

HOUSE JOURNAL

SEVENTY-NINTH LEGISLATURE, REGULAR SESSION

PROCEEDINGS

SEVENTY-FIRST DAY — WEDNESDAY, MAY 18, 2005

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

The roll of the house was called and a quorum was announced present (Record 699).

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; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goodman; Goolsby; Griggs; Grusendorf; Guillen; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Herrero; Hilderbran; 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; Krusee; Kuempel; Laney; Laubenberg; Leibowitz; Luna; Madden; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, P.; Morrison; Mowery; Naishtat; Nixon; Noriega, M.; Olivo; Orr; Otto; Paxton; Peña; Phillips; Pickett; Pitts; Puente; Quintanilla; Raymond; Reyna; 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; Woolley; Zedler.

Absent, Excused — Hodge; Oliveira.

The invocation was offered by Geary McManus, pastor, Knobbs Springs Baptist Church, McDade, as follows:

Heavenly Father, we give thanks and praise to you for this nation and state we live in.

We thank you for the system of government established by those who have gone before us. We thank you for those who serve in our military units, law enforcement agencies, and the judicial system. We ask a special blessing on them today. We are grateful for those who serve here in the house of representatives. We ask that you fill their hearts and minds with wisdom as they deliberate here during this legislative session. We also bring a special request that you give this body the mind and will to develop an equitable school finance plan for our children.

Father, remind us of our need for your guidance and protection continuously. These blessings and requests we bring before you this morning in the precious name of our Savior, Jesus Christ. Amen.

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

REGULAR ORDER OF BUSINESS SUSPENDED

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

CAPITOL PHYSICIAN

The speaker recognized Representative Martinez Fischer who presented Dr. David Schneider of San Antonio as the "Doctor for the Day."

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

LEAVE OF ABSENCE GRANTED

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

Oliveira on motion of Raymond.

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).

HCR 207 - ADOPTED (by Craddick)

Representative Driver moved to suspend all necessary rules to take up and consider at this time **HCR 207**.

The motion prevailed.

The following resolution was laid before the house:

HCR 207, Honoring Dilly Mendoza of Austin for her outstanding tenure as captain's secretary for the Department of Public Safety Capitol Detail.

HCR 207 was read and was adopted.

INTRODUCTION OF GUEST

The speaker recognized Representative Driver who introduced Dilly Mendoza.

HR 1616 - ADOPTED (by Hilderbran)

Representative Hilderbran moved to suspend all necessary rules to take up and consider at this time **HR 1616**.

The motion prevailed.

The following resolution was laid before the house:

HR 1616, Honoring retired Brigadier General David L. "Tex" Hill of San Antonio for his receipt of the Distinguished Service Cross.

HR 1616 was read and was adopted.

INTRODUCTION OF GUEST

The speaker recognized Representative Hilderbran who introduced retired Brigadier General David L. "Tex" Hill.

LEAVE OF ABSENCE GRANTED

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

Kolkhorst on motion of Geren.

HR 1761 - ADOPTED

(by Howard, W. Smith, and Callegari)

Representative Howard moved to suspend all necessary rules to take up and consider at this time **HR 1761**.

The motion prevailed.

The following resolution was laid before the house:

HR 1761, Congratulating the Texas MATHCOUNTS team on winning first place at the 2005 National MATHCOUNTS competition.

HR 1761 was read and was adopted.

(Bonnen in the chair)

INTRODUCTION OF GUESTS

The chair recognized Representative Howard who introduced members of the Texas MATHCOUNTS team: Mark Zhang, Kevin Chen, Jefferie Chan, Dennis Mou, and their coach, Jeffery Boyd.

HR 1799 - ADOPTED

(by Giddings)

Representative Giddings moved to suspend all necessary rules to take up and consider at this time **HR 1799**.

The motion prevailed.

The following resolution was laid before the house:

HR 1799, Congratulating Tashell Fields on her graduation from the Texas School for the Deaf.

HR 1799 was adopted.

HR 1491 - ADOPTED

(by J. Jones, Anderson, and Dunnam)

Representative J. Jones moved to suspend all necessary rules to take up and consider at this time **HR 1491**.

The motion prevailed.

The following resolution was laid before the house:

HR 1491, Honoring Darold Williamson for his success at the 2004 Athens Olympic Games.

HR 1491 was adopted.

On motion of Representative Anderson, the names of all the members of the house were added to **HR 1491** as signers thereof.

HR 1492 - ADOPTED

(by J. Jones, Anderson, and Dunnam)

Representative J. Jones moved to suspend all necessary rules to take up and consider at this time **HR 1492**.

The motion prevailed.

The following resolution was laid before the house:

HR 1492, Honoring Jeremy Wariner of Baylor University for his exceptional achievements in track and field competition.

HR 1492 was adopted.

On motion of Representative Anderson, the names of all the members of the house were added to **HR 1492** as signers thereof.

HR 1717 - ADOPTED

(by J. Jones, Anderson, and Dunnam)

Representative J. Jones moved to suspend all necessary rules to take up and consider at this time **HR 1717**.

The motion prevailed.

The following resolution was laid before the house:

HR 1717, Honoring head coach Clyde Hart of the Baylor University track and field teams for his outstanding achievements.

HR 1717 was adopted.

On motion of Representative Anderson, the names of all the members of the house were added to **HR 1717** as signers thereof.

INTRODUCTION OF GUESTS

The chair recognized Representatives J. Jones, Anderson, and Dunnam who introduced Olympic gold medalists Darold Williamson and Jeremy Wariner and Baylor University track and field coach Clyde Hart and his wife Maxine.

BILLS AND RESOLUTIONS SIGNED BY THE SPEAKER

Notice was given at this time that the speaker had signed bills and resolutions in the presence of the house (see the addendum to the daily journal, Signed by the Speaker, House List No. 44).

HR 1713 - ADOPTED
(by Kuempel)

Representative Kuempel moved to suspend all necessary rules to take up and consider at this time **HR 1713**.

The motion prevailed.

The following resolution was laid before the house:

HR 1713, Honoring the legacy of the American Quarter Horse Association foundation sire Gonzales Joe Bailey.

HR 1713 was read and was adopted.

On motion of Representative Phillips, the names of all the members of the house were added to **HR 1713** as signers thereof.

(Driver in the chair)

HR 531 - ADOPTED
(by McClendon)

Representative McClendon moved to suspend all necessary rules to take up and consider at this time **HR 531**.

The motion prevailed.

The following resolution was laid before the house:

HR 531, In memory of Ossie Davis.

HR 531 was read and was unanimously adopted by a rising vote.

On motion of Representative Bonnen, the names of all the members of the house were added to **HR 531** as signers thereof.

INTRODUCTION OF GUESTS

The chair recognized Representative McClendon who introduced family members of Ossie Davis.

HR 1288 - ADOPTED
(by Craddick)

Representative P. King moved to suspend all necessary rules to take up and consider at this time **HR 1288**.

The motion prevailed.

The following resolution was laid before the house:

HR 1288, Honoring Representative Jim Keffer of Eastland on being named president of the American Foundry Society.

HR 1288 was read and was adopted.

On motion of Representative Bonnen, the names of all the members of the house were added to **HR 1288** as signers thereof.

(Speaker in the chair)

HR 1605 - ADOPTED
(by Wong)

Representative Wong moved to suspend all necessary rules to take up and consider at this time **HR 1605**.

The motion prevailed.

The following resolution was laid before the house:

HR 1605, Honoring the Asian Pacific American Heritage Association on the occasion of its 13th anniversary gala on May 20, 2005.

HR 1605 was adopted.

MAJOR STATE CALENDAR
SENATE BILLS
SECOND READING

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

CSSB 408 ON SECOND READING
(P. King - House Sponsor)

CSSB 408, A bill to be entitled An Act relating to the continuation, administration, and operations of the Public Utility Commission of Texas.

Amendment No. 1

Representative P. King offered the following amendment to **CSSB 408**:

Amend **CSSB 408** as follows:

(1) In Section 11.0042(a)(5), Utilities Code, as added by SECTION 4 of the bill (page 6, lines 9-10), strike "but not more than 15 percent".

(2) In Section 11.0042(b), Utilities Code, as added by SECTION 4 of the bill (page 6, line 22), strike "five percent or more but not more than 15 percent of".

(3) In Section 11.010(a), Utilities Code, as added by SECTION 6 of the bill (page 8, line 17), strike "contested proceeding before" and substitute "contested proceeding hearing before".

(4) In Section 11.010(a), Utilities Code, as added by SECTION 6 of the bill (page 8, line 20), insert the following after the period:

This subsection does not affect the ability of an entity to hire or contract for other persons to provide services, including professional services, to the entity in relation to a contested proceeding, including a hearing related to a contested proceeding.

(5) Strike SECTION 9 (page 9, lines 7-11) and SECTION 46 of the bill (page 61, lines 14-20).

(6) In Section 14.101(d)(5), Utilities Code, as added by SECTION 25 of the bill (page 19, line 14), strike ", another state, or another state agency".

(7) In the recital to SECTION 27 of the bill (page 19, lines 22 and 23), strike "Subsections (d), (e), and (f)" and substitute "Subsections (d) and (e)".

(8) In Section 15.023(b), Utilities Code, as amended by SECTION 27 of the bill (page 19, line 25), strike "\$10,000" and substitute "\$25,000".

(9) In Section 15.023(b), Utilities Code, amended by SECTION 27 of the bill (page 20, line 3), strike "not".

(10) In Section 15.023(b), Utilities Code, amended by SECTION 27 of the bill (page 20, line 4), between "penalty" and the period, insert "unless the commission finds that the violation was committed knowingly".

(11) Strike Subsection (f), Section 15.023, Utilities Code, as added by SECTION 27 of the bill (page 21, lines 5-10).

(12) In Section 16.001(b), Utilities Code, as amended by SECTION 34 of the bill (page 26, lines 5 and 6), strike "[public utility's, retail electric provider's, or electric cooperative's]" and substitute "[public] utility's, retail electric provider's, provider's, or electric cooperative's".

(13) In Section 39.301, Utilities Code, as amended by SECTION 37 of the bill (page 27, lines 14-17), strike "It is the policy of this state to encourage electric utilities and transmission and distribution utilities to use securitization financing [stranded costs,] because this" and substitute "This [stranded costs, because this]".

(14) In Subchapter B, Chapter 68, Utilities Code, as added by SECTION 42 of the bill (page 54, between lines 17 and 18), insert the following:

Sec. 68.102. CERTAIN PUBLIC IMPROVEMENT PROJECTS BY MUNICIPALLY OWNED UTILITY. (a) Except as provided by Subsection (b), money that a municipally owned utility has set aside to pay the costs of a public improvement project that consists of burying the facilities of the utility shall first be used for that purpose.

(b) If the municipality or municipally owned utility is required to reimburse a communications network provider for the relocation of a communications facility under Section 68.101, the municipality or municipally owned utility may use the money described by Subsection (a) to pay all or part of the cost of that reimbursement.

(15) Insert the following appropriately numbered SECTIONS to the bill and renumber following SECTIONS as appropriate:

SECTION _____. Section 32.001(b), Utilities Code, is amended to read as follows:

(b) The commission has exclusive appellate jurisdiction to review an order or ordinance of a municipality exercising exclusive original jurisdiction under this subtitle, including under Chapter 33.

SECTION _____. Subchapter C, Chapter 39, Utilities Code, is amended by adding Section 39.1015 to read as follows:

Sec. 39.1015. PROTECTION OF RESIDENTIAL ELECTRIC SERVICE APPLICANTS AND CUSTOMERS. (a) In this section and in Section 64.007:

(1) "Credit history":

(A) means information regarding an individual's past history of:

(i) financial responsibility;

(ii) payment habits; or

(iii) creditworthiness; and

(B) does not include an individual's outstanding balance for retail electric or telecommunications service.

(2) "Credit score" means a score, grade, or value that is derived by a consumer reporting agency, as defined under Section 603(f) of the Fair Credit Reporting Act (15 U.S.C. Section 1681a(f)), using data from a credit history in any type of model, method, or program for the purpose of grading or ranking credit report data, whether derived electronically, from an algorithm, through a computer software application model or program, or through any other analogous process.

(3) "Utility payment data" means a measure that is derived by a consumer reporting agency, as defined under Section 603(f) of the Fair Credit Reporting Act (15 U.S.C. Section 1681a(f)), from a model specifically designed to correlate to utility payment histories.

(b) A retail electric provider may not deny an applicant's request to become a residential electric service customer on the basis of the applicant's credit history or credit score, but may use the applicant's utility payment data until the later of January 1, 2007, or the date on which the price to beat is no longer in effect in the geographic area in which the customer is located.

(c) Notwithstanding Subsection (b), while a retail electric provider is required to provide service to a geographic area as the affiliated retail electric provider, the provider may not deny an applicant's request to become a residential electric service customer within that geographic area on the basis of the applicant's credit history, credit score, or utility payment data.

(d) After the date described in Subsection (b), a retail electric provider, including an affiliated retail electric provider, may not deny an applicant's request to become a residential electric service customer on the basis of the applicant's credit history, credit score, or utility payment data but may use the applicant's electric bill payment history.

(e) A retail electric provider may not use a credit score, a credit history, or utility payment data as the basis for determining the price for month-to-month electric service or electric service that includes a fixed price commitment of 12 months or less:

(1) for an existing residential customer; or

(2) in response to an applicant's request to become a residential electric service customer.

(f) After the date described in Subsection (b), on request by a customer or former customer in this state, a retail electric provider or electric utility shall timely provide to the customer or former customer bill payment history information with the retail electric provider or electric utility during the preceding 12-month period. Bill payment history information may be obtained by the customer or former customer once during each 12-month period without charge. If additional copies of bill payment history information are requested during a 12-month period, the electric service provider may charge the customer or former customer a reasonable fee for each copy.

(g) On request by a retail electric provider, another retail electric provider or electric utility shall timely verify information that purports to show a customer's service and bill payment history with the retail electric provider or electric utility.

(h) This section does not limit a retail electric provider's authority to require a deposit or advance payment as a condition of service.

(i) Notwithstanding Subsection (e), a retail electric provider may provide rewards, benefits, or credits to residential electric service customers on the basis of the customer's payment history for retail electric service to that provider.

SECTION __. Subchapter A, Chapter 64, Utilities Code, is amended by adding Section 64.007 to read as follows:

Sec. 64.007. PROTECTION OF RESIDENTIAL TELEPHONE SERVICE APPLICANTS AND CUSTOMERS. (a) A provider of basic local telecommunications services and nonbasic network services may not deny an applicant's request to become a residential customer on the basis of the applicant's credit history or credit score.

(b) A provider of basic local telecommunications services and nonbasic network services may not use a credit score or credit history as the basis for determining price for service:

(1) for an existing residential customer; or

(2) in response to an applicant's request to become a residential customer.

(c) This section does not limit the authority of a provider of basic local telecommunications services and nonbasic network services to require a deposit, advance payment, or credit limit as a condition of service.

SECTION __. Section 39.151, Utilities Code, is amended by amending Subsections (b) through (e), (g), and (h) and adding Subsections (d-1) and (g-1) to read as follows:

(b) "Independent organization" means an independent system operator or other person that is sufficiently independent of any producer or seller of electricity that its decisions will not be unduly influenced by any producer or seller. ~~[An entity will be deemed to be independent if it is governed by a board that has three representatives from each segment of the electric market, with the consumer segment being represented by one residential customer, one commercial customer, and one industrial retail customer.]~~

(c) The commission shall certify an independent organization or organizations to perform the functions prescribed by this section. The commission shall apply the provisions of this section and Sections 39.1511, 39.1512, and 39.1515 so as to avoid conflict with a ruling of a federal regulatory body.

