish in the Texas Register [~~a notice of the meeting or hearing at which the action will be taken. The notice must include~~] a brief summary of the substance of the proposed rule, rating plan, classification plan, statistical plan, or policy or

endorsement form, and a statement that the full text of the rule, rating plan, classification plan, statistical plan, or policy or endorsement form is available for review in the office of the chief clerk of the department [~~State Board of Insurance~~].

(d) Any interested person may request [~~the board to hold~~] a hearing before the commissioner [~~it~~] acts on a pending petition. Except as provided by Article 5.97A of this code, the commissioner [~~board~~] has discretion whether or not to hold such a hearing.

(f) The commissioner may [~~board shall~~] hold a hearing to consider the proposal or may [~~shall~~] enter an order implementing or denying the proposal. If the commissioner [~~board~~] denies a proposal, the commissioner [~~it~~] shall specify the reasons for the denial in the commissioner's [~~its~~] order.

(g) On its own motion, the department [~~board~~] may initiate a proceeding with respect to any matter specified in Section (a) of this article.

(h) If a hearing is scheduled to consider a proposal, the department [~~board~~] shall publish notice in the Texas Register not less than 10 days before the hearing and shall state the time, place, and legal authority for the hearing and the matters to be considered.

(i) After entering an order with respect to any matter specified in Section (a) of this article, the department [~~board~~] shall file a notice of the commissioner's [~~its~~] action for publication in the adopted rule section of the Texas Register. In addition, before the effective date of the action, the department [~~board~~] shall cause notice of the order to be mailed to the applicant, to all insurers writing the affected line of insurance in this state, and to all other persons who have made timely written request for notification. Failure to mail this notice will not invalidate any action taken.

(j) The commissioner's [~~board's~~] action takes effect 15 days after the date that notice of the action is published in the Texas Register or on a later specified date. If the commissioner [~~board~~] finds that an imminent peril to the public health, safety, or welfare, or a requirement of state or federal law requires the commissioner's [~~its~~] action to be effective before the end of the 15-day period, the commissioner [~~it~~] may take emergency action to be effective at an earlier time. The commissioner's [~~board's~~] action on an emergency matter may be effective for 120 days, and renewable once for a period not exceeding 60 days immediately following the 120-day period. The permanent adoption of an identical change is not precluded.

(k) Any person aggrieved by an order of the commissioner [~~board~~] is entitled to redress as provided by [~~Article 5.15,~~] Article 5.23[~~, Article 5.53, or Article 5.53-A~~] of this code[~~, whichever is applicable to the line of insurance addressed in the order~~].

(l) Chapters 2001 and 2002, Government Code, do [~~The Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes), does~~] not apply to commissioner or department [~~board~~] action taken under this article.

(m) The department ~~[board]~~ or the office of public insurance counsel may require that a person who has filed a petition under Subsection (b) of this article or who has otherwise presented materials to the department ~~[board]~~ in connection with a proceeding under this article provide additional information to the department ~~[board]~~ or office, including any statistical, actuarial, or other information on which the petition or other materials were based.

SECTION __. Subsection (c), Article 21.28-E, Insurance Code, is amended to read as follows:

(c) The provisions of this article shall not apply to marine insurance as defined ~~[other than inland marine insurance governed]~~ by Article 5.53.

SECTION __. Sections 4(b)(4) and (5), Article 21.49-3, Insurance Code, are amended to read as follows:

(4) After the initial year of operation, rates, rating plans, and rating rules, and any provision for recoupment should be based upon the association's loss and expense experience, together with such other information based upon such experience as the department ~~[board]~~ may deem appropriate. The resultant premium rates shall be on an actuarially sound basis and shall be calculated to be self-supporting.

(5) In the event that sufficient funds are not available for the sound financial operation of the association, in addition to assessments paid pursuant to the plan of operation in accordance with Section 3(c)(2) of this article and contributions from the policyholder's stabilization reserve fund, all members shall, on a basis authorized by the department ~~[board]~~, as long as the department ~~[board]~~ deems it necessary, contribute to the financial requirements of the association in the manner provided for in Section 5. Any assessment or contribution shall be reimbursed to the members with interest at a rate to be approved by the department ~~[board]~~. Pending recoupment or reimbursement of assessments or contributions paid to the association by a member, the unrepaid balance of such assessments and contributions may be reflected in the books and records of the insurer as an admitted asset of the insurer for all purposes, including exhibition in annual statements pursuant to Section 862.001 ~~[Article 6-12]~~ of this code.

SECTION __. Section 5(a), Article 21.55, Insurance Code, is amended to read as follows:

(a) This article does not apply to:

- (1) workers' compensation insurance;
- (2) mortgage guaranty insurance;
- (3) title insurance;
- (4) fidelity, surety, or guaranty bonds;
- (5) marine insurance as defined ~~[other than inland marine insurance governed]~~ by Article 5.53 of this code; or
- (6) a guaranty association created and operating under Article 9.48 of this code.

SECTION __. Article 21.56(e), Insurance Code, is amended to read as follows:

(e) The provisions of this article shall not apply to marine insurance as defined [~~other than inland marine insurance governed~~] by Article 5.53 of this code.

() Following existing SECTION 9.30 of the bill (page 85, between lines 15 and 16), insert the following new SECTION, appropriately numbered:

SECTION __. Article 21.79E, Insurance Code, is amended to read as follows:

Art. 21.79E. CREDIT INVOLUNTARY UNEMPLOYMENT INSURANCE. Any insurer authorized to write any form of casualty insurance in this state shall also be authorized to write group or individual credit involuntary unemployment insurance indemnifying a debtor for installment or other periodic payments on the indebtedness while the debtor is involuntarily unemployed, including policy forms and endorsements which define involuntary unemployment to provide coverage and a premium charge for interruption or reduction of a debtor's income during periods of leave (paid or otherwise) authorized by the Federal Family and Medical Leave Act of 1993 (29 U.S.C. Section 2601 et seq.), as amended, or other state or federal laws. Such insurance may be written alone or in conjunction with credit life insurance, credit accident and health insurance, or both, in policies issued by any authorized insurer, but not in contravention of the Texas Free Enterprise and Antitrust Act of 1983 (Chapter 15, Business & Commerce Code). Rates and forms for such insurance may be made and filed in accordance with Article 5.13-2 [~~Articles 5.14 and 5.15~~] of this code.

(6) In item (58) of the amendment, in amended SECTION 9.57 of the bill, in Subdivision (4) (page 28, line 6), after the semicolon, strike "and".

(7) In item (58) of the amendment, in amended SECTION 9.57 of the bill, in Subdivision (5), between "1995" and the period (page 28, line 10), insert:

;

(6) Articles 5.14, 5.15, and 5.15B, Insurance Code;

(7) Article 5.97(e), Insurance Code; and

(8) Section 4(b)(2), Article 21.49-3, Insurance Code

(8) Insert the following new item to the amendment:

() Renumber SECTIONS of Article 9 of the bill accordingly.

(9) Renumber items of the amendment accordingly.

Amendment No. 3 was adopted without objection.

