

HOUSE JOURNAL

SEVENTY-NINTH LEGISLATURE, REGULAR SESSION

PROCEEDINGS

FIFTY-EIGHTH DAY — THURSDAY, APRIL 28, 2005

The house met at 9:30 a.m. and was called to order by the speaker.

The roll of the house was called and a quorum was announced present (Record 432).

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

Absent, Excused — Griggs; Nixon; Noriega, M.; Reyna; Woolley.

Absent — Gallego.

The invocation was offered by Karen Vannoy, pastor, Travis Park United Methodist Church, San Antonio.

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

LEAVES OF ABSENCE GRANTED

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

Nixon on motion of Denny.

The following members were granted leaves of absence for today and tomorrow because of family business:

M. Noriega on motion of Villarreal.

Woolley on motion of Delisi.

The following member was granted leave of absence for today and tomorrow because of medical reasons:

Griggs on motion of Casteel.

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

Reyna on motion of Mowery.

REGULAR ORDER OF BUSINESS SUSPENDED

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

CAPITOL PHYSICIAN

The speaker recognized Representative Hopson who presented Dr. William McCrady of Henderson as the "Doctor for the Day."

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

HR 1401 - ADOPTED (by Hunter)

Representative Hunter moved to suspend all necessary rules to take up and consider at this time **HR 1401**.

The motion prevailed.

The following resolution was laid before the house:

HR 1401, Honoring Dr. Charles Nelson for his contributions to music education.

HR 1401 was read and was adopted.

(Gallego now present)

INTRODUCTION OF GUESTS

The speaker recognized Representative Hunter who introduced Dr. Charles Nelson, his wife Betty, and Dr. Dan Wood, executive director of the Texas Choral Director's Association.

HR 1349 - ADOPTED (by Y. Davis)

Representative Y. Davis moved to suspend all necessary rules to take up and consider at this time **HR 1349**.

The motion prevailed.

The following resolution was laid before the house:

HR 1349, Recognizing Dr. Jean-Claude Bope-Bope, ambassador of the Democratic Republic of Congo to Namibia.

HR 1349 was read and was adopted.

INTRODUCTION OF GUEST

The speaker recognized Representative Y. Davis who introduced Dr. Jean-Claude Bope-Bope.

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).

LEAVE OF ABSENCE GRANTED

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

Martinez on motion of Leibowitz.

HR 1273 - ADOPTED **(by Alonzo and Y. Davis)**

Representative Edwards moved to suspend all necessary rules to take up and consider at this time **HR 1273**.

The motion prevailed.

The following resolution was laid before the house:

HR 1273, Honoring students from St. Elizabeth of Hungary Catholic School in Dallas on their visit to the State Capitol.

HR 1273 was adopted.

HR 1295 - ADOPTED **(by Ritter, et al.)**

Representative Ritter moved to suspend all necessary rules to take up and consider at this time **HR 1295**.

The motion prevailed.

The following resolution was laid before the house:

HR 1295, Congratulating Dr. Sharon E. Jarvis, assistant professor of communication studies at The University of Texas at Austin, for receiving the Friar Centennial Teaching Fellowship for 2005.

HR 1295 was adopted.

HR 1120 - ADOPTED **(by Hopson)**

Representative Hopson moved to suspend all necessary rules to take up and consider at this time **HR 1120**.

The motion prevailed.

The following resolution was laid before the house:

HR 1120, Welcoming the Jacksonville Leadership Institute to the State Capitol on April 28, 2005.

HR 1120 was adopted.

**GENERAL STATE CALENDAR
SENATE BILLS
THIRD READING**

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

**SB 492 ON THIRD READING
(Delisi - House Sponsor)**

SB 492, A bill to be entitled An Act relating to inspection of and drug compounding by a pharmacy and to distribution of compounded and prepackaged drugs to pharmacies under common ownership.

SB 492 was passed. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

**SB 1299 ON THIRD READING
(Talton - House Sponsor)**

SB 1299, A bill to be entitled An Act relating to an exception to the prohibition against commingling used oil with solid waste if the commingling is incident to the dismantling of scrap, used, or obsolete metals.

SB 1299 was passed. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. Members registering votes are as follows: Herrero recorded voting no.)

POSTPONED BUSINESS

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

**HB 958 ON SECOND READING
(by Goolsby, et al.)**

HB 958, A bill to be entitled An Act relating to the enforcement of an order prohibiting operation of a motor vehicle on certain toll roads.

HB 958 was read second time on March 23 and was postponed until 10 a.m. today.

HB 958 was withdrawn.

LEAVE OF ABSENCE GRANTED

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

Bohac on motion of Seaman.

CSSB 374 ON SECOND READING
(Callegari - House Sponsor)

CSSB 374, A bill to be entitled An Act relating to the repeal of the statutory provision regarding the adoption and use by the Texas Water Development Board of a capital spending plan for certain state-funded water-related programs under the board's jurisdiction.

CSSB 374 was considered in lieu of **CSHB 356**.

CSSB 374 was read second time and was passed to third reading. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

CSHB 356 - LAID ON THE TABLE SUBJECT TO CALL

Representative Callegari moved to lay **CSHB 356** on the table subject to call.

The motion prevailed.

SB 693 ON SECOND READING
(Gattis - House Sponsor)

SB 693, A bill to be entitled An Act relating to vacancies on municipal utility district boards.

SB 693 was considered in lieu of **HB 1041**.

SB 693 was read second time and was passed to third reading. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

HB 1041 - LAID ON THE TABLE SUBJECT TO CALL

Representative Gattis moved to lay **HB 1041** on the table subject to call.

The motion prevailed.

CSHB 116 ON SECOND READING
(by Geren, Escobar, B. Cook, and Leibowitz)

CSHB 116, A bill to be entitled An Act relating to the establishment of the farm and ranch lands conservation program.

CSHB 116 was read second time on April 22 and was postponed until 10 a.m. today.

Representative Geren moved to postpone consideration of **CSHB 116** until 11 a.m. May 5.

The motion prevailed.

HB 587 ON SECOND READING
(by Rose and Guillen)

HB 587, A bill to be entitled An Act relating to the installment payment of ad valorem taxes by certain veterans.

HB 587 was read second time on April 25 and was postponed until 10 a.m. today.

(Farabee in the chair)

Representative Rose moved to postpone consideration of **HB 587** until 10 a.m. May 2.

The motion prevailed.

HB 1368 ON SECOND READING
(by R. Allen)

HB 1368, A bill to be entitled An Act relating to the confidentiality of and access to certain personal information in instruments recorded with a county clerk.

HB 1368 was read second time on April 25 and was postponed until 10 a.m. today.

Representative R. Allen moved to postpone consideration of **HB 1368** until 10 a.m. May 3.

The motion prevailed.

HB 2491 ON SECOND READING
(by Puente)

HB 2491, A bill to be entitled An Act relating to the transfer of an ad valorem tax lien and to a contract for foreclosure of an ad valorem tax lien.

HB 2491 was read second time on April 22, postponed until April 26, and was again postponed until 10 a.m. today.

Amendment No. 1

Representatives Puente and Paxton offered the following amendment to **HB 2491**:

Amend **HB 2491** by striking all below the enacting clause and substituting the following:

SECTION 1. Section 32.06, Tax Code, is amended to read as follows:

Sec. 32.06. TRANSFER OF TAX LIEN. (a) In this section:

(1) "Mortgage servicer" has the meaning assigned by Section 51.0001, Property Code.

(2) "Transferee" means a person authorized to pay the taxes of another.

(a-1) A person may authorize another person to pay the delinquent taxes imposed by a taxing unit on the person's real property by filing with the collector for the unit a sworn document stating:

(1) the authorization;

(2) the name and street address of the transferee~~[, naming the other person]~~ authorized to pay the taxes of the property owner; and

(3) a description of~~[, and describing]~~ the property by street address, if applicable, and legal description.

(a-2) After a tax lien is transferred, taxes on the property that become due in subsequent tax years may be transferred before the delinquency date in the manner provided by Subsection (a-1).

(b) If a transferee ~~[person]~~ authorized to pay a property owner's ~~[another's]~~ taxes pursuant to Subsection (a) pays the taxes and any penalties and interest imposed, the collector shall issue a tax receipt to that transferee ~~[the person paying the taxes]~~. In addition, the collector or a person designated by the collector shall certify on the sworn document that payment of the taxes and any penalties and interest on the described property and collection costs has been made by the transferee on behalf of the property owner ~~[a person other than the person]~~ liable for the taxes when imposed and that the taxing unit's tax lien is transferred to that transferee ~~[the person paying the taxes]~~. The collector shall attach to the sworn document the collector's seal of office or sign the document before a notary public and deliver the sworn document, a tax receipt, and the affidavit attesting to the transfer of the tax lien to the transferee ~~[person paying the taxes]~~. The sworn document, tax receipt, and affidavit attesting to the transfer of the tax lien may be combined into one document. The collector shall conspicuously identify in the applicable taxpayer's account the date of the transfer of a tax lien transferred under this section ~~[keep a record of all tax liens transferred as provided by this section]~~.

(c) Except as otherwise provided by this section, the transferee of a tax lien and any successor in interest is entitled to foreclose the lien:

(1) in the manner provided by law for foreclosure of tax liens; or

(2) in the manner specified in Section 51.002, Property Code, and Section 32.065 of this code, if the property owner and the transferee enter into a contract that is secured by a lien on the property.

(d) To be enforceable, a tax lien transferred as provided by this section must be recorded with the sworn statement and affidavit attesting to the transfer of the tax lien as described in Subsection (b) in the deed records of each county in which the property encumbered by the lien is located.

(e) A transferee ~~[person]~~ holding a tax lien transferred as provided by this section may not charge a greater rate of interest than 18 percent a year on the taxes, penalties, and interest paid to a taxing unit as shown on the tax receipt, plus only those ~~[and]~~ recording and other expenses paid to acquire and record the lien.

(f) The mortgage servicer ~~[holder]~~ of a preexisting lien on property encumbered by a tax lien transferred as provided by Subsection (b) ~~[this section]~~ is entitled, within six months after the date on which the tax lien is recorded in all counties in which the property is located, to obtain a release of the transferred tax lien by paying ~~[pay]~~ the transferee ~~[holder]~~ of the tax lien the amount owed under the contract between the property owner and the transferee. A transferee may charge a reasonable fee for a payoff statement that is requested after an initial payoff statement is provided.

(g) At any time after the end of the six-month period specified by Subsection (f) and before a notice of foreclosure of the transferred tax lien is sent, the transferee of the tax lien or the holder of the tax lien may require the property owner to provide written authorization and pay a reasonable fee before providing information regarding the current balance owed by the property owner to the transferee or the holder of the tax lien.

(h) A mortgage servicer who pays a transferred tax lien [paid for the lien, plus interest accrued at the rate provided by Subsection (c) and recording expenses, and] becomes subrogated to all rights in the lien.

(i) [(g)] A foreclosure of [suit to foreclose] a tax lien transferred as provided by this section may not be instituted within one year from the date on which the lien is recorded in all counties in which the property is located, unless the contract between the owner of the property and the transferee provides otherwise.

(j) [(h)] After one year from the date on which a tax lien transferred as provided by this section is recorded in all counties in which the property is located, the transferee [holder] of the lien may [file suit to] foreclose the lien in the manner provided by Subsection (c) unless a contract between the holder of the lien and the owner of the property encumbered by the lien provides otherwise. If a foreclosure [the] suit results in foreclosure of the lien, the transferee [person filing suit] is entitled to recover attorney's fees in an amount not to exceed 10 percent of the judgment. The proceeds of a sale following a judicial foreclosure as provided by this subsection shall be applied first to the payment of court costs, then to payment of the judgment, including accrued interest, and then to the payment of any attorney's fees fixed in the judgment. Any remaining proceeds shall be paid to other holders of liens on the property in the order of their priority and then to the person whose property was sold at the tax sale.

(k) Beginning on the date the foreclosure deed is recorded, the [(i) The] person whose property is sold as provided by Subsection (c) [this section] or the mortgage servicer of [any person holding] a prior recorded [first] lien against the property is entitled[, within one year after the date the property is sold,] to redeem the foreclosed property from the purchaser [at the tax sale] by paying the [that] purchaser or successor 125 [the tax sale purchase price, plus costs, and interest accrued on the judgment to the date of redemption or 118] percent of the purchase price during the first year of the redemption period or 150 percent of the purchase price during the second year of the redemption period with cash or cash equivalent funds. The right of redemption may be exercised on or before the second anniversary of the date on which the purchaser's deed is filed of record if the property sold was the residence homestead of the owner, was land designated for agricultural use, or was a mineral interest. For any other property, the right of redemption must be exercised not later than the 180th day after the date on which the purchaser's deed is filed of record [amount of the judgment, whichever is less]. If a person redeems the property as provided by this subsection, the purchaser at the tax sale shall deliver a deed to the property to the person redeeming the property. If the person who owned the property at the time of foreclosure redeems the property, all liens existing on the property at the time of the tax sale remain in effect to the extent not paid from the sale proceeds.

SECTION 2. Section 32.065, Tax Code, is amended by amending Subsections (a)-(c) and (f) and adding Subsections (b-1) and (g) to read as follows:

(a) Section 32.06 does not abridge the right of an owner of real property to enter into a contract for the payment of taxes ~~[with the holder of a lien on the property, including a transferee under Section 32.06 or this section, or affect a contract between the owner and holder of a lien for the payment of taxes on the property].~~

(b) Notwithstanding any agreement to the contrary, a [A] contract entered into under Subsection (a) between a transferee and the property owner under Section 32.06 that is secured by a lien on the property shall [may] provide for a power of sale and foreclosure under Chapter 51, Property Code, and:

(1) an event of default; [and]

(2) notice of acceleration;

(3) recording of the contract in each county in which the property is located;

(4) recording of the sworn document and affidavit attesting to the transfer of the tax lien;

(5) requiring the transferee to serve foreclosure notices on the property owner at the property owner's last known address in the manner required by Sections 51.002(b), (d), and (e), Property Code, or by a commercially reasonable delivery service that maintains verifiable records of deliveries for at least five years from the date of delivery; and

(6) requiring, at the time the foreclosure notices required by Subdivision (5) are served on the property owner, the transferee to serve a copy of the foreclosure notices in the same manner on the mortgage servicer of any recorded real property lien encumbering the property that includes on the first page, in 14-point boldfaced type or 14-point uppercase typewritten letters, a statement that reads substantially as follows:

"PURSUANT TO TEXAS TAX CODE SECTION 32.06, THE FORECLOSURE SALE REFERRED TO IN THIS DOCUMENT IS A SUPERIOR TRANSFER TAX LIEN SUBJECT TO RIGHT OF REDEMPTION UNDER CERTAIN CONDITIONS. THE FORECLOSURE IS SCHEDULED TO OCCUR ON THE (DATE)."

(b-1) On an event of default and notice of acceleration, the mortgage servicer of a recorded lien encumbering real property may obtain a release of a transferred tax lien on the property by paying the transferee of the tax lien or the holder of the tax lien the amount owed by the property owner to that transferee or holder.

(c) Except as provided by Section 32.06 or another [Notwithstanding any other] provision of this code, a transferee of a tax lien is subrogated to and is entitled to exercise any right or remedy possessed by the transferring taxing unit, including or related to foreclosure or judicial sale.

(f) The first written communication by the transferee [~~lender~~] to the transferee's [~~its~~] prospective borrower shall disclose each type and the amount [~~types~~] of possible additional charges or fees that may be incurred by the borrower in connection with the loan or contract under this section.

(g) An affidavit of the transferee executed after foreclosure of a tax lien that recites compliance with the terms of Section 32.06 and this section and is recorded in each county in which the property is located:

(1) is prima facie evidence of compliance with Section 32.06 and this section; and

(2) may be relied on conclusively by a bona fide purchaser for value without notice of any failure to comply.