(d) The commission shall adopt and enforce rules [An independent organization certified by the commission for a power region shall establish and enforce procedures, consistent with this title and the commission's rules,] relating to the reliability of the regional electrical network and accounting for the production and delivery of electricity among generators and all other market participants, or may delegate to an independent organization responsibilities for establishing or enforcing such rules. Any such rules adopted by an independent organization and any enforcement actions taken by the organization are~~[- The procedures shall be]~~ subject to commission oversight and review. An independent organization certified by the commission is directly responsible and accountable

to the commission. The commission has complete authority to oversee and investigate the organization's finances, budget, and operations as necessary to ensure the organization's accountability and to ensure that the organization adequately performs the organization's functions and duties. The organization shall fully cooperate with the commission in the commission's oversight and investigatory functions. The commission may take appropriate action against an organization that does not adequately perform the organization's functions or duties or does not comply with this section, including decertifying the organization or assessing an administrative penalty against the organization. The commission by rule shall adopt procedures governing decertification of an independent organization, selecting and certifying a successor organization, and transferring assets to the successor organization to ensure continuity of operations in the region. The commission may not implement, by order or by rule, a requirement that is contrary to an applicable federal law or rule.

(d-1) The commission may:

(1) require an independent organization to provide reports and information relating to the independent organization's performance of the functions prescribed by this section and relating to the organization's revenues, expenses, and other financial matters;

(2) prescribe a system of accounts for an independent organization;

(3) conduct audits of an independent organization's performance of the functions prescribed by this section or relating to its revenues, expenses, and other financial matters and may require an independent organization to conduct such an audit;

(4) inspect an independent organization's facilities, records, and accounts during reasonable hours and after reasonable notice to the independent organization;

(5) assess administrative penalties against an independent organization that violates this title or a rule or order adopted by the commission and, at the request of the commission, the attorney general may apply for a court order to require an independent organization to comply with commission rules and orders in the manner provided by Chapter 15; and

(6) resolve disputes between an affected person and an independent organization and adopt procedures for the efficient resolution of such disputes.

(e) The commission may authorize an independent organization that is certified under this section to charge a reasonable and competitively neutral rate to wholesale buyers and sellers to cover the independent organization's costs. The commission shall investigate the organization's cost efficiencies, salaries and benefits, and use of debt financing and may require the organization to provide any information needed to effectively evaluate the organization's budget and the reasonableness and neutrality of a rate or proposed rate or to evaluate the effectiveness or efficiency of the organization. The commission shall work with the organization to establish the detail of information, both current and historical, and the time frames the commission needs to effectively evaluate a rate or a rate request.

(g) To maintain certification as an independent organization under this section, an organization's [If it amends its governance rules to provide that its governing body is composed as prescribed by this subsection, the existing independent system operator in ERCOT will meet the criteria provided by Subsection (a) with respect to ensuring access to the transmission systems for all buyers and sellers of electricity in the ERCOT region and ensuring the reliability of the regional electrical network. To comply with this subsection, the] governing body must be composed of persons specified by this section and selected in accordance with formal bylaws or protocols of the organization. The bylaws or protocols must be approved by the commission and must reflect the input of the commission. The bylaws must specify the process by which appropriate stakeholders elect members and, for unaffiliated members, prescribe professional qualifications for selection as a member. The bylaws must require the use of a professional search firm to identify candidates for membership of unaffiliated members. The process must allow for commission input in identifying candidates. The governing body must be composed of:

(1) the chairman of the commission as an ex officio nonvoting member;
(2) the counsellor as an ex officio voting member representing residential and small commercial consumer interests;

(3) the chief executive officer [director] of the independent organization [system operator] as an ex officio voting member;

(4) six market participants elected by their respective market segments to serve one-year terms, with:

(A) one representing independent generators;

(B) one representing investor-owned utilities;

(C) one representing power marketers;

(D) one representing retail electric providers;

(E) one representing municipally owned utilities; and

(F) one representing electric cooperatives [four representatives of the power generation sector as voting members];

(5) one member representing industrial consumer interests and elected by the industrial consumer market segment to serve a one-year term [four representatives of the transmission and distribution sector as voting members];

(6) one member representing large commercial consumer interests selected in accordance with the bylaws to serve a one-year term [four representatives of the power sales sector as voting members]; and

(7) five members unaffiliated with any market segment and selected by the other members of the governing body to serve three-year terms [the following people as voting members, appointed by the commission:

[(A) one representative of residential customers;

[(B) one representative of commercial customers; and

[(C) one representative of industrial customers].

[The four representatives specified in each of Subdivisions (4), (5), and (6) shall be selected in a manner that ensures equitable representation for the various sectors of industry participants.]

(g-1) The presiding officer of the governing body must be one of the members described by Subsection (g)(7).

(h) The ERCOT independent system operator may meet the criteria relating to the other functions of an independent organization provided by Subsection (a) by adopting procedures and acquiring resources needed to carry out those functions, consistent with any rules or orders of the commission.

SECTION __. Subchapter D, Chapter 39, Utilities Code, is amended by adding Sections 39.1511 and 39.1512 to read as follows:

Sec. 39.1511. PUBLIC MEETINGS OF THE GOVERNING BODY OF AN INDEPENDENT ORGANIZATION. (a) Meetings of the governing body of an independent organization certified under Section 39.151 and meetings of a subcommittee that includes a member of the governing body must be open to the public. The bylaws of the independent organization and the rules of the commission may provide for the governing body or subcommittee to enter into executive session closed to the public to address sensitive matters such as confidential personnel information, contracts, lawsuits, competitively sensitive information, or other information related to the security of the regional electrical network.

(b) The bylaws of the independent organization and rules of the commission must ensure that a person interested in the activities of the independent organization has an opportunity to obtain at least seven days' advance notice of meetings and the planned agendas of the meetings and an opportunity to comment on matters under discussion at the meetings. The bylaws and commission rules governing meetings of the governing body may provide for a shorter period of advance notice and for meetings by teleconference technology for governing body meetings to take action on urgent matters. The bylaws and rules must require actions taken on short notice or at teleconference meetings to be ratified at the governing body's next regular meeting. The notice requirements may be met by a timely electronic posting on the Internet.

Sec. 39.1512. DISCLOSURE OF INTEREST IN MATTER BEFORE INDEPENDENT ORGANIZATION'S GOVERNING BODY; PARTICIPATION IN DECISION. (a) If a matter comes before the governing body of an independent organization certified under Section 39.151 and a member has a direct interest in that matter or is employed by or has a substantial financial interest in a person who has a direct interest in that matter, that member shall publicly disclose the fact of that interest to the governing body at a public meeting of the body. The member shall recuse himself or herself from the governing body's deliberations and actions on the matter and may not vote on the matter or otherwise participate in a governing body decision on the matter.

(b) A disclosure made under Subsection (a) shall be entered in the minutes of the meeting at which the disclosure is made.

(c) The fact that a member is recused from a vote or decision by application of this section does not affect the existence of a quorum.

SECTION __. An independent organization certified by the Public Utility Commission of Texas before September 1, 2005, shall modify the organization's governing body to comply with Subsection (g), Section 39.151, Utilities Code, as

amended by this Act, not later than September 1, 2006. On or after September 1, 2006, the Public Utility Commission of Texas may decertify an independent organization whose governing body does not comply with Subsection (g), Section 39.151, Utilities Code, as amended by this Act.

SECTION __. Subchapter D, Chapter 39, Utilities Code, is amended by adding Section 39.1515 to read as follows:

Sec. 39.1515. WHOLESALE ELECTRIC MARKET MONITOR. (a) An independent organization certified under Section 39.151 shall contract with an entity selected by the commission to act as the commission's wholesale electric market monitor to detect and prevent market manipulation strategies and recommend measures to enhance the efficiency of the wholesale market.

(b) The independent organization shall provide to the personnel of the market monitor:

(1) full access to the organization's main operations center and the organization's records that concern operations, settlement, and reliability; and

(2) other support and cooperation the commission determines is necessary for the market monitor to perform the market monitor's functions.

(c) The independent organization shall use money from the rate authorized by Section 39.151(e) to pay for the market monitor's activities.

(d) The commission is responsible for ensuring that the market monitor has the resources, expertise, and authority necessary to monitor the wholesale electric market effectively and shall adopt rules and perform oversight of the market monitor as necessary. The market monitor shall operate under the supervision and oversight of the commission. The commission shall retain all enforcement authority conferred under this title, and this section may not be construed to confer enforcement authority on the market monitor or to authorize the commission to delegate the commission's enforcement authority to the market monitor. The commission by rule shall define:

(1) the market monitor's monitoring responsibilities, including reporting obligations and limitations;

(2) the standards for funding the market monitor, including staffing requirements;

(3) qualifications for personnel of the market monitor; and

(4) ethical standards for the market monitor and the personnel of the market monitor.

(e) In adopting rules governing the standards for funding the market monitor, the commission shall consult with a subcommittee of the independent organization's governing body to receive information on how money is or should be spent for monitoring functions. Rules governing ethical standards must include provisions designed to ensure that the personnel of the market monitor are professionally and financially independent from market participants. The commission shall develop and implement policies that clearly separate the policymaking responsibilities of the commission and the monitoring, analysis, and reporting responsibilities of the market monitor.

(f) The market monitor immediately shall report directly to the commission any potential market manipulations and any discovered or potential violations of commission rules or rules of the independent organization.

(g) The personnel of the market monitor may communicate with commission staff on any matter without restriction.

(h) The market monitor annually shall submit to the commission and the independent organization a report that identifies market design flaws and recommends methods to correct the flaws. The commission and the independent organization shall review the report and evaluate whether changes to rules of the commission or the independent organization should be made.

SECTION _____. Section 39.205, Utilities Code, is amended to read as follows:

Sec. 39.205. REGULATION OF COSTS FOLLOWING FREEZE PERIOD. At the conclusion of the freeze period, any remaining costs associated with nuclear decommissioning obligations continue to be subject to cost of service rate regulation and shall be included as a nonbypassable charge to retail customers. The commission may adopt rules necessary to ensure that money for decommissioning is prudently collected, managed, and spent for its intended purpose and that money that remains unspent after decommissioning is completed is returned to retail customers.

SECTION ___. Subchapter A, Chapter 51, Utilities Code, is amended by adding Section 51.011 to read as follows:

Sec. 51.011. RECOVERY OF TAXABLE TELECOM RECEIPT ASSESSMENT. (a) To the extent an annual assessment is imposed on each telecommunications provider, including each commercial mobile service provider, doing business in this state, a certificated telecommunications provider may, beginning June 1, 2005, recover from the provider's customers, an assessment imposed on the provider under this title.

(b) A certificated telecommunications provider may recover only the amount of the assessment imposed and may recover the assessment through a monthly billing process.

SECTION ___. Section 56.021, Utilities Code, is amended to read as follows:

Sec. 56.021. UNIVERSAL SERVICE FUND ESTABLISHED. The commission shall adopt and enforce rules requiring local exchange companies to establish a universal service fund to:

(1) assist telecommunications providers in providing basic local telecommunications service at reasonable rates in high cost rural areas;

(2) reimburse the telecommunications carrier that provides the statewide telecommunications relay access service under Subchapter D;

(3) finance the specialized telecommunications assistance program established under Subchapter E;

(4) reimburse the department, the Texas Commission for the Deaf and Hard of Hearing, and the commission for costs incurred in implementing this chapter and Chapter 57;

(5) reimburse a telecommunications carrier providing lifeline service as provided by 47 C.F.R. Part 54, Subpart E, as amended;

(6) finance the implementation and administration of an integrated eligibility process created under Section 17.007 for customer service discounts relating to telecommunications services, including outreach expenses the commission determines are reasonable and necessary;

(7) reimburse a designated provider under Subchapter F; ~~and~~

(8) reimburse a successor utility under Subchapter G; and

(9) finance the program established under Subchapter H.

SECTION __. Chapter 56, Utilities Code, is amended by adding Subchapter H to read as follows:

SUBCHAPTER H. AUDIO NEWSPAPER PROGRAM

Sec. 56.301. AUDIO NEWSPAPER ASSISTANCE PROGRAM. The commission by rule shall establish a program to provide from the universal service fund financial assistance for a free telephone service for blind and visually impaired persons that offers the text of newspapers using synthetic speech. The commission may adopt rules to implement the program.

SECTION ____. Section 545.424, Transportation Code, is amended by amending Subsections (a) and (b) and adding Subsection (f) to read as follows:

(a) A person under 18 years of age, during the six-month period following issuance of an original Class A, B, or C driver's license to the person, may not operate a motor vehicle:

(1) after midnight and before 5 a.m. unless the operation of the vehicle is necessary for the operator to attend or participate in employment or a school-related activity or because of a medical emergency; ~~or~~

(2) with more than one passenger in the vehicle under 21 years of age who is not a family member; or

(3) while using a wireless communications device.

(b) A person under 17 years of age who holds a restricted motorcycle license or moped license, during the six-month period following the issuance of an original motorcycle license or moped license to the person, may not operate a motorcycle or moped:

(1) after midnight and before 5 a.m. unless:

(A) ~~(1)~~ the person is in sight of the person's parent or guardian; or

(B) ~~(2)~~ the operation of the vehicle is necessary for the operator to attend or participate in employment or a school-related activity or because of a medical emergency; or

(2) while using a wireless communications device.

(f) The Public Utility Commission of Texas has jurisdiction to adopt, consistent with federal law, and shall adopt, rules defining "wireless communications device" for the purposes of this section.

SECTION __. Before implementing a new wholesale transmission and distribution market design, the Public Utility Commission of Texas shall provide to the Senate Committee on Business and Commerce and the House Committee on Regulated Industries a report that contains:

(1) an executive summary and detailed description of the changes in the wholesale transmission and distribution market that the commission has ordered, including the effect the new market design is anticipated to have on local congestion costs;

(2) a list of entities, associations, and groups that have submitted comments to the commission on the new market design, classified by whether the comments indicated support for or opposition to the new market design;

(3) a comparison of the new market design to any similar market design adopted in any other state;

(4) a timeline for the implementation of the new market design, including estimated costs of implementation;

(5) the estimated increases in wholesale and retail electricity prices that will be caused in each county in this state by the new market design, projected over the first five years after the date the new design will be implemented; and

(6) the names, business addresses, and telephone numbers of the members of the Texas Nodal Team and of any other quasi-official working group that recommends to the commission the adoption of the new market design.

CSSB 408 - POINT OF ORDER

Representative Talton raised a point of order against further consideration of **CSSB 408** under Rule 4, Section 32 of the House Rules on the grounds that the bill analysis is insufficient.

LEAVE OF ABSENCE GRANTED

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

Pitts on motion of Solomons.

FIVE DAY POSTING RULE SUSPENDED

Representative Madden moved to suspend the five day posting rule to allow the Committee on Corrections to consider **SB 756** and **SB 769** upon final adjournment/recess tomorrow in E2.016.

The motion prevailed.

COMMITTEE MEETING ANNOUNCEMENTS

The following committee meetings were announced:

Criminal Jurisprudence, upon lunch recess today, Desk 59, for a formal meeting, to consider **SB 1426** and pending business.

Urban Affairs, upon lunch recess today, Desk 48, for a formal meeting, to consider **HCR 7**, **SB 356**, **SB 706**, **SB 787**, **SB 1341**, **SB 1821**, and **SB 1841**.

Public Education, upon lunch recess today, Desk 27, for a formal meeting, to consider **SB 42**, **SB 188**, **SB 189**, **SB 190**, **SB 387**, **SB 422**, **SB 426**, **SB 483**, and **SB 1395**.