Amendment No. 1, as amended, was adopted without objection.

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. 7).

CSSB 14 - (consideration continued)

Amendment No. 4

Representative Smithee offered the following amendment to **CSSB 14**:

Amend **CSSB 14** in SECTION 1.01 of the bill, in added Subsection (b), Section 3, Article 5.143, Insurance Code (page 20, line 20, house committee printing), by striking "capacity" and substituting "share".

(Speaker in the chair)

Amendment No. 4 was adopted without objection.

Amendment No. 5

Representatives Hardcastle, Wolens, Chisum, Geren, and Wise offered the following amendment to **CSSB 14**:

Amend **CSSB 14** as follows:

(1) On page 1, lines 10 through 11, strike "PERSONAL AUTOMOBILE INSURANCE AND".

(2) On page 1, line 13, strike "personal automobile insurance and".

(3) On page 1, lines 16 through 17, strike "personal automobile insurance rates and".

(4) On page 1, lines 20 through 21, strike "personal automobile and".

(5) On page 3, line 17, strike "personal automobile insurance or".

(6) On page 3, line 20, strike "personal automobile insurance or".

(7) On page 4, line 2, strike "personal automobile insurance or".

(8) On page 4, strike lines 7 through 11.

(9) On page 4, line 27, strike "personal automobile insurance or".

(10) On page 42, line 22, strike "personal automobile insurance or".

(11) On page 43, lines 1 through 2, strike "personal automobile insurance or".

(12) On page 47, strike lines 15 through page 49, line 8.

(13) On page 50, line 27, through page 51, line 1, strike "personal and".

(14) On page 52, line 16, strike "PERSONAL AND".

(15) On page 52, line 22, strike "personal and".

(16) On page 53, line 16, strike "personal and".

(17) On page 54, line 5, strike "personal and".

(18) On page 54, lines 23 through 24, strike "PERSONAL AUTOMOBILE INSURANCE COVERAGE AND".

(19) On page 54, lines 2 through 3, strike "personal automobile insurance or".

(20) On page 54, lines 5 through 6, strike "personal automobile insurance or".

(21) On page 54, strike lines 14 through 23.

(22) On page 56, lines 5 through 6, strike "personal automobile insurance and".

(23) On page 69, lines 3 through page 74, line 22.

(24) On page 85, line 6, strike "motor vehicle insurance and".

(25) On page 85, line 8, strike "motor vehicle insurance and".

(26) On page 85, strike line 16 through page 87, line 9.

(27) On page 87, strike the sentence beginning on line 24.

(28) On page 88, strike the sentence beginning on line 19.

- (29) On page 89 , strike lines 1 through 10.
(30) On page 89, strike lines 12 through 13.
(31) Add a new Article to the bill, appropriately numbered, as follows:

ARTICLE _____. MIGRATION OF AUTO INSURED

SECTION _____.01. Subchapter E, Insurance Code, is amended by adding Article 21.49-2K as follows:

Art. 21.49-2K. MIGRATION OF AUTO INSUREDS. In order to prevent the circumvention of the state's rate regulation of personal automobile insurance through the migration of insureds from insurers subject to regulation to county mutual insurers, and notwithstanding any other law, a county mutual insurance company that is affiliated with an insurer subject to Article 5.101 of this code may not write personal automobile insurance for any insured at a rate, including any applicable policy or other fee, that is lower than the highest rate allowed within the flexibility band for that classification and territory. No county mutual insurer may use rates and rating factors that are unjust, excessive, inadequate, unreasonable, or unfairly discriminatory for the risks to which they apply.

Amendment No. 6

Representative Hardcastle offered the following amendment to Amendment No. 5:

Amend the Hardcastle amendment by striking Art. 21.49-2K and substituting the following:

Art. 21.49-2K. MIGRATION OF AUTO INSUREDS. (a) In order to prevent the circumvention of the state's rate regulation of personal automobile insurance through the migration of insureds from insurers subject to regulation to county mutual insurers, and notwithstanding any other law, a county mutual insurance company that is affiliated with an automobile insurer subject to Article 5.101 of this code may not write personal automobile insurance for any insured at a rate, including any applicable policy fee, that, after the application of any discount available to the insured, is lower than the highest rate allowed under the flexibility band for that classification and territory after the application of mandatory discounts and surcharges under department rules.

(b) Not later than the 60th day after the effective date of a benchmark rate, a county mutual insurance company shall make any filing necessary to comply with this section. The rates of the county mutual insurance company that are in effect on the effective date of the benchmark rate continue in effect until the filing is made.

(c) This section applies only to a rate applicable to new insurance policies that are delivered or issued for delivery to be effective on or after January 1, 2004 and to a renewal insurance policy that is delivered or issued for delivery to be effective on or after January 1, 2005. A county mutual insurance company writing risks within the flexibility bands on the effective date of this Act shall file with the commissioner of insurance a transition plan demonstrating the orderly transition for renewal policies. The commissioner of insurance may adopt reasonable rules necessary to implement the transition of renewal policies.

(d) This section does not apply to single interest insurance or insurance on mobile homes, motor homes, travel trailers, motorcycles, antique/classic, custom or specialty automobiles.

Amendment No. 6 was adopted without objection.

Representative Smithee moved to table Amendment No. 5.

The motion to table prevailed.

BILLS AND RESOLUTIONS SIGNED BY THE SPEAKER

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

CSSB 14 - (consideration continued)

Amendment No. 7

Representative Wolens offered the following amendment to **CSSB 14**:

Amend **CSSB 14** as follows:

(1) On page 1, line 20, between "availability" and "of", insert "and affordability".

(2) On page 41, line 17, between "availability" and "of", insert "and affordability".

(3) On page 53, line 4, between "availability" and "of", insert "and affordability".

Amendment No. 7 was withdrawn.

Amendment No. 8

Representatives Wolens and Wise offered the following amendment to **CSSB 14**:

Amend **CSSB 14** as follows:

(1) On page 2, after line 9, add a new subsection (A) to the definition of "disallowed expenses" to read "(A) management fees paid to a company affiliated with or which owns the insurer;" and renumber the subsequent sections appropriately.

(2) On page 14, line 25, add the word "and" after the semicolon.

(3) On page 14, line 27, strike "; and" and substitute ";".

(4) On page 15, strike lines 1 through 7.

(5) Add an appropriately numbered new section to Article 4 of the bill to read as follows:

Section 4.07. Chapter 5, Subchapter B, Insurance Code, is amended by amending Article 5.13-2 Sec. 4(d) to add at the end of the section the sentence "Rates may not include management fees paid to a company affiliated with or which owns the insurer."

Amendment No. 9

Representative Smithee offered the following amendment to Amendment No. 8:

Amend the Wolens amendment by striking lines 2-11 and substituting the following:

(G) fees for management services or other services paid to a parent company or affiliate in excess of the reasonable value of the services as actually rendered; and

(H) any unreasonably incurred expenses, as determined by the commissioner after notice and hearing.

Amendment No. 9 was withdrawn.

Amendment No. 8 was withdrawn.

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. 8).