SECTION 3. This Act takes effect September 1, 2005.

Amendment No. 2

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

Amend the proposed floor substitute for **HB 2491** as follows:

(1) On page 1, between lines 22 and 23, insert the following:

(a-3) A tax lien may be transferred before the delinquency date in the manner provided on Subsection (a-1) only if the real property is not subject to a lien other than the tax lien.

(2) On page 1, line 24, strike "(a)" and substitute "(a-1) [~~(a)~~]".

(3) On page 2, beginning at line 29, strike section "(e)" and insert the following:

(e) A transferee [person] holding a tax lien transferred as provided by this section may not charge a greater rate of interest than 18 percent a year on the funds advanced. Funds advanced are limited to the taxes, penalties, interest, and collection costs paid as shown on the tax receipt, expenses paid to record the lien, plus reasonable closing costs [recording expenses paid to acquire and record the lien].

(4) On page 5, line 20, between the words "a" and "lien" insert the word "priority".

(5) On page 5, line 10, strike "(a)-(c)" and substitute "(a)-(b), (d)".

(6) On page 6, delete lines 21 through 25.

(7) On page 6, between lines 25 and 26, insert the following:

(d) Chapters 342 and 346, Finance Code, [~~and Section 302.102, Finance Code,~~] do not apply to a transaction covered by this section. The transferee of a tax lien under this section is not required to obtain a license under Title 4, Finance Code.

(8) On page 6, line 28, between the words "the" and "amount" insert the word "approximate".

Amendment No. 2 was adopted.

Amendment No. 1, as amended, was adopted.

Amendment No. 3

Representative Goodman offered the following amendment to **HB 2491**:

Amend **HB 2491** by adding the following Sections to the bill, appropriately numbered, and renumbering existing Sections accordingly:

SECTION __. Section 1.07(b), Tax Code, is amended to read as follows:

(b) The official or agency shall address the notice to the property owner, the person designated under Section 1.111(f) to receive the notice for the property owner, if that section applies, or, if appropriate, the property owner's agent at the agent's [his] address according to the most recent record in the possession of the official or agency. However, if a property owner files a written request with the appraisal district that notices be sent to a particular address, the official or agency shall send the notice to the address stated in the request.

SECTION __. Section 1.11(b), Tax Code, is amended to read as follows:

(b) To be effective, a [A] request made under [pursuant to] this section must be filed with the appraisal district. A request remains in effect until revoked by a written revocation filed with the appraisal district by the owner.

SECTION __. Section 22.28, Tax Code, is amended by amending Subsection (b) and adding Subsection (c) to read as follows:

(b) The chief appraiser shall certify to the assessor for each taxing unit participating in the appraisal district that imposes taxes on the property that the chief appraiser has imposed [may retain a portion of] a penalty [collected] under this section [not to exceed 20 percent of the amount of the penalty, to cover the chief appraiser's costs of collecting the penalty]. The assessor [chief appraiser] shall add the amount of the penalty to the original amount of tax imposed on the property and shall include that amount in the tax bill for that year. The penalty becomes part of the tax on the property and is secured by the tax lien that attaches to the property under Section 32.01 [distribute the remainder of the penalty to each taxing unit participating in the appraisal district that imposes taxes on the property in proportion to the taxing unit's share of the total amount of taxes imposed on the property by all taxing units participating in the district].

(c) To help defray the costs of administering this chapter, a collector who collects a penalty imposed under Subsection (a) shall remit to the appraisal district that employs the chief appraiser who imposed the penalty an amount equal to five percent of the penalty amount collected.

SECTION __. Section 25.25(d), Tax Code, is amended to read as follows:

(d) At any time prior to the date the taxes become delinquent, a property owner or the chief appraiser may file a motion with the appraisal review board to change the appraisal roll to correct an error that resulted in an incorrect appraised value for the owner's property. However, the error may not be corrected unless it resulted in an appraised value that exceeds by more than one-third the correct appraised value. If the appraisal roll is changed under this subsection, the property owner must pay to each affected taxing unit a late-correction penalty equal to 10 percent of the amount of taxes as calculated on the basis of the corrected appraised value. Payment of the late-correction penalty is secured by the lien that attaches to the property under Section 32.01 and is subject to enforced collection under Chapter 33. The roll may not be changed under this subsection if:

(1) the property was the subject of a protest brought by the property owner under Chapter 41, a hearing on the protest was conducted in which the property owner offered evidence or argument, and the appraisal review board made a determination of the protest on the merits; or

(2) the appraised value of the property was established as a result of a written agreement between the property owner or the owner's agent and the appraisal district.

SECTION __. Section 26.11(c), Tax Code, is amended to read as follows:

(c) If the amount of prorated taxes determined to be due as provided by this section is tendered to the collector for the unit, the collector [~~he~~] shall accept the tender. The payment absolves:

(1) the transfer of liability for taxes by the unit on the property for the year of the transfer; and

(2) the taxing unit of liability for a refund in connection with taxes on the property for the year of the transfer.

SECTION __. Section 31.073, Tax Code, is amended to read as follows:

Sec. 31.073. RESTRICTED OR CONDITIONAL PAYMENTS PROHIBITED. A restriction or condition placed on a check in payment of taxes, penalties, or interest by the maker that limits the amount of taxes, penalties, or interest owed to an amount less than that stated in the tax bill or shown by the tax collector's records is void unless the restriction or condition is authorized by this code.

SECTION __. Section 31.08(a), Tax Code, is amended to read as follows:

(a) At the request of any person, a collector for a taxing unit shall issue a certificate showing the amount of delinquent taxes, penalties, [~~and~~] interest, and any known costs and expenses under Section 33.48 due the unit on a property according to the unit's current tax records. If the collector collects taxes for more than one taxing unit, the certificate must show the amount of delinquent taxes, penalties, [~~and~~] interest, and any known costs and expenses under Section 33.48 due on the property to each taxing unit for which the collector collects the taxes. The collector shall charge a fee not to exceed \$10 for each certificate issued. The collector shall pay all fees collected under this section into the treasury of the taxing unit that employs the collector [~~him~~].

SECTION __. Section 32.05, Tax Code, is amended by amending Subsections (b) and (c) and adding Subsections (b-1), (d), and (e) to read as follows:

(b) Except as provided by Subsection (c)(1) [~~(e) of this section~~], a tax lien provided by this chapter takes priority over:

(1) the claim of any creditor of a person whose property is encumbered by the lien;

(2) [~~and over~~] the claim of any holder of a lien on property encumbered by the tax lien, including any lien held by a property owners' association, homeowners' association, condominium unit owners' association, or council of owners of a condominium regime under a restrictive covenant, condominium

declaration, master deed, or other similar instrument that secures regular or special maintenance assessments, fees, dues, interest, fines, costs, attorney's fees, or other monetary charges against the property; and

(3) any right of remainder, right or possibility of reverter, or other future interest in, or encumbrance against, the property, whether vested or contingent [not the debt or lien existed before attachment of the tax lien].

(b-1) The priority given to a tax lien by Subsection (b) prevails, regardless of whether the debt, lien, future interest, or other encumbrance existed before attachment of the tax lien.

(c) A tax lien provided by this chapter is inferior to ~~a claim~~:

(1) a claim for any survivor's allowance, funeral expenses, or expenses of the last illness of a decedent made against the estate of a decedent as provided by law;

(2) except as provided by Subsection (b)(2), [under] a recorded restrictive covenant that runs [running] with the land and was [other than a restrictive covenant in favor of a property owners' association or homeowners' association] recorded before January 1 of the year the tax lien arose; or

(3) [under] a valid easement of record recorded before January 1 of the year the tax lien arose.

(d) In an action brought under Chapter 33 for the enforced collection of a delinquent tax against property, a property owners' association, homeowners' association, condominium unit owners' association, or council of owners of a condominium regime that holds a lien for regular or special maintenance assessments, fees, dues, interest, fines, costs, attorney's fees, or other monetary charges against the property is not a necessary party to the action unless, at the time the action is commenced, notice of the lien in a liquidated amount is evidenced by a sworn instrument duly executed by an authorized person and recorded with the clerk of the county in which the property is located. A tax sale of the property extinguishes the lien held by a property owners' association, homeowners' association, condominium unit owners' association, or council of owners of a condominium regime for all amounts that accrued before the date of sale if:

(1) the holder of the lien is joined as a party to an action brought under Chapter 33 by virtue of a notice of the lien on record at the time the action is commenced; or

(2) the notice of lien is not of record at the time the action is commenced, regardless of whether the holder of the lien is made a party to the action.

(e) The existence of a recorded restrictive covenant, declaration, or master deed that generally provides for the lien held by a property owners' association, homeowners' association, condominium unit owners' association, or council of owners of a condominium regime does not, by itself, constitute actual or constructive notice to a taxing unit of a lien under Subsection (d).

SECTION __. Sections 33.011(a) and (d), Tax Code, are amended to read as follows:

(a) The governing body of a taxing unit:

(1) shall waive penalties and may provide for the waiver of interest on a delinquent tax if an act or omission of an officer, employee, or agent of the taxing unit or the appraisal district in which the taxing unit participates caused or resulted in the taxpayer's failure to pay the tax before delinquency and if the tax is paid not later than the 21st day after the date the taxpayer knows or should know of the delinquency; and

(2) may waive penalties and provide for the waiver of interest on a delinquent tax if:

(A) the property for which the tax is owed is acquired by a religious organization; and

(B) [that qualifies the property for exemption under Section 11.20] before the first anniversary of the date the religious organization acquires the property, the organization pays the tax and qualifies the property for an exemption under Section 11.20 as evidenced by the approval of the exemption by the chief appraiser under Section 11.45.

(d) A request for a waiver of penalties and interest under Subsection (a)(1), (b), or (h) [this section] must be made before the 181st day after the delinquency date. A request for a waiver of penalties and interest under Subsection (a)(2) must be made before the first anniversary of the date the religious organization acquires the property. To be valid, a waiver of penalties or interest under this section must be requested in writing. If a written request for a waiver is not timely made, the governing body of a taxing unit may not waive any penalties or interest under this section.

SECTION __. Section 33.02(a), Tax Code, is amended to read as follows:

(a) The collector for a taxing unit [~~that collects its own taxes~~] may enter an agreement with a person delinquent in the payment of the tax for payment of the tax, penalties, and interest in installments. The agreement must be in writing and may not extend for a period of more than 36 months.

SECTION __. Section 33.22, Tax Code, is amended by adding Subsections (d) and (e) to read as follows:

(d) A collector is entitled to recover attorney's fees in an amount equal to the compensation specified in the contract with the attorney if:

(1) recovery of the attorney's fees is requested in the application for the tax warrant;

(2) the taxing unit served by the collector contracts with an attorney under Section 6.30;

(3) the existence of the contract and the amount of attorney's fees that equals the compensation specified in the contract are supported by the affidavit of the collector; and

(4) the tax sought to be recovered is not subject to the additional penalty under Section 33.07 or 33.08 at the time the application is filed.

(e) If a taxing unit is represented by an attorney who is also an officer or employee of the taxing unit, the collector for the taxing unit is entitled to recover attorney's fees in an amount equal to 15 percent of the total amount of delinquent taxes, penalties, and interest that the property owner owes the taxing unit.

SECTION __. Section 33.23(a), Tax Code, is amended to read as follows:

(a) A tax warrant shall direct a peace officer in the county and the collector to seize as much of the person's personal property as may be reasonably necessary for the payment of all taxes, penalties, ~~and~~ interest, and attorney's fees included in the application and all costs of seizure and sale. The warrant shall direct the person whose property is seized to disclose to the officer executing the warrant the name and the address if known of any other person having an interest in the property.

SECTION __. Section 33.25, Tax Code, is amended by amending Subsections (f) and (h) and adding Subsection (i) to read as follows:

(f) The proceeds of a sale of property under this section shall be applied to:

(1) any compensation owed to or any expense advanced by the licensed auctioneer under an agreement entered into under Subsection (b) or a service provider under an agreement entered into under Subsection (c);

(2) all usual costs, expenses, and fees of the seizure and sale, payable to the peace officer conducting the sale;

(3) all additional expenses incurred in advertising the sale or in removing, storing, preserving, or safeguarding the seized property pending its sale;

(4) all usual court costs payable to the clerk of the court that issued the tax warrant; and

(5) taxes, penalties, ~~and~~ interest, and attorney's fees included in the application for warrant.

(h) After a seizure of personal property defined by Sections 33.21(d)(2)-(5), the collector shall apply the seized property toward the payment of the taxes, penalties, ~~and~~ interest, and attorney's fees included in the application for warrant and all costs of the seizure as required by Subsection (f).

(i) After a tax warrant is issued, the seizure or sale of the property may be canceled and terminated at any time by the applicant or an authorized agent or attorney of the applicant.

SECTION __. Section 33.48, Tax Code, is amended by adding Subsection (d) to read as follows:

(d) A collector who accepts a payment of the court costs and other expenses described by this section shall disburse the amount of the payment as follows:

(1) amounts owing under Subsections (a)(1), (2), (3), and (6) are payable to the clerk of the court in which the suit is pending; and

(2) expenses described by Subsection (a)(4) are payable to the general fund of the taxing unit or to the person or entity who advanced the expense.

SECTION __. Section 33.51, Tax Code, is amended to read as follows:

Sec. 33.51. WRIT OF POSSESSION. (a) If the court orders the foreclosure of a tax lien and the sale of real property, the judgment shall provide for the issuance by the clerk of said court of a writ of possession to the purchaser at the sale or to the purchaser's assigns no sooner than 20 days following the date on which the purchaser's deed from the sheriff or constable is filed of record.

(b) The officer charged with executing the writ shall place the purchaser or the purchaser's assigns in possession of the property described in the purchaser's deed without further order from any court and in the manner provided by the writ, subject to any notice to vacate that may be required to be given to a tenant under Section 24.005(b), Property Code.

(c) The writ of possession shall order the officer executing the writ to:

(1) post a written warning that is at least 8-1/2 by 11 inches on the exterior of the front door of the premises notifying the occupant that the writ has been issued and that the writ will be executed on or after a specific date and time stated in the warning that is not sooner than the 10th day after the date the warning is posted; and

(2) on execution of the writ:

(A) deliver possession of the premises to the purchaser or the purchaser's assigns;

(B) instruct the occupants to immediately leave the premises and, if the occupants fail or refuse to comply, physically remove them from the premises;

(C) instruct the occupants to remove, or to allow the purchaser or purchaser's assigns, representatives, or other persons acting under the officer's supervision to remove, all personal property from the premises; and

(D) place, or have an authorized person place, the removed personal property outside the premises at a nearby location, but not so as to block a public sidewalk, passageway, or street and not while it is raining, sleeting, or snowing.

(d) The writ of possession shall authorize the officer, at the officer's discretion, to engage the services of a bonded or insured warehouseman to remove and store, subject to applicable law, all or part of the personal property at no cost to the purchaser, the purchaser's assigns, or the officer executing the writ. The officer may not require the purchaser or the purchaser's assigns to store the personal property.

(e) The writ of possession shall contain notice to the officer that under Section 7.003, Civil Practice and Remedies Code, the officer is not liable for damages resulting from the execution of the writ if the officer executes the writ in good faith and with reasonable diligence.

(f) The warehouseman's lien on stored property, the officer's duties, and the occupants' rights of redemption as provided by Section 24.0062, Property Code, are all applicable with respect to any personal property that is removed under Subsection (d).

(g) A sheriff or constable may use reasonable force in executing a writ under this section.

(h) If a taxing unit is a purchaser and is entitled to a writ of possession in the taxing unit's name:

(1) a bond may not be required of the taxing unit for issuance or delivery of a writ of possession; and

(2) a fee or court cost may not be charged for issuance or delivery of a writ of possession.

(i) In this section:

(1) "Premises" means all of the property described in the purchaser's deed, including the buildings, dwellings, or other structures located on the property.