Environmental Regulation will reconvene upon lunch recess.

Corrections, upon final adjournment/recess tomorrow, E2.016, for a public hearing, to consider **SB 756** and **SB 769**.

Judiciary, upon lunch recess today, Desk 70, for a formal meeting, to consider pending business.

Licensing and Administrative Procedures, upon lunch recess today, Desk 99, for a formal meeting, to consider **SB 707**, **SB 918**, **SB 1596**, **SB 1692**, and **SCR 36**.

Border and International Affairs, upon final adjournment today, Desk 75, for a formal meeting, to consider **SB 827** and pending business.

State Affairs, upon lunch recess today, Desk 9, for a formal meeting, to consider previously posted bills.

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

RECESS

At 11:39 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.

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. 23).

MESSAGE FROM THE SENATE

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

HR 1287 - ADOPTED

(by Craddick)

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

The motion prevailed.

The following resolution was laid before the house:

HR 1287, Honoring State Representative Sid Miller on winning the United States Calf Roping Association World Championship and setting a world record.

HR 1287 was read and was adopted.

On motion of Representative Callegari, the names of all the members of the house were added to **HR 1287** as signers thereof.

HR 1823 - ADOPTED
(by Rose)

Representative Rose moved to suspend all necessary rules to take up and consider at this time **HR 1823**.

The motion prevailed.

The following resolution was laid before the house:

HR 1823, Honoring Dr. Ian Hancock of The University of Texas at Austin for his work as an educator, scholar, and human rights advocate.

HR 1823 was read and was adopted.

(Van Arsdale in the chair)

HR 1817 - ADOPTED
(by Hardcastle)

Representative Hardcastle moved to suspend all necessary rules to take up and consider at this time **HR 1817**.

The motion prevailed.

The following resolution was laid before the house:

HR 1817, In memory of Dr. Gordon Spillman Yeargan, Jr., of Gainesville.

HR 1817 was unanimously adopted by a rising vote.

CSSB 408 - (pending business)

(Speaker in the chair)

A point of order under Rule 4, Section 32 was pending on **CSSB 408** prior to lunch recess.

The speaker sustained the point of order.

The ruling precluded further consideration of **CSSB 408**.

COMMITTEE GRANTED PERMISSION TO MEET

Representative J. Keffer requested permission for the conference committee on **HB 3** to meet while the house is in session for the remainder of the session.

Permission to meet was granted.

GENERAL STATE CALENDAR
SENATE BILLS
THIRD READING

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

SB 56 ON THIRD READING
(Reyna - House Sponsor)

SB 56, A bill to be entitled An Act relating to requiring notice before the amount of bail set in certain cases is reduced.

SB 56 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 121 ON THIRD READING
(Gattis - House Sponsor)

SB 121, A bill to be entitled An Act relating to a requestor's right of access to investment information of governmental bodies.

A record vote was requested.

SB 121 was passed by (Record 700): 131 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen, A.; Allen, R.; Alonzo; Anchia; Anderson; Bailey; Baxter; Berman; Blake; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Campbell; Casteel; Chavez; Chisum; Coleman; Cook, B.; Cook, R.; Crownover; Davis, J.; Davis, Y.; Dawson; Delisi; Denny; Deshotel; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; Escobar; Farabee; Farrar; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzalez Toureilles; Goodman; Goolsby; Griggs; Guillen; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Herrero; Hill; Hochberg; Homer; Hope; Hopson; Howard; Hughes; Hunter; Hupp; Isett; Jones, D.; Jones, J.; Keel; Keffer, B.; Keffer, J.; King, P.; Krusee; Kuempel; Laney; Laubenberg; Leibowitz; Luna; Madden; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, P.; Morrison; Mowery; Naishtat; Nixon; Noriega, M.; Olivo; Orr; Otto; Paxton; Peña; Phillips; Pickett; Puente; Quintanilla; Raymond; Riddle; 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; Woolley; Zedler.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Hodge; Oliveira.

Absent, Excused, Committee Meeting — Kolkhorst; Pitts.

Absent — Castro; Corte; Crabb; Driver; Flores; Gonzales; Grusendorf; Hilderbran; Jackson; King, T.; Reyna; Ritter; Talton.

STATEMENTS OF VOTE

When Record No. 700 was taken, I was in the house but away from my desk. I would have voted yes.

Castro

When Record No. 700 was taken, I was in the house but away from my desk. I would have voted yes.

Gonzales

When Record No. 700 was taken, I was in the house but away from my desk. I would have voted yes.

Hilderbran

When Record No. 700 was taken, I was in the house but away from my desk. I would have voted yes.

T. King

COMMITTEE MEETING ANNOUNCEMENT

The following committee meeting was announced:

Conference Committee on **HB 3**, 4 p.m. today, E1.030, to consider **HB 3**.

SB 149 ON THIRD READING **(Giddings - House Sponsor)**

SB 149, A bill to be entitled An Act relating to the recording of certain aircraft repair and maintenance liens; providing a criminal penalty.

A record vote was requested.

SB 149 was passed by (Record 701): 142 Yeas, 0 Nays, 1 Present, not voting.

Yeas — 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; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goodman; Goolsby; Griggs; Grusendorf; Guillen; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Herrero; Hilderbran; Hill; Hochberg; Homer; Hope; Hopson; Howard; Hughes; Hunter; Hupp; Isett; Jackson; Jones, D.; Jones, J.; Keel; Keffer, B.; Keffer, J.; King, P.; King, T.; Krusee; Kuempel; Laney; Laubenberg; Leibowitz; Luna; Madden; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, P.; Morrison; Mowery; Naishtat; Nixon; Noriega, M.; Olivo; Orr; Otto; Paxton; Peña; Phillips; Pickett; Puente; Quintanilla; Raymond; Reyna; Riddle; Ritter; Rodriguez; Rose; Seaman; Smith, T.; Smith, W.; Smithee; Solis; Solomons; Strama; Swinford; Talton; Taylor; Thompson; Turner; Uresti; Van Arsdale; Veasey; Villarreal; Vo; West; Wong; Woolley; Zedler.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Hodge; Oliveira.

Absent, Excused, Committee Meeting — Kolkhorst; Pitts.

Absent — Straus; Truitt.

STATEMENT OF VOTE

When Record No. 701 was taken, I was in the house but away from my desk. I would have voted yes.

Truitt

**SB 316 ON THIRD READING
(Solis - House Sponsor)**

SB 316, A bill to be entitled An Act relating to information provided to parents of newborn children.

SB 316 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 335 ON THIRD READING
(Hartnett - House Sponsor)**

SB 335, A bill to be entitled An Act relating to the recording of electronic documents.

Representative Hughes moved to postpone consideration of **SB 335** until 9 a.m. tomorrow.

The motion prevailed.

**SB 485 ON THIRD READING
(Bonnen - House Sponsor)**

SB 485, A bill to be entitled An Act relating to the regulation of underground and aboveground storage tanks.

Amendment No. 1

Representative Farabee offered the following amendment to **SB 485**:

Amend **SB 485** (House committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering the subsequent SECTIONS accordingly:

SECTION __. Subsection (b), Section 26.35731, Water Code, is amended to read as follows:

(b) The commission may postpone considering, processing, or paying ~~[not consider, process, or pay]~~ a claim for reimbursement from the petroleum storage tank remediation account for corrective action work begun without prior commission approval after September 1, 1993, that is filed with the commission before January 1, 2005 ~~[and without prior commission approval until all claims for reimbursement for corrective action work preapproved by the commission have been considered, processed, and paid].~~

Amendment No. 1 was adopted.

SB 485, 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: A. Allen, Herrero, and Leibowitz recorded voting no.)

SB 522 ON THIRD READING
(Eiland - House Sponsor)

SB 522, A bill to be entitled An Act relating to the Texas Emergency Services Retirement System; providing an administrative penalty.

SB 522 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 1311 ON THIRD READING
(Hilderbran - House Sponsor)

SB 1311, A bill to be entitled An Act relating to the establishment of an off-highway vehicle trail and recreational area program; providing a penalty.

SB 1311 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.)

(Taylor in the chair)

SB 810 ON THIRD READING
(Flores and Homer - House Sponsors)

SB 810, A bill to be entitled An Act relating to the regulation of the sale and inspection of real estate.

Amendment No. 1

Representative Pickett offered the following amendment to **SB 810**:

Amend Floor Amendment No. 1 by Pickett to **SB 810** (House committee printing) as follows:

(1) Page 1, Line 12, strike "and".

(2) Page 1, Line 16, before the "." add "; and (3) shall, at a minimum, answer the party's questions and present any offer to or from the party".

Amendment No. 1 was adopted.

Amendment No. 2

Representative Keel offered the following amendment to **SB 810**:

Amend **SB 810** on third reading in SECTION 5.014, Property Code, as added by second reading amendment No. 2 (page 1, line 6 of amendment), by striking "real property" and substituting "real property that is a condominium subject to Chapter 81 or Chapter 82".

Amendment No. 2 was adopted.

SB 810, 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: Harper-Brown recorded voting no.)

SB 334 ON THIRD READING
(B. Keffer - House Sponsor)

SB 334, A bill to be entitled An Act relating to the remedy provided for failure to disclose certain information in certain residential construction transactions.

Amendment No. 1

Representative B. Keffer offered the following amendment to **SB 334**:

Amend **SB 334** on third reading by striking SECTION 3 of the bill and substituting the following:

SECTION 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2005.

Amendment No. 1 was adopted.

SB 334 - STATEMENT OF LEGISLATIVE INTENT

REPRESENTATIVE SOLOMONS: I would like to speak for the bill and answer some questions from Mr. Keffer for purposes of legislative intent.

REPRESENTATIVE B. KEFFER: Mr. Solomons, is it your understanding that this bill clarifies your intent as the author of the bill last session creating the Texas Residential Construction Commission?

SOLOMONS: Yes, this bill's purpose is to remove any doubt or confusion regarding the notice provision that is to be included in every written contract that is subject to this Act.

B. KEFFER: Was it your intent last session to create a separate and independent cause of action for failing to include this notice in a written contract, where there is no allegation of any injury to the claimant?

SOLOMONS: Absolutely not. I included this notice requirement so consumers would know how to pursue a claim under this Act. And I provided for a \$500 penalty for failure to include this notice in a written contract as an incentive to providers of construction services and products. But that penalty would only be in addition to any damages recoverable by a consumer for an injury resulting from a complaint relating to the services or materials that were provided. It was never intended to create a cause of action just for failing to provide the required notice without any separate and independent allegation of an actionable injury.

B. KEFFER: Does this bill clarify your original legislative intent on this issue?

SOLOMONS: Yes. I believe it does.

REMARKS ORDERED PRINTED

Representative B. Keffer moved to print remarks between Representative Solomons and Representative B. Keffer.

The motion prevailed.

SB 334 - STATEMENT OF LEGISLATIVE INTENT

REPRESENTATIVE EILAND: I understand, Mr. Solomons, what you just said. You were the author of this bill last session, correct?

REPRESENTATIVE SOLOMONS: Yes.

EILAND: And you can at anytime, basically, set forth your intent as author of a bill, this bill, or any bill?

SOLOMONS: Right. Yes.

EILAND: You can do it by letter, by affidavit, and that is sometimes done?

SOLOMONS: Yes.

EILAND: However, you also know that one legislature cannot bind another legislature in the future?

SOLOMONS: Absolutely.

EILAND: And, therefore, one legislature cannot go back and state the intent of a previous legislature?

SOLOMONS: Absolutely. However, since I was the author of the bill, I think I can basically tell this body what my intent was at the time this was done so that it can be in the record.

EILAND: Sure, and that has the same basic effect as if you put it in an affidavit?

SOLOMONS: Yes, absolutely, and I offered to do that as well, but we can do it this way so maybe I don't have to do an affidavit.

EILAND: Right, so my only point is, your statement of what your intent was does not state what the intent of the previous legislature was, or was not.

SOLOMONS: Not necessarily the entire legislature, but as the person who authored the bill and came up with it, I am just telling you what my intent was.

EILAND: Fair enough, which may not be the same as mine?

SOLOMONS: You may not have understood it. I don't know.

EILAND: Right.

REMARKS ORDERED PRINTED

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

The motion prevailed.

SB 334, 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.) (The vote was reconsidered later today, and **SB 334**, as amended, was passed by Record No. 703.)

GENERAL STATE CALENDAR
SENATE BILLS
SECOND READING

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

SB 637 ON SECOND READING
(Hamric - House Sponsor)

SB 637, A bill to be entitled An Act relating to the precedence of certain county highway access rules and ordinances over highway access management orders of the Texas Transportation Commission.

A record vote was requested.

SB 637 was passed to third reading by (Record 702): 139 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen, R.; Alonzo; Anchia; Anderson; Bailey; Baxter; Berman; Blake; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Campbell; 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; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Tourelles; Goodman; Goolsby; Griggs; Grusendorf; Guillen; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Herrero; Hilderbran; Hill; Hochberg; Homer; Hopson; Howard; Hughes; Hunter; Hupp; Isett; Jackson; Jones, D.; Jones, J.; Keel; Keffer, B.; Keffer, J.; King, P.; King, T.; Krusee; Kuempel; Laney; Laubenberg; Leibowitz; Luna; Madden; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, P.; Morrison; Mowery; Naishtat; Nixon; Noriega, M.; Olivo; Orr; Otto; Paxton; Peña; Phillips; Pickett; Puente; Quintanilla; Raymond; Reyna; Riddle; Ritter; Rodriguez; Rose; Seaman; Smith, T.; Smith, W.; Smithee; Solis; Solomons; Strama; Straus; Swinford; Talton; Thompson; Truitt; Turner; Uresti; Van Arsdale; Veasey; Villarreal; Vo; West; Woolley; Zedler.

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

Absent, Excused — Hodge; Oliveira.

Absent, Excused, Committee Meeting — Kolkhorst; Pitts.

Absent — Allen, A.; Casteel; Hope; Wong.

STATEMENTS OF VOTE

When Record No. 702 was taken, my vote failed to register. I would have voted yes.

A. Allen

When Record No. 702 was taken, my vote failed to register. I would have voted yes.

Casteel

SB 334 - VOTE RECONSIDERED

Representative B. Keffer moved to reconsider the vote by which **SB 334** was passed.

The motion to reconsider prevailed.

SB 334 ON THIRD READING (B. Keffer - House Sponsor)

SB 334, A bill to be entitled An Act relating to the remedy provided for failure to disclose certain information in certain residential construction transactions.

A record vote was requested.

SB 334, as amended, was passed by (Record 703): 105 Yeas, 36 Nays, 2 Present, not voting.

Yeas — Allen, R.; Anderson; Baxter; Berman; Blake; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Callegari; Campbell; Casteel; Chisum; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Dawson; Delisi; Denny; Deshotel; Driver; Dunnam; Eiland; Eissler; Elkins; Escobar; Farabee; Flores; Flynn; Gallego; Gattis; Geren; Goodman; Goolsby; Griggs; Grusendorf; Guillen; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Hilderbran; Hill; Hochberg; Homer; Hope; Hopson; Howard; Hunter; Hupp; Isett; Jackson; Jones, D.; Keffer, B.; Keffer, J.; King, P.; King, T.; Krusee; Kuempel; Laney; Laubenberg; Madden; Martinez Fischer; McCall; McReynolds; Menendez; Merritt; Miller; Moreno, P.; Morrison; Mowery; Nixon; Orr; Otto; Paxton; Peña; Phillips; Pickett; Quintanilla; Raymond; Reyna; Riddle; Ritter; Rose; Seaman; Smith, T.; Smith, W.; Strama; Straus; Swinford; Talton; Truitt; Van Arsdale; West; Wong; Woolley; Zedler.