CSSB 14 - (consideration continued)

Amendment No. 10

Representative Villarreal offered the following amendment to **CSSB 14**:

Amend **CSSB 14**, in SECTION 1.01 of the bill, by striking added Section 2(3)(E), Article 5.142, Insurance Code, (page 2, line 26 to page 3, line 3 (house committee printing) and substituting the following:

(E) contributions to:

(i) social, religious, political, or fraternal organizations;

(ii) candidates for political office; or

(iii) organizations engaged in legislative advocacy;

Amendment No. 10 was adopted without objection.

Amendment No. 11

Representative Wolens offered the following amendment to **CSSB 14**:

Amend **CSSB 14** as follows:

(1) On page 3, lines 4 through 5, strike "except as authorized by rule by the commissioner.".

(2) On page 5, lines 17 through 19, strike "and the experience or information of advisory organizations or other insurers relied on by the filer.".

(3) On page 19, strike lines 10 through 15.

(4) On page 19, line 16, strike "(b)" and substitute "Sec.19.".

(5) On page 24, strike lines 5 through 11.

(6) On page 89, strike line 17.

(Hill in the chair)

Representative Eiland moved to table Amendment No. 11.

A record vote was requested.

The motion to table prevailed by (Record 642): 93 Yeas, 53 Nays, 2 Present, not voting.

Yeas — Allen; Baxter; Berman; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Callegari; Campbell; Capelo; Casteel; Chisum; Christian; Cook, B.; Corte; Crabb; Crownover; Davis, J.; Dawson; Delisi; Denny; Deshotel; Driver; Eiland; Eissler; Elkins; Escobar; Farabee; Flores; Flynn; Gattis; Goolsby; Griggs; Grusendorf; Gutierrez; Haggerty; Hamric; Hardcastle; Harper-Brown; Hartnett; Heflin; Hegar; Hilderbran; Hope; Howard; Hughes; Hunter; Hupp; Isett; Jones, D.; Jones, E.; Keel; Keffer, B.; Keffer, J.; King; Kolkhorst; Krusee; Kuempel; Laubenberg; Madden; Marchant; McCall; McReynolds; Menendez; Mercer; Merritt; Miller; Moreno, P.; Morrison; Mowery; Nixon; Paxton; Phillips; Pitts; Reyna; Riddle; Seaman; Smith, W.; Smithee; Stick; Swinford; Talton; Taylor; Thompson; Truitt; Van Arsdale; Villarreal; West; Wohlgenuth; Wong; Woolley; Zedler.

Nays — Alonzo; Bailey; Burnam; Canales; Castro; Coleman; Cook, R.; Davis, Y.; Dukes; Dunnam; Dutton; Ellis; Farrar; Gallego; Garza; Geren; Giddings; Goodman; Guillen; Hamilton; Hochberg; Hodge; Homer; Hopson; Jones, J.; Laney; Lewis; Luna; Mabry; Martinez Fischer; McClendon; Moreno, J.; Naishtat; Noriega; Oliveira; Olivo; Peña; Pickett; Puente; Quintanilla; Raymond; Ritter; Rodriguez; Rose; Smith, T.; Solis; Solomons; Telford; Turner; Uresti; Wilson; Wise; Wolens.

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

Absent, Excused — Chavez.

Absent — Edwards.

Amendment No. 12

Representative Dutton offered the following amendment to **CSSB 14**:

Amend **CSSB 14** as follows:

(1) In SECTION 1.01 of the bill, in Section 2(a)(5) of added Article 5.142, Insurance Code (page 3, lines 15-16, house committee printing), strike "except as provided by Section 13, Article 5.13-2, of this code".

(2) In ARTICLE 3 of the bill, strike SECTION 3.09 (page 47, line 15, through page 49, line 8, house committee printing) and renumber the subsequent SECTIONS of the article appropriately.

Representative Eiland moved to table Amendment No. 12.

The motion to table prevailed.

Amendment No. 13

Representative Wolens offered the following amendment to **CSSB 14**:

Amend **CSSB 14** as follows:

(1) On page 4, strike lines 1 through 4.

(2) On page 42, strike lines 17 through page 43, line 3.

(3) On page 48, line 24, strike "the insurer and the insurer's affiliated companies or group have" and substitute "the insurer and its affiliated companies combined have".

(4) On page 19, strike lines 18 through page 24, line 4.

(5) On page 47, strike lines 15 through page 49, line 8.

(6) On page 50, strike lines 17 through page 51, line 2, and substitute the following:

Art. 5.13. SCOPE OF SUBCHAPTER [~~SUB CHAPTER~~]. (a) This subchapter [~~Sub chapter~~] applies to every insurance company, corporation, interinsurance exchange, mutual, reciprocal, association, Lloyd's plan, county mutual, farm mutual [~~Lloyds~~] or other organization or insurer writing any of the characters of insurance business herein set forth, hereinafter called "Insurer"; provided that nothing in this entire subchapter [Sub-chapter] shall [ever] be construed to apply to any county or farm mutual insurance company or association, as regulated under Chapters 911 [16] and 912 [17] of this code, except that Article 5.13-2 of this code shall apply to a county mutual insurance company with respect to rates for personal and commercial automobile insurance and residential and commercial property insurance [Code].

(7) On page 54, line 2, strike "Sections 4, 5, 6, and 7" and substitute "this subchapter".

(8) On page 48, line 25, strike "3.5" and substitute ".5".

(9) On page 49, strike line 3 through line 8.

Representative Eiland moved to table Amendment No. 13.

A record vote was requested.

The motion to table prevailed by (Record 643): 102 Yeas, 43 Nays, 2 Present, not voting.

Yeas — Allen; Baxter; Berman; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Callegari; Campbell; Casteel; Chisum; Christian; Cook, B.; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Dawson; Delisi; Denny; Driver; Eiland; Eissler; Elkins; Ellis; Farabee; Flores; Flynn; Gattis; Goodman; Goolsby; Griggs; Grusendorf; Gutierrez; Haggerty; Hamilton; Hamric; Harper-Brown; Hartnett; Heflin; Hegar; Hilderbran; Homer; Hope; Hopson; Howard; Hughes; Hunter; Hupp; Isett; Jones, D.; Jones, E.; Keel; Keffer, B.; Keffer, J.; King; Kolkhorst; Krusee; Kuempel; Laubenberg; Madden; Marchant; Martinez Fischer; McCall; McReynolds; Menendez; Mercer; Merritt; Miller; Morrison; Mowery; Nixon; Oliveira; Paxton; Peña; Phillips; Pitts; Quintanilla; Reyna; Riddle; Ritter; Seaman; Smith, T.; Smith, W.; Smithee; Solis; Solomons; Stick; Swinford; Talton; Taylor; Telford; Thompson; Truitt; Van Arsdale; West; Wohlgemuth; Wong; Woolley; Zedler.