(2) "Purchaser" includes a taxing unit to which property is bid off under Section 34.01(j).

SECTION __. Subchapter C, Chapter 33, Tax Code, is amended by adding Section 33.57 to read as follows:

Sec. 33.57. ALTERNATIVE NOTICE OF TAX FORECLOSURE ON CERTAIN PARCELS OF REAL PROPERTY. (a) In this section, "appraised value" means the appraised value according to the most recent appraisal roll approved by the appraisal review board.

(b) This section may be invoked and used by one or more taxing units if there are delinquent taxes, penalties, interest, and attorney's fees owing to a taxing unit on a parcel of real property, and:

(1) the total amount of delinquent taxes, penalties, interest, and attorney's fees owed exceeds the appraised value of the parcel; or

(2) there are 10 or more years for which delinquent taxes are owed on the parcel.

(c) One or more taxing units may file a single petition for foreclosure under this section that includes multiple parcels of property and multiple owners. Alternatively, separate petitions may be filed and docketed separately for each parcel of property. Another taxing unit with a tax claim against the same parcel may intervene in an action for the purpose of establishing and foreclosing its tax lien without further notice to a defendant. The petition must be filed in the county in which the tax was imposed and is sufficient if it is in substantially the form prescribed by Section 33.43 and further alleges that:

(1) the amount owed in delinquent taxes, penalties, interest, and attorney's fees exceeds the appraised value of the parcel; or

(2) there are 10 or more years for which delinquent taxes are owed on the parcel.

(d) Simultaneously with the filing of the petition under this section, a taxing unit shall also file a motion with the court seeking an order approving notice of the petition to each defendant by certified mail in lieu of citation and, if the amount of delinquent taxes, penalties, interest, and attorney's fees alleged to be owed exceeds the appraised value of the parcel, waiving the appointment of an attorney ad litem. The motion must be supported by certified copies of tax records that show the tax years for which delinquent taxes are owed, the amounts of delinquent taxes, penalties, interest, and attorney's fees, and, if appropriate, the appraised value of the parcel.

(e) The court shall approve a motion under Subsection (d) if the documents in support of the motion show that:

(1) the amount of delinquent taxes, penalties, interest, and attorney's fees that are owed exceeds the appraised value of the parcel; or

(2) there are 10 or more years for which delinquent taxes are owed on the parcel.

(f) Before filing a petition under this section, or as soon afterwards as practicable, the taxing unit or its attorney shall determine the address of each owner of a property interest in the parcel for the purpose of providing notice of the pending petition. If the title search, the taxing unit's tax records, and the appraisal district records do not disclose an address of a person with a property interest, consulting the following sources of information is to be considered a reasonable effort by the taxing unit or its attorney to determine the address of a person with a property interest in the parcel subject to foreclosure:

(1) telephone directories, electronic or otherwise, that cover:

(A) the area of any last known address for the person; and

(B) the county in which the parcel is located;

(2) voter registration records in the county in which the parcel is located; and

(3) where applicable, assumed name records maintained by the county clerk of the county in which the parcel is located and corporate records maintained by the secretary of state.

(g) Not later than the 45th day before the date on which a hearing on the merits on a taxing unit's petition is scheduled, the taxing unit or its attorney shall send a copy of the petition and a notice by certified mail to each person whose address is determined under Subsection (f), informing the person of the pending foreclosure action and the scheduled hearing. A copy of each notice shall be filed with the clerk of the court together with an affidavit by the tax collector or by the taxing unit's attorney attesting to the fact and date of mailing of the notice.

(h) In addition to the notice required by Subsection (g), the taxing unit shall provide notice by publication and by posting to all persons with a property interest in the parcel subject to foreclosure. The notice shall be published in the English language once a week for two weeks in a newspaper that is published in the county in which the parcel is located and that has been in general circulation for at least one year immediately before the date of the first publication, with the first publication to be not less than the 45th day before the date on which the taxing unit's petition is scheduled to be heard. When returned and filed in the trial court, an affidavit of the editor or publisher of the newspaper attesting to the date of publication, together with a printed copy of the notice as published, is sufficient proof of publication under this subsection. If a newspaper is not published in the county in which the parcel is located, publication in an otherwise qualifying newspaper published in an adjoining county is sufficient. The maximum fee for publishing the citation shall be the lowest published word or line rate of that newspaper for classified advertising. The notice by posting shall be in the English language and given by posting a copy of the notice at the courthouse door of the county in which the foreclosure is pending not less than the 45th day before the date on which the taxing unit's petition is scheduled to be heard. Proof of the posting of the notice shall be made by affidavit of the attorney for the taxing unit, or of the person posting it. If the publication of the notice cannot be had for the maximum fee established in this subsection, and that fact is supported by the affidavit of the attorney for the taxing unit, the notice by posting under this subsection is sufficient.

(i) The notice required by Subsections (g) and (h) must include:

(1) a statement that foreclosure proceedings have been commenced and the date the petition was filed;

(2) a legal description, tax account number, and, if known, a street address for the parcel in which the addressee owns a property interest;

(3) the name of the person to whom the notice is addressed and the name of each other person who, according to the title search, has an interest in the parcel in which the addressee owns a property interest;

(4) the date, time, and place of the scheduled hearing on the petition;

(5) a statement that the recipient of the notice may lose whatever property interest the recipient owns in the parcel as a result of the hearing and any subsequent tax sale;

(6) a statement explaining how a person may contest the taxing unit's petition as provided by Subsection (j) and that a person's interest in the parcel may be preserved by paying all delinquent taxes, penalties, interest, attorney's fees, and court costs before the date of the scheduled hearing on the petition;

(7) the name, address, and telephone number of the taxing unit and the taxing unit's attorney of record; and

(8) the name of each other taxing unit that imposes taxes on the parcel, together with a notice that any taxing unit may intervene without further notice and set up its claims for delinquent taxes.

(j) A person claiming a property interest in a parcel subject to foreclosure may contest a taxing unit's petition by filing with the clerk of the court a written response to the petition not later than the seventh day before the date scheduled for hearing on the petition and specifying in the response any affirmative defense of the person. A copy of the response must be served on the taxing unit's attorney of record in the manner required by Rule 21a, Texas Rules of Civil Procedure. The taxing unit is entitled on request to a continuance of the hearing if a written response filed to a notice of the hearing contains an affirmative defense or requests affirmative relief against the taxing unit.

(k) Before entry of a judgment under this section, a taxing unit may remove a parcel erroneously included in the petition and may take a voluntary nonsuit as to one or more parcels of property without prejudicing its action against the remaining parcels.

(l) If before the hearing on a taxing unit's petition the taxing unit discovers a deficiency in the provision of notice under this section, the taxing unit shall take reasonable steps in good faith to correct the deficiency before the hearing. A notice provided by Subsections (g)-(i) is in lieu of citation issued and served under Rule 117a, Texas Rules of Civil Procedure. Regardless of the manner in which notice under this section is given, an attorney ad litem may not be appointed for a person with an interest in a parcel with delinquent taxes, penalties, interest, and attorney's fees against the parcel in an amount that exceeds the parcel's appraised value. To the extent of any additional conflict between this section and the Texas Rules of Civil Procedure, this section controls.

Except as otherwise provided by this section, a suit brought under this section is governed generally by the Texas Rules of Civil Procedure and by Subchapters C and D of this chapter.

(m) A judgment in favor of a taxing unit under this section must be only for foreclosure of the tax lien against the parcel. The judgment may not include a personal judgment against any person.

(n) A person is considered to have been provided sufficient notice of foreclosure and opportunity to be heard for purposes of a proceeding under this section if the taxing unit follows the procedures required by this section for notice by certified mail or by publication and posting or if one or more of the following apply:

(1) the person had constructive notice of the hearing on the merits by acquiring an interest in the parcel after the date of the filing of the taxing unit's petition;

(2) the person appeared at the hearing on the taxing unit's petition or filed a responsive pleading or other communication with the clerk of the court before the date of the hearing; or

(3) before the hearing on the taxing unit's petition, the person had actual notice of the hearing.

SECTION __. Section 12.002(e), Property Code, is amended to read as follows:

(e) A person may not file for record or have recorded in the county clerk's office a plat or replat of a subdivision of real property unless the plat or replat has attached to it an original tax certificate from each taxing unit with jurisdiction of the real property indicating that no delinquent ad valorem taxes are owed on the real property. This subsection does not apply if:

(1) more than one person acquired the real property from a decedent under a will or by inheritance and those persons owning an undivided interest in the property obtained approval to subdivide the property to provide each person with a divided interest and a separate title to the property; or

(2) a taxing unit acquired the real property for public use through eminent domain proceedings or voluntary sale.

SECTION __. Subchapter B, Chapter 21, Property Code, is amended by adding Section 21.0211 to read as follows:

Sec. 21.0211. PAYMENT OF AD VALOREM TAXES. (a) A court may not authorize withdrawal of any money deposited under Section 21.021 unless the petitioner for the money files with the court:

(1) a tax certificate issued under Section 31.08, Tax Code, by the tax collector for each taxing unit that imposes ad valorem taxes on the condemned property showing that there are no delinquent taxes, penalties, interest, or costs owing on the condemned property or on any larger tract of which the condemned property forms a part; and

(2) in the case of a whole taking that occurs after the date the ad valorem tax bill for taxes imposed by a taxing unit on the property is sent, a tax receipt issued under Section 31.075, Tax Code, by the tax collector of the taxing

unit that imposes ad valorem taxes showing that the taxes on the condemned property for the current tax year, prorated under Section 26.11, Tax Code, have been paid.

(b) For purposes of Subsection (a)(2), a "case of a whole taking" means a case in which the location, size, and boundaries of the property assessed for ad valorem taxes are identical to that of the condemned property.

SECTION __. Section 17.091(a), Civil Practice and Remedies Code, is amended to read as follows:

(a) In a suit to collect delinquent property taxes by the state or a subdivision of the state in which a person who is a defendant is a nonresident, the secretary of state is an agent for service of process on that defendant if the defendant owns, has, or claims an interest in or a lien against property in this state that is the subject of the suit.

SECTION __. Section 31.073, Tax Code, as amended by this Act, applies only to payments of taxes, penalties, or interest that are made on or after the effective date of this Act.

SECTION __. Section 32.05, Tax Code, as amended by this Act, applies to any lien, regardless of the date on which it arose, and to any cause of action pending on the effective date of this Act or brought after that date.

SECTION __. Section 33.011, Tax Code, as amended by this Act, applies only to a request for a waiver of penalty or interest made on or after the effective date of this Act. A request for a waiver made before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and the former law is continued in effect for that purpose.

SECTION __. Section 33.02, Tax Code, as amended by this Act, applies to an installment agreement entered before, on, or after the effective date of this Act.

SECTION __. Section 33.22, Tax Code, as amended by this Act, applies only to a tax warrant proceeding pending on the effective date of this Act or brought after that date.

SECTION __. Section 33.23, Tax Code, as amended by this Act, applies only to a tax warrant issued on or after the effective date of this Act. A tax warrant issued before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and the former law is continued in effect for that purpose.

SECTION __. Section 33.25, Tax Code, as amended by this Act, applies only to a tax warrant proceeding in which the application for tax warrant was filed on or after the effective date of this Act. A tax warrant proceeding commenced by application before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and the former law is continued in effect for that purpose.

SECTION __. Section 33.48, Tax Code, as amended by this Act, applies only to a cause of action pending on the effective date of this Act or brought after that date.

SECTION __. Section 33.51, Tax Code, as amended by this Act, applies to a writ of possession that is based on a judgment entered before, on, or after the effective date of this Act.

SECTION __. Section 33.57, Tax Code, as added by this Act, applies only to a cause of action pending on the effective date of this Act or brought after the effective date of this Act.

SECTION __. Section 12.002(e), Property Code, as amended by this Act, applies only to a plat or replat of a subdivision that is filed for recordation on or after the effective date of this Act. A plat or replat of a subdivision that was filed for recordation before the effective date of this Act is governed by the law in effect immediately before the effective date of this Act, and the former law is continued in effect for that purpose.

SECTION __. Section 21.0211, Property Code, as added by this Act, applies only to an eminent domain proceeding that is commenced on or after the effective date of this Act. An eminent domain proceeding commenced before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and the former law is continued in effect for that purpose.

SECTION __. Section 17.091, Civil Practice and Remedies Code, as amended by this Act, applies only to a cause of action pending on the effective date of this Act or brought after the effective date of this Act.

Amendment No. 3 was adopted.

(Speaker in the chair)

HB 2491, as amended, was passed to engrossment. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

CSHB 920 ON SECOND READING
(by Uresti, Hupp, Reyna, Solis, Naishtat, et al.)

CSHB 920, A bill to be entitled An Act relating to protective and guardianship services for elderly and disabled persons.

CSHB 920 was read second time on April 26 and was postponed until 10 a.m. today.

Representative Solis moved to postpone consideration of **CSHB 920** until the end of today's calendar.

The motion prevailed.

CSHB 2928 ON SECOND READING
(by Kolkhorst, B. Cook, Chisum, McReynolds, et al.)

CSHB 2928, A bill to be entitled An Act relating to projects that may be undertaken by certain development corporations with respect to business enterprises or business development.

CSHB 2928 was read second time on April 26 and was postponed until 10 a.m. today.

Amendment No. 1

Representative Eiland offered the following amendment to **CSHB 2928**:

Amend **CSHB 2928** as follows:

(1) On page 2, line 10, strike the second reference to "and" and substitute "[and]".

(2) On page 2, line 11, between "improvements" and the period, insert "and beach remediation along the Gulf of Mexico".

Amendment No. 1 was adopted.

LEAVE OF ABSENCE GRANTED

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

Corte on motion of Hilderbran.

CSHB 2928 - (consideration continued)

Amendment No. 2

Representatives Solis and Alonzo offered the following amendment to **CSHB 2928**:

Amend **CSHB 2928** as follows:

(1) On page 2, line 4, strike "or".

(2) On page 2, line 11, between "improvements" and the period, insert the following:

; or

(D) the land, buildings, equipment, facilities, expenditures, targeted infrastructure, and improvements found by the board of directors to be required or suitable for the revitalization or improvement of the economic vitality of a blighted area of the city that created the corporation

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

SECTION ____ . Section 2, Development Corporation Act of 1979 (Article 5190.6, Vernon's Texas Civil Statutes), is amended by adding Subdivision (19) to read as follows:

(19) "Blighted area" means an area of a city, or an area adjacent to such an area of a city, in which a substantial number of substandard, slum, deteriorated, or deteriorating structures that the city finds are a menace to the public health, safety, or welfare in their present condition and use are located, an area that has been designated and included in a reinvestment zone created under Chapter 311, Tax Code, or an area of a city that has a high relative rate of unemployment, if the city finds after a hearing that the area substantially impairs the sound growth of the city or constitutes an economic or social liability. The Texas Economic Development and Tourism Office shall adopt guidelines that describe the kinds of areas that may be considered to be blighted. The city shall consider these guidelines in making its findings.

(J. Keffer in the chair)

Amendment No. 2 was withdrawn.

Amendment No. 3

Representative Chisum offered the following amendment to **CSHB 2928**:

Amend **CSHB 2928** as follows:

(1) On page 2, line 14, strike "Subdivision (3)" and substitute "Subdivisions (3) and (4)".

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

(4)(A) In this subdivision, "landlocked community" means a city that has within its city limits and extraterritorial jurisdiction less than 500 acres that can be used for the development of manufacturing or industrial facilities in accordance with the zoning laws or land use restrictions of the city.

(B) For a landlocked community that creates or has created a corporation governed by this section, "project" also includes expenditures found by the board of directors to be required for the promotion of new or expanded business enterprises and commercial activity within the landlocked community.

(3) On page 2, line 25, strike "or" and substitute "2".

(4) On page 2, line 26, between "(3)" and "of this", insert ", or (4)".