Nays — Allen, A.; Alonzo; Anchia; Bailey; Burnam; Castro; Chavez; Davis, Y.; Dukes; Dutton; Edwards; Farrar; Frost; Giddings; Gonzales; Gonzalez Toureilles; Herrero; Hughes; Jones, J.; Keel; Leibowitz; Luna; Martinez; McClendon; Naishtat; Noriega, M.; Olivo; Puente; Rodriguez; Smithee; Solis; Thompson; Turner; Uresti; Veasey; Vo.

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

Absent, Excused — Hodge; Oliveira.

Absent, Excused, Committee Meeting — Kolkhorst; Pitts.

Absent — Solomons; Villarreal.

STATEMENT OF VOTE

I was shown voting yes on Record No. 703. I intended to vote no.

Hilderbran

GENERAL STATE CALENDAR (consideration continued)

SB 1331 ON SECOND READING (Denny and Geren - House Sponsors)

SB 1331, A bill to be entitled An Act relating to certain temporary wine and beer retailer's permits.

SB 1331 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.)

SB 1091 ON SECOND READING (Miller - House Sponsor)

SB 1091, A bill to be entitled An Act relating to noxious and invasive plants; providing a criminal penalty.

Representative Miller moved to postpone consideration of **SB 1091** until 10 a.m. July 4.

The motion prevailed.

BILLS AND RESOLUTIONS SIGNED BY THE SPEAKER

Notice was given at this time that the speaker had signed bills and resolutions in the presence of the house (see the addendum to the daily journal, Signed by the Speaker, House List No. 45).

SB 1137 ON SECOND READING (Swinford - House Sponsor)

SB 1137, A bill to be entitled An Act relating to the development of the wine industry and other businesses related to agriculture or tourism in this state.

Amendment No. 1

Representative Howard offered the following amendment to **SB 1137**:

Amend **SB 1137** by striking SECTION 3 of the bill (page 6, line 21, through page 7, line 7, house committee report) and renumbering SECTIONS of the bill appropriately.

Amendment No. 1 was adopted.

Amendment No. 2

Representative Isett offered the following amendment to **SB 1137**:

Add the following appropriately numbered section:

SECTION __. Subsection (c), Section 45.03, Alcoholic Beverage Code, is amended to read as follows:

(c) Except as provided by this subsection, a [A] storage permit may not be issued for a location outside the county in which the permittee's business is located. Subject to Section 45.04, the holder of a winery permit may obtain a storage permit for a location inside or outside the county in which the permit holder's business is located.

Amendment No. 2 was adopted.

Amendment No. 3

Representative Laubenberg offered the following amendment to **SB 1137**:

Amend **SB 1137** in SECTION 4 of the bill, in amended Section 16.011, Alcoholic Beverage Code (House committee printing, page 7, line 17), by striking "75" and substituting "50 [~~75~~"]".

Amendment No. 3 failed of adoption.

SB 1137, as amended, 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: Flynn recorded voting no.)

SB 1339 ON SECOND READING (Straus - House Sponsor)

SB 1339, A bill to be entitled An Act relating to the limitation on the sales and use tax rate of a political subdivision in an advanced transportation district.

Amendment No. 1

Representative Puente offered the following amendment to **SB 1339**:

Amend **SB 1339** in SECTION 1 of the bill, as follows:

(1) In amended Subsection (a), Section 451.705, Transportation Code strike "voters of a municipality" (page 1, line 9, house committee printing) and substitute "voters of another municipality".

(2) In amended Subsection (a), Section 451.705, Transportation Code, strike "the governing body of the municipality" (page 1, lines 11-12, house committee printing) and substitute "the governing body of the other municipality".

Amendment No. 1 was adopted.

SB 1339, as amended, 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.)

CSSB 1354 ON SECOND READING
(J. Keffer - House Sponsor)

CSSB 1354, A bill to be entitled An Act 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.

Amendment No. 1

Representative Burnam offered the following amendment to **CSSB 1354**:

Amend **CSSB 1354** (House committee printing) in SECTION 2 of the bill, in proposed Section 26.552, Water Code, by striking Subsection (c) of that section (page 4, line 23, through page 5, line 9).

Representative J. Keffer moved to table Amendment No. 1.

The motion to table prevailed.

(Speaker in the chair)

Amendment No. 2

Representative Burnam offered the following amendment to **CSSB 1354**:

Amend **CSSB 1354** (House committee printing) in SECTION 2 of the bill, in proposed Section 26.552, Water Code, as follows:

(1) In Subdivision (2), Subsection (c), of that section (page 5, line 3), strike "or on contiguous property;" and substitute "; or".

(2) Strike Subdivision (3), Subsection (c), of that section (page 5, lines 4-7).

(3) In Subsection (c) of that section (page 5, line 8), strike "(4)" and substitute "(3)".

Representative J. Keffer moved to table Amendment No. 2.

A record vote was requested.

The motion to table prevailed by (Record 704): 99 Yeas, 35 Nays, 1 Present, not voting. (The vote was reconsidered later today, and Amendment No. 2 was adopted.)

Yeas — Allen, R.; Anderson; Baxter; Berman; Blake; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Campbell; Casteel; Castro; Chavez; Chisum; Cook, B.; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Dawson; Delisi; Denny; Driver; Dukes; Dutton; Eissler; Elkins; Farabee; Flores; Flynn; Geren; Goolsby; Griggs; Grusendorf; Guillen; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Hilderbran; Hill; Homer; Hope; Hopson; Howard; Hunter; Hupp; Isett; Jones, D.; Keel; Keffer, B.; Keffer, J.; King, P.; King, T.; Krusee; Kuempel; Laney; Laubenberg; Luna; Madden; McCall; McClendon; Merritt; Miller; Morrison; Nixon; Orr; Otto; Paxton; Peña; Phillips; Pickett; Puente; Raymond; Reyna; Riddle; Ritter; Rose; Seaman; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Straus; Swinford; Talton; Taylor; Truitt; Uresti; Van Arsdale; West; Wong; Woolley.

Nays — Allen, A.; Alonzo; Bailey; Burnam; Coleman; Davis, Y.; Deshotel; Dunnam; Edwards; Eiland; Escobar; Farrar; Frost; Gonzales; Gonzalez Tourelles; Herrero; Hochberg; Jackson; Jones, J.; Leibowitz; Martinez; Martinez Fischer; Menendez; Moreno, P.; Naishtat; Noriega, M.; Olivo; Quintanilla; Rodriguez; Solis; Thompson; Turner; Veasey; Vo; Zedler.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Hodge; Oliveira.

Absent, Excused, Committee Meeting — Kolkhorst; Pitts.

Absent — Anchia; Callegari; Gallego; Gattis; Giddings; Goodman; Hughes; McReynolds; Mowery; Villarreal.

STATEMENT OF VOTE

When Record No. 704 was taken, I was in the house but away from my desk. I would have voted yes.

Gallego

Amendment No. 3

Representative Dutton offered the following amendment to **CSSB 1354**:

Amend **CSSB 1354** (House committee printing) in SECTION 2 of the bill, in proposed Section 26.552, Water Code, by adding Subsection (d) (page 5, between lines 9 and 10) to read as follows:

(d) This subchapter does not apply to a person who:

(1) before August 31, 2005, executed a contract for the construction or operation of a quarry or associated processing plant or began construction or operation of a quarry or associated processing plant; and

(2) has a compliance history that would not otherwise prevent the issuance of any environmental permit.

Representative J. Keffer moved to table Amendment No. 3.

A record vote was requested.

The motion to table was lost by (Record 705): 47 Yeas, 92 Nays, 1 Present, not voting.

Yeas — Berman; Bohac; Burnam; Casteel; Chisum; Coleman; Dawson; Denny; Eissler; Farabee; Flores; Geren; Haggerty; Hegar; Hill; Hochberg; Homer; Howard; Hunter; Hupp; Keffer, B.; Keffer, J.; King, P.; King, T.; Laney; Laubenberg; Madden; McCall; McClendon; Mowery; Naishtat; Nixon; Otto; Paxton; Phillips; Reyna; Riddle; Rodriguez; Seaman; Smith, W.; Solomons; Strama; Truitt; Van Arsdale; Villarreal; Wong; Woolley.

Nays — Allen, A.; Allen, R.; Alonzo; Anchia; Anderson; Bailey; Baxter; Blake; Bonnen; Branch; Brown, B.; Brown, F.; Callegari; Campbell; Castro; Chavez; Cook, B.; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Davis, Y.; Delisi; Deshotel; Dukes; Dunnam; Dutton; Edwards; Eiland; Elkins; Escobar; Farrar; Flynn; Frost; Gallego; Gonzales; Gonzalez Tourelles; Goolsby; Griggs; Grusendorf; Guillen; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett;

Herrero; Hilderbran; Hope; Hopson; Hughes; Isett; Jackson; Jones, D.; Jones, J.; Keel; Krusee; Kuempel; Leibowitz; Luna; Martinez; Martinez Fischer; McReynolds; Menendez; Merritt; Miller; Moreno, P.; Morrison; Noriega, M.; Olivo; Orr; Peña; Pickett; Puente; Quintanilla; Raymond; Ritter; Rose; Smith, T.; Smithee; Solis; Straus; Swinford; Talton; Taylor; Thompson; Turner; Uresti; Veasey; Vo; Zedler.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Hodge; Oliveira.

Absent, Excused, Committee Meeting — Kolkhorst; Pitts.

Absent — Driver; Gattis; Giddings; Goodman; West.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 705. I intended to vote no.

Casteel

I was shown voting yes on Record No. 705. I intended to vote no.

McCall

Amendment No. 3 was withdrawn.

Representative J. Keffer moved to postpone consideration of **CSSB 1354** until 4 p.m. today.

The motion prevailed.

(Morrison in the chair)

CSSB 907 ON SECOND READING

(Woolley - House Sponsor)

CSSB 907, A bill to be entitled An Act relating to authority of a peace officer to make an arrest outside of the officer's jurisdiction or to seize property while making the arrest.

CSSB 907 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.)

SB 1257 ON SECOND READING

(Callegari - House Sponsor)

SB 1257, A bill to be entitled An Act relating to the operation of a motor vehicle by a person who holds a driver's license or a commercial driver's license.

Amendment No. 1

Representative Menendez offered the following amendment to **SB 1257**:

Amend **SB 1257** by adding the following appropriately numbered section to the bill and renumbering existing sections accordingly:

SECTION _____. Sections 545.424(a) and (b), Transportation Code, are amended to read as follows:

(a) A person under 18 years of age, during the six-month period following issuance of an original Class A, B, or C driver's license to the person, may not operate a motor vehicle:

(1) after midnight and before 5 a.m. unless the operation of the vehicle is necessary for the operator to attend or participate in employment or a school-related activity or because of a medical emergency; ~~or~~

(2) with more than one passenger in the vehicle under 21 years of age who is not a family member; or

(3) while using a wireless communications device.

(b) A person under 17 years of age who holds a restricted motorcycle license or moped license, during the six-month period following the issuance of an original motorcycle license or moped license to the person, may not operate a motorcycle or moped:

(1) after midnight and before 5 a.m. unless:

(A) ~~(+)~~ the person is in sight of the person's parent or guardian; or

(B) ~~(=)~~ the operation of the vehicle is necessary for the operator to attend or participate in employment or a school-related activity or because of a medical emergency; or

(2) while using a wireless communications device.

Amendment No. 1 was adopted. (R. Cook, Harper-Brown, and Keel recorded voting no.)

Representative Callegari moved to postpone consideration of **SB 1257** until 4 p.m. today.

The motion prevailed.

SB 1850 ON SECOND READING

(Geren, Farrar, Goolsby, Thompson, J. Moreno, et al. - House Sponsors)

SB 1850, A bill to be entitled An Act relating to the regulation of certain businesses that sell beer or beer and wine in certain counties; providing an administrative penalty.

Amendment No. 1

Representative Geren offered the following amendment to **SB 1850**:

Amend **SB 1850** (House committee report) as follows:

(1) In SECTION 1 of the bill, in added Section 11.13(b), Alcoholic Beverage Code (page 1, line 19), between "permittee" and "may", insert ", as determined under Chapter 573, Government Code.".

(2) In SECTION 1 of the bill, in added Section 11.13(b), Alcoholic Beverage Code (page 1, lines 22 and 23), strike "whose current licensee or permittee is charged with a violation of this code", and substitute "against whose current licensee or permittee a charge of a violation of this code is pending".

(3) In SECTION 1 of the bill, in added Section 11.13(c), Alcoholic Beverage Code (page 2, line 2), strike "licensee or permittee whose license was canceled", and substitute "licensee or permittee, as determined under Chapter 573, Government Code, whose license or permit was canceled".

(4) In SECTION 2 of the bill, in added Section 11.321, Alcoholic Beverage Code (page 2, line 19), strike "a permittee that makes" and substitute "a licensee or permittee who makes".

(5) In SECTION 3 of the bill, in added Section 11.61(b-1), Alcoholic Beverage Code (page 3, line 14), strike "Before the suspended license may be reinstated" and substitute "Before the suspended license or permit may be reinstated".

(6) In SECTION 3 of the bill, in added Section 11.61(b-1), Alcoholic Beverage Code (page 3, lines 19 and 20), strike "Before the suspended license may be reinstated" and substitute "Before the suspended license or permit may be reinstated".

(7) In SECTION 3 of the bill, in added Section 11.61(i), Alcoholic Beverage Code (page 4, line 5), after the period, insert the following:

This subsection applies only to a hearing in connection with a wine and beer retailer's permit, other than a permit held with a food and beverage certificate, for premises located in a county with a population of 1.4 million or more.

(8) In SECTION 8 of the bill (page 5, line 15), strike "as added by this Act, applies" and substitute "and Subsection (k), Section 61.71, Alcoholic Beverage Code, as added by this Act, apply".

(9) Insert the following appropriately numbered SECTIONS and renumber SECTIONS of the bill appropriately:

SECTION ____. Subchapter A, Chapter 61, Alcoholic Beverage Code, is amended by adding Section 61.15 to read as follows:

Sec. 61.15. CERTAIN APPLICATIONS PROHIBITED. Section 11.13 applies to an application for a license under this subtitle.

SECTION ____. Subchapter B, Chapter 61, Alcoholic Beverage Code, is amended by adding Section 61.52 to read as follows:

Sec. 61.52. ADMINISTRATIVE PENALTY IN CERTAIN COUNTIES. Section 11.321 applies to an original or renewal application for a retail dealer's on-premise license, other than a license with a food and beverage certificate, for an establishment located in a county with a population of 1.4 million or more.

SECTION ____. Section 61.71, Alcoholic Beverage Code, is amended by adding Subsections (j) and (k) to read as follows:

(j) Section 11.61(b-1) applies to a retail dealer's on-premise license, other than a license held with a food and beverage certificate, for premises located in a county with a population of 1.4 million or more.

(k) A hearing under Subsection (a) must be concluded not later than the 60th day after the date notice is provided under that subsection. The provisions of this subsection may not be waived by the license holder or the commission. This subsection applies only to a hearing in connection with a retail dealer's on-premise license, other than a license held with a food and beverage certificate, for premises located in a county with a population of 1.4 million or more.

Amendment No. 1 was adopted.

SB 1850, as amended, 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.)

SB 164 ON SECOND READING
(Hunter - House Sponsor)

SB 164, A bill to be entitled An Act relating to the statutory requirements for the term and residency of the Commissioner of the General Land Office.