Nays — Alonzo; Bailey; Burnam; Canales; Capelo; Castro; Coleman; Davis, Y.; Deshotel; Dukes; Dunnam; Dutton; Edwards; Escobar; Farrar; Gallego; Garza; Geren; Giddings; Guillen; Hardcastle; Hochberg; Hodge; Jones, J.; Laney; Lewis; Luna; Mabry; McClendon; Moreno, J.; Moreno, P.; Naishtat; Noriega; Olivo; Puente; Raymond; Rodriguez; Rose; Turner; Uresti; Wilson; Wise; Wolens.

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

Absent, Excused — Chavez.

Absent — Pickett; Villarreal.

Amendment No. 14

Representative Gallego offered the following amendment to **CSSB 14**:

Amend **CSSB 14** as follows:

- (1) On page 4, strike lines 1 through 4.
- (2) On page 42, strike lines 17 through page 43, line 3.

Amendment No. 14 was adopted without objection.

Amendment No. 15

Representative Wolens offered the following amendment to **CSSB 14**:

Amend **CSSB 14** as follows:

(1) On page 5, line 26, strike "rate" and substitute "rate, rating manual, or supplementary rating information".

(2) On page 6, line 10, strike "rate" and substitute "rate, rating manual, or supplementary rating information".

(3) On page 10, line 4, strike "rate" and substitute "rate, rating manual, or supplementary rating information".

(4) On page 10, line 5, strike "rate" and substitute "rate, rating manual, or supplementary rating information".

(5) On page 10, line 9, strike "rate" and substitute "rate, rating manual, or supplementary rating information".

(6) On page 10, line 11, strike "rate" and substitute "rate, rating manual, or supplementary rating information".

(7) On page 10, line 12, strike "rate" and substitute "rate, rating manual, or supplementary rating information".

(8) On page 10, line 13, strike "rate" and substitute "rate, rating manual, or supplementary rating information".

(9) On page 10, line 14, strike "rate" and substitute "rate, rating manual, or supplementary rating information".

(10) In Article 4, add a new SECTION, appropriately numbered, to read as follows:

SECTION 4.____. Section 7(a), Article 5.13-2, Insurance Code, is amended as follows:

(a) The commissioner shall disapprove a rate, rating manual, or supplementary rating information if the commissioner determines that the rate filing made under this article does not meet the standards established under that section.

Amendment No. 15 was withdrawn.

Amendment No. 16

Representative Eiland offered the following amendment to **CSSB 14**:

Amend **CSSB 14** as follows:

Amend SECTION 1.01, Sec. 2. DEFINITIONS, page 6, line 10-16 to read as follows:

"(3) unfairly discriminatory if the rate:

(A) cannot be actuarially justified or otherwise justified because it does not bear a reasonable relationship to the expected loss and expense experience among risks; or

(B) is based on a risk that is classified, in whole or in part, on the race, color, creed, ethnicity or national origin of a person."

Amendment No. 16 was adopted without objection.

Amendment No. 17

Representatives Geren, Wolens, and Wise offered the following amendment to **CSSB 14**:

Amend **CSSB 14** as follows:

(1) On page 6, line 15, between "ethnicity," and "or" insert "marital status,".

(2) On page 8, line 22, between "ethnicity," and "or" insert "marital status,".

(3) On page 27, line 17, after the comma, add ", including factors based on marital status".

(4) On page 35, line 7, between "race," and "or" insert "marital status,".

(5) On page 35, line 7, between "religion," and "ethnicity" insert "marital status,".

(6) On page 60, line 20, between "ethnicity," and "or" insert "marital status,".

(7) On page 60, line 24, between "ethnicity," and "or" insert "marital status,".

(8) In Article 7, add an appropriately numbered SECTION after page 60, line 27, to read as follows:

SECTION 7._____. Article 21.21-6, Insurance Code, is amended by amending section 3(a) to read as follows:

(a) Refusing to insure; refusing to continue to insure; limiting the amount, extent, or kind of coverage available; or charging an individual a different rate for the same coverage because of race, color, religion, marital status (for personal automobile and residential property insurance only) or national origin;

(9) In Article 4, add an appropriately numbered SECTION after page 54, line 18, to read as follows:

SECTION 4._____. Section 5, Article 5.13-2, Insurance Code, is amended by adding a new subsection (f) to read as follows:

(f) No insurer may file rates that discriminate based on marital status.

(10) In Article 4, add an appropriately numbered SECTION after page 54, line 18, to read as follows:

SECTION 4._____. Chapter 21, Insurance Code, is amended by amending Article 21.49-2D Sec. (b) to read as follows:

(b) An insurer may not cancel or refuse to renew a policy or contract of insurance based solely in whole or in part on marital status or the fact that the policyholder in question is an elected official.

(Speaker in the chair)

Representative Smithee moved to table Amendment No. 17.

A record vote was requested.

The motion to table prevailed by (Record 644): 79 Yeas, 67 Nays, 1 Present, not voting.

Yeas — Allen; Baxter; Berman; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Callegari; Campbell; Casteel; Chisum; Christian; Cook, B.; Corte; Crabb; Crownover; Davis, J.; Dawson; Denny; Driver; Eiland; Eissler; Elkins; Farabee; Flynn; Gattis; Goolsby; Griggs; Grusendorf; Hamric; Hardcastle; Harper-Brown; Hartnett; Heflin; Hegar; Hilderbran; Hill; Hope; Howard; Hughes; Hunter; Hupp; Isett; Jones, E.; Keel; Keffer, B.; Keffer, J.; King; Kolkhorst; Krusee; Kuempel; Laubenberg; Madden; Marchant; Mercer; Miller; Morrison; Mowery; Nixon; Paxton; Quintanilla; Reyna; Riddle; Seaman; Smith, W.; Smithee; Solomons; Stick; Swinford; Talton; Taylor; Truitt; Van Arsdale; West; Wohlgenuth; Wong; Woolley; Zedler.

Nays — Alonzo; Bailey; Burnam; Canales; Capelo; Castro; Coleman; Cook, R.; Davis, Y.; Delisi; Deshotel; Dukes; Dunnam; Dutton; Edwards; Ellis; Escobar; Farrar; Flores; Gallego; Garza; Geren; Giddings; Goodman; Guillen; Gutierrez; Haggerty; Hamilton; Hochberg; Hodge; Homer; Hopson; Jones, D.; Laney; Lewis; Luna; Mabry; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Moreno, J.; Moreno, P.; Naishtat; Noriega; Oliveira; Olivo; Peña; Phillips; Pickett; Pitts; Puente; Raymond; Ritter; Rodriguez; Smith, T.; Solis; Telford; Thompson; Turner; Uresti; Villarreal; Wilson; Wise; Wolens.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Chavez.

Absent — Jones, J.; Rose.

Representative Smithee moved to postpone consideration of **CSSB 14** until 9 a.m. tomorrow.

The motion prevailed without objection.

**SB 718 - REQUEST OF SENATE GRANTED
CONFERENCE COMMITTEE APPOINTED**

On motion of Representative Truitt, the house granted the request of the senate for the appointment of a conference committee on **SB 718**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 718**: McReynolds, chair; Truitt; Taylor; Laubenberg; and Zedler.