Amendment No. 3 was withdrawn.

Amendment No. 4

Representative Homer offered the following amendment to **CSHB 2928**:

Amend **CSHB 2928** as follows:

(1) Strike SECTIONS 2 and 3 of the bill and substitute the following appropriately numbered SECTION:

SECTION __. Section 4B, Development Corporation Act of 1979 (Article 5190.6, Vernon's Texas Civil Statutes), is amended by adding Subsections (g-1) and (g-2) to read as follows:

(g-1) (1) This subsection applies only to a corporation created by an eligible city that in the preceding two years has received an average of less than \$50,000 a year from taxes imposed under this section.

(2) A corporation to which this subsection applies may use the corporation's tax proceeds for any project, including a project described by Section 2(11) (A) of this Act.

(3) A corporation to which this subsection applies may not undertake a project until the governing body of the eligible city creating the corporation adopts a resolution authorizing the project after giving the resolution at least two separate readings.

(g-2) A corporation governed by this section may use the corporation's tax proceeds for the improvement of a building that has historic significance, is located in a downtown area, and is used for a business enterprise. In using the tax proceeds under this subsection, the corporation:

(1) may not use, in one fiscal year of the corporation, more than 20 percent of the corporation's total tax proceeds received in the immediately preceding five years; and

(2) may not use an amount of tax proceeds that in the aggregate exceed the corporation's total tax proceeds received in the five years immediately preceding the first year in which the corporation uses tax proceeds for an improvement under this subsection.

(2) Renumber subsequent SECTIONS of the bill accordingly.

Representative Kolkhorst moved to table Amendment No. 4.

A record vote was requested.

The motion to table prevailed by (Record 433): 87 Yeas, 34 Nays, 3 Present, not voting.

Yeas — Allen, A.; Allen, R.; Anderson; Baxter; Berman; Blake; Bonnen; Branch; Brown, B.; Brown, F.; Chisum; Cook, B.; Cook, R.; Crabb; Crownover; Davis, J.; Davis, Y.; Dawson; Delisi; Denny; Deshotel; Driver; Dutton; Edwards; Eiland; Eissler; Elkins; Escobar; Farabee; Farrar; Flores; Flynn; Frost; Gattis; Geren; Gonzales; Goolsby; Grusendorf; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Hilderbran; Hodge; Hope; Hopson; Hughes; Jones, D.; Jones, J.; Keel; Keffer, B.; King, P.; Kolkhorst; Krusee; Kuempel; Laney; Madden; McCall; McClendon; Moreno, P.; Morrison; Mowery; Oliveira; Orr; Otto; Paxton; Peña; Puente; Riddle; Ritter; Rodriguez; Rose; Seaman; Smith, W.; Smithee; Strama; Straus; Swinford; Talton; Taylor; Turner; Van Arsdale; West; Wong; Zedler.

Nays — Alonzo; Burnam; Callegari; Campbell; Casteel; Castro; Chavez; Dukes; Giddings; Gonzalez Toureilles; Goodman; Guillen; Haggerty; Herrero; Hochberg; Homer; Hunter; Isett; Jackson; King, T.; Laubenberg; Luna; Menendez; Merritt; Miller; Olivo; Pickett; Quintanilla; Raymond; Solomons; Thompson; Truitt; Uresti; Vo.

Present, not voting — Mr. Speaker; Anchia; Keffer, J.(C).

Absent, Excused — Bohac; Corte; Griggs; Martinez; Nixon; Noriega, M.; Reyna; Woolley.

Absent — Bailey; Coleman; Dunnam; Gallego; Hill; Howard; Hupp; Leibowitz; Martinez Fischer; McReynolds; Moreno, J.; Naishtat; Phillips; Pitts; Smith, T.; Solis; Veasey; Villarreal.

STATEMENTS OF VOTE

I was shown voting no on Record No. 433. I intended to vote yes.

Gonzalez Toureilles

I was shown voting no on Record No. 433. I intended to vote yes.

Herrero

When Record No. 433 was taken, I was in the house but away from my desk. I would have voted yes.

Leibowitz

When Record No. 433 was taken, I was in the house but away from my desk. I would have voted no.

T. Smith

Amendment No. 5

Representatives Solis and Alonzo offered the following amendment to **CSHB 2928**:

Amend **CSHB 2928** as follows:

(1) On page 2, line 4, strike "or".

(2) On page 2, line 11, between "improvements" and the period, insert the following:

; or

(D) the land, buildings, equipment, facilities, expenditures, targeted infrastructure, and improvements found by the board of directors to be required or suitable for the revitalization or improvement of the economic vitality of a blighted area of the city that created the corporation

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

SECTION ____ . Section 2, Development Corporation Act of 1979 (Article 5190.6, Vernon's Texas Civil Statutes), is amended by adding Subdivision (19) to read as follows:

(19) "Blighted area" means an area of a city, or an area adjacent to such an area of a city, in which a substantial number of substandard, slum, deteriorated, or deteriorating structures that the city finds are a menace to the public health, safety, or welfare in their present condition and use are located, an area that has been designated and included in a reinvestment zone created under Chapter 311, Tax Code,

Amendment No. 5 was adopted.

CSHB 2928, as amended, was passed to engrossment. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. Members registering votes are as follows: Homer recorded voting no.)

(Speaker in the chair)

**MAJOR STATE CALENDAR
HOUSE BILLS
THIRD READING**

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

**HB 2481 ON THIRD READING
(by Bonnen, Hamric, and Branch)**

HB 2481, A bill to be entitled An Act relating to the Texas emissions reduction plan, including the use of money currently dedicated to the Texas emissions reduction plan fund.

Amendment No. 1

Representatives Bonnen and W. Smith offered the following amendment to **HB 2481**:

Amend **HB 2481** as amended on second reading in SECTION 15 of the bill, in Subdivision (2), Subsection (a), Section 386.252, Health and Safety Code, between "allocated each year" and "to be administered by the commission to fund" (second reading engrossment page 11, line 23), by inserting "from any excess funds".

Amendment No. 1 was adopted.

HB 2481, as amended, was passed. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. Members registering votes are as follows: Thompson recorded voting no.)

(Eissler in the chair)

LEAVE OF ABSENCE GRANTED

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

Castro on motion of Uresti.

HR 1372 - ADOPTED

(by J. Davis, Talton, J. Moreno, W. Smith, and M. Noriega)

Representative J. Davis moved to suspend all necessary rules to take up and consider at this time **HR 1372**.

The motion prevailed.

The following resolution was laid before the house:

HR 1372, Commending Constable Bill Bailey of Pasadena for his many professional and civic accomplishments.

(Speaker in the chair)

HR 1372 was adopted.

COMMITTEE MEETING ANNOUNCEMENTS

The following committee meeting were announced:

Environmental Regulation, upon lunch recess today, Desk 69, for a formal meeting, to consider pending business.

Law Enforcement, upon lunch recess today, Desk 56, for a formal meeting, to consider pending business.

SPEAKER'S REUNION DAY

In recognition of past service, former members were introduced at the podium. The speaker announced that the Speaker's Reunion Day luncheon would be held during recess.

COMMITTEE MEETING ANNOUNCEMENT

The following committee meetings was announced:

Licensing and Administrative Procedures, upon lunch recess today, Desk 99, for a formal meeting, to consider pending business.

RECESS

At 11:47 a.m., the speaker announced that the house would stand recessed until 1:30 p.m. today.

AFTERNOON SESSION

The house met at 1:30 p.m. and was called to order by the speaker.

LEAVE OF ABSENCE GRANTED

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

Talton on motion of Hunter.

**GENERAL STATE CALENDAR
HOUSE BILLS
THIRD READING**

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

**HB 857 ON THIRD READING
(by Talton and Hunter)**

HB 857, A bill to be entitled An Act relating to the authority of a municipality to require the removal of certain vehicles from a freeway without the consent of the owner or person in charge of the vehicle.

Amendment No. 1

Representative Giddings offered the following amendment to **HB 857**:

Amend **HB 857**, on third reading, on page 1, line 15, between "actually" and "obstructing", insert "slowing or".

(Swinford in the chair)

Amendment No. 1 was adopted.

HB 857, as amended, was passed. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

**HB 511 ON THIRD READING
(by Hochberg, Vo, Herrero, and Leibowitz)**

HB 511, A bill to be entitled An Act relating to the processing of consumer rebates.

HB 511 was passed. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

HB 628 ON THIRD READING
(by Giddings, Gonzalez Toureilles, et al.)

HB 628, A bill to be entitled An Act relating to debt collection after a consumer has filed a report with a law enforcement agency.

HB 628 was passed. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

HB 1021 ON THIRD READING
(by Giddings)

HB 1021, A bill to be entitled An Act relating to the right of first refusal in certain real estate transactions.

A record vote was requested.

HB 1021 was passed by (Record 434): 135 Yeas, 1 Nays, 2 Present, not voting.

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

Nays — Jackson.

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

Absent, Excused — Bohac; Castro; Corte; Griggs; Martinez; Nixon; Noriega, M.; Reyna; Talton; Woolley.

Absent — Riddle; Uresti.

HB 1153 ON THIRD READING
(by Gonzales, Martinez, and Peña)

HB 1153, A bill to be entitled An Act relating to the creation of an additional judicial district in Hidalgo County.

HB 1153 was passed. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

HB 1214 ON THIRD READING
(by Morrison)

HB 1214, A bill to be entitled An Act relating to tuition and other charges and fees imposed by the governing board of a junior college district.

A record vote was requested.

HB 1214 was passed by (Record 435): 136 Yeas, 0 Nays, 3 Present, not voting.

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

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

Absent, Excused — Bohac; Castro; Corte; Griggs; Martinez; Nixon; Noriega, M.; Reyna; Talton; Woolley.

Absent — Laney.

HB 1568 ON THIRD READING
(by Geren)

HB 1568, A bill to be entitled An Act relating to the definition of an agricultural operation.

HB 1568 was passed. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

(Krusee in the chair)

HB 2110 ON THIRD READING
(by Berman, Driver, Hupp, Keel, P. King, et al.)

HB 2110, A bill to be entitled An Act relating to the applicability of certain weapon laws to certain prosecutors and certain court employees.

A record vote was requested.

HB 2110 was passed by (Record 436): 135 Yeas, 0 Nays, 2 Present, not voting.

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

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

Absent, Excused — Bohac; Castro; Corte; Griggs; Martinez; Nixon; Noriega, M.; Reyna; Talton; Woolley.

Absent — Hopson; Keffer, B.; Paxton.

HB 2313 ON THIRD READING
(by Miller)

HB 2313, A bill to be entitled An Act relating to noxious and invasive plants; providing a criminal penalty.

HB 2313 was passed. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

HB 2340 ON THIRD READING**(by Corte)**

HB 2340, A bill to be entitled An Act relating to grants and loans for certain economic development projects to assist defense communities affected by the federal military base realignment and closure process.

HB 2340 was passed. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

HB 2438 ON THIRD READING**(by Haggerty and Quintanilla)**

HB 2438, A bill to be entitled An Act relating to the acquisition and regulation of manufactured homes.

A record vote was requested.

HB 2438 was passed by (Record 437): 134 Yeas, 0 Nays, 2 Present, not voting.

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

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

Absent, Excused — Bohac; Castro; Corte; Griggs; Martinez; Nixon; Noriega, M.; Reyna; Talton; Woolley.

Absent — Allen, A.; Hilderbran; Hodge; Strama.

HB 2579 ON THIRD READING**(by Rodriguez, Hupp, and J. Davis)**

HB 2579, A bill to be entitled An Act relating to procedures to ensure the involvement of parents or guardians of children placed in certain institutions.

HB 2579 was passed. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

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. 2 and 3).

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. 11).

HB 2680 ON THIRD READING (by Branch)

HB 2680, A bill to be entitled An Act relating to services provided by health care practitioners to charities and medically underserved areas and liability insurance for those practitioners.

A record vote was requested.

HB 2680 was passed by (Record 438): 137 Yeas, 0 Nays, 2 Present, not voting.

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

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

Absent, Excused — Bohac; Castro; Corte; Griggs; Martinez; Nixon; Noriega, M.; Reyna; Talton; Woolley.

Absent — Chisum.

HB 2808 ON THIRD READING
(by Morrison)

HB 2808, A bill to be entitled An Act relating to the duties of the P-16 Council.

HB 2808 was passed. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

HB 2940 ON THIRD READING
(by Hilderbran)

HB 2940, A bill to be entitled An Act relating to stamps for migratory and upland game bird hunting.

HB 2940 was passed. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

HB 3010 ON THIRD READING
(by Grusendorf)

HB 3010, A bill to be entitled An Act relating to the transfer of a failure to attend school proceeding to juvenile court.

HB 3010 was passed. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

GENERAL STATE CALENDAR
HOUSE BILLS
SECOND READING

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

CSHB 261 ON SECOND READING
(by Goodman)

CSHB 261, A bill to be entitled An Act relating to possession of or access to a grandchild.

Amendment No. 1

Representative Goodman offered the following amendment to **CSHB 261**:

Amend **CSHB 261** as follows:

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

SECTION ____. The heading to Subchapter H, Chapter 153, Family Code, is amended to read as follows:

SUBCHAPTER H. RIGHTS OF GRANDPARENT, AUNT, OR UNCLE

SECTION _____. Section 153.431, Family Code, is amended to read as follows:

Sec. 153.431. [~~GRANDPARENTAL~~] APPOINTMENT OF GRANDPARENT, AUNT, OR UNCLE AS MANAGING CONSERVATOR [CONSERVATORS]. If both of the parents of a child are deceased, the court may consider appointment of a parent, sister, or brother of a deceased parent [~~grandparents may be considered for appointment~~] as a managing conservator of the child [conservators], but that consideration does not alter or diminish the discretionary power of the court.

(2) On page 3, between lines 7 and 8, insert the following appropriately numbered SECTION:

SECTION _____. The change in law made by this Act to Section 153.431, Family Code, applies to a suit affecting the parent-child relationship that is pending in a trial court on the effective date of this Act or that is filed on or after the effective date of this Act.

(3) Renumber the SECTIONS of the bill accordingly.

Amendment No. 1 was adopted.

CSHB 261, as amended, was passed to engrossment. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

CSHB 505 ON SECOND READING
(by Hilderbran)

CSHB 505, A bill to be entitled An Act relating to the discharge of a firearm across a property line; providing a penalty.

CSHB 505 was passed to engrossment. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

CSHB 525 ON SECOND READING
(by Rodriguez and Dukes)

CSHB 525, A bill to be entitled An Act relating to the creation of homestead preservation districts, reinvestment zones, and other programs to increase home ownership and provide affordable housing.

CSHB 525 was passed to engrossment. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. Members registering votes are as follows: Gattis, Harper-Brown, Keel, B. Keffer, Laubenberg, Paxton, Phillips, and Van Arsdale recorded voting no.)

CSHB 616 ON SECOND READING
(by Callegari)

CSHB 616, A bill to be entitled An Act relating to a landowner's liability for injuries incurred during certain recreational activities.

CSHB 616 was passed to engrossment. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

HB 853 ON SECOND READING
(by Solomons)

HB 853, A bill to be entitled An Act relating to the return of merchandise; providing a civil penalty.

HB 853 was passed to engrossment. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

HB 877 ON SECOND READING
(by Talton)

HB 877, A bill to be entitled An Act relating to certain complaints and records with respect to certain child-care facilities and family homes; providing a criminal penalty.

Amendment No. 1

Representative Goodman offered the following amendment to **HB 877**:

Amend **HB 877** as follows:

(1) On page 1, line 17, strike "RECORDS." and substitute "INTERNET WEBSITE."

(2) On page 1, lines 19-20, strike "records with respect to a child-care facility or registered family home information relating to a complaint" and substitute "Internet website information with respect to a child-care facility or registered family home that relates to an anonymous complaint".