SB 164 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.)

SB 166 ON SECOND READING
(Keel - House Sponsor)

SB 166, A bill to be entitled An Act relating to the effect of an expunction.

Amendment No. 1

Representative Truitt offered the following amendment to **SB 166**:

Amend **SB 166** (House committee printing) by adding the following appropriately numbered SECTIONS to the bill and renumbering existing SECTIONS of the bill accordingly:

SECTION _____. Article 55.01, Code of Criminal Procedure, is amended by adding Subsection (a-1) to read as follows:

(a-1) Regardless of whether the person is convicted of or receives deferred disposition for the misdemeanor offense, a person not otherwise entitled to expunction under Subsection (a) is entitled to have all records and files relating to the arrest of the person for the commission of a Class C misdemeanor expunged if the person:

(1) committed the Class C misdemeanor not less than two years before filing a petition for expunction with respect to the offense;

(2) after the date on which the Class C misdemeanor was committed, has not been convicted of or placed on deferred adjudication community supervision for any other offense higher than the grade of misdemeanor punishable by fine only; and

(3) is not subject to pending charges for any other offense at the time of filing the petition.

SECTION _____. Section 2(a), Article 55.02, Code of Criminal Procedure, as amended by Section 2, Chapter 339, and Section 2, Chapter 1236, Acts of the 78th Legislature, Regular Session, 2003, is reenacted and amended to read as follows:

(a) A person who is entitled to expunction of records and files under Article 55.01(a) or (a-1) or a person who is eligible for expunction of records and files under Article 55.01(b) may file an ex parte petition for expunction in a district court for the county in which:

- (1) the petitioner was arrested; or
- (2) the offense was alleged to have occurred.

SECTION _____. The change in law made by this Act in amending Article 55.01 and amending Section 2(a), Article 55.02, Code of Criminal Procedure, applies to a defendant seeking expunction of records relating to an arrest regardless of whether the arrest occurred before, on, or after the effective date of this Act.

Amendment No. 1 was adopted. (Harper-Brown and Phillips recorded voting no.)

Amendment No. 2

Representative Dutton offered the following amendment to **SB 166**:

Amend **SB 166** (house committee printing) by adding the following SECTIONS to the bill, appropriately numbered, and renumbering existing SECTIONS of the bill accordingly:

SECTION _____. Article 55.01(a), Code of Criminal Procedure, is amended to read as follows:

(a) A person who has been placed under a custodial or noncustodial arrest for commission of either a felony or misdemeanor is entitled to have all records and files relating to the arrest expunged if:

(1) the person is tried for the offense for which the person was arrested and is:

(A) acquitted by the trial court, except as provided by Subsection (c) [~~of this section~~]; or

(B) convicted and subsequently pardoned; or

(2) either [~~each~~] of the following conditions exists [~~exist~~]:

(A) an indictment, complaint, or information charging the person with commission of an offense [a felony] has not been presented against the person for an offense arising out of the transaction for which the person was arrested before the second anniversary of the date of the arrest; or

(B) [?] if an indictment, complaint, or information charging the person with commission of an offense [a felony] was presented, the indictment, complaint, or information has been dismissed or quashed [and:

[(i) the limitations period expired before the date on which a petition for expunction was filed under Article 55.02; or

[(ii) the court finds that the indictment or information was dismissed or quashed because the presentment had been made because of mistake, false information, or other similar reason indicating absence of probable cause at the time of the dismissal to believe the person committed the offense or because it was void;

[(B) the person has been released and the charge, if any, has not resulted in a final conviction and is no longer pending and there was no court ordered community supervision under Article 42.12 for any offense other than a Class C misdemeanor; and

[(C) the person has not been convicted of a felony in the five years preceding the date of the arrest].

SECTION _____. Section 1, Article 55.02, Code of Criminal Procedure, is amended to read as follows:

Sec. 1. (a) The ~~[At the request of the defendant and after notice to the state, the]~~ trial court ~~[presiding over the case in which the defendant was acquitted, if the trial court is a district court, or a district court in the county in which the trial court is located]~~ shall enter an order of expunction for a person entitled to expunction because:

(1) the person was acquitted;

(2) the person was pardoned; or

(3) the offense was dismissed ~~[under Article 55.01(a)(1)(A) not later than the 30th day after the date of the acquittal. Upon acquittal, the trial court shall advise the defendant of the right to expunction. The defendant shall provide to the district court all of the information required in a petition for expunction under Section 2(b). The attorney for the defendant in the case in which the defendant was acquitted, if the defendant was represented by counsel, or the attorney for the state, if the defendant was not represented by counsel, shall prepare the order for the court's signature].~~

(b) The attorney representing the state whose office would have prosecuted the offense shall bring a motion for expunction for a person who was arrested but against whom an indictment, complaint, or information is not filed before the second anniversary of the date of arrest.

(c) The court shall enter an order of expunction under this section not later than the 30th day after the date of acquittal, pardon, dismissal, or filing of the motion by the attorney representing the state. The court shall include in the order a listing of each official, agency, or other entity of this state or political subdivision of this state that there is reason to believe has any record or file that is subject to the order.

SECTION _____. Sections 3(a), (c), and (d), Article 55.02, Code of Criminal Procedure, are amended to read as follows:

(a) In an order of expunction issued under this article, the court shall require any state agency that sent information concerning the arrest to a central federal depository to request the depository to return all records and files subject to the order of expunction. The person who is the subject of an ~~[the]~~ expunction order under Section 2a, or an agency protesting the expunction, may appeal the court's decision in the same manner as in other civil cases.

(c) When the order of expunction is final, the clerk of the court shall send a certified copy of the order by certified mail, return receipt requested, to the Crime Records Service of the Department of Public Safety and by hand delivery or certified mail, return receipt requested, to each official or agency or other entity of this state or of any political subdivision of this state named in ~~[designated by the person who is the subject of]~~ the order. The clerk of the court must receive a receipt for each order delivered by hand under this subsection. The Department of Public Safety shall notify any central federal depository of criminal records by any means, including electronic transmission, of the order with an explanation of the effect of the order and a request that the depository, as appropriate, either:

(1) destroy or return to the court the records in possession of the depository that are subject to the order, including any information with respect to the order; or

(2) comply with Section 5(f) [~~of this article~~] pertaining to information contained in records and files of a person entitled to expunction under Article 55.01(d).

(d) All returned receipts received by the clerk from [~~notices of the hearing and~~] copies of the order shall be maintained in the file on the proceedings under this chapter.

SECTION _____. Section 4, Article 55.02, Code of Criminal Procedure, is amended to read as follows:

Sec. 4. (a) If the state establishes that the person who is the subject of an expunction order is still subject to conviction for an offense arising out of the transaction for which the person was arrested because the statute of limitations has not run and there is reasonable cause to believe that the state may proceed against the person for the offense, the court may provide in its order that the law enforcement agency and the prosecuting attorney responsible for investigating the offense may retain any records and files that are necessary to the investigation.

(b) In the case of a person who is the subject of an expunction order on the basis of an acquittal, the court may provide in the expunction order that the law enforcement agency and the prosecuting attorney retain records and files if:

(1) the records and files are necessary to conduct a subsequent investigation and prosecution of a person other than the person who is the subject of the expunction order; or

(2) the state establishes that the records and files are necessary for use in:

(A) another criminal case, including a prosecution, motion to adjudicate or revoke community supervision, parole revocation hearing, mandatory supervision revocation hearing, punishment hearing, or bond hearing; or

(B) a civil case, including a civil suit or suit for possession of or access to a child.

(c) [~~(b)~~] Unless the person who is the subject of the expunction order is again arrested for or charged with an offense arising out of the transaction for which the person was arrested or unless the court provides for the retention of records and files under Subsection (b), [~~(a) of this section, the provisions of~~] Articles 55.03 and 55.04 [~~of this code~~] apply to files and records retained under this section.

SECTION _____. Section 5(c), Article 55.02, Code of Criminal Procedure, is amended to read as follows:

(c) Except in the case of a person who is the subject of an expunction order based on an entitlement under Article 55.01(d), if an order of expunction is issued under this article, the court records concerning expunction proceedings are not open for inspection by anyone except the person who is the subject of the order unless the order permits retention of a record under Section 4(a) [~~4 of this article~~] and the person is again arrested for or charged with an offense arising out of the

transaction for which the person was arrested or unless the court provides for the retention of records and files under Section 4(b) [~~4(a) of this article~~]. The clerk of the court issuing the order shall obliterate all public references to the proceeding and maintain the files or other records in an area not open to inspection.

SECTION _____. Section 2, Article 55.02, Code of Criminal Procedure, and Articles 55.05 and 102.006, Code of Criminal Procedure, are repealed.

SECTION _____. (a) The changes in law made by this Act to Articles 55.01, 55.02, 55.05, and 102.006, Code of Criminal Procedure, apply only to the expunction of arrest records related to:

(1) a criminal offense for which an acquittal occurred on or after the effective date of this Act;

(2) a charge for an offense that was dismissed on or after the effective date of this Act; or

(3) an arrest made on or after the effective date of this Act.

(b) Expunction for an acquittal, dismissal, or arrest that occurred before the effective date of this Act is governed by the law in effect at that time, and the former law is continued in effect for that purpose.

Amendment No. 2 was withdrawn.

SB 166, as amended, 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.)

SB 363 ON SECOND READING
(Callegari - House Sponsor)

SB 363, A bill to be entitled An Act relating to the general powers, authority, and boundaries and to the directors of the West Harris County Regional Water Authority; providing penalties.

SB 363 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.)

CSSB 396 ON SECOND READING
(R. Allen - House Sponsor)

CSSB 396, A bill to be entitled An Act relating to the interagency exchange of information regarding certain offenders with special needs.

CSSB 396 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.)

SB 509 ON SECOND READING
(Geren - House Sponsor)

SB 509, A bill to be entitled An Act relating to the repeal of the restriction on the amount of money in the water infrastructure fund that may be used for certain purposes in a fiscal year.

SB 509 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.)

SB 517 ON SECOND READING
(Eiland - House Sponsor)

SB 517, A bill to be entitled An Act relating to studies or projects concerning coastal erosion that may be undertaken by the General Land Office in conjunction with qualified project partners.

SB 517 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: Luna recorded voting no.)

SB 651 ON SECOND READING
(Geren - House Sponsor)

SB 651, A bill to be entitled An Act relating to the University of North Texas Health Science Center at Fort Worth missing persons DNA database.

SB 651 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.)

CSSB 679 ON SECOND READING
(Keel - House Sponsor)

CSSB 679, A bill to be entitled An Act relating to the procedure for determining the incompetency of a defendant to stand trial.

CSSB 679 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.)

SB 736 ON SECOND READING
(W. Smith - House Sponsor)

SB 736, A bill to be entitled An Act relating to the authority of certain counties to apply a county fire code to certain buildings.

Amendment No. 1

Representative W. Smith offered the following amendment to **SB 736**:

Amend **SB 736**, on page 1, line 9, between "or" and "dwelling", by inserting "multi-family".

Amendment No. 1 was adopted.

SB 736, as amended, 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.)

LEAVE OF ABSENCE GRANTED

The following member was granted leave of absence temporarily for today to attend a meeting of the conference committee on **HB 3**:

Geren on motion of Homer.

SB 910 ON SECOND READING (Keel - House Sponsor)

SB 910, A bill to be entitled An Act relating to the repeal of certain obsolete laws defining and regulating nitrous oxide as a volatile chemical.

SB 910 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.)

CSSB 912 ON SECOND READING (R. Allen, Zedler, and Otto - House Sponsors)

CSSB 912, A bill to be entitled An Act relating to the civil commitment of sexually violent predators.

Amendment No. 1

Representative R. Allen offered the following amendment to **CSSB 912**:

Amend **CSSB 912** (House committee printing) by adding the following appropriately numbered SECTION to the bill and by renumbering existing SECTIONS of the bill accordingly:

SECTION _____. (a) The Council on Sex Offender Treatment shall study the ways in which sexually violent predators, as defined by Section 841.002, Health and Safety Code, and other persons who commit sexually violent offenses, as defined by Article 62.01, Code of Criminal Procedure, use the Internet to meet or otherwise establish contact with potential victims.

(b) Not later than September 1, 2006, the council shall report the results of the study to the criminal justice division of the governor's office and to the legislature and shall include with the report recommendations for ensuring the safety of residents of this state from sexually violent predators or offenders who use the Internet to facilitate the commission of sex offenses.

Amendment No. 1 was adopted.

CSSB 912, as amended, 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: Anderson recorded voting no.)

SB 1186 ON SECOND READING
(Guillen and M. Noriega - House Sponsors)

SB 1186, A bill to be entitled An Act 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 1186 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.)

SB 1465 ON SECOND READING
(Ritter - House Sponsor)

SB 1465, A bill to be entitled An Act relating to the use of certain electronically readable information on a driver's license or identification certificate to comply with certain alcohol and tobacco related laws; providing a penalty.

Amendment No. 1

Representative Ritter offered the following amendment to **SB 1465**:

Amend **SB 1465** (House committee report) as follows:

(1) In SECTION 1 of the bill, in added Subsection (c), Section 161.0825, Health and Safety Code (page 1, line 21), strike "comptroller or a law enforcement officer or agency" and substitute "comptroller, a law enforcement officer, or a law enforcement agency".

(2) In SECTION 3 of the bill, in added Subsection (d), Section 106.03, Alcoholic Beverage Code (page 3, line 6), strike "Section 190.61" and substitute "Section 109.61".

Amendment No. 1 was adopted.

Amendment No. 2

Representative Ritter offered the following amendment to **SB 1465**:

Amend **SB 1465** (House committee report) as follows:

(1) In SECTION 1 of the bill, in added Subsection (c), Section 161.0825, Health and Safety Code (page 1, line 21), strike "comptroller or a law enforcement officer or agency" and substitute "comptroller, a law enforcement officer, or a law enforcement agency".

(2) In SECTION 3 of the bill, in added Subsection (d), Section 106.03, Alcoholic Beverage Code (page 3, line 6), strike "Section 190.61" and substitute "Section 109.61".

Amendment No. 2 was withdrawn.

SB 1465, as amended, 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.)

SB 1791 ON SECOND READING
(Keel - House Sponsor)

SB 1791, A bill to be entitled An Act relating to the prosecution of the offense of capital murder.

SB 1791 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.)

SB 579 ON SECOND READING
(Corte - House Sponsor)

SB 579, A bill to be entitled An Act relating to the eligibility of children of certain military personnel to receive Texas B-On-time loans.

Representative Hilderbran moved to postpone consideration of **SB 579** until 9 a.m. tomorrow.

The motion prevailed.

POSTPONED BUSINESS

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

SB 1257 ON SECOND READING
(Callegari - House Sponsor)

SB 1257, A bill to be entitled An Act relating to the operation of a motor vehicle by a person who holds a driver's license or a commercial driver's license.

SB 1257 was read second time earlier today, amended, and was postponed until 4 p.m. today.

Amendment No. 1 - Motion to Reconsider

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

A record vote was requested.

The motion to reconsider was lost by (Record 706): 61 Yeas, 77 Nays, 2 Present, not voting.

Yeas — Allen, R.; Anderson; Baxter; Berman; Blake; Brown, B.; Brown, F.; Campbell; Chisum; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Davis, Y.; Denny; Deshotel; Driver; Eiland; Elkins; Flynn; Grusendorf; Hamric; Harper-Brown; Hegar; Hilderbran; Hill; Hope; Howard; Hughes; Hunter; Hupp; Jackson; Keel; Keffer, B.; Keffer, J.; King, P.; King, T.; Krusee; Laney;

Laubenberg; Luna; Madden; McCall; Miller; Mowery; Naishtat; Nixon; Otto; Paxton; Phillips; Reyna; Riddle; Ritter; Seaman; Smith, T.; Smithee; Swinford; Talton; Thompson; West.