**SB 504 - REQUEST OF SENATE GRANTED
CONFERENCE COMMITTEE APPOINTED**

On motion of Representative Kolkhorst, the house granted the request of the senate for the appointment of a conference committee on **SB 504**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 504**: Kolkhorst, chair; Elkins; Ellis; Bohac; and Solomons.

**SB 880 - REQUEST OF SENATE GRANTED
CONFERENCE COMMITTEE APPOINTED**

On motion of Representative Capelo, the house granted the request of the senate for the appointment of a conference committee on **SB 880**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 880**: Capelo, chair; Allen; Haggerty; Stick; and Talton.

**HB 3149 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Wilson called up with senate amendments for consideration at this time,

HB 3149, A bill to be entitled An Act relating to conflicts of interest involving lobbyists.

On motion of Representative Wilson, the house concurred in the senate amendments to **HB 3149**.

Senate Amendment No. 1 (Senate Committee Amendment No. 1)

Amend **HB 3149** as follows:

- (1) On page 1, line 10, insert "by a client" between "employed" and "to".
- (2) On page 2, line 17, insert "own interest" between "concern's" and "or".
- (3) On page 2, line 18, insert "business" between "own" and "interests".

**HB 4 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative Nixon called up with senate amendments for consideration at this time,

HB 4, A bill to be entitled An Act relating to reform of certain procedures and remedies in civil actions.

Representative Nixon moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 4**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 4**: Nixon, chair; Gattis; King; Woolley; and Luna.

**HB 883 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Dutton called up with senate amendments for consideration at this time,

HB 883, A bill to be entitled An Act relating to the powers of an associate judge under the Family Code.

On motion of Representative Dutton, the house concurred in the senate amendments to **HB 883**.

Senate Amendment No. 1 (Senate Committee Amendment No. 1)

Amend **HB 883** by striking Section 201.007(A)(14) (A and B) (House Engrossment Page 2, Line 3-4), and substituting "(A) a final order agreed to in writing as to both form and substance by all parties; or (B) a final default order; and".

**HB 980 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Goodman called up with senate amendments for consideration at this time,

HB 980, A bill to be entitled An Act relating to the circumstances under which a child may be adopted.

On motion of Representative Goodman, the house concurred in the senate amendments to **HB 980**.

Senate Committee Substitute

HB 980, A bill to be entitled An Act relating to the circumstances under which a child may be adopted.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 162.001(b), Family Code, is amended to read as follows:

(b) A child residing in this state may be adopted if:

(1) the parent-child relationship as to each living parent of the child has been terminated or a suit for termination is joined with the suit for adoption;

(2) the parent whose rights have not been terminated is presently the spouse of the petitioner and the proceeding is for a stepparent adoption;

(3) the child is at least two years old, the parent-child relationship has been terminated with respect to one parent, the person seeking the adoption [~~is the child's former stepparent and~~] has been a managing conservator or has had actual care, possession, and control of the child for a period of six months preceding the adoption or is the child's former stepparent, and the nonterminated parent consents to the adoption; or

(4) the child is at least two years old, the parent-child relationship has been terminated with respect to one parent, and the person seeking the adoption is the child's former stepparent and has been a managing conservator or has had actual care, possession, and control of the child for a period of one year preceding the adoption.

SECTION 2. (a) This Act takes effect September 1, 2003.

(b) The change in law made by this Act applies only to a suit for adoption filed on or after the effective date of this Act. A suit for adoption filed before the effective date of this Act is governed by the law in effect on the date the suit was filed, and the former law is continued in effect for that purpose.

COMMITTEE GRANTED PERMISSION TO MEET

Representative Woolley requested permission for the Committee on Calendars to meet while the house is in session.

Permission to meet was granted without objection.

COMMITTEE MEETING ANNOUNCEMENTS

The following committee meetings were announced:

Calendars, during bill referral today, speakers committee room, for a formal meeting.

Higher Education, 8 a.m. tomorrow, E2.022, for a formal meeting, to consider **SB 26, SB 503, SB 1007, SB 1230, SB 1367, SB 1521, SB 1546, SB 1652, and SB 1942.**

Elections, upon adjournment today, Desk 58, for a formal meeting, to consider **SB 1611.**

Corrections, upon adjournment today, Desk 1, for a formal meeting, to consider **SB 921 and SB 1678.**

Human Services, upon adjournment today, Desk 114, for a formal meeting, to consider **SB 58, CSSB 60, SB 810, SB 1742, and SB 1743.**

State Health Care Expenditures, Select, 8 a.m. tomorrow, E2.018, for a formal meeting, to consider pending legislation.

Juvenile Justice and Family Issues, upon adjournment today, Desk 115, for a formal meeting, to consider several posted bills.

Natural Resources, will reconvene upon adjournment.

PROVIDING FOR ADJOURNMENT

Representative Smithee moved that, at the conclusion of the reading of bills and resolutions on first reading, referral to committees, and committee meeting announcements, the house adjourn until 9 a.m. tomorrow.

The motion prevailed without objection.

**BILLS AND JOINT RESOLUTIONS ON FIRST READING
AND REFERRAL TO COMMITTEES
RESOLUTIONS REFERRED TO COMMITTEES**

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

(Geren in the chair)

COMMITTEE MEETING ANNOUNCEMENT

The following committee meeting was announced:

Transportation, upon adjournment today, Desk 45, for a formal meeting.

ADJOURNMENT

In accordance with a previous motion, the house, at 6:17 p.m., adjourned until 9 a.m. tomorrow.

ADDENDUM

REFERRED TO COMMITTEES

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

List No. 1

HCR 260 (By Craddick), Honoring Martha L. Long on the occasion of her retirement from the McCamey Independent School District.

To Rules and Resolutions.

HR 1274 (By Chavez), Honoring U.S. Army Specialist Joseph Neal Hudson of Alamogordo, New Mexico, for his heroism and service to his country.

To Rules and Resolutions.

HR 1275 (By Chavez), Honoring Specialist Shoshana Nyree Johnson for her heroism and service to her country.

To Rules and Resolutions.

HR 1276 (By Chavez), Honoring Patrick Wayne Miller of Park City, Kansas, for his heroism and service to his country.

To Rules and Resolutions.

HR 1277 (By Chavez), Honoring Sergeant James J. Riley of Pennsauken, New Jersey, for his heroism and service to his country.

To Rules and Resolutions.

HR 1278 (By Chavez), Honoring former POWs from the 507th Maintenance Co. for their service to their country.

To Rules and Resolutions.

HR 1279 (By Chavez), Honoring participants in Students Helping in the Naturalization of Elders (SHINE) and program director Richard Gutierrez for their contributions to the El Paso community.

To Rules and Resolutions.

HR 1280 (By Chavez), Congratulating Carlos Higgins on his accomplishments as speaker pro tempore of the Texas Silver-Haired Legislature.

To Rules and Resolutions.

HR 1281 (By Chavez), Honoring The University of Texas at El Paso delegation to the Model Organization of American States (OAS) General Assembly.

To Rules and Resolutions.

HR 1282 (By Chavez), Honoring Clemencia Prieto for her outstanding work at the El Paso Center on Family Violence.

To Rules and Resolutions.