Amendment No. 1 was adopted.

Amendment No. 2

Representative Goodman offered the following amendment to **HB 877**:

Amend **HB 877** by adding the following appropriately numbered SECTION and renumbering subsequent SECTIONS of the bill accordingly:

SECTION __. Section 42.072(b), Human Resources Code, is amended to read as follows:

(b) If the department proposes to take an action under Subsection (a), the person is entitled to a hearing conducted by the State Office of Administrative Hearings. Proceedings for a disciplinary action are governed by the administrative procedure law, Chapter 2001, Government Code. An action under this section, including a revocation of a person's license, is a contested case as defined by Chapter 2001, Government Code, and is subject to judicial review under the substantial evidence rule in accordance with that chapter. Rules of

practice adopted by the board under Section 2001.004, Government Code, applicable to the proceedings for a disciplinary action may not conflict with rules adopted by the State Office of Administrative Hearings.

Amendment No. 2 was adopted.

HB 877, as amended, was passed to engrossment. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. Members registering votes are as follows: Herrero and Leibowitz recorded voting no.)

HB 944 ON SECOND READING
(by Geren)

HB 944, A bill to be entitled An Act relating to the license requirements of marine dealers, distributors, and manufacturers.

Representative Geren moved to postpone consideration of **HB 944** until 11 a.m. May 5.

The motion prevailed.

CSHB 989 ON SECOND READING
(by Chisum)

CSHB 989, A bill to be entitled An Act relating to a mechanism to provided for recovery of certain transmission investments of electric utilities.

Amendment No. 1

Representative Chisum offered the following amendment to **CSHB 989**:

Amend **CSHB 989** on page 1 by striking lines 17-19 and substituting:
this state included in the Southwest Power Pool and that owns or operates transmission facilities.

Amendment No. 1 was adopted.

Amendment No. 2

Representative Swinford offered the following amendment to **CSHB 989**:

Amend the **CSHB 989** as follows:

1) Strike SECTION 1 and renumber subsequent SECTIONS as appropriate;
2) In SECTION 2, strike proposed Subsection (b) of Sec. 36.209, Utilities Code and insert a new Subsection (b) to read as follows:

(b) Notwithstanding Sec. 36.201, the commission, after notice and hearing, may allow an electric utility to recover on an annual basis its reasonable and necessary expenditures for transmission infrastructure improvement costs and changes in wholesale transmission charges to the electric utility under a tariff approved by a federal regulatory authority to the extent that the costs or charges have not otherwise been recovered. The commission may allow the electric utility to recover only the costs allocable to retail customers in the state and may not allow the electric utility to over-recover costs.

Amendment No. 2 was adopted.

CSHB 989, as amended, was passed to engrossment. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. Members registering votes are as follows: Leibowitz and Smithee recorded voting no.)

HB 1345 ON SECOND READING
(by Gattis)

HB 1345, A bill to be entitled An Act relating to the removal of a sign on a state highway right-of-way by a local law enforcement agency; authorizing a removal fee.

HB 1345 was passed to engrossment. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

HB 1589 ON SECOND READING
(by Driver)

HB 1589, A bill to be entitled An Act relating to the administration of polygraph examinations to certain applicants for positions in the Department of Public Safety.

Amendment No. 1 (Committee Amendment No. 1)

On behalf of Representative Jackson, Representative Driver offered the following committee amendment to **HB 1589**:

Amend **HB 1589** as follows:

(1) On page 2, strike lines 7-10 and substitute the following:

(b) Before commissioning an applicant as a peace officer or employing an applicant for a police communications operator position, the department shall require the applicant to submit to the administration of a polygraph examination in accordance with rules adopted under Subsection (e).

(2) On page 3, strike lines 2-5 and substitute the following:

(e) The department shall adopt reasonable rules to specify the point in the hiring process at which the department shall require a polygraph examination to be administered under this section and the manner in which the examination shall be administered. Rules relating to the administration of a polygraph examination shall be adopted in accordance with the guidelines published by the American Polygraph Association or the American Association of Police Polygraphists.

Amendment No. 1 was adopted.

HB 1589, as amended, was passed to engrossment. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

HB 1603 ON SECOND READING
(by Bonnen)

HB 1603, A bill to be entitled An Act relating to the authority of certain political subdivisions to erect or maintain shore protection structures and the location of the line of vegetation in relation to those structures.

HB 1603 was previously recommitted to the Committee on Land and Resource Management.

HB 1692 ON SECOND READING
(by Keel)

HB 1692, A bill to be entitled An Act relating to the suspension of sentence and the deferral of final disposition for a defendant younger than 25 in certain misdemeanor traffic cases.

Representative Keel moved to postpone consideration of **HB 1692** until 10 a.m. May 5.

The motion prevailed.

HB 2037 ON SECOND READING
(by R. Allen)

HB 2037, A bill to be entitled An Act relating to the seizure and disposition of property for the offense of hunting or fishing without landowner consent.

HB 2037 was passed to engrossment. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

HB 2223 ON SECOND READING
(by Giddings)

HB 2223, A bill to be entitled An Act relating to the making of a notation on a forged check by a financial institution.

Amendment No. 1 (Committee Amendment No. 1)

On behalf of Representative Solomons, Representative Giddings offered the following committee amendment to **HB 2223**:

Amend **HB 2223** as follows:

- (1) On page 1, line 12, strike "and" and substitute "∴".
 - (2) On page 1, line 14, between "account," and "the financial" insert "provides the financial institution with a copy of the criminal complaint described by Subsection (a), and requests that the financial institution return checks with the notation "forgery" ∴".
 - (3) On page 1, line 14, strike "∴" and substitute the following:
process as forgeries the checks received after the customer takes those actions, in accordance with the financial institution's customary procedures.
- (c) A victim of identity theft who requests that a financial institution return checks with the notation "forgery" as provided by Subsection (b):

(1) may not assert that the financial institution is liable under Section 4.402 for wrongfully dishonoring a check returned after the victim makes the request; and

(2) shall hold the financial institution harmless for acting in accordance with the victim's request.

(4) Strike page 1, line 15, through page 2, line 11.

Amendment No. 1 was adopted.

HB 2223, as amended, was passed to engrossment. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

HB 2452 ON SECOND READING

(by Bailey)

HB 2452, A bill to be entitled An Act relating to uniform law on documents of title.

Representative Bailey moved to postpone consideration of **HB 2452** until 10 a.m. May 10.

The motion prevailed.

(Reyna now present)

(Speaker in the chair)

HB 1348 - MOTION TO SET AS A SPECIAL ORDER

Pursuant to Rule 6, Section 2 of the House Rules, Representative Merritt moved to set **HB 1348** as a special order for today at 3 p.m.

REMARKS BY REPRESENTATIVE KEEL

Thank you, Mr. Speaker, members. Members, is this motion a genuine desire by the movants to advance ethics legislation, or could it be that this is the use of pending ethics legislation as a political tool to take shots at a member of the house? I'll let you decide on that. Do the math. Why did Mr. Dunnam wait until yesterday to make the parliamentary inquiry on this? Why did the movant wait until today to make the motion? If the motion is pursuant to Rule 7, Section 45, if the motion passes on a majority vote, then all it requires is that the committee chair of Elections send that bill to the Calendars Committee, and the Calendars Committee chair still has enough time to delay that bill. You better believe that when you thwart the committee process that the chair of that committee is not going to advance that bill. Do you really believe that the Calendars Committee will have any problem taking longer than seven days to set a bill?

If, on the other hand, we act pursuant to the motion that Mr. Merritt made today, pursuant to Rule 6, Section 2, we completely bypass our committee process. This house will have to have a four-fifths vote in order for this to

advance. Do you really believe this has been done in a diligent fashion? We have been working on this bill. Mr. Dunnam, who is really the author of this tactic today on the floor, he has never talked to me about the bill, and I'm a co-sponsor.

Is this motion to give the bill the best likelihood of passage? No, it is not. Here's why Mr. Dunnam made a parliamentary inquiry on the question, the answer to which he already knew—and I am not going to yield because I only have three minutes. The reason is because it resulted in press coverage, once again unfavorable and angled against the speaker. For example, the *Dallas Morning News* coverage today says, "Representative Dunnam gave notice that he might ask the full house to call the bill to the floor." By the way, the motion that Mr. Dunnam asked about does not send the bill to the floor. That was inaccurate. However, the press was able to gratuitously include in the story again, and I quote, "The Travis County district attorney has said Mr. Craddick is part of the grand jury inquiry into corporate money in the 2002 races."

Good job, Mr. Dunnam. Once again, your efforts reflect nicely on the house, however unfair the reported statement may be. I know a little about the Travis County district attorney's office and the factual situation—Mr. Speaker, I am not going to yield, and I ask that I be given the courtesy of not being interrupted. The district attorney has said that in fact he is looking at everybody and every political entity to the exclusion of none. But, Mr. Dunnam, you did succeed in getting a partisan shot taken at the speaker.

I believed that this bill, when I signed on to it and helped it, would not be a tool for partisan political posturing—exactly what has occurred, exactly the opposite of why I signed on as a co-sponsor of the measure. I admit that the legislative process makes this, and other measures that are worthy in my opinion, an uphill battle to get passed. As Speaker Laney taught me, he told me this process is set up designed to prevent laws from being passed.

But if you want to really be sure that this bill is dead, if you want to drive a stake right through the heart of this bill and guarantee that it is dead now, vote for the motion that Mr. Merritt is carrying on the behalf of Mr. Dunnam. Because every one of you knows that where the committee process is thwarted in a bad faith manner such as this, there is no way the bill is going to be—I've already said that I'm not going to yield, and I would ask the courtesy of not being interrupted further. Mr. Speaker, I would ask that the back mic be turned off and that I not be interrupted, and that my time be extended when I am interrupted.

There is no way that this bill is going to get out of Calendars in time to be meaningfully considered, and there's never been a Calendars chair, Republican or Democrat, that would have advanced it under the circumstances we have here with this motion today—a partisan motion. So, I'll vote no on the Merritt-Dunnam motion. I urge you all to do the same. And to my Democrat friends, I tell you sincerely, I would be voting this way even if it was someone from your party who was being victimized by someone from my party—misutilizing the house rules in a PR stunt against a Democrat speaker or one of you individually. I think you know that I would do that, and I think that you would vote against it under those circumstances as well.

A record vote was requested.

The motion was lost by (Record 439): 36 Yeas, 95 Nays, 1 Present, not voting.

Yeas — Allen, A.; Alonzo; Anchia; Burnam; Coleman; Davis, Y.; Deshotel; Dunnam; Eiland; Farabee; Farrar; Gallego; Gonzales; Gonzalez Toureilles; Guillen; Herrero; Hochberg; Hodge; Jones, J.; Martinez Fischer; Menendez; Merritt; Moreno, J.; Naishtat; Olivo; Pickett; Quintanilla; Raymond; Rodriguez; Rose; Smith, T.; Strama; Thompson; Veasey; Villarreal; Vo.

Nays — Allen, R.; Anderson; Bailey; Baxter; Berman; Blake; Bonnen; Branch; Brown, B.; Brown, F.; Callegari; Campbell; Casteel; Chavez; Chisum; Cook, B.; Cook, R.; Crabb; Crownover; Davis, J.; Dawson; Delisi; Denny; Driver; Dukes; Dutton; Edwards; Eissler; Elkins; Flores; Flynn; Frost; Gattis; Geren; Giddings; Goodman; Goolsby; Grusendorf; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Hilderbran; Hill; Homer; Hope; Hopson; Howard; Hughes; Hunter; Hupp; Isett; Jackson; Jones, D.; Keel; Keffer, B.; Keffer, J.; King, P.; King, T.; Kolkhorst; Krusee; Kuempel; Laubenberg; Luna; Madden; McCall; McReynolds; Miller; Morrison; Mowery; Orr; Otto; Paxton; Peña; Phillips; Puente; Reyna; Riddle; Ritter; Seaman; Smith, W.; Smithee; Solomons; Straus; Taylor; Truitt; Turner; Uresti; Van Arsdale; West; Wong; Zedler.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Bohac; Castro; Corte; Griggs; Martinez; Nixon; Noriega, M.; Talton; Woolley.

Absent — Escobar; Laney; Leibowitz; McClendon; Moreno, P.; Oliveira; Pitts; Solis; Swinford.

STATEMENTS OF VOTE

I was shown voting no on Record No. 439. I intended to vote yes.

Frost

When Record No. 439 was taken, I was in the house but away from my desk. I would have voted yes.

Leibowitz

I was shown voting yes on Record No. 439. I intended to vote no.

Pickett

I was shown voting yes on Record No. 439. I intended to vote no.

Quintanilla

When Record No. 439 was taken, my vote failed to register. I would have voted no.

Swinford

GENERAL STATE CALENDAR
(consideration continued)

CSHB 2511 ON SECOND READING
(by Denny)

CSHB 2511, A bill to be entitled An Act relating to the filing of a personal financial statement by a former state officer whose successor has not qualified for office.

CSHB 2511 was passed to engrossment. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. Members registering votes are as follows: Rose recorded voting no.)

(Krusee in the chair)

SB 796 ON SECOND READING
(Goolsby - House Sponsor)

SB 796, A bill to be entitled An Act relating to the combative sports program.

SB 796 was considered in lieu of **HB 2546**.

SB 796 was passed to third reading. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. Members registering votes are as follows: Herrero recorded voting no.)

HB 2546 - LAID ON THE TABLE SUBJECT TO CALL

Representative Goolsby moved to lay **HB 2546** on the table subject to call.

The motion prevailed.

CSHB 2677 ON SECOND READING
(by Driver)

CSHB 2677, A bill to be entitled An Act relating to certain employment records maintained by the Commission on Law Enforcement Officer Standards and Education; providing an administrative penalty.

CSHB 2677 was passed to engrossment. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

LEAVES OF ABSENCE GRANTED

The following members were granted leaves of absence for the remainder of today because of appropriations business:

Gattis on motion of Solomons.

Luna on motion of Solomons.

CSHB 2806 ON SECOND READING
(by Morrison)

CSHB 2806, A bill to be entitled An Act relating to the regulation of career schools and colleges.

CSHB 2806 was passed to engrossment. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

CSHB 3469 ON SECOND READING
(by Hochberg)

CSHB 3469, A bill to be entitled An Act relating to the establishment of a program to provide grants to be used to reduce emissions of diesel exhaust from school buses and to the use of the Texas emissions reduction plan to fund the program.

CSHB 3469 was passed to engrossment. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

POSTPONED BUSINESS

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

CSHB 920 ON SECOND READING
(by Uresti, Hupp, Reyna, Solis, Naishtat, et al.)

CSHB 920, A bill to be entitled An Act relating to protective and guardianship services for elderly and disabled persons.

CSHB 920 was read second time on April 26, postponed until 10 a.m. today, and was again postponed until this time.

Amendment No. 1

Representative Uresti offered the following amendment to **CSHB 920**:

Amend **CSHB 920** in Article 1 of the bill by adding the following appropriately numbered SECTIONS to the article and renumbering subsequent SECTIONS of the article accordingly:

SECTION 1. Subchapter D, Chapter 48, Human Resources Code, is amended by adding Section 48.1521 to read as follows:

Sec. 48.1521. REPORTS OF CRIMINAL CONDUCT TO LAW ENFORCEMENT AGENCY. If during the course of the department's or another state agency's investigation of reported abuse, neglect, or exploitation a caseworker of the department or other state agency, as applicable, or the caseworker's supervisor has cause to believe that the elderly or disabled person has been abused, neglected, or exploited by another person in a manner that constitutes a criminal offense under any law, including Section 22.04, Penal Code, the caseworker or supervisor shall:

(1) immediately notify an appropriate law enforcement agency; and

(2) provide the law enforcement agency with a copy of the investigation report of the department or other state agency, as applicable, in a timely manner.

SECTION 1. __. Section 48.157, Human Resources Code, is repealed.