Nays — Allen, A.; Alonzo; Anchia; Bailey; Bohac; Bonnen; Branch; Burnam; Callegari; Casteel; Castro; Chavez; Coleman; Cook, B.; Dawson; Delisi; Dukes; Dunnam; Dutton; Edwards; Eissler; Escobar; Farabee; Farrar; Flores; Frost; Gallego; Gattis; Gonzales; Gonzalez Tourelles; Goodman; Goolsby; Griggs; Haggerty; Hamilton; Hardcastle; Herrero; Hochberg; Homer; Hopson; Jones, D.; Jones, J.; Kuempel; Leibowitz; Martinez; Martinez Fischer; McClendon; McReynolds; Menendez; Merritt; Moreno, P.; Noriega, M.; Olivo; Orr; Peña; Pickett; Puente; Quintanilla; Raymond; Rodriguez; Rose; Smith, W.; Solis; Solomons; Strama; Straus; Taylor; Truitt; Turner; Uresti; Van Arsdale; Veasey; Villarreal; Vo; Wong; Woolley; Zedler.

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

Absent, Excused — Hodge; Oliveira.

Absent, Excused, Committee Meeting — Geren; Kolkhorst; Pitts.

Absent — Giddings; Guillen; Hartnett; Isett.

STATEMENT OF VOTE

When Record No. 706 was taken, my vote failed to register. I would have voted no.

Guillen

I was shown voting yes on Record No. 706. I intended to vote no.

Hope

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. 3 and 4).

SB 1257 - (consideration continued)

SB 1257, as amended, 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: Keel, Phillips, and Talton recorded voting no.)

CSSB 1354 ON SECOND READING

(J. Keffer - House Sponsor)

CSSB 1354, A bill to be entitled An Act 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.

CSSB 1354 was read second time earlier today, amendments were offered, and it was postponed until this time.

Amendment No. 2 - Vote Reconsidered

Representative Bonnen moved to reconsider the vote by which Amendment No. 2 was tabled.

The motion to reconsider prevailed.

Amendment No. 2 was adopted.

SB 1354, as amended, 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.)

(A. Allen in the chair)

(Geren now present)

HB 372 - MOTION TO CONCUR IN SENATE AMENDMENTS

Representative Jackson called up with senate amendments for consideration at this time,

HB 372, A bill to be entitled An Act relating to the required use of towing safety chains on certain vehicles.

Representative Jackson moved to concur in the senate amendments to **HB 372**.

(Anchia in the chair)

A record vote was requested.

The motion to concur in senate amendments was lost by (Record 707): 10 Yeas, 125 Nays, 1 Present, not voting.

Yeas — Anchia(C); Edwards; Escobar; Gonzales; Goolsby; Hill; Jackson; Laubenberg; Moreno, P.; Zedler.

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

Present, not voting — Mr. Speaker.

Absent, Excused — Hodge; Oliveira.

Absent, Excused, Committee Meeting — Kolkhorst; Pitts.

Absent — Bailey; Burnam; Davis, J.; Haggerty; Jones, J.; Miller; Noriega, M.; Seaman; Truitt.

STATEMENT OF VOTE

When Record No. 707 was taken, my vote failed to register. I would have voted no.

Truitt

HB 1540 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Bonnen called up with senate amendments for consideration at this time,

HB 1540, A bill to be entitled An Act relating to the regulation by the Texas Commission on Environmental Quality of the idling of a motor vehicle while the driver is using the vehicle's sleeper berth; providing a penalty.

Representative Bonnen moved to concur in the senate amendments to **HB 1540**.

The motion to concur in senate amendments prevailed. (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: Guillen recorded voting no.)

Senate Committee Substitute

CSHB 1540, A bill to be entitled An Act relating to the regulation by the Texas Commission on Environmental Quality of the idling of a motor vehicle while the driver is using the vehicle's sleeper berth; providing a penalty.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter B, Chapter 382, Health and Safety Code, is amended by adding Section 382.0191 to read as follows:

Sec. 382.0191. IDLING OF MOTOR VEHICLE WHILE USING SLEEPER BERTH. (a) In this section, "idling" means allowing an engine to run while the motor vehicle is not engaged in forward or reverse motion.

(b) The commission may not prohibit or limit the idling of a motor vehicle when idling is necessary to power a heater or air conditioner while a driver is using the vehicle's sleeper berth for a government-mandated rest period.

(c) No driver using the vehicle's sleeper berth may idle the vehicle in a school zone or within 1,000 feet of a public school during its hours of operation. An offense under this subsection shall be punishable by a fine not to exceed \$500.

(d) This section expires September 1, 2007.

SECTION 2. This Act takes effect September 1, 2005.

HB 1924 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Chavez called up with senate amendments for consideration at this time,

HB 1924, A bill to be entitled An Act relating to the certification of certain health organizations by the Texas State Board of Medical Examiners.

Representative Chavez moved to concur in the senate amendments to **HB 1924**.

The motion to concur in senate amendments prevailed. (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.)

Senate Committee Substitute

CSHB 1924, A bill to be entitled An Act relating to the certification of certain health organizations by the Texas State Board of Medical Examiners.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 162.001(c), Occupations Code, is amended to read as follows:

(c) The board shall certify a health organization to contract with or employ physicians licensed by the board if the organization:

(1) is:

(A) a nonprofit corporation under the Texas Non-Profit Corporation Act (Article 1396-1.01 et seq., Vernon's Texas Civil Statutes) and Section 501(c)(3), Internal Revenue Code of 1986 (26 U.S.C. Sec. 501(c)(3)); or

(B) a hospital district:

(i) recognized by a federal agency as a public entity for the purposes of receiving a grant related to a community or federally qualified health center described by Subdivision (2); and

(ii) located in a county that, according to the most recent federal decennial census, has a population of 650,000 or more and that borders the United Mexican States; and

(2) is organized and operated as:

(A) a migrant, community, or homeless health center under the authority of and in compliance with 42 U.S.C. Section 254b or 254c; or

(B) a federally qualified health center under 42 U.S.C. Section 1396d(1)(2)(B).

SECTION 2. This Act takes effect September 1, 2005.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **CSHB 1924** (Senate Committee Printing) by striking all below the enacting clause and substituting the following:

SECTION 1. Section 162.001, Occupations Code, is amended by adding Subsections (c-1), (c-2), and (c-3) to read as follows:

(c-1) The board shall certify a health organization to contract with or employ physicians licensed by the board if the organization:

(1) is a hospital district:

(A) recognized by a federal agency as a public entity eligible to receive a grant related to a community or federally qualified health center described by Subdivision (2); and

(B) located in a county that, according to the most recent federal decennial census, has a population of 650,000 or more and that borders the United Mexican States; and

(2) is organized and operated as:

(A) a migrant, community, or homeless health center under the authority of and in compliance with 42 U.S.C. Section 254b or 254c; or

(B) a federally qualified health center under 42 U.S.C. Section 1396d(1)(2)(B).

(c-2) This section applies to a hospital district described by Subsection (c-1) only in relation to the hospital district's operations as a community or federally qualified health center described by Subsection (c-1)(2).

(c-3) This subsection, Subsection (c-1), and Subsection (c-2) expire September 1, 2007.

SECTION 2. This Act takes effect September 1, 2005.

HB 769 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative W. Smith called up with senate amendments for consideration at this time,

HB 769, A bill to be entitled An Act relating to the deadline for evaluating and ranking competitive sealed proposals for certain construction services submitted to a navigation district or port authority.

Representative W. Smith moved to concur in the senate amendments to **HB 769**.

The motion to concur in senate amendments prevailed. (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.)

Senate Committee Substitute

CSHB 769, A bill to be entitled An Act relating to the deadline for evaluating and ranking competitive sealed proposals for certain construction services submitted to a navigation district or port authority.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 60.463, Water Code, is amended by adding Section (e-1) to read as follows:

(e-1) Notwithstanding Subsection (e), if the district demonstrates 45 days is not sufficient time for thorough evaluation, the district may specify in the request for competitive sealed proposals a deadline, not later than the 90th day after the date of opening the proposals, to evaluate and rank each proposal submitted in relation to the published selection criteria.

SECTION 2. Section 60.463(e-1), Water Code, as added by this Act, applies only to a request for proposals, bids, or qualifications published or distributed by a navigation district or port authority on or after the effective date of this Act. A request for proposals, bids, or qualifications published or distributed before the effective date of this Act is governed by the law in effect at the time the request was published or distributed, and the former law is continued in effect for that purpose.

SECTION 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2005.

**HB 1304 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Wong called up with senate amendments for consideration at this time,

HB 1304, A bill to be entitled An Act relating to sanitation requirements for certain barbering and cosmetology services.

Representative Wong moved to concur in the senate amendments to **HB 1304**.

The motion to concur in senate amendments prevailed. (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: Hopson recorded voting no.)

Senate Committee Substitute

CSHB 1304, A bill entitled An Act relating to sanitation requirements for certain barbering and cosmetology services.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 1601.506, Occupations Code, is amended by adding Subsections (e) and (f) to read as follows:

(e) A person who holds a license, certificate, or permit issued under this chapter and who performs a barbering service described by Section 1601.002(1)(E) or (F):

(1) shall, before performing the service, disinfect and sterilize with an autoclave or a dry heat, ultraviolet, or other board-approved sterilizer each nondisposable instrument used to perform the service; and

(2) may use a disposable supply or instrument only if that supply or instrument is purchased at the location where the service is performed or provided by the person on whom the service is performed.

(f) The owner or manager of a barbershop, specialty shop, or barber school is responsible for providing an autoclave or a dry heat, ultraviolet, or other board-approved sterilizer for use in the shop or school as required by Subsection (e). An autoclave or a dry heat, ultraviolet, or other board-approved sterilizer used as required by Subsection (e) must be:

(1) registered and listed with the federal Food and Drug Administration; and

(2) used in accordance with the manufacturer's instructions.

SECTION 2. Subchapter I, Chapter 1602, Occupations Code, is amended by adding Section 1602.408 to read as follows:

Sec. 1602.408. SANITATION REQUIREMENTS FOR CERTAIN SERVICES. (a) A person who holds a license, certificate, or permit issued under this chapter and who performs a cosmetology service described by Section 1602.002(10) or (11):

(1) shall, before performing the service, disinfect and sterilize with an autoclave or a dry heat, ultraviolet, or other commission-approved sterilizer each nondisposable instrument used to perform the service; and

(2) may use a disposable supply or instrument only if that supply or instrument is purchased at the location where the service is performed or provided by the person on whom the service is performed.

(b) The owner or manager of a beauty shop, specialty shop, or beauty culture school is responsible for providing an autoclave or a dry heat, ultraviolet, or other commission-approved sterilizer for use in the shop or school as required by Subsection (a). An autoclave or a dry heat, ultraviolet, or other commission-approved sterilizer used as required by Subsection (a) must be:

(1) registered and listed with the federal Food and Drug Administration; and

(2) used in accordance with the manufacturer's instructions.

SECTION 3. This Act takes effect January 1, 2006.

HB 1573 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Geren called up with senate amendments for consideration at this time,

HB 1573, A bill to be entitled An Act relating to the definition of the practice of architecture and to certificates of merit for design professionals.

Representative Geren moved to concur in the senate amendments to **HB 1573**.

The motion to concur in senate amendments prevailed. (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.)

Senate Committee Substitute

CSHB 1573, A bill to be entitled An Act relating to the definition of the practice of architecture and to certificates of merit for design professionals.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 1051.001(7), Occupations Code, is amended to read as follows:

(7) "Practice of architecture" means a service or creative work applying ~~[that involves the application of]~~ the art and science of developing design concepts, planning for functional relationships and intended uses, and establishing the form, appearance, aesthetics, and construction details for the construction, enlargement, or alteration of a building or environs intended for human use or occupancy, the proper application of which requires education, training, and experience in those matters. The term includes:

(A) establishing and documenting the form, aesthetics, materials, and construction technology for a building, group of buildings, or environs intended to be constructed or altered;

(B) preparing, or supervising and controlling the preparation of, the architectural plans and specifications that include all integrated building systems and construction details, unless otherwise permitted under Section 1051.606(a)(4);

(C) observing the construction, modification, or alteration of work to evaluate conformance with architectural plans and specifications described in Paragraph (B) for any building, group of buildings, or environs requiring an architect;

(D) programming for construction projects, including identification of economic, legal, and natural constraints and determination of the scope and spatial relationship of functional elements;

(E) recommending and overseeing appropriate construction project delivery systems;

(F) consulting, investigating, and analyzing the design, form, aesthetics, materials, and construction technology used for the construction, enlargement, or alteration of a building or environs and providing expert opinion and testimony as necessary;

(G) research to expand the knowledge base of the profession of architecture, including publishing or presenting findings in professional forums; and

(H) teaching, administering, and developing pedagogical theory in academic settings offering architectural education.

SECTION 2. Chapter 150, Civil Practice and Remedies Code, is amended to read as follows:

CHAPTER 150. DESIGN PROFESSIONALS

Sec. 150.001. DEFINITIONS ~~DEFINITION~~. In this chapter:

(1) "Design[~~,"~~ "design"] professional" means a licensed [registered] architect, [or] licensed professional engineer, or any firm in which such licensed professional practices, including but not limited to a corporation, professional corporation, limited liability corporation, partnership, limited liability partnership, sole proprietorship, joint venture, or any other business entity.

(2) "Practice of architecture" has the meaning assigned by Section 1051.001, Occupations Code.

Sec. 150.002. CERTIFICATE OF MERIT. (a) In any action or arbitration proceeding for damages arising out of the provision of professional services [alleging professional negligence] by a design professional, the plaintiff shall be required to file with the complaint the affidavit of a third-party licensed [registered] architect or licensed professional engineer competent to testify, holding the same professional license as, and practicing in the same area of practice as the defendant, which affidavit shall set forth specifically at least one negligent act, error, or omission claimed to exist and the factual basis for each such claim. The third-party professional engineer or licensed [registered] architect shall be licensed in this state and actively engaged in the practice of architecture or engineering.

(b) The contemporaneous filing requirement of Subsection (a) shall not apply to any case in which the period of limitation will expire within 10 days of the date of filing and, because of such time constraints, the plaintiff has alleged that an affidavit of a third-party licensed [registered] architect or professional engineer could not be prepared. In such cases, the plaintiff shall have 30 days

after the filing of the complaint to supplement the pleadings with the affidavit. The trial court may, on motion, after hearing and for good cause, extend such time as it shall determine justice requires.

(c) The defendant shall not be required to file an answer to the complaint and affidavit until 30 days after the filing of such affidavit.

(d) The plaintiff's failure to file the affidavit in accordance with Subsection (a) or (b) shall [may] result in dismissal [with prejudice] of the complaint against the defendant. This dismissal may be with prejudice.

(e) An order granting or denying a motion for dismissal is immediately appealable as an interlocutory order.

(f) This statute shall not be construed to extend any applicable period of limitation or repose.

(g) This statute does not apply to any suit or action for the payment of fees arising out of the provision of professional services.

SECTION 3. Section 1051.701(a), Occupations Code, is amended to read as follows:

(a) A person may not engage in the practice of architecture, or offer or attempt to engage in the practice of architecture, as defined in Section 1051.001(7)(A), (B), or (C) unless the person is registered as an architect under this chapter.