HR 1283 (By Quintanilla), Commending the Kiwanis Club of East El Paso on its civic contributions.

To Rules and Resolutions.

HR 1284 (By Quintanilla), Congratulating Ray and Bibiana Mancera of El Paso on the birth of their son, Marcos Antonio Mancera.

To Rules and Resolutions.

HR 1285 (By T. Smith), Honoring retiring Hurst-Eules-Bedford Independent School District Board of Trustees member Lorraine Tatarevich.

To Rules and Resolutions.

HR 1286 (By T. Smith), Congratulating the Honorable John Murphy, past mayor of the City of Bedford.

To Rules and Resolutions.

HR 1288 (By Wise), Honoring Jo-Jo Cerda of Weslaco for his nomination by the Academy of Country Music as one of the top five radio personalities in the country.

To Rules and Resolutions.

HR 1289 (By Wise), Honoring the Weslaco ISD Migrant Department for receiving more awards than any other school district at the Texas State Migrant Conference.

To Rules and Resolutions.

HR 1290 (By Wise), Congratulating the Donna High School Migrant Department on its 2002 Texas Migrant Education Conference award.

To Rules and Resolutions.

HR 1291 (By Wise), Congratulating the Garza Tienda de Segunda in Pharr on its 35th anniversary.

To Rules and Resolutions.

HR 1292 (By Wise), Recognizing the grand opening of Texas A&M University's Lower Rio Grande Valley Prospective Student Center.

To Rules and Resolutions.

HR 1293 (By Wise), Honoring Rosalinda Diaz of Clover Elementary School for receiving the Betty Scharff Memorial Award.

To Rules and Resolutions.

HR 1298 (By Hodge, J. Jones, Giddings, Y. Davis, and Alonzo), Congratulating Thaddeus and Lilla McGowen on the birth of their daughter, Omni LaBelle McGowen.

To Rules and Resolutions.

HR 1299 (By Craddick), Honoring Alonzo Sanders, Jr., and Berda Stewart Sanders of Midland on their 50th wedding anniversary.

To Rules and Resolutions.

HR 1302 (By Raymond), In memory of Lucien Flournoy of Alice.

To Rules and Resolutions.

HR 1303 (By Raymond), Honoring Mary Lamar Killam, Laredo civic leader and successful competitive hunter.

To Rules and Resolutions.

HR 1304 (By Raymond), Honoring the Most Reverend James A. Tamayo on his appointment as the first Bishop of the Laredo Diocese.

To Rules and Resolutions.

HR 1305 (By Raymond), Commending the efforts of Laredo Crime Stoppers.

To Rules and Resolutions.

HR 1306 (By Raymond), Honoring Dr. Judson J. Somerville for his contributions to health care in Laredo.

To Rules and Resolutions.

HR 1307 (By Raymond), Honoring Dr. David E. Garza for his contributions to Laredo and the State of Texas.

To Rules and Resolutions.

HR 1308 (By Raymond), Honoring Dr. Ramon H. Dovalina for his contributions to higher education in Texas.

To Rules and Resolutions.

HR 1309 (By Laubenberg), Extending best wishes to Byron Beethe of Longview.

To Rules and Resolutions.

HR 1310 (By Laubenberg), Honoring the students of Blue Ridge High School in Collin County for their outstanding achievements.

To Rules and Resolutions.

HR 1311 (By Burnam), Honoring John Dickson of Fort Worth for his civic contributions.

To Rules and Resolutions.

HR 1312 (By Garza), Honoring Dr. Sergio Zamora of Eagle Pass for being the recipient of the Physician of the Year for the State of Texas Award.

To Rules and Resolutions.

HR 1313 (By McClendon), Honoring the contributions of Dr. Morris A. Stribling of San Antonio.

To Rules and Resolutions.

HR 1314 (By McClendon), Honoring Art A. Hall of San Antonio as chairman of the African American Leadership Institute.

To Rules and Resolutions.

HR 1315 (By Chavez), Commending Eddie Holguin, Jr., Democratic precinct chair of El Paso County.

To Rules and Resolutions.

HR 1316 (By Chavez), Commending Jesus Reyes, Democratic precinct chair of El Paso County.

To Rules and Resolutions.

HR 1317 (By Chavez), Commending Hector F. Arellano, Democratic precinct chair of El Paso County.

To Rules and Resolutions.

HR 1318 (By Chavez), Commending Ma. Irene Ojeda, Democratic precinct chair of El Paso County.

To Rules and Resolutions.

HR 1319 (By Chavez), Commending Esther Ramirez, Democratic precinct chair of El Paso County.

To Rules and Resolutions.

HR 1320 (By Chavez), Commending Joe F. Briseno, Democratic precinct chair of El Paso County.

To Rules and Resolutions.

HR 1321 (By Chavez), Commending Elias Torrez, Democratic precinct chair of El Paso County.

To Rules and Resolutions.

HR 1322 (By Chavez), Commending Elizabeth Teran, Democratic precinct chair of El Paso County.

To Rules and Resolutions.

HR 1323 (By Chavez), Commending Viola Chavez, Democratic precinct chair of El Paso County.

To Rules and Resolutions.

HR 1324 (By Chavez), Commending Anabel Romero, Democratic precinct chair of El Paso County.

To Rules and Resolutions.

HR 1325 (By Chavez), Commending Roy Guerrero, Democratic precinct chair of El Paso County.

To Rules and Resolutions.

HR 1326 (By Chavez), Commending David A. Garcia, Democratic precinct chair of El Paso County.

To Rules and Resolutions.

HR 1327 (By Chavez), Commending Debbie Hastings Rios, Democratic precinct chair of El Paso County.

To Rules and Resolutions.

HR 1328 (By Chavez), Commending Armando Parra, Democratic precinct chair of El Paso County.

To Rules and Resolutions.

HR 1329 (By Chavez), Commending Esteban Sansores, Democratic precinct chair of El Paso County.

To Rules and Resolutions.

HR 1330 (By Chavez), Commending Ricardo Armendariz, Democratic precinct chair of El Paso County.

To Rules and Resolutions.

HR 1331 (By Chavez), Commending Rita P. Sarinana, Democratic precinct chair of El Paso County.

To Rules and Resolutions.

HR 1332 (By Chavez), Commending Virginia Valencia, Democratic precinct chair of El Paso County.

To Rules and Resolutions.

HR 1333 (By Chavez), Commending Angel Romero, Democratic precinct chair of El Paso County.

To Rules and Resolutions.

HR 1334 (By Chavez), Commending Art Jeddery, Democratic precinct chair of El Paso County.

To Rules and Resolutions.

HR 1335 (By Chavez), Commending Teresa Shobney, Democratic precinct chair of El Paso County.

To Rules and Resolutions.

HR 1336 (By Chavez), Commending Angie Corral Barajas, Democratic precinct chair of El Paso County.

To Rules and Resolutions.

HR 1337 (By Chavez), Commending Lorena Salas, Democratic precinct chair of El Paso County.

To Rules and Resolutions.

HR 1338 (By Chavez), Commending Enriqueta "Queta" Fierro, Democratic precinct chair of El Paso County.