Amendment No. 1 was adopted.

Amendment No. 2

Representative Uresti offered the following amendment to **CSHB 920**:

Amend **CSHB 920** as follows:

(1) In Article 2 of the bill, strike the recital to SECTION 2.07 (House committee report, page 31, lines 19 and 20) and substitute the following:

SECTION 2.07. Sections 875(c) and (j), Texas Probate Code, are amended to read as follows:

(c) A sworn, written application for the appointment of a temporary guardian shall be filed before the court appoints a temporary guardian. The application must state:

(1) the name and address of the person who is the subject of the guardianship proceeding;

(2) the danger to the person or property alleged to be imminent;

(3) the type of appointment and the particular protection and assistance being requested;

(4) the facts and reasons supporting the allegations and requests;

(5) the name, address, and qualification of the proposed temporary guardian;

(6) the name, address, and interest of the applicant; and

(7) if applicable, that the proposed temporary guardian is a private professional guardian who is certified under Subchapter C, Chapter 111, Government Code, and has complied with the requirements of Section 697 of this code.

(2) In Article 2 of the bill, add the following appropriately numbered SECTIONS and renumber subsequent SECTIONS of the article accordingly:

SECTION 2. __. Sections 531.121(3) and (5), Government Code, are amended to read as follows:

(3) "Guardianship program" has the meaning assigned by Section 111.001 [~~601, Texas Probate Code~~].

(5) "Private professional guardian" has the meaning assigned by Section 111.001 [~~601, Texas Probate Code~~].

SECTION 2. __. The heading to Section 531.122, Government Code, is amended to read as follows:

Sec. 531.122. ADVISORY BOARD; MEMBERSHIP [~~AND DUTIES~~].

SECTION 2. __. Sections 531.122(a), (b), and (d), Government Code, are amended to read as follows:

(a) The Guardianship Advisory Board [~~shall advise the commission in adopting standards under Section 531.124 and in administering the commission's duties under this subchapter.~~

~~[(b) The advisory board]~~ is composed of one representative from each of the health and human services regions, as defined by the commission, three public representatives, and one representative of the Department of Aging and Disability ~~[Protective and Regulatory]~~ Services. The representatives of the health and human services regions are appointed by a majority vote of the judges of the statutory probate courts in each region. If a health and human services region does not contain a statutory probate court, the representative shall be appointed by a majority vote of the judges of the statutory probate courts in the state. The public representatives are appointed by the executive commissioner and the representative of the Department of Aging and Disability ~~[Protective and Regulatory]~~ Services is appointed by the commissioner of aging and disability services ~~[Board of Protective and Regulatory Services]~~.

(d) A member of the advisory board serves at the pleasure of a majority of the judges of the statutory probate courts that appointed the member, of the executive commissioner, or of the commissioner of aging and disability services ~~[Board of Protective and Regulatory Services]~~, as appropriate.

SECTION 2.____. Section 531.1235, Government Code, is amended to read as follows:

Sec. 531.1235. ADVISORY BOARD; ~~[ADDITIONAL]~~ DUTIES; STATEWIDE GUARDIANSHIP SYSTEM. (a) The advisory board shall advise the commission in administering the commission's duties under this subchapter. In addition ~~[to performing the duties described by Section 531.122]~~, the advisory board shall:

(1) advise the commission and the Department of Aging and Disability ~~[Protective and Regulatory]~~ Services with respect to a statewide guardianship program and develop a proposal for a statewide guardianship program; and

(2) review and comment on the guardianship policies of all health and human services agencies and recommend changes to the policies the advisory board considers necessary or advisable.

(b) The advisory board shall prepare an annual report with respect to the recommendations of the advisory board under Subsection (a). The advisory board shall file the report with the commission, the Department of Aging and Disability ~~[Protective and Regulatory]~~ Services, the governor, the lieutenant governor, and the speaker of the house of representatives not later than December 15 of each year.

SECTION 2.____. Section 531.124, Government Code, is amended to read as follows:

Sec. 531.124. COMMISSION DUTIES. (a) With the advice of the advisory board, the commission shall~~[-~~

~~[(1) adopt minimum standards for the provision of guardianship and related services by:~~

~~[(A) a guardianship program;~~

~~[(B) a person who provides guardianship and related services on behalf of a guardianship program or local guardianship center, including a person who serves as a volunteer guardian; and~~

~~[(C) a person who serves as a private professional guardian; and~~

~~(2)~~ develop and, subject to appropriations, implement a plan to:

(1) ~~(A)~~ ensure that each incapacitated individual in this state who needs a guardianship or another less restrictive type of assistance to make decisions concerning the incapacitated individual's own welfare and financial affairs receives that assistance; and

(2) ~~(B)~~ foster the establishment and growth of local volunteer guardianship programs.

~~(b) The commission shall design the standards under Subsection (a)(1) to protect the interests of an incapacitated individual or other individual who needs assistance in making decisions concerning the individual's own welfare or financial affairs.~~

~~(c)~~ The advisory board shall annually review and comment on the minimum standards adopted under Section 111.041 ~~[Subsection (a)(1)]~~ and the plan implemented under Subsection (a)~~(2)~~ and shall include its conclusions in the report submitted under Section 531.1235.

SECTION 2. _____. Section 601, Texas Probate Code, is amended by adding Subdivision (12-a) and amending Subdivisions (13) and (24) to read as follows:

(12-a) "Guardianship Certification Board" means the Guardianship Certification Board established under Chapter 111, Government Code.

(13) "Guardianship program" has the meaning assigned by Section 111.001, Government Code ~~[means a local, county, or regional program that provides guardianship and related services to an incapacitated person or other person who needs assistance in making decisions concerning the person's own welfare or financial affairs].~~

(24) "Private professional guardian" has the meaning assigned by Section 111.001, Government Code ~~[means a person, other than an attorney or a corporate fiduciary, who is engaged in the business of providing guardianship services].~~

SECTION 2. _____. Section 682, Texas Probate Code, is amended to read as follows:

Sec. 682. APPLICATION; CONTENTS. Any person may commence a proceeding for the appointment of a guardian by filing a written application in a court having jurisdiction and venue. The application must be sworn to by the applicant and state:

- (1) the name, sex, date of birth, and address of the proposed ward;
- (2) the name, relationship, and address of the person the applicant desires to have appointed as guardian;
- (3) whether guardianship of the person or estate, or both, is sought;
- (4) the nature and degree of the alleged incapacity, the specific areas of protection and assistance requested, and the limitation of rights requested to be included in the court's order of appointment;
- (5) the facts requiring that a guardian be appointed and the interest of the applicant in the appointment;
- (6) the nature and description of any guardianship of any kind existing for the proposed ward in any other state;

(7) the name and address of any person or institution having the care and custody of the proposed ward;

(8) the approximate value and description of the proposed ward's property, including any compensation, pension, insurance, or allowance to which the proposed ward may be entitled;

(9) the name and address of any person whom the applicant knows to hold a power of attorney signed by the proposed ward and a description of the type of power of attorney;

(10) if the proposed ward is a minor and if known by the applicant:

(A) the name of each parent of the proposed ward and state the parent's address or that the parent is deceased;

(B) the name and age of each sibling, if any, of the proposed ward and state the sibling's address or that the sibling is deceased; and

(C) if each of the proposed ward's parents and siblings are deceased, the names and addresses of the proposed ward's next of kin who are adults;

(11) if the proposed ward is a minor, whether the minor was the subject of a legal or conservatorship proceeding within the preceding two-year period and, if so, the court involved, the nature of the proceeding, and the final disposition, if any, of the proceeding;

(12) if the proposed ward is an adult and if known by the applicant:

(A) the name of the proposed ward's spouse, if any, and state the spouse's address or that the spouse is deceased;

(B) the name of each of the proposed ward's parents and state the parent's address or that the parent is deceased;

(C) the name and age of each of the proposed ward's siblings, if any, and state the sibling's address or that the sibling is deceased;

(D) the name and age of each of the proposed ward's children, if any, and state the child's address or that the child is deceased; and

(E) if the proposed ward's spouse and each of the proposed ward's parents, siblings, and children are deceased, or, if there is no spouse, parent, adult sibling, or adult child, the names and addresses of the proposed ward's next of kin who are adults;

(13) facts showing that the court has venue over the proceeding; and

(14) if applicable, that the person whom the applicant desires to have appointed as a guardian is a private professional guardian who is certified under Subchapter C, Chapter 111, Government Code, and has complied with the requirements of Section 697 of this code.

SECTION 2. ____ . Section 696, Texas Probate Code, is amended to read as follows:

Sec. 696. APPOINTMENT OF PRIVATE PROFESSIONAL GUARDIANS. A court may not appoint a private professional guardian to serve as a guardian or permit a private professional guardian to continue to serve as a guardian under this code if the private professional guardian:

(1) has not complied with the requirements of Section 697 of this code;

or

(2) is not certified as provided by Section 697B of this code.

SECTION 2. _____. Subpart A, Part 3, Texas Probate Code, is amended by adding Sections 696A and 696B to read as follows:

Sec. 696A. APPOINTMENT OF PUBLIC GUARDIANS. (a) An individual employed by or contracting with a guardianship program must be certified as provided by Section 697B of this code to provide guardianship services to a ward of the guardianship program.

(b) An employee of the Department of Aging and Disability Services must be certified, registered, or licensed as provided by Section 697B of this code to provide guardianship services to a ward of the department.

Sec. 696B. APPOINTMENT OF FAMILY MEMBERS OR FRIENDS. A family member or friend of an incapacitated person is not required to be certified under Subchapter C, Chapter 111, Government Code, or any other law to serve as the person's guardian.

SECTION 2. _____. Subsections (a), (c), and (e), Section 697, Texas Probate Code, are amended to read as follows:

(a) A private professional guardian must apply annually to the clerk of the county having venue over the proceeding for the appointment of a guardian for a certificate of registration [~~certification~~]. The application must include a sworn statement containing the following information concerning a private professional guardian or each person who represents or plans to represent the interests of a ward as a guardian on behalf of the private professional guardian:

- (1) educational background and professional experience;
- (2) three or more professional references;
- (3) the names of all of the wards the private professional guardian or person is or will be serving as a guardian;
- (4) the aggregate fair market value of the property of all wards that is being or will be managed by the private professional guardian or person;
- (5) place of residence, business address, and business telephone number; and
- (6) whether the private professional guardian or person has ever been removed as a guardian by the court or resigned as a guardian in a particular case, and, if so, a description of the circumstances causing the removal or resignation, and the style of the suit, the docket number, and the court having jurisdiction over the proceeding.

(c) The term of the registration [~~certification~~] begins on the date that the requirements are met and extends through December 31 of the initial year. After the initial year of registration [~~certification~~], the term of the registration [~~certification~~] begins on January 1 and ends on December 31 of each year. A renewal application must be completed during December of the year preceding the year for which the renewal is requested.

(e) Not later than February 1 of each year, the clerk shall submit to the Guardianship Certification Board and the Health and Human Services Commission the names and business addresses of private professional guardians who have satisfied the registration [~~certification~~] requirements under this section during the preceding year.

SECTION 2. _____. Subpart A, Part 3, Texas Probate Code, is amended by adding Sections 697A and 697B to read as follows:

Sec. 697A. LIST OF GUARDIANSHIP PROGRAMS MAINTAINED BY COUNTY CLERKS. (a) Each guardianship program operating in a county shall submit annually to the county clerk a statement containing the name, address, and telephone number of each individual employed by or volunteering or contracting with the program to provide guardianship services to a ward or proposed ward of the program.

(b) Not later than February 1 of each year, the county clerk shall submit to the Guardianship Certification Board the information received under this section during the preceding year.

Sec. 697B. CERTIFICATION REQUIREMENT FOR PRIVATE PROFESSIONAL GUARDIANS, PUBLIC GUARDIANS, AND ATTORNEYS.

(a) The following persons must be certified under Subchapter C, Chapter 111, Government Code:

(1) an individual who is a private professional guardian;

(2) an individual who will represent the interests of a ward as a guardian on behalf of a private professional guardian;

(3) an individual providing guardianship services to a ward of a guardianship program on the program's behalf, except as provided by Subsection (d) of this section; and

(4) an attorney serving as the guardian of a ward who is not a family member of the attorney.

(b) A person whose certification under Subchapter C, Chapter 111, Government Code, has expired must obtain a new certification under that subchapter to be allowed to provide or continue to provide guardianship services to a ward under this code.

(c) The court shall notify the Guardianship Certification Board if the court becomes aware of a person who is not complying with the terms of a certification issued under Subchapter C, Chapter 111, Government Code, or with the standards and rules adopted under that subchapter.

(d) An individual volunteering with a guardianship program is not required to be certified as provided by this section to provide guardianship services on the program's behalf.

(e) An employee of the Department of Aging and Disability Services providing guardianship services to a ward of the department must be certified, registered, or licensed as a guardian by a national organization or association whose requirements are at least as stringent as the certification requirements prescribed by the Guardianship Certification Board under Subchapter C, Chapter 111, Government Code.

SECTION 2. _____. Sections 698(a) and (c), Texas Probate Code, are amended to read as follows:

(a) The clerk of the county having venue over the proceeding for the appointment of a guardian shall obtain criminal history record information that is maintained by the Department of Public Safety or the Federal Bureau of Investigation identification division relating to:

- (1) a private professional guardian;
- (2) each person who represents or plans to represent the interests of a ward as a guardian on behalf of the private professional guardian; ~~or~~
- (3) each person employed by a private professional guardian who will:
 - (A) have personal contact with a ward or proposed ward;
 - (B) exercise control over and manage a ward's estate; or
 - (C) perform any duties with respect to the management of a ward's estate; or
- (4) each person employed by or volunteering or contracting with a guardianship program to provide guardianship services to a ward of the program on the program's behalf.

(c) The court shall use the information obtained under this section only in determining whether to appoint, remove, or continue the appointment of a private professional guardian or a guardianship program.

SECTION 2. _____. Title 2, Government Code, is amended by adding Subtitle J to read as follows:

SUBTITLE J. GUARDIANSHIPS

CHAPTER 111. GUARDIANSHIP CERTIFICATION BOARD

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 111.001. DEFINITIONS. In this chapter:

- (1) "Administrative director" means the administrative director of the courts as appointed by Chapter 72.
- (2) "Board" means the Guardianship Certification Board.
- (3) "Corporate fiduciary" has the meaning assigned by Section 601, Texas Probate Code.
- (4) "Director" means the administrative officer of the board, as provided by Section 111.021.
- (5) "Guardian" has the meaning assigned by Section 601, Texas Probate Code.
- (6) "Guardianship program" means a local, county, or regional program that provides guardianship and related services to an incapacitated person or other person who needs assistance in making decisions concerning the person's own welfare or financial affairs.
- (7) "Incapacitated person" has the meaning assigned by Section 601, Texas Probate Code.
- (8) "Office of Court Administration" means the Office of Court Administration of the Texas Judicial System.
- (9) "Private professional guardian" means a person, other than an attorney or a corporate fiduciary, who is engaged in the business of providing guardianship services.
- (10) "Statutory probate court" has the meaning assigned by Section 601, Texas Probate Code.
- (11) "Ward" has the meaning assigned by Section 601, Texas Probate Code.

Sec. 111.002. RULES. The supreme court may adopt rules consistent with this chapter, including rules governing the certification of individuals providing guardianship services.

Sec. 111.003. SUNSET PROVISION. The board is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the board is abolished and this chapter expires September 1, 2015.

[Sections 111.004-111.010 reserved for expansion]

SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

Sec. 111.011. BOARD. (a) The Guardianship Certification Board is composed of:

(1) 11 members appointed by the presiding judge of the statutory probate courts, elected as provided by Chapter 25; and

(2) four public members appointed by the supreme court.

(b) The presiding judge of the statutory probate courts shall appoint members under Subsection (a)(1) from the different geographical areas of this state.