SECTION 4. Section 2 of this Act applies only to a cause of action that accrues on or after the effective date of this Act. An action that accrued before the effective date of this Act is governed by the law applicable to the action immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 5. This Act takes effect September 1, 2005.

(Anderson in the chair)

HB 1646 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Hughes called up with senate amendments for consideration at this time,

HB 1646, A bill to be entitled An Act relating to the definition of all-terrain vehicle in the certificate of title and the motor vehicle registration laws.

Representative Hughes moved to concur in the senate amendments to **HB 1646**.

The motion to concur in senate amendments prevailed. (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.)

Senate Committee Substitute

CSHB 1646, A bill to be entitled An Act relating to the definition of all-terrain vehicle in the certificate of title and the motor vehicle registration laws.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 501.002(14), Transportation Code, is amended to read as follows:

(14) "Motor vehicle" means:

(A) any motor driven or propelled vehicle required to be registered under the laws of this state;

(B) a trailer or semitrailer, other than manufactured housing, that has a gross vehicle weight that exceeds 4,000 pounds;

(C) a house trailer;

(D) an ~~[a four-wheel]~~ all-terrain vehicle, as defined by Section 502.001, designed by the manufacturer for off-highway use that is not required to be registered under the laws of this state; or

(E) a motorcycle, motor-driven cycle, or moped that is not required to be registered under the laws of this state, other than a motorcycle, motor-driven cycle, or moped designed for and used exclusively on a golf course.

SECTION 2. Section 502.001(1), Transportation Code, is amended to read as follows:

(1) "All-terrain vehicle" means a motor vehicle that is not a golf cart and is:

(A) equipped with a saddle or bench for the use of the rider;

(B) designed to propel itself with three or more ~~[four]~~ tires in contact with the ground;

(C) designed by the manufacturer for off-highway use by the operator only; and

(D) not designed by the manufacturer primarily for farming or lawn care.

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

HR 1812 - ADOPTED
(by Dutton)

Representative Edwards moved to suspend all necessary rules to take up and consider at this time **HR 1812**.

The motion prevailed.

The following resolution was laid before the house:

HR 1812, Honoring Pleasant Grove Missionary Baptist Church of Houston on its church reunion/homecoming and 133rd anniversary.

HR 1812 was adopted.

HR 1824 - ADOPTED
(by J. Jones)

Representative Edwards moved to suspend all necessary rules to take up and consider at this time **HR 1824**.

The motion prevailed.

The following resolution was laid before the house:

HR 1824, Congratulating the Reverend Daryl R. Carter of Carver Heights Baptist Church on his first pastoral anniversary at the church.

HR 1824 was adopted.

**HB 304 - HOUSE DISCHARGES CONFEREES
HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Talton called up with senate amendments for consideration at this time,

HB 304, A bill to be entitled An Act relating to conditions of employment for police officers employed by certain municipalities.

Representative Talton moved to discharge the conferees and concur in the senate amendments to **HB 304**.

The motion to discharge and concur in senate amendments prevailed. (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.)

Senate Committee Substitute

CSHB 304, A bill to be entitled An Act relating to conditions of employment for police officers employed by certain municipalities.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 142, Local Government Code, is amended by designating Sections 142.001-142.013 as Subchapter A and adding a heading for Subchapter A to read as follows:

SUBCHAPTER A. GENERAL PROVISIONS

SECTION 2. Chapter 142, Local Government Code, is amended by adding Subchapter B to read as follows:

SUBCHAPTER B. LOCAL CONTROL OF POLICE OFFICER
EMPLOYMENT MATTERS IN CERTAIN MUNICIPALITIES

Sec. 142.051. APPLICABILITY. (a) Except as provided by Subsection (b), this subchapter applies only to a municipality:

- (1) with a population of 50,000 or more; or
- (2) that has adopted Chapter 143.

(b) This subchapter does not apply to a municipality that:

- (1) has adopted Chapter 174;
- (2) is covered by Subchapter H, I, or J, Chapter 143; or
- (3) has a population of one million or more and has not adopted

Chapter 143.

Sec. 142.052. DEFINITIONS. In this subchapter:

(1) "Police officer" means a person who is a peace officer under Article 2.12, Code of Criminal Procedure, or other law, and who is employed by a municipality.

(2) "Police officers association" means an employee organization in which police officers employed by a municipality participate that exists for the purpose, in whole or in part, of dealing with the municipality or public employer concerning grievances, labor disputes, wages, rates of pay, hours of work, or conditions of work affecting police officers.

(3) "Public employer" means a municipality or a law enforcement agency of the municipality that is required to establish the wages, salaries, rates of pay, hours of work, working conditions, and other terms and conditions of employment of police officers employed by the municipality.

Sec. 142.053. PETITION FOR RECOGNITION: ELECTION OR ACTION BY GOVERNING BODY. (a) Not later than the 30th day after the date the governing body of a municipality receives from a police officers association a petition signed by the majority of all police officers, excluding the head of the law enforcement agency for the municipality and excluding the employees exempt under Section 142.058(b), that requests recognition of the association as the sole and exclusive bargaining agent for all the police officers employed by the municipality, excluding the head of the law enforcement agency for the municipality and excluding the exempt employees, the governing body shall:

(1) grant recognition of the association as requested in the petition and determine by majority vote that a public employer may meet and confer under this subchapter without conducting an election by the voters in the municipality under Section 142.055;

(2) defer granting recognition of the association and order an election by the voters in the municipality under Section 142.055 regarding whether a public employer may meet and confer under this subchapter; or

(3) order a certification election under Section 142.054 to determine whether the association represents a majority of the affected police officers.

(b) If the governing body of a municipality orders a certification election under Subsection (a)(3) and the association named in the petition is certified to represent a majority of the affected police officers of the municipality, the governing body shall, not later than the 30th day after the date that results of that election are certified:

(1) grant recognition of the association as requested in the petition for recognition and determine by majority vote that a public employer may meet and confer under this subchapter without conducting an election by the voters in the municipality under Section 142.055; or

(2) defer granting recognition of the association and order an election by the voters in the municipality under Section 142.055 regarding whether a public employer may meet and confer under this subchapter.

Sec. 142.054. CERTIFICATION ELECTION. (a) Except as provided by Subsection (b), a certification election ordered under Section 142.053(a)(3) to determine whether a police officers association represents a majority of the covered police officers shall be conducted according to procedures agreeable to the parties.

(b) If the parties are unable to agree on procedures for the certification election, either party may request the American Arbitration Association to conduct the election and to certify the results of the election.

(c) Certification of the results of an election under this section resolves the question concerning representation.

(d) The association is liable for the expenses of the certification election, except that if two or more associations seeking recognition as the sole and exclusive bargaining agent submit a petition signed by at least 30 percent of the police officers eligible to sign the petition for recognition, all the associations named in any petition shall share equally the costs of the election.

Sec. 142.055. ELECTION TO AUTHORIZE OPERATING UNDER THIS SUBCHAPTER. (a) The governing body of a municipality that receives a petition for recognition under Section 142.053 may order an election to determine whether a public employer may meet and confer under this subchapter.

(b) An election ordered under this section must be held as part of the next regularly scheduled general election for municipal officials that is held after the date the governing body of the municipality orders the election and that allows sufficient time to prepare the ballot in compliance with other requirements of law.

(c) The ballot for an election ordered under this section shall be printed to permit voting for or against the proposition: "Authorizing _____ (name of the municipality) to operate under the state law allowing a municipality to meet and confer and make agreements with the association representing municipal police officers as provided by state law, preserving the prohibition against strikes and organized work stoppages, and providing penalties for strikes and organized work stoppages."

(d) An election called under this section must be held and the returns prepared and canvassed in conformity with the Election Code.

(e) If an election authorized under this section is held, the municipality may operate under the other provisions of this subchapter only if a majority of the votes cast at the election favor the proposition.

(f) If an election authorized under this section is held, an association may not submit a petition for recognition to the governing body of the municipality under Section 142.053 before the second anniversary of the date of the election.

Sec. 142.056. CHANGE OR MODIFICATION OF RECOGNITION.

(a) The police officers may modify or change the recognition of the association granted under this subchapter by filing with the governing body of the municipality a petition signed by a majority of all covered police officers.

(b) The governing body of the municipality may:

(1) recognize the change or modification as provided by the petition; or

(2) order a certification election in accordance with Section 142.054 regarding whether to do so.

Sec. 142.057. STRIKES PROHIBITED. (a) A police officer employed by a municipality may not engage in a strike or organized work stoppage against this state or the municipality.

(b) A police officer who participates in a strike forfeits any civil service rights, reemployment rights, and other rights, benefits, or privileges the police officer may have as a result of the officer's employment or prior employment with the municipality.

(c) This section does not affect the right of a person to cease work if the person is not acting in concert with others in an organized work stoppage.

Sec. 142.058. RECOGNITION OF POLICE OFFICERS ASSOCIATION.

(a) A public employer in a municipality that chooses to meet and confer under this subchapter shall recognize an association that is recognized under Section 142.053 or 142.054 as the sole and exclusive bargaining agent for the covered police officers described in the petition for recognition, excluding the head of the law enforcement agency and excluding the employees exempt under Subsection (b), in accordance with this subchapter and the petition.

(b) For the purposes of Subsection (a), exempt employees are the employees appointed by the head of the law enforcement agency of the municipality under Section 143.014 or that are exempt by the mutual agreement of the recognized police officers association and the public employer.

(c) The public employer shall recognize the police officers association until recognition of the association is withdrawn, in accordance with Section 142.056, by a majority of the police officers eligible to sign a petition for recognition.

Sec. 142.059. GENERAL PROVISIONS RELATING TO AGREEMENTS. (a) A municipality acting under this subchapter may not be denied local control over the wages, salaries, rates of pay, hours of work, or other terms and conditions of employment to the extent the public employer and the police officers association recognized as the sole and exclusive bargaining agent under this subchapter agree as provided by this subchapter, if the agreement is ratified and not withdrawn in accordance with this subchapter. Applicable statutes and applicable local orders, ordinances, and civil service rules apply to an issue not governed by the meet and confer agreement.

(b) A meet and confer agreement under this subchapter must be written.

(c) This subchapter does not require a public employer or a recognized police officers association to meet and confer on any issue or reach an agreement.

(d) A public employer and the recognized police officers association may meet and confer only if the association does not advocate an illegal strike by public employees.

(e) While a meet and confer agreement under this subchapter between the public employer and the recognized police officers association is in effect, the public employer may not accept a petition, with regard to the police officers of the municipality requesting an election to adopt:

(1) municipal civil service under Chapter 143; or

(2) collective bargaining under Chapter 174.

Sec. 142.060. SELECTION OF BARGAINING AGENT; BARGAINING UNIT. (a) The public employer's chief executive officer or the chief executive officer's designee shall select one or more persons to represent the public

employer as its sole and exclusive bargaining agent to meet and confer on issues related to the wages, hours of employment, and other terms and conditions of employment of police officers by the municipality.

(b) A police officers association may designate one or more persons to negotiate or bargain on the association's behalf.

(c) A municipality's bargaining unit is composed of all the police officers of the municipality who are not the head of the law enforcement agency or exempt under Section 142.058(b).

Sec. 142.061. PROTECTED RIGHTS OF POLICE OFFICER. (a) For any disciplinary appeal, a member of the municipality's bargaining unit may be represented by the police officers association or by any person the member selects.

(b) A meet and confer agreement ratified under this subchapter may not interfere with the right of a member of a bargaining unit to pursue allegations of discrimination based on race, creed, color, national origin, religion, age, sex, or disability with the Texas Workforce Commission civil rights division or the federal Equal Employment Opportunity Commission or to pursue affirmative action litigation.

Sec. 142.062. OPEN RECORDS. (a) A proposed meet and confer agreement and a document prepared and used by the municipality, including a public employer, in connection with the proposed agreement are available to the public under Chapter 552, Government Code, only after the agreement is ready to be ratified by the governing body of the municipality.

(b) This section does not affect the application of Subchapter C, Chapter 552, Government Code, to a document prepared and used in connection with the agreement.

Sec. 142.063. OPEN DELIBERATIONS. (a) Deliberations relating to a meet and confer agreement or proposed agreement under this subchapter between representatives of the public employer and representatives of the police officers association elected by a majority vote of the officers to be the sole and exclusive bargaining agent of the covered officers must be open to the public and comply with state law.

(b) Subsection (a) may not be construed to prohibit the representatives of the public employer or the representatives of the police officers association from conducting private caucuses that are not open to the public during meet and confer negotiations.

Sec. 142.064. RATIFICATION AND ENFORCEABILITY OF AGREEMENT. (a) An agreement under this subchapter is enforceable and binding on the public employer, the recognized police officers association, and the police officers covered by the meet and confer agreement only if:

(1) the governing body of the municipality ratified the agreement by a majority vote; and

(2) the recognized police officers association ratified the agreement by conducting a secret ballot election at which the majority of the police officers who would be covered by the agreement favored ratifying the agreement.

(b) A meet and confer agreement ratified as described by Subsection (a) may establish a procedure by which the parties agree to resolve disputes related to a right, duty, or obligation provided by the agreement, including binding arbitration on a question involving interpretation of the agreement.

(c) A state district court of a judicial district in which the municipality is located has jurisdiction to hear and resolve a dispute under the ratified meet and confer agreement on the application of a party to the agreement aggrieved by an action or omission of the other party when the action or omission is related to a right, duty, or obligation provided by the agreement. The court may issue proper restraining orders, temporary and permanent injunctions, or any other writ, order, or process, including contempt orders, that are appropriate to enforcing the agreement.

Sec. 142.065. ACTION OR ELECTION TO REPEAL AUTHORIZATION TO OPERATE UNDER THIS SUBCHAPTER. (a) The governing body of a municipality that granted recognition of a police officers association under Section 142.053 without conducting an election under Section 142.055 may withdraw recognition of the association by providing to the association not less than 90 days' written notice that:

(1) the governing body is withdrawing recognition of the association;

and

(2) any agreement between the governing body and the association will not be renewed.

(b) The governing body of a municipality that granted recognition of a police officers association after conducting an election under Section 142.055 may order an election to determine whether a public employer may continue to meet and confer under this subchapter. The governing body may not order an election under this subsection until the second anniversary of the date of the election under Section 142.055.

(c) An election ordered under Subsection (b) must be held as part of the next regularly scheduled general election for municipal officers that occurs after the date the governing body of the municipality orders the election and that allows sufficient time to prepare the ballot in compliance with other requirements of law.

(d) The ballot for an election ordered under Subsection (b) shall be printed to allow voting for or against the proposition: "Authorizing _____ (name of the municipality) to continue to operate under the state law allowing a municipality to meet and confer and make agreements with the association representing municipal police officers as provided by state law, preserving the prohibition against strikes and organized work stoppages, and providing penalties for strikes and organized work stoppages."

(e) An election ordered under Subsection (b) must be held and the returns prepared and canvassed in conformity with the Election Code.

(f) If an election ordered under Subsection (b) is held, the municipality may continue to operate under this subchapter only if a majority of the votes cast at the election favor the proposition.

(g) If an election ordered under Subsection (b) is held, an association may not submit a petition for recognition to the governing body of the municipality under Section 142.053 before the second anniversary of the date of the election.

Sec. 142.066. ELECTION TO REPEAL AGREEMENT. (a) Not later than the 60th day after the date a meet and confer agreement is ratified by the governing body of the municipality and the recognized police officers association, a petition calling for the repeal of the agreement signed by a number of registered voters residing in the municipality equal to at least 10 percent of the votes cast at the most recent general election held in the municipality may be presented to the person charged with ordering an election under Section 3.004, Election Code.