To Rules and Resolutions.

HR 1339 (By Chavez), Commending Diane Lee Antuna, Democratic precinct chair of El Paso County.

To Rules and Resolutions.

HR 1340 (By Chavez), Commending Naomi Marquez, Democratic precinct chair of El Paso County.

To Rules and Resolutions.

HR 1341 (By Chavez), Commending Pattie Lee Pinon, Democratic precinct chair of El Paso County.

To Rules and Resolutions.

HR 1342 (By Chavez), Commending Norman Chavez, Democratic precinct chair of El Paso County.

To Rules and Resolutions.

HR 1343 (By Chavez), Commending R. Esther Montoya, Democratic precinct chair of El Paso County.

To Rules and Resolutions.

HR 1344 (By Chavez), Commending Sebastian Martinez, Democratic precinct chair of El Paso County.

To Rules and Resolutions.

HR 1345 (By Dunnam), Honoring Leon A. Willhite of Waco on his retirement from the Heart of Texas Council of Governments.

To Rules and Resolutions.

HR 1346 (By Pitts), Honoring Michelle Carter for her athletic achievements.

To Rules and Resolutions.

HR 1347 (By Seaman), Commending William D. Bonilla, Sr., of Corpus Christi for 50 years of service in the practice of law.

To Rules and Resolutions.

SB 722 to Higher Education.

SB 770 to Economic Development.

SB 788 to Public Health.

SB 1045 to Criminal Jurisprudence.

SB 1116 to Regulated Industries.

SB 1160 to State Affairs.

SB 1181 to Pensions and Investments.

SB 1188 to Criminal Jurisprudence.

SB 1200 to Higher Education.

SB 1477 to Criminal Jurisprudence.

SB 1862 to Appropriations.

SJR 3 to Criminal Jurisprudence.

SIGNED BY THE SPEAKER

The following bills and resolutions were today signed in the presence of the house by the speaker:

House List No. 42

HB 178, HB 211, HB 258, HB 276, HB 472, HB 543, HB 591, HB 608, HB 627, HB 671, HB 769, HB 776, HB 821, HB 839, HB 861, HB 873, HB 886, HB 889, HB 904, HB 940, HB 941, HB 1014, HB 1030, HB 1032, HB 1061, HB 1066, HB 1076, HB 1078, HB 1117, HB 1120, HB 1153, HB 1221, HB 1306, HB 1328, HB 1344, HB 1452, HB 1472, HB 1531, HB 1631, HB 1735, HB 1771, HB 1832, HB 1836, HB 1875, HB 1878, HB 2012, HB 2074, HB 2126, HB 2132, HB 2334, HB 2385, HB 2396, HB 2498, HB 2567, HB 2582, HB 2676, HB 2952, HB 3126, HB 3414, HB 3484, HB 3491, HB 3506, HB 3507, HB 3508, HCR 13, HCR 14, HCR 151, HCR 257, HJR 61

Senate List No. 32

SB 84, SB 139, SB 153, SB 174, SB 233, SB 255, SB 540, SB 653, SB 733, SB 735, SB 898, SB 912, SB 922, SB 935, SB 1035, SB 1087, SB 1090, SB 1280, SB 1549, SB 1714, SCR 12, SCR 26

Senate List No. 33

SB 235, SB 281, SB 404, SB 486, SB 710, SB 729, SB 1021, SB 1145

Senate List No. 34

SB 57, SB 89, SB 249, SB 276, SB 433, SB 464, SB 532, SB 656, SB 934, SB 1380, SB 1507, SCR 23

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

Wednesday, May 21, 2003

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 722

Van de Putte

Relating to providing education loan repayment assistance to encourage certain individuals to pursue careers in the faculty or administration of institutions of higher education.

SB 770 Madla
Relating to the direct shipment of wine to consumers.

SB 788 Carona
Relating to the issuance of a limited license to practice medicine to certain applicants.

SB 1045 Ellis, Rodney
Relating to the creation of a joint interim committee to investigate and prevent wrongful convictions.

SB 1116 Williams
Relating to the criminal and civil consequences of conduct involving the theft of or tampering with certain communication or information services.

SB 1160 Barrientos
Relating to the development and implementation of personnel policies and procedures of state agencies.

SB 1188 Van de Putte
Relating to supplemental pay for certain officers of the Department of Public Safety of the State of Texas.

SB 1200 Lucio
Relating to the creation of the TexasNextStep grant program to pay tuition and required fees and textbook costs of certain students enrolled in two-year public institutions of higher education in this state.

SB 1477 West
Relating to restrictions on the disclosure of certain criminal records and to the duty of law enforcement agencies regarding records associated with certain defendants receiving deferred adjudication; providing a civil penalty.

SB 1862 Bivins
Relating to health and human services.

SCR 52 Janek
Paying tribute to the live oak champion in Texas located in the San Bernard National Wildlife Refuge.

SJR 3 West
Proposing a constitutional amendment authorizing the governor to grant pardons to persons who have received deferred adjudication.

Respectfully,
Patsy Spaw
Secretary of the Senate

Message No. 2

MESSAGE FROM THE SENATE
SENATE CHAMBER
Austin, Texas
Wednesday, May 21, 2003 - 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:

HCR 50 Lewis
In memory of William Glenn Smiley, Jr., of Fort Worth.

HCR 53 Gallego
In memory of James H. Copp.

HCR 71 Lewis
Honoring Coach Robert Hughes of Dunbar High School for being the most successful high school basketball coach in history.

HCR 127 Lewis
In memory of Tarrence Leon White of Fort Worth.

HCR 128 Lewis
Congratulating the Fort Worth Dunbar High School boys' basketball team on winning the 2003 UIL Class 4A state championship.

HCR 160 Lewis
Congratulating the Everman High School boys' basketball team on winning the 2003 UIL Class 3A state championship.

Respectfully,
Patsy Spaw
Secretary of the Senate

Message No. 3

MESSAGE FROM THE SENATE
SENATE CHAMBER
Austin, Texas
Wednesday, May 21, 2003 - 3

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 CONCURRED IN HOUSE AMENDMENTS TO THE FOLLOWING MEASURES:

SB 165 (31 Yeas, 0 Nays)

SB 252 (viva-voce vote)

SB 693 (viva-voce vote)

THE SENATE HAS REFUSED TO CONCUR IN HOUSE AMENDMENTS TO THE FOLLOWING MEASURES AND REQUESTS THE APPOINTMENT OF A CONFERENCE COMMITTEE TO ADJUST THE DIFFERENCES BETWEEN THE TWO HOUSES:

SB 277

Senate Conferees: Ellis, Rodney - Chair/Nelson/Ratliff/Shapleigh/Wentworth

SB 279

Senate Conferees: Jackson - Chair/Armbrister/Duncan/Ellis, Rodney/Whitmire

SB 340

Senate Conferees: Staples - Chair/Averitt/Barrientos/Janek/West

SB 827

Senate Conferees: Whitmire - Chair/Gallegos/Nelson/Wentworth/Williams

SB 1010

Senate Conferees: West - Chair/Armbrister/Duncan/Harris/Lindsay

Respectfully,

Patsy Spaw

Secretary of the Senate

Message No. 4

MESSAGE FROM THE SENATE
SENATE CHAMBER
Austin, Texas
Wednesday, May 21, 2003 - 4

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 261 Hupp SPONSOR: Fraser
Relating to the eligibility of armed forces personnel and their family members to pay tuition and fees at the rate provided to Texas residents.
(Amended)

HB 462 Gallego SPONSOR: Ellis,
Rodney

Relating to the collection of a fee from certain nonresident attorneys requesting permission to participate in proceedings in a Texas court.