(c) To be eligible for appointment to the board other than as a public member, an individual must have demonstrated experience working with:

(1) a guardianship program;

(2) an organization that advocates on behalf of or in the interest of elderly individuals;

(3) an organization that advocates on behalf of or in the interest of individuals with mental illness or mental retardation or individuals with physical disabilities; or

(4) incapacitated individuals.

(d) The public members of the board must be:

(1) caretakers of individuals with mental illness or mental retardation or individuals with physical disabilities; or

(2) persons who advocate on behalf of or in the interest of individuals with mental illness or mental retardation or individuals with physical disabilities.

(e) Appointments to the board shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointees.

(f) The members of the board serve for staggered six-year terms, with the terms of one-third of the members expiring on February 1 of each odd-numbered year. Board members receive no compensation but are entitled to reimbursement of actual and necessary expenses incurred in the performance of their duties.

(g) The board shall elect from among its members a presiding officer and other officers considered necessary.

(h) The board shall meet at least quarterly at the call of the presiding officer.

(i) Any action taken by the board must be approved by a majority vote of the members present.

Sec. 111.012. ADMINISTRATIVE ATTACHMENT. (a) The board is administratively attached to the Office of Court Administration.

(b) Notwithstanding any other law, the Office of Court Administration shall:

(1) provide administrative assistance, services, and materials to the board, including budget planning and purchasing;

(2) accept, deposit, and disburse money made available to the board;

(3) pay the salaries and benefits of the director and any employees employed under Section 111.021;

(4) reimburse the travel expenses and other actual and necessary expenses of the board, director, and employees employed under Section 111.021 incurred in the performance of a function of the board, as provided by the General Appropriations Act; and

(5) provide the board with adequate computer equipment and support.

Sec. 111.013. ELIGIBILITY OF PUBLIC MEMBERS. A person is not eligible for appointment as a public member of the board if the person or the person's spouse:

(1) is certified by the board;

(2) is registered, certified, or licensed by a regulatory agency in the field of guardianship;

(3) is employed by or participates in the management of a business entity or other organization regulated by the board or receiving money from the Office of Court Administration;

(4) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization regulated by the board or receiving money from the Office of Court Administration; or

(5) uses or receives a substantial amount of tangible goods, services, or funds from the Office of Court Administration, other than compensation or reimbursement authorized by law for board membership, attendance, or expenses.

Sec. 111.014. MEMBERSHIP AND EMPLOYEE RESTRICTIONS.

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

(b) A person may not be a member of the board or may not be the director or an employee employed under Section 111.021 in a "bona fide executive, administrative, or professional capacity," as that phrase is used for purposes of establishing an exemption to the overtime provisions of the federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.), if:

(1) the person is an officer, employee, or paid consultant of a Texas trade association in the field of guardianship; or

(2) the person's spouse is an officer, manager, or paid consultant of a Texas trade association in the field of guardianship.

(c) A person may not be a member of the board if the person is required to register as a lobbyist under Chapter 305 because of the person's activities for compensation on behalf of a profession related to the operation of the board.

Sec. 111.015. GROUNDS FOR REMOVAL FROM BOARD. (a) It is a ground for removal from the board that a member:

(1) does not have at the time of appointment the qualifications required by Section 111.011;

(2) does not maintain during service on the board the qualifications required by Section 111.011;

(3) is ineligible for membership under Section 111.013 or 111.014;

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

(5) is absent from more than half of the regularly scheduled board meetings that the member is eligible to attend during a calendar year without an excuse approved by a majority vote of the board.

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

(c) If the director has knowledge that a potential ground for removal exists, the director shall notify the presiding officer of the board of the potential ground. The presiding officer shall then notify the presiding judge of the statutory probate courts and the chief justice of the supreme court 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 board, who shall then notify the presiding judge of the statutory probate courts and the chief justice of the supreme court that a potential ground for removal exists.

Sec. 111.016. POWERS AND DUTIES OF BOARD. (a) The board is charged with the executive functions necessary to carry out the purposes of this chapter under rules adopted by the supreme court.

(b) The board shall:

(1) administer and enforce this chapter;

(2) develop and recommend proposed rules and procedures to the supreme court as necessary to implement this chapter;

(3) set the amount of each fee prescribed by Section 111.042, subject to the approval of the supreme court;

(4) establish the qualifications for obtaining certification or recertification under Section 111.042;

(5) issue certificates to individuals who meet the certification requirements of Section 111.042; and

(6) perform any other duty required by this chapter or other law.

(c) The board may appoint any necessary or proper subcommittee.

(d) The board shall maintain:

(1) a complete record of each board proceeding; and

(2) a complete record of each certification issued, renewed, suspended, or revoked under Section 111.042.

Sec. 111.017. TRAINING. (a) A person who is appointed to and qualifies for office as a member of the board may not vote, deliberate, or be counted as a member in attendance at a meeting of the board until the person completes a training program that complies with this section.

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

(1) this chapter;

- (2) the role and functions of the board;
- (3) the current budget for the board;
- (4) the results of the most recent formal audit of the board; and
- (5) any applicable ethics policies adopted by the board.

(c) A person appointed to the board 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.

Sec. 111.018. USE OF TECHNOLOGY. The Office of Court Administration shall research and propose appropriate technological solutions to improve the board's ability to perform its functions. The technological solutions must:

- (1) ensure that the public is able to easily find information about the board on the Internet;
- (2) ensure that persons who want to use the board's services are able to:
 - (A) interact with the board through the Internet; and
 - (B) access any service that can be provided effectively through the Internet; and
- (3) be cost-effective and developed through the board's planning processes.

Sec. 111.019. ALTERNATIVE DISPUTE RESOLUTION PROCEDURES.

(a) The board shall develop and implement a policy to encourage the use of appropriate alternative dispute resolution procedures to assist in the resolution of internal and external disputes under the board's jurisdiction.

(b) The procedures relating to alternative dispute resolution under this section must conform, to the extent possible, to any model guidelines issued by the State Office of Administrative Hearings for the use of alternative dispute resolution by state agencies.

Sec. 111.020. PUBLIC ACCESS. The board shall develop and implement policies that provide the public with a reasonable opportunity to appear before the board and to speak on any issue under the jurisdiction of the board.

Sec. 111.021. DIRECTOR; EMPLOYEES FOR BOARD. (a) The administrative director shall employ a director from a list of candidates submitted by the board. The administrative director may request an additional list of candidates if the administrative director does not select any of the initial candidates recommended by the board.

(b) The list may contain the hiring preference of the board.

(c) The director is the administrative officer of the board and is charged with carrying out the duties and functions conferred on the director by the board, this subchapter, and other law.

(d) The director may hire employees as necessary to assist the board in performing its duties and functions.

Sec. 111.022. DIVISION OF RESPONSIBILITIES. The board shall develop and implement policies that clearly separate the policy-making responsibilities of the board and the management responsibilities of the director and any employees employed under Section 111.021.

Sec. 111.023. QUALIFICATIONS AND STANDARDS OF CONDUCT INFORMATION. The director or the director's designee shall provide to members of the board and to any employees employed under Section 111.021, 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.

[Sections 111.024-111.040 reserved for expansion]

SUBCHAPTER C. REGULATION OF CERTAIN GUARDIANS

Sec. 111.041. STANDARDS FOR CERTAIN GUARDIANSHIPS AND ALTERNATIVES TO GUARDIANSHIP. (a) The board shall adopt minimum standards for the provision of guardianship services or other similar but less restrictive types of assistance or services by:

- (1) guardianship programs;
- (2) private professional guardians; and
- (3) attorneys.

(b) The board shall design the standards to protect the interests of an incapacitated person or other person needing assistance making decisions concerning the person's own welfare or financial affairs.

Sec. 111.042. CERTIFICATION REQUIRED FOR CERTAIN GUARDIANS. (a) To provide guardianship services in this state, the following individuals must hold a certificate issued under this section:

- (1) an individual who is a private professional guardian;
- (2) an individual who will provide those services to a ward of a private professional guardian on the guardian's behalf;
- (3) an individual, other than a volunteer, who will provide those services to a ward of a guardianship program on the program's behalf; and
- (4) An attorney who will provide those services to a ward who is not a family member of the attorney.

(b) An applicant for a certificate under this section must:

- (1) apply to the board on a form prescribed by the board; and
- (2) submit with the application a nonrefundable application fee in an amount determined by the board, subject to the approval of the supreme court.

(c) The supreme court may adopt rules and procedures for issuing a certificate and for renewing, suspending, or revoking a certificate issued under this section. Any rules adopted by the supreme court under this section must:

- (1) ensure compliance with the standards adopted under Section 111.041;
- (2) provide that the board establish qualifications for obtaining and maintaining certification;
- (3) provide that the board issue certificates under this section;
- (4) provide that a certificate expires on the second anniversary of the date the certificate is issued;
- (5) prescribe procedures for accepting complaints and conducting investigations of alleged violations of the minimum standards adopted under Section 111.041 or other terms of the certification by certificate holders; and

(6) prescribe procedures by which the board, after notice and hearing, may suspend or revoke the certificate of a holder who fails to substantially comply with appropriate standards or other terms of the certification.

(d) If the requirements for issuing a certificate under this section include passage of an examination covering guardianship education requirements:

(1) the board shall develop and the director shall administer the examination; or

(2) the board shall direct the director to contract with another person or entity the board determines has the expertise and resources to develop and administer the examination.

(e) In lieu of the certification requirements imposed under this section, the board may issue a certificate to an individual to engage in business as a guardian or to provide guardianship services in this state if the individual:

(1) submits an application to the board in the form prescribed by the board;

(2) pays a fee in a reasonable amount determined by the board, subject to the approval of the supreme court;

(3) is certified, registered, or licensed as a guardian by a national organization or association the board determines has requirements at least as stringent as those prescribed by the board under this subchapter; and

(4) is in good standing with the organization or association with whom the person is licensed, certified, or registered.

(f) An application fee or other fee collected under this section shall be deposited to the credit of the guardianship certification account in the general revenue fund and may be appropriated only to the Office of Court Administration for the administration and enforcement of this chapter.

(g) The Texas Department of Licensing and Regulation shall advise and assist the board as necessary in administering the certification process established under this section.

Sec. 111.043. INFORMATION FROM PRIVATE PROFESSIONAL GUARDIANS. In addition to the information submitted under Section 697(e), Texas Probate Code, the director may require a private professional guardian or a person who represents or plans to represent the interests of a ward as a guardian on behalf of the private professional guardian to submit information considered necessary to monitor the person's compliance with the applicable standards adopted under Section 111.041 or with the certification requirements of Section 111.042.

Sec. 111.044. ANNUAL DISCLOSURE. Not later than January 31 of each year, each guardianship program and private professional guardian and each attorney required to be certified under this subchapter shall provide to the board a report containing for the preceding year:

(1) the total number of wards served by the guardianship program, private professional guardian, or attorney, as applicable;

(2) the total amount of money received from this state for the provision of guardianship services; and

(3) the total amount of money received from any other public source, including a county or the federal government, for the provision of guardianship services.

SECTION 2. _____. PROPOSED RULES AND PROCEDURES. Not later than March 1, 2006, the Guardianship Certification Board established under Chapter 111, Government Code, as added by this Act, shall develop rules and procedures for consideration by the supreme court as required by Chapter 111, Government Code, as added by this Act.

SECTION 2. _____. APPOINTMENT OF BOARD MEMBERS. (a) As soon as practicable after the effective date of this Act, the presiding judge of the statutory probate courts shall appoint 11 members to the Guardianship Certification Board in accordance with Chapter 111, Government Code, as added by this Act. In making the initial appointments, the presiding judge shall designate three members for terms expiring February 1, 2007, four members for terms expiring February 1, 2009, and four members for terms expiring February 1, 2011.

(b) As soon as practicable after the effective date of this Act, the supreme court shall appoint four members to the Guardianship Certification Board in accordance with Chapter 111, Government Code, as added by this Act. In making the initial appointments, the supreme court shall designate two members for terms expiring February 1, 2007, one member for a term expiring February 1, 2009, and one member for a term expiring February 1, 2011.

SECTION 2. _____. EFFECTIVE DATE OF CERTIFICATION. A person is not required to hold a certificate issued under Subchapter C, Chapter 111, Government Code, as added by this Act, to provide or continue to provide guardianship services to a ward before September 1, 2007.

Amendment No. 2 was adopted.

**ADDRESS BY REPRESENTATIVE DUNNAM
ON A MATTER OF PERSONAL PRIVILEGE**

The chair recognized Representative Dunnam who addressed the house on a matter of personal privilege, speaking as follows:

One thing that I think most people will say about this legislative session, as compared to last legislative session, is that—and I think that we all can agree upon—is throughout it, we've had an air of civility, and working to put policy, regardless of our disagreements on that policy, above the personal fray. I'll be the first to say that last session wasn't always that way. And many of us worked, and I hope that it's shown—I think it has shown—to make this session different. If we look at the policy, much of it is the same as last session. If we look at the results of the votes, the strong disagreements in policy—it's almost identical this session as last. But we have worked, I've worked, to make sure the tone and the tenor of this session were different. Quite frankly, because I hoped that that would make the policy different. Because that is why, I think, we are all here. I have great pride in this institution. Eighty years ago my grandfather served here, and I've always tried to treat each and every one of you, personally, with personal respect. And if I've not done so to any of you, then I'd ask that you'd tell me.

Lawyers are sometimes good orators, and I love being a lawyer. And one of the things that they say when you are trying a lawsuit, if the law's on your side, argue the law. If the facts are on your side, argue the facts. Mr. Hughes knows that. If the law and the facts are not on your side, you attack someone. And I was disappointed today, to see that, because I did not. I did not remember, and I even asked him—have not even talked to Mr. Merritt today, and I don't think I talked to him yesterday. Mr. Merritt was subjected in a campaign to what we all, I hope, believe is improper use of money to influence votes. And no one was better to try to get something done and changed about that this session than Mr. Merritt. The personal nature of Mr. Keel's pre-written speech was not becoming on this session, and is not an example of this session. I respect his opinion on issues, but the highest priority this session should be ethics.

I voted with Mr. Merritt, not because of the gentleman in the chair. And hopefully you've seen this session that I've tried to be very respectful to the gentleman in the chair. I voted with him, with Mr. Merritt, because I believe that we need ethics reform in this State of Texas. I believe that we need to take money out of campaigns—that's being put in campaigns at the last minute with no identification of where the money's come from. Obviously, there are people that disagree with that. And there's people who have enough money to put into campaigns, and obviously they do have influence in that legislature. 93 members of this body signed a bill that would eliminate this practice this session. You and I know—you and I know—that that bill is going nowhere because it's not out of committee. We're told, and we were told yesterday that the bill will be voted out next Wednesday, which is the 114th day of the Texas Legislature. And bills that are voted out of committee on the 114th day don't make it.

The parliamentary inquiry, or the procedure, that Mr. Merritt used was the one that Mr. Krusee used in the last, second special called session on redistricting. It was important enough to get redistricting, not out of committee—redistricting bill was filed, it bypassed committee, it bypassed Calendars, and came directly to the floor in a parliamentary procedure that Mr. Krusee used about a year ago. If it was important enough to bring redistricting past all of those procedures and all of those safe guards of committees, I felt in voting with Mr. Merritt, it was important enough to do that with ethics. Because I believe that ethics is more important than redistricting.

(Speaker in the chair)

CSHB 920 - (consideration continued)

Amendment No. 3

Representative Uresti offered the following amendment to **CSHB 920**:

Amend **CSHB 920** by striking SECTION 1.09 and inserting in lieu thereof the following:

SECTION ____ . Section 48.208, Human Resources Code, is amended by amending Subsection (e) and adding Subsections (c-1), (c-2), (c-3), and (d-1) to read as follows:

(c-1) Notwithstanding Subsection (c) (4), the petition may include an assessment of the elderly or disabled person's health or psychological status as described by Subsection (c-2) or (c-3) in lieu of a medical report described by Subsection (c) (4) if the department determines after making a good faith effort that a physician from whom the department may obtain the medical report is unavailable. The department shall ensure that the person who performs an assessment of the elderly or disabled person's health or psychological status has training and experience in performing the applicable assessment.