(b) If a petition is presented under Subsection (a), the governing body of the municipality shall:

(1) repeal the meet and confer agreement; or

(2) certify that it is not repealing the agreement and call an election to determine whether to repeal the agreement.

(c) An election called under Subsection (b)(2) may be held as part of the next regularly scheduled general election for the municipality. The ballot shall be printed to provide for voting for or against the proposition: "Repeal the meet and confer agreement ratified on _____ (date agreement was ratified) by the _____ (name of the governing body of the municipality) and the police officers employed by the City of _____ (name of municipality) concerning wages, salaries, rates of pay, hours of work, and other terms of employment."

(d) If a majority of the votes cast at the election favor the repeal of the agreement, the agreement is void.

Sec. 142.067. AGREEMENT SUPERSEDES CONFLICTING PROVISIONS. A written meet and confer agreement ratified under this subchapter preempts, during the term of the agreement and to the extent of any conflict, all contrary state statutes, local ordinances, executive orders, civil service provisions, or rules adopted by the head of the law enforcement agency or municipality or by a division or agent of the municipality, such as a personnel board or a civil service commission.

Sec. 142.068. EFFECT ON EXISTING BENEFITS AND RIGHTS. (a) This subchapter may not be construed as repealing any existing benefit provided by statute or ordinance concerning police officers' compensation, pensions, retirement plans, hours of work, conditions of employment, or other emoluments, except as expressly provided in a ratified meet and confer agreement. This subchapter is in addition to the benefits provided by existing statutes and ordinances.

(b) This subchapter may not be construed to interfere with a police officer's constitutionally protected rights of freedom of speech, freedom of association, and freedom to endorse or dissent from any agreement.

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

Senate Amendment No. 1 (Senate Floor Amendment No. 1- Second Reading)

Amend **HB 304** by adding a new appropriately numbered section to read as follows and renumbering the existing sections accordingly.

SECTION _____. Section 143.3015, Local Government Code is amended by adding subsection (i) to read as follows:

(i) Notwithstanding subsection (a) and (h), a municipality with a population of less than 560,000 that has not recognized an association as the sole and exclusive bargaining agent as provided by Section 143.304 before September 1, 2005, may adopt rules for police officers converting vacation and sick leave days to hours that supersedes the provisions of Section 142.0015, Section 143.045, and Section 143.046 provided that:

(A) A police officer is entitled to earn one hundred twenty (120) hours of vacation leave each year with pay, as a minimum, if the officer has been regularly employed in the department or departments for at least one year.

(B) In computing the length of time a police officer may be absent from work on vacation leave, only those hours that the person would have been required to work if not on vacation may be counted as vacation leave.

(C) A police officer shall be granted the same number of vacation hours and holiday hours, or hours in lieu of vacation hours or holiday hours, granted to other municipal employees who work the same number of hours in a regular work day and have worked for the municipality for the same number of years.

(D) A police officer shall be granted sick leave with pay accumulated at the rate of 4.61 hours for each full month employed in a calendar year, so as to total one hundred twenty (120) hours to the person's credit each twelve months.

(E) A police officer who leaves the classified service for any reason is entitled to receive in a lump-sum payment the full amount of the person's salary for accumulated sick leave if the person has accumulated not more than 720 hours of sick leave, the person's employer may limit payment to the amount that the person would have received if the person had been allowed to use 720 hours of accumulated sick leave during the last six months of employment. The lump-sum payment is computed by compensating the police officer for the accumulated time at the highest permanent pay classification for which the person was eligible during the last six months of employment. The police officer is paid for the same period for which the person had taken the sick leave but does not include additional holidays and any sick leave or vacation time that the person might have accrued during the 720 hours.

Senate Amendment No. 2 (Senate Floor Amendment No. 1 - Third Reading)

Amend **CSHB 304** on third reading in added subsection (i) section 143.3015 Local Government Code as added by the Brimer floor amendment by striking "142.0015" and substituting the following: "142.0013"

(Hegar in the chair)

FIVE DAY POSTING RULE SUSPENDED

Representative Delisi moved to suspend the five day posting rule to allow the Committee on Public Health to consider **SB 47** and **SB 330** upon adjournment today in E2.036.

The motion prevailed.

(Speaker in the chair)

Representative Dutton moved to suspend the five day posting rule to allow the Committee on Juvenile Justice and Family Issues to consider **SB 1657** upon adjournment today in E2.014.

The motion prevailed.

COMMITTEE MEETING ANNOUNCEMENTS

The following committee meetings were announced:

Urban Affairs, upon adjournment today, Desk 48, for a formal meeting, to consider **SB 356**.

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

Environmental Regulation will reconvene 5 minutes after adjournment.

Public Health, upon adjournment today, E2.036, for a public hearing, to consider **SB 47**, **SB 330**, and other previously posted bills.

Juvenile Justice and Family Issues, upon adjournment today, E2.014, for a public hearing, to consider **SB 1657** and pending business.

Regulated Industries, 9:30 a.m. tomorrow, E2.020, for a formal meeting, to consider committee business.

Government Reform, upon adjournment today, Desk 114, for a formal meeting, to consider pending business.

County Affairs, upon adjournment today, Desk 1, for a formal meeting, to consider pending bills.

Insurance, upon adjournment today, Desk 24, for a formal meeting, to consider **SB 506**, **SB 782**, **SB 826**, **SB 1558**, and **SB 1564**.

Calendars, upon adjournment today, 3W.9, for a formal meeting, to set the calendar.

Transportation, upon adjournment today, Desk 46, for a formal meeting, to consider bills in committee.

Pensions and Investments, upon adjournment today, Desk 41, for a formal meeting, to consider pending business.

Financial Institutions, upon adjournment today, Desk 7, for a formal meeting, to consider **SB 1479**.

PROVIDING FOR ADJOURNMENT

Representative Keel moved that, at the conclusion of the reading of bills and resolutions on first reading and referral to committees, the house adjourn until 10 a.m. tomorrow in memory of Frank Gorshin, a renowned American entertainer who passed away at the age of 72.

The motion prevailed.

**BILLS AND JOINT RESOLUTIONS ON FIRST READING
AND REFERRAL TO COMMITTEES
RESOLUTIONS REFERRED TO COMMITTEES
CORRECTIONS IN REFERRAL**

Bills and joint resolutions were at this time laid before the house, read first time, and referred to committees. Resolutions were at this time laid before the house and referred to committees. Pursuant to Rule 1, Section 4 of the House Rules, the chair at this time corrected the referral of measures to committees. (See the addendum to the daily journal, Referred to Committees, List No. 1.)

ADJOURNMENT

In accordance with a previous motion, the house, at 5:37 p.m., adjourned until 10 a.m. tomorrow.

ADDENDUM

REFERRED TO COMMITTEES

The following bills and joint resolutions were today laid before the house, read first time, and referred to committees, and the following resolutions were today laid before the house and referred to committees. If indicated, the chair today corrected the referral of the following measures:

List No. 1

HCR 189 (By Homer), In memory of J. E. "Gene" Buster of Paris.
To Rules and Resolutions.

HCR 190 (By Homer), In memory of Floyd Weger of Paris.
To Rules and Resolutions.

HCR 192 (By Isett, D. Jones, Hilderbran, and Swinford), Honoring the history and tradition of the Texas Tech University Seal and Double T.
To Higher Education.

HCR 194 (By J. Jones), Designating July 2005 as Lawn Mower Safety Awareness Month.
To Rules and Resolutions.

HCR 205 (By Homer), In memory of Stanley and Jake Avery of Sulphur Springs.
To Rules and Resolutions.

HCR 208 (By Coleman), Encouraging the board of regents of Texas Southern University to name a building, an outdoor plaza, or an interior space of honor on the campus after the Honorable Joe E. Moreno.
To State Affairs.

SB 548 to Corrections.

SB 1150 to State Affairs.

SB 1503 to Urban Affairs.

SB 1652 to Local Government Ways and Means.

SB 1691 to Pensions and Investments.

SB 1863 to Appropriations.

SB 1894 to Natural Resources.

SJR 20 to Corrections.

Pursuant to Rule 1, Section 4 of the House Rules, the chair corrects the referral of the following bills and resolutions:

SCR 14 to State Affairs.

SIGNED BY THE SPEAKER

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

Senate List No. 23

SB 248, SB 403, SB 1471, SB 1472

House List No. 44

HB 25, HB 70, HB 102, HB 162, HB 340, HB 364, HB 373, HB 404, HB 417, HB 595, HB 654, HB 655, HB 749, HB 755, HB 828, HB 894, HB 912, HB 937, HB 982, HB 1007, HB 1009, HB 1011, HB 1018, HB 1088, HB 1130, HB 1174, HB 1182, HB 1229, HB 1326, HB 1501, HB 1562, HB 1686, HB 1817, HB 1935, HB 2231, HB 2892, HB 2961, HB 2962, HCR 13, HCR 71, HCR 111, HCR 124, HCR 168

House List No. 45

HB 720, HB 775, HB 943, HB 2313, HB 3227

MESSAGES FROM THE SENATE

The following messages from the senate were today received by the house:

Message No. 1

MESSAGE FROM THE SENATE

SENATE CHAMBER

Austin, Texas

Wednesday, May 18, 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 1894

Deuell

Relating to the creation, powers, management, and boundaries of certain utility districts and a water control and improvement district in Kaufman County; providing authority to impose a tax and issue bonds; granting the power of eminent domain.

Respectfully,

Patsy Spaw

Secretary of the Senate

Message No. 2

MESSAGE FROM THE SENATE

SENATE CHAMBER

Austin, Texas

Wednesday, May 18, 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:

THE SENATE HAS PASSED THE FOLLOWING MEASURES:

HB 55

Grusendorf

SPONSOR: Harris

Relating to the designation of portions of Interstate Highway 20 inside Dallas and Tarrant Counties as the Ronald Reagan Memorial Highway.

(COMMITTEE SUBSTITUTE)

HB 758

Denny

SPONSOR: Harris

Relating to a pilot program allowing for countywide voting locations in certain elections.

HB 1058

Pickett

SPONSOR: Zaffirini

Relating to high school diplomas for certain veterans.

HB 1163

Denny

SPONSOR: Harris

Relating to the filing fee for a candidate for certain offices on the general primary election ballot.

HB 1528

Woolley

SPONSOR: Madla

Relating to the other events trust fund established to support local efforts to recruit or retain certain sports events.

(AMENDED)

HB 2511

Denny

SPONSOR: Harris

Relating to the filing of a personal financial statement by a former state officer whose successor has not qualified for office.

HB 2645

Nixon

SPONSOR: Wentworth

Relating to service of expert reports in health care liability claims.

THE SENATE HAS CONCURRED IN HOUSE AMENDMENTS TO THE FOLLOWING MEASURES:

SB 1281 (30 Yeas, 0 Nays)

SB 1473 (30 Yeas, 0 Nays)

THE SENATE HAS REFUSED TO CONCUR IN HOUSE AMENDMENTS TO THE FOLLOWING MEASURES AND REQUESTS THE APPOINTMENT OF A CONFERENCE COMMITTEE TO ADJUST THE DIFFERENCES BETWEEN THE TWO HOUSES:

SB 1050

Senate Conferees: Van de Putte - Chair/Brimer/Fraser/Gallegos/Jackson, Mike

SB 1273

Senate Conferees: Jackson, Mike - Chair/Armbrister/Harris/Madla/Staples

THE SENATE HAS GRANTED THE REQUEST OF THE HOUSE FOR THE APPOINTMENT OF A CONFERENCE COMMITTEE ON THE FOLLOWING MEASURES:

HB 225

Senate Conferees: Deuell - Chair/Hinojosa/Seliger/Staples/Williams

HB 304

Senate Conferees: Deuell - Chair/Estes/Eltife/Gallegos/Madla

HB 1503

Senate Conferees: Deuell - Chair/Armbrister/Carona/Eltife/West, Royce

Respectfully,

Patsy Spaw

Secretary of the Senate

Message No. 3

MESSAGE FROM THE SENATE
SENATE CHAMBER

Austin, Texas

Wednesday, May 18, 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:

SB 548 Ellis

Relating to considerations by the Board of Pardons and Paroles regarding clemency matters.

SB 1150 Harris

Relating to parental consent for the performance of an abortion; providing penalties.

SB 1863

Ogden

Relating to certain fiscal matters affecting governmental entities.

Respectfully,

Patsy Spaw

Secretary of the Senate

Message No. 4

MESSAGE FROM THE SENATE

SENATE CHAMBER

Austin, Texas

Wednesday, May 18, 2005 - 4

The Honorable Speaker of the House

House Chamber

Austin, Texas

Mr. Speaker:

I am directed by the senate to inform the house that the senate has taken the following action:

THE SENATE HAS PASSED THE FOLLOWING MEASURES:

SB 1691

Duncan

Relating to certain retired school employees and the powers and duties of the Teacher Retirement System of Texas; providing a penalty.

Respectfully,

Patsy Spaw

Secretary of the Senate

APPENDIX

STANDING COMMITTEE REPORTS

Favorable reports have been filed by committees as follows:

May 17

Civil Practices - **SB 890**

Economic Development - **SB 771, SB 788, SB 920, SB 998, SB 1408, SB 1815**

Energy Resources - **HCR 166, SB 1130, SB 1170, SB 1175**

Financial Institutions - **SB 988**

Human Services - **SB 23, SB 40, SB 325, SB 361, SB 465, SB 882, SB 984**

Insurance - **SB 49, SB 1284, SB 1591, SB 1592**

Judiciary - **SB 291, SB 1122, SB 1189, SB 1450**

Land and Resource Management - **SB 854, SB 1044**

Natural Resources - **SB 1831**

Pensions and Investments - **SB 1088, SB 1513**

Public Health - **SB 521, SB 630, SB 1053**

State Affairs - **HCR 157, SB 96, SB 213, SB 263, SB 299, SB 450, SB 1133, SB 1377, SB 1589, SCR 21**

Urban Affairs - **HB 3480, SB 1457, SB 1751, SB 1806, SB 1813**

Ways and Means - **SB 867, SB 1570, SB 1764**

ENROLLED

May 17 - HB 25, HB 102, HB 162, HB 364, HB 595, HB 749, HB 937, HB 1007, HB 1018, HB 1130, HB 1326, HB 1817, HB 2202, HCR 89, HCR 164

SENT TO THE GOVERNOR

May 17 - HB 81, HB 87, HB 168, HB 203, HB 204, HB 207, HB 210, HB 307, HB 350, HB 409, HB 413, HB 472, HB 546, HB 596, HB 614, HB 678, HB 723, HB 735, HB 774, HB 854, HB 883, HB 942, HB 957, HB 1097, HB 1191, HB 1201, HB 1285, HB 1361, HB 1362, HB 1363, HB 1418, HB 1508, HB 1531, HB 1695, HB 1759, HB 1912, HB 1913, HB 1970, HB 1982, HB 2032, HB 2096, HB 2171, HB 2202, HB 2208, HB 2256, HB 2274, HB 2298, HB 2549, HB 2553, HB 2814, HB 3489, HCR 89, HCR 120, HCR 147, HCR 163, HCR 164, HCR 173, HCR 191, HCR 196

SIGNED BY THE GOVERNOR

May 17 - HB 224, HB 231, HB 593, HB 597, HB 729, HB 762, HB 801, HB 802, HB 885, HB 918, HB 932, HB 965, HB 1099, HB 1154, HB 1236, HB 1286, HB 1319, HB 1393, HB 1489, HB 1507, HB 1604, HB 2761, HB 2870, HB 2872, HB 2913