HB 887 Dutton SPONSOR: West
Relating to the award of attorney's fees and expenses in a suit affecting the parent-child relationship.

HB 1536 Reyna SPONSOR: Shapiro
Relating to certain communication with and access to a child following termination of the parent-child relationship.
(Amended)

HB 2096 Pickett SPONSOR: Lucio
Relating to creation of an offense for transporting a person in certain trailers and semitrailers.
(Amended)

HB 2493 Isett SPONSOR: Duncan
Relating to consideration of a bidder's principal place of business in awarding certain municipal and school district contracts.
(Committee Substitute/Amended)

HB 2940 McReynolds SPONSOR: Jackson
Relating to the funding of the administrative costs of the Texas Environmental Education Partnership Fund Board.

SB 728 Staples
Relating to the benefits provided to the survivors of certain public employees killed in the line of duty.

SB 954 Madla
Relating to the authority of a county to charge a fee for a plat application.

SB 1219 Nelson
Relating to services provided to children with developmental delay.

SB 1930 Staples
Relating to the board of directors and the powers of the Lone Star Groundwater Conservation District; validating certain actions and proceedings of the district.

SCR 58 Jackson
Extending sincere condolences to the bereaved family of the Honorable Dean Neugent.

Respectfully,
Patsy Spaw
Secretary of the Senate

Message No. 5

MESSAGE FROM THE SENATE
SENATE CHAMBER

Austin, Texas
Wednesday, May 21, 2003 - 5

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 157 Krusee SPONSOR: Ogden
Relating to the powers and duties of a regional mobility authority.
(Committee Substitute/Amended)

HB 292 Reyna SPONSOR: Zaffirini
Relating to the taking of a specimen of a person's breath or blood in connection with certain alcohol-related offenses.

HB 1701 Taylor SPONSOR: Jackson
Relating to providing a uniform limit on the population of a county election precinct.

HCR 52 Farabee SPONSOR: Estes
In memory of Minnie Rhea Wood of Wichita Falls.

HCR 82 Campbell SPONSOR: Barrientos
Memorializing Congress to increase Texas' share of revenue from the federal fuel tax to 95 percent.
(Amended)

HCR 149 Farabee SPONSOR: Estes
Honoring Purple Heart recipient James Virdell of Wichita Falls.

Respectfully,
Patsy Spaw
Secretary of the Senate

Message No. 6

MESSAGE FROM THE SENATE
SENATE CHAMBER
Austin, Texas
Wednesday, May 21, 2003 - 6

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 CONCURRED IN HOUSE AMENDMENTS TO THE FOLLOWING MEASURES:

SB 146 (viva-voce vote)

SB 197 (viva-voce vote)

SB 285 (viva-voce vote)

SB 1265 (31 Yeas, 0 Nays)

SB 1331 (viva-voce vote)

SB 1726 (31 Yeas, 0 Nays)

SB 1887 (31 Yeas, 0 Nays)

SB 1895 (31 Yeas, 0 Nays)

Respectfully,
Patsy Spaw
Secretary of the Senate

Message No. 7

MESSAGE FROM THE SENATE
SENATE CHAMBER
Austin, Texas
Wednesday, May 21, 2003 - 7

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 15 Cortez SPONSOR: Williams
Relating to regulation of abortion; creating an offense.
(Committee Substitute)

HB 804 Geren SPONSOR: Lindsay
Relating to the minimum wage.
(Committee Substitute)

HB 845 Howard SPONSOR: Carona
Relating to a purchasing preference for Texas vendors.
(Amended)

HB 1460 Eiland SPONSOR: Jackson
Relating to the appraisal of real property for ad valorem tax purposes.

Respectfully,
Patsy Spaw
Secretary of the Senate

Message No. 8

MESSAGE FROM THE SENATE
SENATE CHAMBER

Austin, Texas

Wednesday, May 21, 2003 - 8

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 9 Flores SPONSOR: Shapiro
Relating to homeland security.
(Committee Substitute/Amended)

HB 11 Keel SPONSOR: Shapiro
Relating to the offense of terroristic threat and to the punishment as a capital offense of murder occurring during the commission or attempted commission of terroristic threat.
(Committee Substitute/Amended)

HB 510 Woolley SPONSOR: Ogden
Relating to the issuance of special license plates for federal administrative law judges.
(Committee Substitute/Amended)

Respectfully,
Patsy Spaw
Secretary of the Senate

APPENDIX

STANDING COMMITTEE REPORTS

Favorable reports have been filed by committees as follows:

May 20

Business and Industry - **SB 478**

County Affairs - **SB 705, SB 708, SB 709**

Criminal Jurisprudence - **SB 191**

Defense Affairs and State-Federal Relations - **SB 945**

Energy Resources - **SB 1484**

Law Enforcement - **SB 51, SB 176, SB 439, SB 566, SB 568, SB 613, SB 674, SB 801, SB 841, SB 895, SB 1184, SB 1896**

Local Government Ways and Means - **SB 1659, SB 1944**

Natural Resources - **SB 24, SB 1227, SB 1276, SB 1729, SB 1925, SB 1933, SB 1941**

State Affairs - **SB 1388, SB 1403**

State Cultural and Recreational Resources - **SB 1415**

Transportation - **SB 20, SB 767, SB 1025, SB 1748**

Urban Affairs - **SB 734, SB 1918**

Ways and Means - **SB 671, SB 966**

ENROLLED

May 20 - HB 178, HB 211, HB 227, HB 258, HB 276, HB 472, HB 543, HB 608, HB 627, HB 671, HB 769, HB 776, HB 821, HB 839, HB 854, HB 861, HB 886, HB 889, HB 940, HB 941, HB 1014, HB 1032, HB 1066, HB 1076, HB 1120, HB 1150, HB 1328, HB 1344, HB 1472, HB 1531, HB 1631, HB 1735, HB 1771, HB 1832, HB 1836, HB 1875, HB 1878, HB 2074, HB 2126, HB 2132, HB 2133, HB 2334, HB 2385, HB 2396, HB 2567, HB 2582, HB 2952, HB 3126, HB 3414, HB 3484, HB 3491, HB 3506, HB 3507, HCR 56, HCR 257, HJR 3

SENT TO THE SECRETARY OF THE STATE

May 20 - HJR 3

SIGNED BY THE GOVERNOR

May 20 - HB 44, HB 319, HB 660, HB 802, HB 850, HB 1055, HB 1075, HB 1095, HB 1295, HB 1625, HCR 3, HCR 8, HCR 226