(c-2) An assessment of the elderly or disabled person's health may be completed by a physician assistant or advanced practice nurse and must state:

(1) that the person is reported to be suffering from abuse, neglect, or exploitation, which may present a threat to life or physical safety;

(2) whether the person has provided the person's medical history to the physician assistant or advanced practice nurse, as applicable; and

(3) the professional opinion of the physician assistant or advanced practice nurse, as applicable, that under the circumstances a temporary order of emergency services without the person's consent is necessary.

(c-3) an assessment of the elderly or disabled person's psychological status may be completed by a licensed psychologist or master social worker who has training and expertise in issues related to abuse, neglect, and exploitation, and must state:

(1) that the person is reported to be suffering from abuse, neglect, or exploitation, which may present a threat to life or physical safety; and

(2) the professional opinion of the psychologist or master social worker, as applicable, that under the circumstances a temporary order of emergency services without the person's consent is necessary.

(d-1) If the court enters an order described by Subsection (d) that is based on a petition that did not include a medical report described by Subsection (c) (4), the court shall order that the elderly or disabled person be examined by a physician not later than 72 hours after the provision of protective services begins.

(e) The emergency order expires at the end of 72 hours from the time of the order unless the 72-hour period ends on a Saturday, Sunday, or legal holiday in which event the order is automatically extended to 4 p.m. on the first succeeding business day. An order may be renewed for not more than 30 [44] additional days, except that an order that was based on a petition that did not include a medical report described by Subsection (c) (4) may not be renewed unless a medical report described by Subsection (c) (4) is filed with the request for the renewal. A renewal order that ends on a Saturday, Sunday, or legal holiday is automatically extended to 4 p.m. on the first succeeding business day. The court may modify or terminate the emergency order on petition of the department, the incapacitated person, or any person interested in his welfare.

REMARKS ORDERED PRINTED

Representative Rodriguez moved to print remarks by Representative Dunnam.

The motion prevailed.

REMARKS ORDERED PRINTED

Representative Bonnen moved to print remarks by Representative Keel.

The motion prevailed.

CSHB 920 - (consideration continued)

Amendment No. 3 was adopted.

Amendment No. 4

Representative Naishtat offered the following amendment to **CSHB 920**:

Amend **CSHB 920** in SECTION 1.09 of the bill by striking added Section 48.208 (e-1), Human Resources Code (House committee printing, page 12, lines 2-17, and substituting the following:

(e-1) The court may extend an emergency order issued under this section once for an additional period not to exceed 14 days and may extend an extension issued under this section for an additional period not to exceed an additional 14 days if the court receives a medical report signed by a physician stating that the person is physically or mentally incapable of consenting to services and the court, after a hearing, finds that the immediate danger to the health or safety of the elderly or disabled person continues to exist. The medical report must be based on an examination the physician performed not earlier than the date the court granted the initial emergency order. An extension order ~~may be removed for not more than 14 additional days. A renewal order~~ that ends on a Saturday, Sunday or legal holiday is automatically extended to 4 p.m. on the first succeeding business day. The court may shorten the term of ~~modify~~ or terminate the emergency order on petition of the department, the elderly or disabled ~~incapacitated~~ person, or any person interested in the elderly or disabled person's ~~his~~ welfare.

Amendment No. 4 was adopted.

CSHB 920, as amended, was passed to engrossment. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

FIVE DAY POSTING RULE SUSPENDED

Representative Phillips moved to suspend the five day posting rule to allow the Committee on Culture, Recreation, and Tourism, Subcommittee on Billboards, to consider **HB 34**, **HB 601**, **HB 2183**, and **HB 2950** upon final recess today in E2.012.

The motion prevailed.

COMMITTEE MEETING ANNOUNCEMENTS

The following committee meetings were announced:

Public Education, upon final recess today, Desk 27, for a formal meeting, to consider pending business.

Border and International Affairs, upon final recess today, Desk 75, for a formal meeting, to consider pending business.

Business and Industry, upon final recess today, Desk 103, for a formal meeting.

Culture, Recreation, and Tourism, Subcommittee on Billboards, upon final recess today, E2.012, for a public hearing, to consider **HB 34**, **HB 601**, **HB 2183**, and **HB 2950**.

Natural Resources, upon final recess today, Desk 112, for a formal meeting, to consider pending business.

RECESS

Representative Morrison moved that the house recess until 9 a.m. tomorrow in memory of Specialist Gary Walters, Jr., of Victoria who was killed in the line of duty.

The motion prevailed.

The house accordingly, at 3:11 p.m., recessed until 9 a.m. tomorrow.

ADDENDUM

SIGNED BY THE SPEAKER

The following bills and resolutions were today signed in the presence of the house by the speaker:

Senate List No. 11

SB 187, SB 402, SB 566, SB 877, SB 1014

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
 Thursday, April 28, 2005

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 15 Janek
Relating to civil claims involving exposure to asbestos and silica.

SB 440 Ellis
Relating to compensation for wrongful imprisonment.

SB 444 Staples
Relating to registration fee credits for the owners of certain dry cleaning facilities that do not participate in the dry cleaning facility release fund.

SB 449 Wentworth
Relating the conversion of certain mutual life insurance companies to insurance holding companies and stock life insurance companies.

SB 629 Lucio
Relating to the rights of a purchaser under an executory contract for conveyance of real property.

SB 927 Ellis
Relating to the annexation of territory in political subdivisions by certain junior college districts.

SB 1064 Staples
Relating to rate changes by a water and sewer utility.

SB 1096 West, Royce
Relating to certain employment and training investment programs in this state.

SB 1323 Armbrister
Relating to the regulation of viatical settlement agreements and life settlement agreements; providing penalties.

SB 1464 Van de Putte
Relating to funds to be used for nuclear decommissioning purposes by electric utilities.

Respectfully,
Patsy Spaw
Secretary of the Senate

Message No. 2

MESSAGE FROM THE SENATE

SENATE CHAMBER

Austin, Texas

Thursday, April 28, 2005 - 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:

LOCAL AND UNCONTESTED CALENDAR

HB 67 McClendon SPONSOR: Van de Putte
Relating to designating August 26 as Women's Independence Day.

HB 423 Delisi SPONSOR: Eltife
Relating to the online availability of certain state publications.

HB 1657 Hope SPONSOR: Averitt
Relating to the administration by the Texas Water Development Board of certain water-related programs financed by federal funds.

HB 1815 Krusee SPONSOR: Barrientos
Relating to term limitations for members of boards of certain metropolitan rapid transit authorities.

SB 93 Shapleigh
Relating to a manifest system to record the transportation of certain liquid wastes.

SB 132 Nelson
Relating to goals and strategies concerning the number of graduates from professional nursing education programs.

SB 362 Carona
Relating to certain condominium owners' right to redeem real property following certain foreclosure sales.

SB 532 Shapiro
Relating to tuition for a student registered in a public junior college.

SB 601 Van de Putte
Relating to importing prescription drugs for use in state-funded programs that provide health care services or benefits.

SB 784 Shapleigh
Relating to the acceptance by the Texas Commission on Environmental Quality of certain emissions reductions in exchange for other emissions reductions.

SB 825 Shapleigh
Relating to the TexasOnline Authority's use of TexasOnline revenue.

SB 957 Williams
Relating to the powers and duties of the Texas Department of Licensing and Regulation.

SB 962 Shapiro
Relating to state assistance for school district instructional facilities.

SB 982 Van de Putte
Relating to certain practices to improve energy conservation in state buildings.

SB 1000 Madla
Relating to the regulation of the practice of nursing.

SB 1011 Harris
Relating to restrictions on and reporting of certain expenditures by registered lobbyists.

- SB 1013** Harris
Relating to the use of private legal counsel by certain hospital districts.
- SB 1026** Madla
Relating to hospital and medical care required to be provided by the Maverick County Hospital District.
- SB 1027** Madla
Relating to the authority of the board of directors of the Maverick County Hospital District to employ health care providers.
- SB 1045** Janek
Relating to insurance or other coverage in lieu of a bond requirement for officers, employees, and consultants of certain conservation and reclamation districts.
- SB 1063** Staples
Relating to the rates of certain retail public utilities.
- SB 1081** Ellis
Relating to recycling market development.
- SB 1125** Hinojosa
Relating to the establishment and operation of multicounty drug task forces and to the disposition of certain contraband seized by those task forces.
- SB 1133** Hinojosa
Relating to posting notice online of the meetings of certain governmental bodies.
- SB 1173** Armbrister
Relating to the regulation of a perpetual care cemetery and the sale of interment rights in a mausoleum before completion of construction.
- SB 1186** Nelson
Relating to the effect that certain orders relating to family violence and certain decisions regarding military service have on residential leases; providing civil penalties.
- SB 1192** Estes
Relating to stamps for migratory and upland game bird hunting; providing a penalty.
- SB 1195** Hinojosa
Relating to the authority of peace officers to conduct certain searches.
- SB 1238** Madla
Relating to the creation of a public nuisance by the failure to properly maintain a drainage easement.
- SB 1250** Brimer
Relating to appointments to the Tobacco Settlement Permanent Trust Account Investment Advisory Committee.
- SB 1255** Brimer
Relating to the number of alcoholic beverage licenses that may be issued for a single location.
- SB 1271** Jackson, Mike
Relating to fees for licenses issued by the Parks and Wildlife Department.

- SB 1273** Jackson, Mike
Relating to the establishment of the Texas Farmland and Ranchland Conservation Program.
- SB 1281** Armbrister
Relating to the regulation and permitting of a commercial industrial solid waste facility connected to a publicly owned treatment works facility.
- SB 1328** Nelson
Relating to the privacy of protected health information.
- SB 1331** Nelson
Relating to certain temporary wine and beer retailer's permits.
- SB 1341** Madla
Relating to the functions of the Texas Department of Housing and Community Affairs.
- SB 1354** Estes
Relating to the protection of water quality in watersheds threatened by quarry activities; establishing a pilot program in a certain portion of the Brazos River watershed; providing penalties.
- SB 1395** Shapiro
Relating to the establishment of high school diploma programs by Job Corps training programs under the United States Department of Labor.
- SB 1408** Estes
Relating to wage claim disputes.
- SB 1425** Gallegos
Relating to the filing of an affidavit of inability to pay in appealing a small claims court judgement.
- SB 1428** Duncan
Relating to the establishment of a statewide maintenance program for boll weevil and pink bollworm eradication.
- SB 1446** Averitt
Relating to public school admission and enrollment.
- SB 1448** Averitt
Relating to the applicability of certain laws relating to portability of certain health benefit coverage provided to school district employees.
- SB 1471** Whitmire
Relating to consumer gifts and prizes in connection with the marketing of alcoholic beverages.
- SB 1472** Whitmire
Relating to services provided by manufacturers and distributors of beer to beer retailers.
- SB 1510** Averitt
Relating to the liability of a nonprofit management contractor of county hospital authorities.

- SB 1532** Averitt
Relating to the eligibility of certain educational employees to participate or be enrolled in certain group health benefit programs.
- SB 1569** Williams
Relating to audits of state agency expenditures to recover overpayments and lost discounts.
- SB 1587** Carona
Relating to certain foreclosure notice requirements.
- SB 1603** Estes
Relating to the recovery of certain costs associated with certain civil suits by the Parks and Wildlife Department.
- SB 1621** Lindsay
Relating to the tax rate for emergency services districts located in certain populous counties.
- SB 1626** Whitmire
Relating to petition requirements for ordering a local option election to legalize or prohibit the sale of alcoholic beverages.
- SB 1674** Barrientos
Relating to the authority of the Barton Springs-Edwards Aquifer Conservation District to charge certain fees.
- SB 1680** Jackson, Mike
Relating to the repeal of the Agriculture Resources Protection Authority.
- SB 1686** Estes
Relating to the interagency work group on rural issues.
- SB 1710** Staples
Relating to outdoor burning under the Texas Clean Air Act.
- SB 1769** Harris
Relating to administrators of certain hospital districts.
- SB 1787** Duncan
Relating to the designation and duties of the state historian.
- SB 1815** Armbrister
Relating to reimbursement under the workers' compensation system for certain surgical assistants.
- SB 1830** Zaffirini
Relating to the continuation of the quality assurance fee applicable to intermediate care facilities for persons with mental retardation.
- SB 1831** Hinojosa
Relating to the creation of the Corpus Christi Aquifer Storage and Recovery Conservation District; granting the power of eminent domain.
- SB 1841** West, Royce
Relating to appointing certain recipients of housing assistance as commissioners of public housing authorities.

SB 1851

Madla

Relating to the expansion of the East Medina County Special Utility District and the composition of the district's board of directors.

SB 1853

Madla

Relating to the distribution of assessments charged by Bexar-Medina-Atascosa Counties Water Control and Improvement District No. 1.

Respectfully,

Patsy Spaw

Secretary of the Senate

Message No. 3

MESSAGE FROM THE SENATE

SENATE CHAMBER

Austin, Texas

Thursday, April 28, 2005 - 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 PASSED THE FOLLOWING MEASURES:

SCR 33

Seliger

Commending the Panhandle-Plains Historical Museum for hosting the art exhibit Capturing Western Legends: Russell and Remington's Canadian Frontier.

Respectfully,

Patsy Spaw

Secretary of the Senate

APPENDIX

STANDING COMMITTEE REPORTS

Favorable reports have been filed by committees as follows:

April 27

Border and International Affairs - **HB 486**

Business and Industry - **HB 211, HB 1380, HB 2376**

Civil Practices - **SB 644**

Corrections - **HB 574, HB 1921, HB 2839, HB 2905**

Criminal Jurisprudence - **HB 615, HB 1074, HB 1129, HB 1641, SB 1006**

Energy Resources - **HB 2203, HB 2984**

Environmental Regulation - **HB 580, HB 2455**

Government Reform - **HB 433, HB 630, HB 1842, HB 2525, HB 3149**

Judiciary - **HB 1934, HB 3519**

Juvenile Justice and Family Issues - **HB 1181, HB 1687, HB 2408, HB 2668**

Land and Resource Management - **HB 2833, HB 3288**

Law Enforcement - **HB 1068, HB 1137, HB 2239, HB 2524**

Licensing and Administrative Procedures - **HB 959, HB 1317, HB 2451, HB 2590, HB 2863, HB 3344, SB 766, SB 796**

Natural Resources - **HB 1047, HB 1644, HB 1680, HB 2301, HB 3181, SB 693**

Public Education - **HB 573, HB 608, HB 984, HB 3468**

Public Health - **HB 2470**

Regulated Industries - **HB 1777**

State Affairs - **HB 1940, HB 2092, HB 2932, HB 2933, HCR 49**

Transportation - **HB 988, HB 1741, HB 2114, HB 2495, HB 2889, HB 3095**

Urban Affairs - **HB 65, HB 2866, HB 3057**

ENGROSSED

April 27 - HB 371, HB 481, HB 578, HB 603, HB 652, HB 818, HB 904, HB 1038, HB 1059, HB 1229, HB 1357, HB 1588, HB 1609, HB 1701, HB 1737, HB 1747, HB 1771, HB 1835, HB 1965, HB 2051, HB 2137, HB 2161, HB 2208, HB 2236, HB 2275, HB 2294, HB 2296, HB 2423, HB 2661, HB 2679, HB 2784, HB 2840, HB 2930, HB 3235

ENROLLED

April 27 - HCR 9

SIGNED BY THE GOVERNOR

April 27 - HCR 62, HCR 87, HCR 107, HCR 125, HCR 126, HCR 129, HCR 134

